

File No. 160615

Committee Item No. 2

Board Item No. 23

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date October 20, 2016

Board of Supervisors Meeting

Date NOVEMBER 1, 2016

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>BOS Resolution No. 418-16</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Police Commission Response</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Mayor/Police/City Administrator Response</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>District Attorney Response</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Office of Citizen Complaints Response</u> |
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Completed by: Alisa Somera

Date October 14, 2016

Completed by: JMM

Date 10/24/16

1 [Board Response - Civil Grand Jury - Into the Open: Opportunities for More Timely and
2 Transparent Investigations of Fatal San Francisco Police Department Officer-Involved
3 Shootings]

4 **Motion responding to the Civil Grand Jury's request to provide a status update on the**
5 **Board of Supervisors response to Recommendation No. R.5.D contained in the 2015-**
6 **2016 Civil Grand Jury Report, entitled "Into the Open: Opportunities for More Timely**
7 **and Transparent Investigations of Fatal San Francisco Police Department Officer-**
8 **Involved Shootings;" and urging the Mayor to cause the implementation of accepted**
9 **findings and recommendations through his/her department heads and through the**
10 **development of the annual budget.**

11
12 WHEREAS, The 2015-2016 San Francisco Civil Grand Jury published a report, entitled
13 "Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San
14 Francisco Police Department Officer-Involved Shootings" (Report) on July 6, 2016; and

15 WHEREAS, The Board of Supervisors' Government Audit and Oversight Committee
16 (GAO) conducted a public hearing to hear and respond to the Report on September 15, 2016;
17 a copy of which is on file with the Clerk of the Board of Supervisors in File No. 160616; and

18 WHEREAS, Recommendation No. R.5.D states: "The Board of Supervisors should
19 approve these additional resources requested by the DA's [District Attorney] Office and
20 included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed
21 budget for FY2017-2018, and thereafter, to expedite OIS [Officer-Involved Shootings]
22 investigations. Approval of these additional resources again should be contingent upon
23 marked, measurable improvement by the DA's Office in the time it takes to complete its
24 criminal investigations and issue its charging decision letters in OIS cases;" and
25

1 WHEREAS, The Board of Supervisors on September 15, 2016, responded in
2 Resolution No. 160616 that Recommendation No. R.5.D requires further analysis for reasons
3 as follows: As reported by the Mayor's Office of Public Policy and Finance: "The DA's Office
4 budget for FYs 2016-2017 and 2017-2018 includes \$1.8 million in each year and additional
5 staffing of 14 positions to expedite Officer-Involved shooting investigations." However as
6 noted by the Budget and Legislative Analyst's Office for the Board of Supervisors, funds have
7 been placed on reserve and currently the Budget and Finance Committee will consider the
8 release of those funds by October 1, 2016. The Board of Supervisors agrees that future
9 funding decisions and department oversight should evaluate the DA's improvement in
10 promptly completing criminal investigations and issuing charging decision letters in Officer-
11 Involved shooting cases; and

12 WHEREAS, The GAO conducted an additional hearing on October 20, 2016, to receive
13 an update from City departments on Recommendation No. R.5.D; now, therefore, be it

14 MOVED, That the Board of Supervisors reports to the Presiding Judge of the Superior
15 Court that Recommendation No. R.5.D has been implemented for reasons as follows: The
16 Board of Supervisors appropriated and placed on Budget and Finance Committee Reserve
17 \$1.8 million in FY2016-2017 to add 14 positions in the District Attorney's Office to expedite
18 Officer-Involved Shooting investigations. On September 28, 2016 the Budget and Finance
19 Committee released \$1.5 million to hire these 14 positions in FY2016-2017 and retained \$0.3
20 million on Budget and Finance Committee Reserve. The Board of Supervisors agrees that
21 future funding decisions and department oversight should evaluate the DA's improvement in
22 promptly completing criminal investigations and issuing charging decision letters in Officer-
23 involved shooting cases; and, be it

1 FURTHER MOVED, That the Board of Supervisors urges the Mayor to cause the
2 implementation of the accepted recommendation through his/her department heads and
3 through the development of the annual budget.

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1 [Board Response - Civil Grand Jury - Into the Open: Opportunities for More Timely and
2 Transparent Investigations of Fatal San Francisco Police Department Officer-involved
3 Shootings]

4 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
5 **and recommendations contained in the 2015-2016 Civil Grand Jury Report, entitled**
6 **“Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal**
7 **San Francisco Police Department Officer-involved Shootings;” and urging the Mayor to**
8 **cause the implementation of accepted findings and recommendations through his/her**
9 **department heads and through the development of the annual budget.**

10
11 WHEREAS, Under California Penal Code, Section 933 et seq., the Board of
12 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
13 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

14 WHEREAS, In accordance with California Penal Code, Section 933.05(c), if a finding or
15 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
16 county agency or a department headed by an elected officer, the agency or department head
17 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
18 response of the Board of Supervisors shall address only budgetary or personnel matters over
19 which it has some decision making authority; and

20 WHEREAS, Under San Francisco Administrative Code, Section 2.10(a), the Board of
21 Supervisors must conduct a public hearing by a committee to consider a final report of the
22 findings and recommendations submitted, and notify the current foreperson and immediate
23 past foreperson of the civil grand jury when such hearing is scheduled; and

24 WHEREAS, In accordance with San Francisco Administrative Code, Section 2.10(b),
25 the Controller must report to the Board of Supervisors on the implementation of

1 recommendations that pertain to fiscal matters that were considered at a public hearing held
2 by a Board of Supervisors Committee; and

3 WHEREAS, The 2015-2016 Civil Grand Jury Report, entitled "Into the Open:
4 Opportunities for More Timely and Transparent Investigations of Fatal SFPD [San Francisco
5 Police Department] Officer-involved Shootings" (Report) is on file with the Clerk of the Board
6 of Supervisors in File No. 160616, which is hereby declared to be a part of this Resolution as
7 if set forth fully herein; and

8 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
9 to Recommendation Nos. R.5.D, R.7.D, and R.12.D contained in the subject Report; and

10 WHEREAS, Recommendation No. R.5.D states: "The Board of Supervisors should
11 approve these additional resources requested by the DA's [District Attorney] Office and
12 included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed
13 budget for FY2017-2018, and thereafter, to expedite OIS [Officer-Involved Shootings]
14 investigations. Approval of these additional resources again should be contingent upon
15 marked, measurable improvement by the DA's Office in the time it takes to complete its
16 criminal investigations and issue its charging decision letters in OIS cases;" and

17 WHEREAS, Recommendation No. R.7.D states: "The Board of Supervisors should
18 approve the resources requested by the OCC [Office of Citizen Complaints] and included by
19 the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for
20 FY2017-2018, and thereafter, for transcription services;" and

21 WHEREAS, Recommendation No. R.12.B states: "The Chief of Police, the Supervisor
22 for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members
23 of the Police Commission, and all members of the newly formed OIS Task Force (see
24 Recommendation Nos. R.8.A and R.8.B) should attend the town hall meetings to show that
25 they acknowledge the seriousness of the situation, understand how critical it is to have a

1 thorough, accountable and transparent investigation and analysis of what occurred, and are
2 united toward the goal of making that happen. Faith leaders and other community advocacy
3 groups should also be invited to participate;" and

4 WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of
5 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
6 Court on Recommendation Nos. R.5.D, R.7.D and R.12.D contained in the Report; now,
7 therefore, be it

8 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
9 Superior Court that Recommendation No. R.5.D requires further analysis for reasons as
10 follows: As reported by the Mayor's budget office: "The DA's Office budget for FY2016-2017
11 and FY2017-2018 includes \$1.8 million in each year and additional staffing of 14 positions to
12 expedite Officer-Involved shooting investigations." However as noted by the BLA [Budget and
13 Legislative Analyst's Office] for the Board of Supervisors, funds have been placed on reserve
14 and currently the Budget and Finance Committee will consider the release of those funds by
15 October 1, 2016. The Board of Supervisors agrees that future funding decisions and
16 department oversight should evaluate the DA's improvement in promptly completing criminal
17 investigations and issuing charging decision letters in Officer-Involved shooting cases, the
18 Board of Supervisors will follow up on this matter at the October 20, 2016, Government Audit
19 and Oversight Committee Meeting; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
21 No. R.7.D has been implemented for reasons as follows: Increased funding for the Office of
22 Citizen Complaints has been included in budgets for FY2016-2017 and FY2017-2018; and, be
23 it

24 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
25 No. R.12.D will not be implemented for reasons as follows: The Board of Supervisors

1 wholeheartedly agrees with this recommendation and Board of Supervisors members do
2 participate in exactly such town hall meetings. However, the Board of Supervisors cannot
3 make promises on behalf of the members of the Police Commission, the District Attorney, or
4 other officials, and therefore, given the constraints imposed by the Civil Grand Jury response
5 structure must unfortunately provide a response of "will not be implemented." The Board of
6 Supervisors will, however, continue pushing for and participating in such town hall meetings
7 and for thorough, accountable, and transparent investigations of all Officer-involved shootings;
8 and, be it

9 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the
10 implementation of the accepted findings and recommendations through his/her department
11 heads and through the development of the annual budget.



City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 160616

Date Passed: September 27, 2016

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2015-2016 Civil Grand Jury Report, entitled "Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

September 15, 2016 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 15, 2016 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED

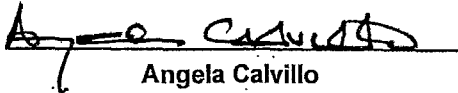
September 27, 2016 Board of Supervisors - ADOPTED

Ayes: 10 - Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

Excused: 1 - Avalos

File No. 160616

I hereby certify that the foregoing Resolution was ADOPTED on 9/27/2016 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board

Unsigned
Mayor

10/7/2016
Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Regina Revilla
for Angela Calvillo
Clerk of the Board

10/7/16
Date



Received via email
09/26/2016
File Nos. 160615/160616

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

September 15, 2016

The Honorable John K. Stewart
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street
San Francisco, CA 94102

SUZY LOFTUS
President

L. JULIUS M. TURMAN
Vice President

DR. JOE MARSHALL
Commissioner

PETRA DeJESUS
Commissioner

THOMAS MAZZUCCO
Commissioner

VICTOR HWANG
Commissioner

SONIA MELARA
Commissioner

Sergeant Rachael Kilshaw
Secretary

RE: Civil Grand Jury Report - *Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings.*

Dear Judge Stewart:

Pursuant to California Penal Code sections 933 and 933.05, the following is the Police Commission's ("Commission") response to the 2015 -2016 Civil Grand Jury Report entitled, "**Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings**" ("Report"). The Commission would like to thank the members of the Civil Grand Jury for their interest in the City's various investigations of Officer-Involved Shootings ("OIS") and for their efforts to improve the timeliness and transparency of OIS investigations.

FINDINGS

Finding F.2: Because the SFPD consistently does not meet the time frame in its own General Order by which investigations of the OIS incidents are to be conducted and completed, the General Orders create a sense of false expectations for the citizens of San Francisco.

Disagree with finding, partially.

The 30, 45 and 60- day deadlines imposed in General Orders 3.10 and 8.11, when first issued, were considered industry standards. With advancements in technology and science, these investigative deadlines do not reflect the inherent complexities (forensic evidence processing, etc.) involved in conducting OIS investigations.

In addition, the current deadlines do not consider the dependencies of independent investigations now required that are outside the control of the Commission and the SFPD,

including the District Attorney's investigation and, in death cases, the Medical Examiner's investigation. The length of an OIS investigation is largely dependent on the outcome of these investigations, and in particular, the charging decision of the District Attorney's Office with respect to the officer. All relevant reports, including the Medical Examiner's report, are needed to complete the criminal investigation. Likewise, the trailing administrative investigation would not be complete without the District Attorney's Office determination of the criminal portion. Per California Government Code 3304(d), the time limit investigation of a personnel investigation tolls until (1) a criminal investigation; (6) civil litigation; or (7) criminal litigations where the officer is the defendant in the matter is completed. While the administrative case could theoretically be closed before these happen, the SFPD's administrative investigation has a significant dependency on the finding of the District Attorney, because the officer must have acted lawfully to be within policy. It is conceivable that at the conclusion of an investigation, the District Attorney could charge the officer with a crime that the administrative investigation or the SFPD Homicide investigators had not foreseen.

RECOMMENDATIONS

Recommendation R.2.A: The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.

Recommendation has not been implemented but will be in the future.

This recommendation is being reviewed by the U.S. Department of Justice Collaborative Reform Initiative (DOJ-CRI) review team and compared against national best practices. The Commission will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.2.B: After receiving the results of the study of ways to streamline the OIS investigation process, the Police Commission should revise the General Orders to more accurately reflect the timeframes by which investigations of OIS incidents are to be completed.

Recommendation has not been implemented but will be in the future.

This recommendation is being reviewed by the DOJ-CRI review team and compared against national best practices. The Commission will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.7.B: The Police Commission should support the OCC's funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.

Recommendation has been implemented.

The Commission advocates on behalf of the OCC's funding requests each year and has done so for FY 2017-2018. The OCC recently obtained funding for transcriptions services.

Recommendation R.10.A: SFPD and the Police Commission should make it official policy for the SFPD to hold press conferences as soon as possible after *each* OIS incident.

Recommendation requires further analysis.

The SFPD's current practice is to have a press briefing/conference as immediately as possible after each OIS incident, including a briefing at the scene of, or close proximity to, the incident. At these briefings, preliminary information is provided by the Media Relations Unit, the Police Chief, or designee.

Updated information is provided to the public through press releases, and any media inquiries are addresses through Media Relations Unit. Updated information is also provided at a town hall meeting or meeting with community leaders, held within 10 days of an OIS incident, as well as at the weekly Commission meetings and at meetings with community leaders, stakeholders, and advocates.

This recommendation is being reviewed by the DOJ-CRI review team and compared against national best practices. The Commission will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.11.A: SFPD and the Police Commission should make it official policy for the SFPD to post "updates" on its website as soon as possible after *each* OIS incident.

Recommendation requires further analysis.

The SFPD currently posts information released to the media as a "press release" relating to critical incidents, including OIS incidents, on its website. In addition, information relating to town hall meetings are released to the media and posted on the website. The Commission will review best practices of other agencies to determine a process by which updated information can be shared on its website that will not compromise the ongoing investigation.

As part of the SFPD's participation in the White House Police Data Initiative, datasets relating to officer involved shootings between 2009 and 2015 are posted on the SFPD's website.

This recommendation is being reviewed by the DOJ-CRI review team and compared against national best practices. The Commission will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.12.A: SFPD and the Police Commission should make it official policy for the SFPD to hold town hall meetings within a week after *each* OIS incident.

Recommendation requires further analysis.

For the past five years, it had been the practice of the SFPD to hold town hall meetings in the area most affected by an OIS; members of the Commission were invited to attend those meetings. No more than three members of the Commission would attend the town hall meetings.

Most recently, as the SFPD has been expanding its collaboration with community stakeholders and interfaith leaders, meetings have been these specific groups who represent those neighborhoods most impacted by the incident. These community leaders then provide information to their respective communities. The SFPD has invited members of the Commission to attend these meetings, with no more than three Commissioners in attendance.

The Commission acknowledges the seriousness of these critical incidents and the importance of transparency, and will collaborate with the SFPD to draft a policy that will allow for information to be shared with the public whether at a town hall meeting or direct meeting with community leaders and stakeholders.

This recommendation is being reviewed by the DOJ-CRI review team and compared against national best practices. The Commission will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.12.B: The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.

Recommendation requires further analysis.

For the past five years, a town hall meeting has been convened within 10 days of an OIS investigation as close as possible to the location of the incident. The SFPD has invited some members of the Commission to attend. All of the members of the Commission cannot attend the same town hall meeting at the same time to avoid violating Administrative Code 67 et seq. and Government Code 549954 and creating a quorum and holding an improperly noticed meeting.

The Commission acknowledges the seriousness of these critical incidents and the importance of transparency, and will collaborate with the SFPD to draft a policy that will allow for information to be shared with the public whether at a town hall meeting or direct meeting with community leaders and stakeholders.

This recommendation is being reviewed by the DOJ-CRI review team and compared against national best practices. The Commission will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.13.A: SFPD and the Police Commission should make it official policy for the SFPD to release the names of all officers involved in each OIS incident within 10 days, unless it has knowledge of credible threats to the officers' safety. In those instances in which the SFPD has knowledge that such credible threats exist, the SFPD should issue a statement stating it is withholding release of the names of the officers because of a credible threat to their safety.

Recommendation has been implemented.

Since 2014, when the California Supreme Court rules that agencies must release the names of officers involved in shootings, the SFPD has complied with that decision within 10 days of the incident. When a credible threat to the safety of the involved officer(s) exists, the SFPD will issue a statement to clarify why the information is being withheld.

Recommendation R13.C: SFPD and the Police Commission should make if official policy that in those instances when the names of officers involved in an OIS incident are not released due to a credible threat to the officers' safety, the SFPD shall release the names of all officers involved as soon as the SFPD determines that the credible threat has passed.

Recommendation has been implemented.

The SFPD ensures that, prior to releasing officers' names, any known, credible threat has been resolved.

Recommendation R.15: The Police Commission or the newly created OIS Investigation Oversight Task Force (see Recommendations R.8.A. and R.8.B), in addition to summarizing the findings and conclusions of the various OIS investigation (again see Recommendation R.8.A. and R.8.B.), should examine fatal OIS incidents with a view to developing "lessons learned" and answering the following questions:

- What circumstances contributed to the OIS incident?
- What aspects of the interaction between the SFPD officers and the suspect, if any, could have been handled differently so that the loss of life would not have occurred?
- What alternatives to deadly force may have been tried? What lessons can be learned?

- Should any SFPD policies and procedures be reviewed or revised because of the incident?

The entity making this review of the fatal OIS investigation should publish its findings, as well as those from each of the other City agencies involved, in one comprehensive report that is made available to the public. The entity should then hold town hall meetings to share highlights from the report and the conclusions drawn from the OIS incident and should seek and allow for public comment and feedback.

Recommendation requires further analysis and may be implemented in the future.

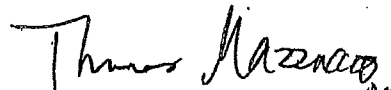
The Commission has directed the SFPD to recommend policy changes resulting from OIS investigations where general policy issues have been identified during the course of the administrative investigation, but prior to the investigation being finalized.

This recommendation is being reviewed by the DOJ-CRI review team and compared against national best practices. The Commission will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Conclusion:

On behalf of the entire Police Commission, I again want to thank you for the opportunity to respond to the Civil Grand Jury's Report *"Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings."*

Sincerely,


THOMAS P. MAZZUCCO *PA*
San Francisco Police Commission

cc: VIA EMAIL
Honorable Mayor Edwin Lee
Honorable San Francisco Board of Supervisors
Commission President Suzy Loftus
Interim Chief of Police Toney Chaplin
Deputy Chief Garret Tom

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE
MAYOR

Received via email
9/6/2016
File Nos. 160615 and 160616

September 6, 2016

The Honorable John K. Stewart
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street
San Francisco, CA 94102

Dear Judge Stewart:

Pursuant to California Penal Code sections 933 and 933.05, the following is in reply to the 2015-16 Civil Grand Jury report, *Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings*. The City is in the process of reforming SFPD practices across the board. Implementing these reforms will likely reduce the number of OIS incidents over time as well as address concerns regarding the use of force.

These reforms - aimed at safeguarding the life, dignity and liberty of all persons - include:

- Revising principles with regard to the application of force options such as expanding time and distance used before engaging with suspects;
- Deploying body worn cameras to better evaluate day-to-day behavior and increase accountability of our officers; and
- Embracing 21 Century Policing Principles to increase transparency and community awareness with regard to police operations.


Moreover, the SFPD will implement U.S. Department of Justice Collaborative Reform Initiative (DOJ-CRI) best practices in addition to many of the Civil Grand Jury's recommendations. SFPD will conduct a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation. As such, we agree with many of the report's findings, are actively working to improve the practices and policies related to OIS, and are dedicated to timely resolutions, which positively impact the conduct of OIS investigations.

Consolidated Response to the Civil Grand Jury
Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings
September 6, 2016

A detailed response from the Mayor's Office, the Police Department, and the Office of the City Administrator to the Civil Grand Jury's findings and recommendations are attached.

Thank you for the opportunity to comment on this Civil Grand Jury report.

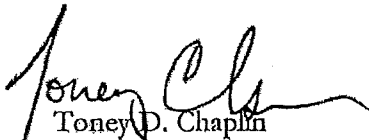
Sincerely,



Edwin Lee
Mayor



Naomi M. Kelly
City Administrator



Toney D. Chaplin
Interim Chief of Police

Findings:

Finding F.1: None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.

Agree with finding.

The SFPD agrees that in order to be more transparent, a document outlining the overall OIS process could be created to share with the public. The document would include the responsibilities of each agency involved in an OIS investigation. However, any detailed information regarding a specific investigation would not be made available due to laws governing the release of information relating to ongoing investigations.

Finding F.2: Because the SFPD consistently does not meet the time frame in its own General Orders by which investigations of OIS incidents are to be conducted and completed, the General Orders create false expectations for the citizens of San Francisco.

Disagree with finding, partially.

The 30, 45, and 60-day deadlines imposed in General Orders 3.10 and 8.11, when first issued, were considered industry standards. With advancements in technology and science, these investigative deadlines do not reflect inherent complexities such as forensic evidence processing. In addition, the current deadlines did not consider the dependencies of independent investigations now required that are outside the control of the SFPD, including the District Attorney's investigation and, in death cases, the Medical Examiner's investigation.

The length of an OIS investigation is largely dependent on the outcome of these investigations, particularly the charging decision of the District Attorney's Office with respect to the officer. All relevant reports, including the Medical Examiner's report, are needed to complete the criminal investigation. Likewise, the trailing administrative investigation would not be complete without the District Attorney's Office determination of the criminal portion. Per California Government Code 3304(d), the time limit investigation of a personnel investigation tolls until (1) a criminal investigation; (6) civil litigation; or (7) criminal litigation where the officer is the defendant in the matter is completed.

While the administrative case could be theoretically closed before conclusion of these investigations, SFPD's administrative investigation has a significant dependency on the finding of the District Attorney, because the officer must have acted lawfully to be within policy. It is conceivable that at the conclusion of an investigation, the District Attorney could charge the officer with a crime that the administrative investigation or the SFPD Homicide investigators had not foreseen.

Finding F.3: The SFPD Field Operations Bureau's use of outdated methods, including a serial, hierarchical phone tree system, to alert some essential responders of an OIS incident is inherently time-consuming and results in slower response times, which can cause delays in OIS investigations both at the scene and afterwards.

Agree with finding:

Although the SFPD's Department Operations Center (DOC), a unit under the command of the Special Operations Bureau, currently has a notification system in place for OIS call outs, the best available technology should be used for all critical incident call outs. The SFPD should perform a review of best practices of similar-sized agencies.

Finding F.4: While there are many factors to consider when determining a timetable to complete an OIS investigation, the lack of a meaningful and enforceable process for establishing a timetable in the current MOU between the SFPD and the DA's Office allows OIS investigations to drag on too long.

Disagree with finding, partially.

The SFPD's Homicide Unit currently completes an OIS investigation and forwards it to the DA's office. However, the case and the Internal Affairs process cannot be closed until receipt of the results of the forensic analysis, the Medical Examiner's report, and the DA's final charging decision. These processes are not under the control of the SFPD.

Finding F.6: Under the leadership and commitment displayed by the CME since coming aboard in March 2015, the OCME's turnaround time has improved and its final reports have included more photographs and documentation and greater detail.

Agree with finding.

The Office of the Chief Medical Examiner (OCME) prioritized decreasing turnaround time for the release of work product. This has positively impacted the production final reports associated with OIS incidents. The office understands the need for the timeliness of report generation and will remain vigilant in this regard. The OCME continues to stand behind its work product which continues to meet national standards.

Finding F.8: The current structure for investigating OIS cases lacks an oversight body to review the events surrounding the OIS incident and the actions of the SFPD officers, monitor the timeliness and fairness of the investigation, communicate regularly about the status of the investigation, and interpret and share the results of the investigation with the public.

Disagree with finding, partially.

SFPD convenes its Firearm Discharge Review Board in connection with each OIS incident and summaries of incidents are provided to the Police Commission for review. The Firearm Discharge Review Board convenes quarterly and reports on the status of open SFPD OIS investigations.

Finding F.9: While the SFPD has taken important first steps in providing information and statistics regarding OIS incidents and resulting investigations, it must provide much more robust information to reach its stated goal of building public trust, engaging with the community and driving positive outcomes in public safety.

Disagree with finding, partially.

The SFPD agrees that any information that is releasable should be shared with the public. However, as an OIS investigation is considered open and on-going, the SFPD needs to remain cautious not to release

information prematurely that may be inaccurate or any details that would compromise the outcome of the investigation. The SFPD will review other agencies' best practices to determine if similar processes can be implemented that would allow for more transparency without compromising the investigation.

Finding F.10: SFPD's press conferences at the scene of the incident, or soon thereafter, are an important first step in creating a transparent investigation, provide crucial information about the events leading up to the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

Agree with finding.

For the past five years, command staff has responded to the scene of critical incidents along with members of the Media Relations Unit. This allows for initial information to be provided as soon as possible. In addition, a meeting is completed within 10 days of an incident to provide additional information. A "press-exclusive" press conference could be added or substituted.

Finding F.11: As with its press conferences at the scene of the incident, the SFPD's practice of posting "updates" on its website as soon as possible after an OIS incident are an important step in creating a transparent investigation, provide crucial information about the events leading up to the OIS incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

Agree with finding.

Following the initial release of information relating to an OIS incident, the SFPD routinely provides updated information to the media by way of press releases, which are posted on its website. However, to help dispel egregious public information, staff should ensure that all information has been vetted prior to distribution to the public. At the conclusion of the investigation, the website could be updated to reflect the outcome.

Finding F.12: SFPD's town hall meetings are crucial to a transparent OIS investigation and provide updated information about the incident and serve to mitigate false reporting, speculation and the dissemination of misinformation.

Agree with finding.

For the past five years, it has been a practice to hold a town hall, community, or stakeholder meeting within 10 days of an OIS incident in the affected community. The intent of these meetings is to provide preliminary information to the public. These meetings are chaired by the Police Chief and are regularly attended by members of the Police Commission and Board of Supervisors, as well as City officials. As an investigation evolves, further information is developed and disseminated to the public and the media.

Finding F.13: Although the release of the names of officers involved in fatal OIS incidents is an important step in creating a transparent investigation and holding the SFPD and its officers accountable for their actions, SFPD has had a spotty record regarding its release of the names of its officers involved in fatal OIS incidents.

Disagree with finding, wholly.

Since 2014 when the California Supreme Court ruled that agencies must release the names of officers involved in shootings, the SFPD has complied with that decision within 10 days of the incident. The ruling allowed for names to be withheld under certain circumstances, including if a credible threat to the officer's safety existed. As such, the SFPD has done its due diligence when releasing the names of officers by ensuring any known, credible threat has been resolved prior to the release of the name(s) of the involved members. Additionally, the media has requested historical information relating to OIS incidents, including the names of involved officers, and the SFPD has complied with such requests.

Finding F.15. Currently, citizens of San Francisco do not have access to a single, complete, comprehensive summary of the results and findings of a fatal OIS investigation. To restore the public's faith in the integrity of these investigations, such a summary should be made available.

Agree with finding.

Recommendations:

Recommendation R.1: Each of the three City agencies fundamental to OIS investigations — SFPD, DA’s Office and OCC — should create a “OIS Investigations” web page specifically devoted to educating the public about that agency’s role in the investigation of OIS incidents. Each agency’s web page should be comprehensive and answer the following questions:

- Who is involved in the investigation and what are their roles and responsibilities;
- Why is the agency involved in OIS investigations;
- What is the investigation’s purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why;
- When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame;
- How does the OIS investigation process work; and
- Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations.

Each agency should make its “OIS Investigations” web page available in English, Spanish, Chinese and Filipino (Tagalog).

Each agency should provide a link from its home page to its “OIS Investigations” web page, so that it can be accessed easily.

Each agency should add its “OIS Investigations” web page to its website as soon as possible, but no later than six months after the date this report is published.

Recommendation has not been, but will be, implemented in the future.

The SFPD agrees that information should be provided to the public consistent with the best practices in 21st century policing. The SFPD is evaluating and adjusting its website to provide improved information to the community. During this process, the SFPD will consider inclusion of the above recommendation, as well as review other agency websites for additional information that could be included. As required by the City and fully supported by the SFPD, information available on the website will meet the requirements of the Language Access Ordinance.

Recommendation R.2.A: The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.

Recommendation has not been, but will be, implemented in the future.

This recommendation is being reviewed by the U.S. Department of Justice Collaborative Reform Initiative (DOJ-CRI) review team and compared against national best practices. The SFPD will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.2.B: After receiving the results of the study of ways to streamline the OIS investigation process, the Police Commission should revise the General Orders to more accurately reflect the timeframes by which investigations of OIS incidents are to be completed.

Recommendation has not been, but will be, implemented in the future.

This recommendation is being reviewed by the U.S. Department of Justice Collaborative Reform Initiative (DOJ-CRI) review team and compared against national best practices. The SFPD will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

Recommendation R.3.A: The SFPD Field Operations Bureau should implement standardized, modern methods to notify all essential responders of an OIS incident.

Recommendation has not been, but will be, implemented in the future.

The SFPD's Department Operations Center (DOC), a unit under the command of the Special Operations Bureau, has a system in place to notify all essential responders to OIS incidents. The SFPD has added an additional layer of notification specific to the on-call DA investigator, which requires a direct call from the Captain of the Major Crimes Division to the on-call DA investigator immediately after learning of an OIS incident. The SFPD will research available technology that can improve the notification process.

Recommendation R.3.B: The SFPD Field Operations Bureau should require that all essential responders called to the scene of an OIS incident confirm with the Field Operations Bureau that they received the initial notification. If the Bureau does not receive confirmation from an essential responder within a designated period of time, it should contact an alternate responder for that agency.

Recommendation has not been, but will be, implemented in the future.

The SFPD's Department Operation Center (DOC), a unit under the command of the Special Operations Bureau, will review the current process for notification to an OIS incident to ensure there is a process in place for first responders to confirm receipt of the notification and to log that confirmation. The process also should include a mechanism to ensure follow-up notification is done within a designated time span when a response from a first responder has not been received.

Recommendation R.4: The SFPD and the DA's Office should jointly draft a new MOU in which each commits to an agreed-upon process to:

- Prioritize and expedite their investigations of OIS incidents within an established timeframe;
- Make a public announcement when each completes its OIS investigation, so that the public may be better informed of the investigative results and the time taken by each agency to complete its OIS investigation.

Recommendation requires further analysis.

The SFPD is reviewing the current MOU and is in discussion with the DA's Office, as well as exploring additional resources to investigate OIS incidents.

Recommendation R.5.C: The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the DA's Office to expedite OIS investigations. Allocation and/or release of these funds should be contingent upon marked,

measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.

Recommendation has been implemented.

The DA's Office budget for FY 2016-17 and FY 2017-18 includes \$1.8 million in each year and additional staffing of 14 positions to expedite OIS investigations.

Recommendation R.6.A. After the OCME releases each autopsy report in OIS cases, the CME should proactively call a meeting of the SFPD's Homicide Detail, DA's Office and OCC to help those agencies interpret the highly technical findings of the autopsy report. This meeting should be coordinated, if possible, to include reports from the Crime Lab on the results of its firearms comparisons, ballistics examinations and DNA analysis.

Recommendation has not been, but will be, implemented in the future.

The OCME will fully participate in after action conferences with regard to OIS incidents; however, the conference should be initiated by the agency leading the investigation as the agency will have a better understanding of the case status of each participating party.

Recommendation R.6.B. When the new OCME building with autopsy observation facilities is completed, the CME should invite SFPD inspectors and DA and OCC investigators to observe autopsies in all fatal OIS incidents, so that questions can be answered quickly, observations shared early, and the spirit of teamwork and cooperation on the investigation can begin as early as possible.

Recommendation has not been, but will be, implemented in the future.

With a projected opening in Fall 2017, the design of the new OCME facility includes an autopsy observation room. The observation room will allow investigators to participate more fully in autopsies related to OIS incidents. Additionally, the observation room will reduce informational asymmetries, improve the flow of information and enhance information sharing allowing the investigation to begin as early as possible. Investigators will be encouraged to attend examinations in all homicide and suspicious cases.

Recommendation R.7.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the OCC for transcription services.

Recommendation has been implemented.

The FY 2016-17 and FY 2017-18 budget includes ongoing \$231,000 for the OCC for transcription services.

Recommendation R.8.B. The Mayor should charge the new task force to:

- Monitor the progress of each OIS investigation and hold each involved agency accountable for timely completion of its portion of the OIS investigation;
- Provide periodic press releases and/or press conferences to update the public on the status of each OIS case;
- Compile a summary of the findings from each involved agency and then evaluate those findings in group meetings to address any inconsistencies or unanswered questions;
- Facilitate a joint discussion among its members to formulate conclusions and “lessons learned”;
- Identify necessary policy or procedural changes; and
- Share its summary of the overall OIS investigation in public sessions so that the public has a voice in the.

Recommendation has not been, but will be, implemented in the future.

The Mayor’s Office works with the DA’s Office and the SFPD to monitor progress of each OIS investigation, provide periodic and timely updates to the public on the status of OIS cases, summarizes and evaluates findings, and jointly discuss OIS investigations. The dedication to timely resolutions coupled with additional resources have positively impacted the conduct of OIS investigations, and includes \$800,000 for the California Department of Justice’s ongoing research of best practices related to OIS incidents. In implementing policy and procedural changes, SFPD has modified department general orders to assure time and distance and preserve the sanctity of life.

Recommendation R.9: SFPD should make publicly available and prominently display on its website a more robust set of statistics, data and information on OIS incidents where its officers are involved, using the data release practices of law enforcement agencies like the Dallas Police Department and the Los Angeles County Sheriff’s Department.

Recommendation has not been, but will be, implemented in the future.

As part of the SFPD’s participation in the White House Initiative, staff began the process of implementing the items in this recommendation. The City’s Department of Technology will be developing and enhancing the City’s IT infrastructure which will include developing new websites for both the SFPD and Police Commission. At this time, the current website needs to be redesigned to make it more user-friendly and information readily accessible on a dedicated reports page. It is anticipated that the SFPD’s IT Department will have the infrastructure developed within the second quarter of 2017.

Recommendation R.10.A: SFPD and the Police Commission should make it official policy for the SFPD to hold press conferences as soon as possible after each OIS incident.

Recommendation has been implemented.

The SFPD’s current practice is to have a press briefing/conference as immediately as possible after each OIS incident, including a briefing at the scene of, or in close proximity to, the incident. At these briefings, preliminary information is provided by the Media Relations Unit, the Police Chief, or designee.

Updated information is provided to the public through press releases, and any media inquiries are addressed through the Media Relations Unit. Updated information also is provided at community stakeholder or public meetings, held within 10 days of an OIS incident, as well as at the weekly Police Commission and at meetings with community leaders, stakeholders, and advocates.

Recommendation R.10.B: SFPD should limit comments made during these press conferences to the facts as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.

Recommendation has been implemented.

The SFPD strives to meet the highest operational and ethical standards and to continually improve how we meet the City's public safety objectives. The SFPD's goal is to incorporate the recommendations of the President's Task Force on 21st Century Policing, especially relating to transparency. These policies and practices are intended to provide accurate, timely, and reliable information to the public.

The SFPD realizes that emerging technology, including the use of social media to post real-time video, provides additional information and evidence that may be different than the preliminary information gathered from witnesses and involved officers. As such, the SFPD will continue to explore best practices in transparency and media relations in an effort to disseminate accurate and reliable information that has been vetted.

Recommendation R.11.A: SFPD and the Police Commission should make it official policy for the SFPD to post "updates" on its website as soon as possible after each OIS incident.

Recommendation has not been, but will be, implemented in the future.

The SFPD currently posts information released to the media as a "press release" relating to critical incidents, including OIS incidents, on its website. In addition, information relating to community and/or stakeholder meetings are released to the media and posted on the website. The SFPD will review best practices of other agencies to determine a process by which updated information can be shared on its website that will not compromise the ongoing investigation.

As part of the SFPD's participation in the White House Police Data Initiative, datasets relating to officer involved shootings between 2009 and 2015 are posted. In addition, a website link to OIS incidents could be developed.

Recommendation R.11.B: SFPD should limit comments made in these updates to the facts as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.

Recommendation has been implemented.

The SFPD has developed a process by which the Media Relations Unit, Homicide, and Internal Affairs coordinates with the Chief's Office to ensure that only verified information is disseminated.

Recommendation R.12.A: SFPD and the Police Commission should make it official policy for the SFPD to hold town hall meetings within a week after each OIS incident.

Recommendation requires further analysis.

For the past five years, it has been a practice of the SFPD to hold a town hall, community, or stakeholder meeting in the area most affected by an OIS incident. Most recently, as the SFPD has been expanding its collaboration with community stakeholders and interfaith leaders, meetings have been held with these specific groups who represent those neighborhoods most impacted by the incident. The intent of these meetings is to provide information directly to community representatives and to engage in open dialogue to address concerns in a more productive environment. These community leaders then provide the information to their respective communities. The SFPD acknowledges the seriousness of these critical incidents, and the importance of transparency, and will draft a policy that will allow for information to be shared with the public whether at a public meeting or direct meeting with community leaders and stakeholders.

Recommendation R.12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the public and/or community stakeholder meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.

Requires further analysis.

The SFPD and the Police Chief recommend and implement best practices with respect to procedures following OIS incidents including: (i) notification to the public; (ii) transparency of investigations; and (iii) updates on the status of investigations. SFPD currently partners with local faith based leadership and other community groups including the Street Violence Reduction Team and the San Francisco Interfaith Council.

For the past five years, a town hall meeting has been convened within 10 days of an OIS incident as close as possible to the location of the incident. It is the practice of the SFPD to invite members of the Police Commission and Board of Supervisors, other City agency executives (OCC and DA), community and faith-based leaders, and media outlets. Staff attending from the SFPD include the Police Chief, Chief of Staff, Command Staff members, representatives of the Investigations Division and the District Station captain. This process is under review by Command Staff and Media Relations to ensure an orderly and transparent dissemination of the information continues to occur with technological advancements.

Recommendation R.13.A: SFPD and the Police Commission should make it official policy for the SFPD to release the names of all officers involved in each OIS incident within 10 days, unless it has knowledge of credible threats to the officer's safety. In those instances in which the SFPD has knowledge that such credible threats exist, the SFPD should issue a statement stating it is withholding release of the names of the officers because of a credible threat to their safety.

Recommendation has been implemented.

Since 2014, when the California Supreme Court ruled that agencies must release the names of officers involved in shootings, the SFPD has complied with that decision within 10 days of the incident. When a credible threat to the safety of the involved officer(s) exists, the SFPD will issue a statement to clarify why the information is being withheld.

Recommendation R.13.B: Simultaneous with its release of the names of the officers involved in an OIS incident or the statement that it is withholding release of that information, the SFPD should make the information available on its website.

Recommendation has not been, but will be, implemented in the future.

This is in process. The City's Department of Technology will be developing and enhancing the City's IT infrastructure which will include developing new websites for both the Police Department and Police Commission. At this time, the current website needs to be redesigned to make it more user-friendly and information readily accessible on a dedicated reports page. We anticipate the SFPD's IT Department will have the infrastructure developed within the second quarter of 2017.

Recommendation R.13.C: SFPD and the Police Commission should make it official policy that in those instances when the names of officers involved in an OIS incident are not released due to a credible threat to the officers' safety, the SFPD shall release the names of all officers involved as soon as the SFPD determines that the credible threat has passed.

Recommendation has been implemented.

The SFPD ensures that prior to releasing officers' names that any known, credible threat has been resolved.

Recommendation R.15: The Police Commission or the newly created OIS Investigation Oversight Task Force (see Recommendations R.8.A. and R.8.B.), in addition to summarizing the findings and conclusions of the various OIS investigations (again see Recommendations R.8.A. and R.8.B.), should examine each fatal OIS incident with a view to developing "lessons learned" and answering the following questions:

- What circumstances contributed to the OIS incident?
- What aspects of the interaction between the SFPD officers and the suspect, if any, could have been handled differently so that the loss of a life would not have occurred?
- What alternatives to deadly force may have been tried? What lessons can be learned?
- Should any SFPD policies and procedures be reviewed or revised because of the incident?

The entity making this review of the fatal OIS incident should publish its findings, as well as those from each of the other City agencies involved, in one comprehensive report that is made available to the public. The entity should then hold a community meeting to share highlights from the report and the conclusions drawn from the OIS incident and should seek and allow for public comment and feedback.

Requires further analysis.

The Police Commission currently oversees and reviews the conduct of OIS investigations. Many of the reforms already implemented by SFPD – including time and distance / zone of danger, body worn cameras and use of force - are based on the findings from OIS investigations. The Police Commission also engages

the Police Officers Association (POA) and provides a public forum for community members to comment on current practices and proposed reforms.

In November 2016, San Francisco citizens will vote on a City Charter Amendment to rename the Office of Citizen Complaints to the Department of Police Accountability; and will add new responsibilities to the Department of Police Accountability. If approved by the voters, the Charter Amendment would require that the Department of Police Accountability investigate claims of officer misconduct and use of force. Certain other reforms are pending and additional reforms will be proposed in the future.



George Gascón
District Attorney

RECEIVED VIA EMAIL

9/6/2016

FILE NOS. 160615
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September 6, 2016

The Honorable John K. Stewart
Presiding Judge
Superior Court of California
City and County of San Francisco
400 McAllister Street, Room 206
San Francisco, CA 94102-4512

Re: In the Matter of the 2015-2016 Civil Grand Jury Report "Into The Open: Opportunities For More Timely And Transparent Investigations Of Fatal San Francisco Police Department Officer Involved Shootings"—District Attorney's Response

Dear Judge Stewart:

Please find attached our response to the Civil Grand Jury's report, "Into The Open: Opportunities For More Timely And Transparent Investigations Of Fatal San Francisco Police Department Officer Involved Shootings." I commend the Civil Grand Jury for taking on this critically important issue and for conducting this comprehensive investigation.

In order to have a truly independent review of all law enforcement cases involving violations of individuals' Fourth and Fourteenth Amendment rights, the San Francisco District Attorney must have actual autonomy and independence in that investigation. Currently, San Francisco Police Department is the lead investigator on officer involved shootings, in custody deaths and excessive use of force. This structure makes it impossible to have an independent investigation. However, with our current staffing we are unable to assign people to this work on a full time basis because they are needed in other assignments.

To remedy this, I proposed the creation of an Independent Investigations Bureau (IIB) within the District Attorney's Office. The funding request in our budget submission was granted. However, the positions have been placed on reserve, making it impossible for us to hire staff. The IIB would be responsible for investigating and prosecuting cases of law enforcement officers who violate the Fourth and/or Fourteenth Amendment rights of individuals. The unit will handle all law enforcement officer involved shootings, all in-custody deaths, and all cases of on-duty excessive use of force. In addition to the prosecution of these cases, the unit will also be responsible for investigating and remedying colorable claims of factual innocence.

WHITE COLLAR CRIME DIVISION

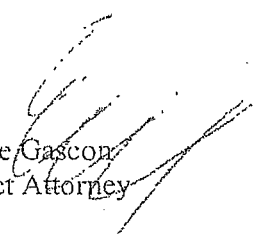
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District Attorney's Office Response to the Civil Grand Jury
September 6, 2016

While the IIB will not cure all the challenges facing us as we deal with these difficult issues, it would certainly be a dramatic improvement to the way the work has historically been done. I am hopeful that this first of its kind, innovative approach will be funded quickly so that it can produce more timely and transparent procedures and outcomes the community can trust.

Thank you for this opportunity to respond to the Civil Grand Jury.

Respectfully,


George Gascon
District Attorney

The District Attorney's Office response to the Civil Grand Jury's findings is as follows:

Finding 1: "None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works."

Response: The District Attorney agrees with this finding.

Finding 4: "While there are many factors to consider when determining a timetable to complete an OIS investigation, the lack of a meaningful and enforceable process for establishing a timetable in the current MOU between the SFPD and the DA's Office allows OIS investigations to drag on too long."

Response: The District Attorney agrees with this finding.

Finding 5: "The DA's Office takes too long to complete its criminal investigations and issue its charging decision letters in OIS cases. In the last five years, it has taken an average of 611 days to issue charging decision letters in fatal OIS cases and 654 days in all OIS cases, both fatal and non-fatal."

Response: The District Attorney agrees with this finding.

Finding 14: "The public's ability to learn of the result of the DA's criminal investigation of an OIS incident is hampered because the DA's Office rarely makes a public announcement that it has completed its investigation and because the DA's charging decision letters are listed in a confusing manner on the DA Office's website."

Response: The District Attorney agrees with this finding.

The District Attorney's Office response to the Civil Grand Jury's recommendations is as follows:

Recommendation 1: "Each of the three City agencies fundamental to OIS investigations — SFPD, DA's Office and OCC — should create a "OIS Investigations" web page specifically devoted to educating the public about that agency's role in the investigation of OIS incidents. Each agency's web page should be comprehensive and answer the following questions:

- Who is involved in the investigation and what are their roles and responsibilities;
- Why is the agency involved in OIS investigations;
- What is the investigation's purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why;
- When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame;
- How does the OIS investigation process work; and
- Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations.

Each agency should make its "OIS Investigations" web page available in English, Spanish, Chinese and Filipino (Tagalog).

Each agency should provide a link from its home page to its "OIS Investigations" web page, so that it can be accessed easily.

Each agency should add its "OIS Investigations" web page to its website as soon as possible, but no later than six months after the date this report is published."

Response: This recommendation will be implemented no later than December 31, 2016. We are hopeful that by this date we will be able to post our new role and responsibilities based on the formation of the IIB.

Recommendation 2.A: "The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation."

Response: This recommendation will not be implemented, as we do not have adequate funding to commission the recommended study. However, we have already determined several ways to improve the speed and independence of OIS investigations. In the 2016-17 budget we requested funding to create an Independent Investigations Bureau (IIB). This request was funded and we are waiting for the Mayor and the Board of Supervisors to remove the positions from reserve so that we can hire attorneys and investigators dedicated solely to investigating and prosecuting officer involved shootings and excessive use of force cases. This team will be able to send trained personnel to the scene of OIS cases which will dramatically improve our ability to capture evidence in a timely manner. Additionally, having dedicated personnel on these cases rather than tasking the work to already overburdened prosecutors will mean faster charging and trial preparation than we are currently capable of achieving. The new unit will bring much needed improvement to our process which has been substantially limited by poor resources.

Recommendation 4: "The SFPD and the DA's Office should jointly draft a new MOU in which each commits to an agreed-upon process to:

- Prioritize and expedite their investigations of OIS incidents within an established timeframe;
- Make a public announcement when each completes its OIS investigation, so that the public may be better informed of the investigative results and the time taken by each agency to complete its OIS investigation.

Response: This recommendation has not yet been implemented. We have drafted a proposed MOU and shared it with the SFPD. We are awaiting their feedback and acceptance of the new terms. We hope to reach agreement by September 30, 2016.

Recommendation 5.A: "The DA should immediately give the investigation of OIS cases priority and dedicate the departmental resources required to reduce the time the DA's Office takes to complete its criminal investigation and issue its charging decision letters in OIS cases."

Response: This recommendation has been implemented in part, and will be fully implemented once the funding for the IIB is released and the positions are filled. The District Attorney has always given the investigation of OIS incidents top priority and has used the limited resources available to his office to ensure that each OIS investigation is conducted in a thorough and professional manner. However, the historic lack of funding specifically dedicated to the investigation of OIS incidents has resulted in a much longer than optimal length of time required to complete each investigation and issue the charging decision letters. We have already determined several ways to improve the speed and independence of OIS investigations. As noted in response to Recommendation 2.A, we requested funding to create the IBB and this request was funded in the current fiscal year's budget.

Recommendation 5.B: "The DA should determine the resources necessary to reduce the length of time the DA's Office spends to complete its criminal investigations in OIS incidents and then make sufficient requests for those resources in the proposed budget for fiscal year 2017-2018, and thereafter."

Response: This recommendation has been implemented. Our primary request in the 2016-17 budget was for staffing to improve the way we investigate and prosecute OIS cases. We recognized the long timeframe for completing our work as well as other problems with the process. This compelled us to request funding and push hard for the creation of a new unit in our office dedicated solely to this work because of its paramount importance. Unfortunately, the positions were placed on reserve so we have not been able to hire staff yet.

Recommendation 12.B: "The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate."

Response: This recommendation has been implemented in part, and will be fully implemented by no later than December 31, 2016. The District Attorney's Office has attended a number of town hall meetings concerning OIS incidents over the last few years, and the District Attorney has personally met with the concerned community members, including family and friends, in connection with several of them.

Recommendation 14.A: "The DA's Office should make a public announcement each time it issues a charging decision letter so that the public is made aware that it has completed its OIS criminal investigation."

Response: This recommendation has been implemented. We already prepare a letter summarizing each incident and post it to our website. Going forward, the District Attorney's Office will also issue a press statement each time a charging decision has been made relating to an OIS investigation.

Recommendation 14.B: "The DA's Office should make its charging decision letters on its website more easily accessible to the public by including on the index page the name of the individual shot and the date of the OIS incident."

Response: This recommendation has been implemented.

OFFICE OF CITIZEN COMPLAINTS

CITY AND COUNTY OF SAN FRANCISCO

RECEIVED VIA EMAIL
9/16/2016
10:01:15 AM



Joyce M. Hicks
Executive Director

September 2, 2016

The Honorable John K. Stewart
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street
San Francisco, CA 94102

RE: Civil Grand Jury Report – *Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings.*

Dear Judge Stewart:

Pursuant to Penal Code sections 933 and 933.05, the following is in reply to the 2014-2015 Civil Grand Jury report entitled "*Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings.*" issued July 6, 2016. I appreciate very much the Grand Jury's attention to this important and challenging issue.

Introduction

Because this report addresses multiple agencies, the Office of Citizen Complaints (OCC) has crafted responses just to those findings and recommendations specifically directed to this office. For ease of reading, the responses are grouped into two categories, Transparency and Streamlining. In addition, a response matrix is attached.

Findings and Recommendations Relating to Transparency

As stated above, the Grand Jury findings relating to transparency are addressed together here.

Providing the greatest possible transparency allowed by law is a high priority for the OCC. However, California has some of the most restrictive laws in the country with respect to release of information in Officer Involved Shooting (OIS) investigations, like the ones conducted by the OCC. These rules significantly limit the information the OCC can provide to the public.

For example, it was only in 2014 that it became clear that a law enforcement agency could even release the names of the officers involved in an OIS. Long Beach Police Officers Assn. v. City of Long Beach (2014) 59 Cal.4th 59. As you know, the OCC is still prohibited from releasing much more than that about any specific investigation. Copley Press, Inc. v. Sup. Ct. (County of San Diego) (2006) 39 Cal.4th 1272. But the OCC does work diligently to provide to the public that information which the OCC is allowed to disseminate.

FINDING 1. None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.

Response:

Disagree, partially.

The OCC can only speak to the transparency efforts it has made, and not to the efforts made by the other agencies noted in this finding. As for the efforts of the OCC, state law prohibits the OCC from providing the public with factual information about specific cases, including most of the details of the processes used in any specific case. Copley Press, Inc. v. Sup. Ct. (County of San Diego) (2006) 39 Cal.4th 1272. It has been the experience of the OCC that most complainants' concerns about transparency stem from the limitations imposed by state law, not any failure on the part of the OCC to divulge information that the OCC is permitted to share.

That said, the OCC is able to inform the public about the process in general, and does so in the following ways, among others:

- a) The OCC publishes annual and quarterly reports, which are also available at the OCC website, sfgov.org/occ. These reports note the specific OIS cases investigated, when the OIS incident occurred, and when the investigations were closed.
- b) The OCC publishes monthly Complaint Summary Reports, also known as Openness Reports, detailing cases resolved that month. These are redacted to omit any specific case identifier, such as the case names, or the complainants' or officers' names. The details provided include a summation of the allegations, the findings of OCC, and the action taken by the Chief of Police and/or the Police Commission on those cases. These reports are also on the OCC website.
- c) The OCC's process for investigating cases is disseminated to the public through the OCC Community Outreach Strategic Plan. As part of that plan, OCC staff attend a wide variety of outreach events in the community, where staff introduce the OCC, its mission, provide information regarding procedures in general, and distribute OCC brochures.
- d) The OCC website describes the process for receiving and investigating complaints, which applies equally to OIS cases as it does to other kinds of complaints.

The Police Commission and the OCC staff deserve credit for the hard work they have put into these transparency efforts. Taken together, these steps have made the San Francisco police discipline system among the most transparent such systems in the state.

However, the OCC does agree with the Grand Jury that the addition of a webpage specific to the OIS process on the OCC website as described in Recommendation 1 would be a valuable resource for the community. The OCC is working on creating such a page, as described in the next response.

RECOMMENDATION 1. Each of the three City agencies fundamental to OIS investigations - SFPD, DA's Office and the OCC – should create a “OIS Investigations” web page specifically devoted to educating the public about that agency’s role in the investigation of OIS incidents. Each agency’s web page should be comprehensive and answer the following questions:

- Who is involved in the investigation, and what are their roles and responsibilities;
- Why is the agency involved in OIS investigations;
- What is the investigation’s purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not an/or cannot be disclosed and why;
- When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame;
- How does the OIS investigation process work; and
- Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations.

Each agency should make its “OIS Investigations” web page available in English, Spanish, Chinese and Filipino (Tagalog).

Each agency should provide a link from its home page to its “OIS Investigations” web page, so that it can be accessed easily.

Each agency should add its “OIS Investigations” web page to its website as soon as possible, but no later than six months after the date this report is published.

Response:

This recommendation has not been, but will be, implemented in the future.

As noted above with respect to Finding 1, the OCC agrees that the webpage described in this Recommendation would be valuable to the community. As part of a package of ongoing information technology improvements at the OCC, the Mayor and Board of Supervisors have

allocated funding for a new Assistant Information Systems Analyst (Civil Service Classification 1051). I intend to task that individual with creating the webpage containing the information described in Recommendation 1. Other staff are crafting the content, which will be translated as recommended.

RECOMMENDATION 12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable, and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.

Response:

Agree.

Should such a Task Force be created, I will attend Town Hall meetings. In addition, we currently attend public meetings called by the Chief of Police following Officer Involved Shootings.

Findings and Recommendations Relating to Streamlining

The Grand Jury also made findings and recommendations for streamlining the existing OIS process. Because many are interrelated, they are addressed together here.

RECOMMENDATION 2.A. The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.

Response:

This recommendation requires further study.

It is important to note that the OCC reports to the Police Commission, and this recommendation calls for the Police Commission to arrange for a study. The OCC defers to the

The Honorable John K. Stewart
September 2, 2016
Page 5 of 5

Commission as to whether and how to do so. Once the Commission provides direction as to how it wishes to proceed, the OCC will make every effort to assist.

FINDING 7. OCC Investigations are hampered and delayed by the fact that its investigators and attorneys must transcribe their own extensive notes of each witness interview.

Response:

Agree.

RECOMMENDATION 7.A. The OCC should allocate current year funds and include funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services, so that OCC staff can spend more of its time on investigations and legal analysis and less time on the transcription of interview notes.

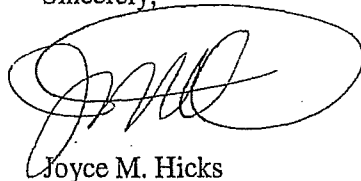
Response:

This recommendation has been implemented.

Conclusion

Thank you for this opportunity to respond to the Grady Jury Report "*Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings.*" I hope the members of the Grand Jury find these responses useful.

Sincerely,



Joyce M. Hicks
Executive Director
Office of Citizen Complaints

Enclosure

2015-16 Civil Grand Jury
 Transparent Investigations of Fatal SFPD Officer-Involved Shootings
 MASTER LIST: FINDINGS Response Template

CGJ Year	Report Title	Findings	Respondent assigned by CGJ	Responses (Agree/Disagree) Use the drop down	2016 Response Text
2015-16	Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings	F.1. None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.	Office of Citizen Complaints	disagree with it, partially (explanation in next column)	State law prohibits the OCC from providing the public with factual information about specific cases, including most of the details of the processes used in any specific case. <u>Conley Press, Inc. v. Sup. Ct. (County of San Diego) (2006) 39 Cal.4th 1272</u> . It has been the experience of the OCC that most complainants transparency stem from the limitations imposed by state law, not any failure on the part of the OCC to divulge information that the OCC is permitted to share. That said, the OCC is able to inform the public about the process in general, and does so in the following ways, among others: a) The OCC publishes annual and quarterly reports, which are also available at the OCC website, sfgov.org/occ . These reports note the specific OIS cases investigated, when the OIS incident occurred, and when the investigations were closed; b) The OCC publishes monthly Complaint Summary Reports, also known as Openness Reports, detailing cases resolved that month. These are redacted to omit any specific case identifier, such as the case names, or the complainants' or officers' names. The details provided include a summation of the allegations, the findings of OCC, and the action taken by the Chief of Police and/or the Police Commission on those cases. These reports are also on the OCC website; c) The OCC's process for investigating cases is disseminated to the public through the OCC Community Outreach Strategic Plan. As part of that plan, OCC staff attend a wide variety of outreach events in the community, where staff introduce the OCC, its mission, provide information regarding procedures in general, and distribute OCC brochures; d) The OCC website describes the process for receiving and investigating complaints, which applies equally to OIS cases as it does to other kinds of complaints. The Police Commission and the OCC staff deserve credit for the hard work they have put into these transparency efforts. Taken together, these steps have made the San Francisco police discipline system among the most transparent such systems in the state. However, the OCC does agree with the Grand Jury that the addition of a webpage specific to the OIS process on the OCC website as described in Recommendation 1 would be valuable.
2015-16	Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings	F.7. OCC Investigations are hampered and delayed by the fact that its investigators and attorneys must transcribe their own extensive notes of each witness interview.	Office of Citizen Complaints	agree with finding	

2538

2015-16 Civil Grand Jury
 Transparent Investigations of Fatal SFPD Officer-Involved Shootings
 MASTER LIST : RECOMMENDATIONS Response Template

CGJ Year	Report Title	Recommendations	Respondent assigned by CGJ	2016 Response	2016 Response Text
2015-16	Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings	<p>R.1. Each of the three City agencies fundamental to OIS investigations — SFPD, DA's Office and OCC — should create a "OIS Investigations" web page specifically devoted to educating the public about that agency's role in the investigation of OIS incidents. Each agency's web page should be comprehensive and answer the following questions:</p> <ul style="list-style-type: none"> • Who is involved in the investigation and what are their roles and responsibilities; • Why is the agency involved in OIS investigations; • What is the investigation's purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why; • When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame; • How does the OIS investigation process work; and • Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations. <p>Each agency should make its "OIS Investigations" web page available in English, Spanish, Chinese and Filipino (Tagalog). Each agency should provide a link from its home page to its "OIS Investigations" web page, so that it can be accessed easily. Each agency should add its "OIS Investigations" web page to its website as soon as possible, but no later than six months after the date this report is published.</p>	Office of Citizen Complaints	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	The OCC agrees that the webpage described in this Recommendation would be valuable to the community. As part of a package of ongoing information technology improvements at the OCC, the Mayor and Board of Supervisors have allocated funding for a new Assistant Information Systems Analyst (Civil Service Classification 1051). The OCC intends to task that individual with creating the webpage containing the information described in Recommendation 1. Other staff are crafting the content, which will be translated as recommended.
2015-16	Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings	<p>R.2.A. The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.</p>	Office of Citizen Complaints	The recommendation requires further analysis (explanation of the scope of that analysis and a timeframe for discussion, not more than six months from the release of the report noted in next column)	It is important to note that the OCC reports to the Police Commission, and this recommendation calls for the Police Commission to arrange for a study. The OCC defers to the Commission as to whether and how to do so. Once the Commission provides direction as to how it wishes to proceed, the OCC will make every effort to assist.

2539

2015-16 Civil Grand Jury
 Transparent Investigations of Fatal SFPD Officer-Involved Shootings
 MASTER LIST : RECOMMENDATIONS Response Template

2015-16	Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings	R.7.A. The OCC should allocate current year funds and include funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services, so that OCC staff can spend more of its time on investigations and legal analysis and less time on the transcription of interview notes.	Office of Citizen Complaints	The recommendation has been implemented (summary of how it was implemented in next column)	The Mayor and Board of Supervisors have so allocated.
2015-16	Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal SFPD Officer-Involved Shootings	R.12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.	Office of Citizen Complaints	The recommendation has not been, but will be, implemented in the future (timeframe for implementation noted in next column)	Should such a Task Force be created, the OCC Director will attend Town Hall meetings. The OCC already attends public meetings called by the Chief of Police following Officer Involved Shootings.



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8/25/2016
FILE NOS. 160615
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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

August 25, 2016

The Honorable John K. Stewart
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street
San Francisco, CA 94102

SUZY LOFTUS
President
L. JULIUS M. TURMAN
Vice President
DR. JOE MARSHALL
Commissioner
PETRA DeJESUS
Commissioner
THOMAS MAZZUCCO
Commissioner
VICTOR HWANG
Commissioner
SONIA MELARA
Commissioner

Dear Judge Stewart:

Sergeant Rachael Kilshaw
Secretary

Pursuant to California Penal Code sections 933 and 933.05, the following is a preliminary response to the 2015-16 Civil Grand Jury Report entitled, **“Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer –Involved Shootings (“Report”).”** The San Francisco Police Commission (“Commission”) would like to thank the members of the Civil Grand Jury for their interest in the City’s various investigations of Officer-Involved Shootings (“OIS”) and for their efforts to improve the timeliness and transparency of OIS investigations.

The Report was released on July 6, 2016 to the Commission asking for a response within sixty days. Pursuant to California Penal Code section 933(c) “no later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body.” The Commission intends to fulfill its legal obligation to respond to the Report no later than October 4, 2016.

Unlike the other agencies named as required responders in the Report, the Commission cannot act in whole without an item being placed on its agenda for discussion and public comment. The Commission anticipates placing this item on the agenda for the next Commission meeting, Wednesday, September 7, 2016, for discussion.

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,

THOMAS P. MAZZUCCO
San Francisco Police Commission

cc: via email
Mayor Edwin Lee
San Francisco Board of Supervisors
Commission President Suzy Loftus
Interim Chief of Police Toney Chaplin
Deputy Chief Garret Tom

CITY AND COUNTY OF SAN FRANCISCO
CIVIL GRAND JURY



June 30, 2016

Angela Calvillo
Clerk of the Board
SF Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

BY [Signature]
2016 JUN 30 PM 3:11
RECEIVED
CIVIL GRAND JURY
SAN FRANCISCO

Dear Ms. Calvillo,

The 2015 – 2016 Civil Grand Jury will release its report entitled, "Into The Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-involved Shootings" to the public on Wednesday, July 6, 2016. Enclosed is an advance copy of this report. Please note that by order of the Presiding Judge of the Superior Court, Hon. John K. Stewart, this report **is to be kept confidential until the date of release (July 6th)**.

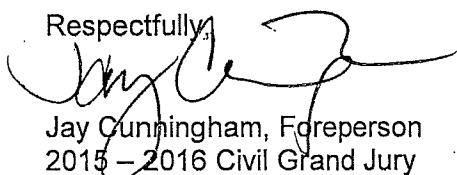
California Penal Code §933 (c) requires a response to be submitted to the Presiding Judge no later than 90 days. California Penal Code §933.5 states that for each finding in the report, the responding person or entity shall indicate one of the following: (1) agree with the finding; or (2) disagree with it, wholly or partially, and explain why.

Further, as to each recommendation, your response must either indicate:

- 1) That the recommendation has been implemented, with a summary of how it was implemented;
- 2) That the recommendation has not been, but will be, implemented in the future, with a timeframe for implementation;
- 3) That the recommendation requires further analysis, with an explanation of the scope of that analysis and a timeframe for discussion, not more than six months from the release of the report; or
- 4) That the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

Please provide your response to Presiding Judge Stewart at the following address:
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

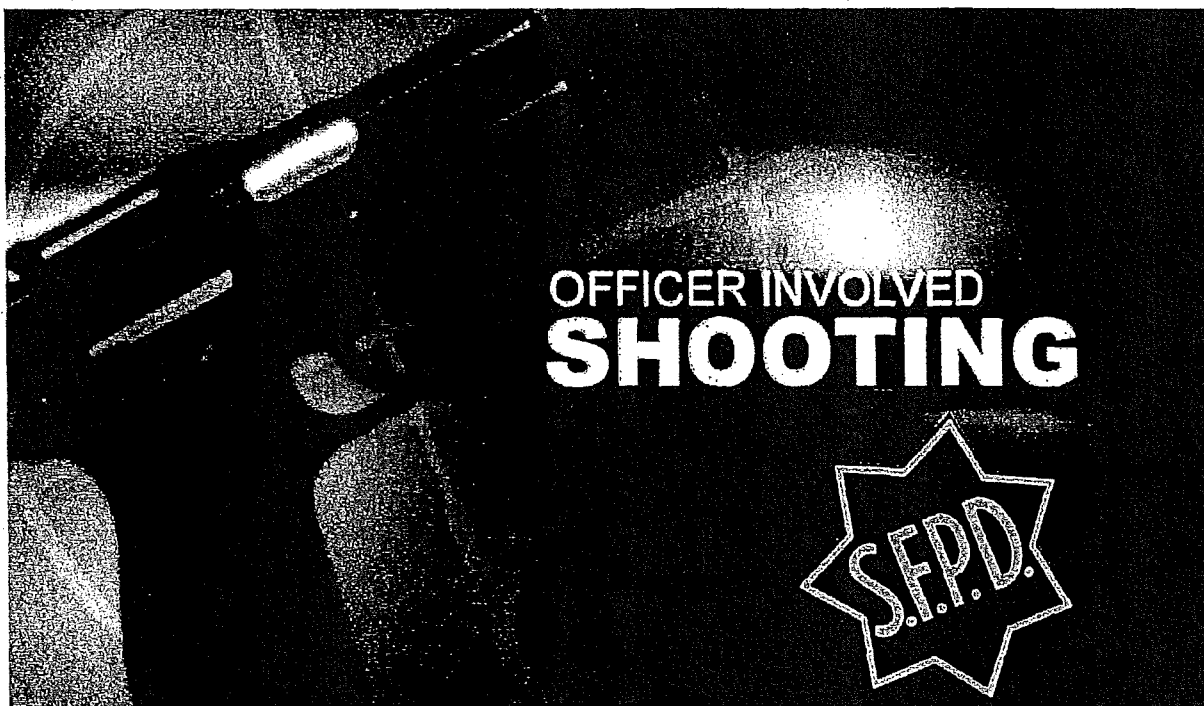
Respectfully,


Jay Cunningham, Foreperson
2015 – 2016 Civil Grand Jury

City Hall, Room 482
1 Dr. Carlton B. Goodlett Pl, San Francisco, CA 94102
Phone: 415-554-6630
2542

**INTO THE OPEN:
OPPORTUNITIES FOR MORE TIMELY AND TRANSPARENT
INVESTIGATIONS OF FATAL SAN FRANCISCO POLICE
DEPARTMENT OFFICER-INVOLVED SHOOTINGS**

JUNE 2016



City and County of San Francisco
Civil Grand Jury, 2015-2016

MEMBERS OF THE CIVIL GRAND JURY

Jay Cunningham, Foreperson

Alison Ileen Scott, Esq., LL.M., Foreperson Pro Tem

Arti M. Sharma, M.S., Recording Secretary

Sheldon Bachus

Richard Baker-Lehne

Mary Lou Bartoletti, M.B.A.

Jean Bogiages

Catherine Covey, M.D.

Libby Dodd, M.B.A.

John Hoskins, Esq.

Margaret Kuo, M.S.

David Lal

Andrew Lynch

Wassim J. Nassif

Patti Schock

Michael Skahill, Ph.D.

David Stein

Charles Thompson

Eric S. Vanderpool, Esq.

THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name. Disclosure of information about individuals interviewed by the jury is prohibited. California Penal Code Section 929

STATE LAW REQUIREMENT

Pursuant to California Penal Code Section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days as specified.

A copy must be sent to the Board of Supervisors. All responses are made available to the public.

As to each finding, the responding party must:

- 1) agree with the finding, or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation, the responding party must report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided; or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

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SUMMARY

The San Francisco Police Department (“SFPD”) faces a crisis in confidence from those whom it is meant to protect and serve over the recent spate of fatal officer-involved shootings (“OIS”). The 2015-2016 San Francisco Civil Grand Jury calls upon all City agencies involved in the investigation of these incidents — from the SFPD and the Police Commission to the District Attorney’s Office (“DA” or “DA’s Office”) and the Office of Citizen Complaints (“OCC”) — to take immediate action to complete the investigations more timely and make the entire process more transparent.

After a five-month investigation that included a review of written policies and procedures, as well as interviews with City personnel in each agency involved in the investigation of fatal OIS incidents, the Civil Grand Jury reached two main conclusions:

- Investigations of fatal OIS incidents take too long; and
- The public has access to very little information both about the general process by which OIS incidents are investigated and about each individual fatal OIS investigation.

The citizens of San Francisco are not provided enough information to determine whether the current OIS investigation process works properly or whether the results of these investigations are fair and just.

To create an environment where City residents are able to make such a determination, the Civil Grand Jury makes the following recommendations.

With the goal of more *timely* OIS investigations:

- The SFPD and the DA’s Office should streamline and prioritize OIS investigations with the goal that investigations be completed timely.
- The Police Commission should revise the SFPD’s General Orders to accurately reflect the OIS investigation process and the time involved to complete such investigations.
- The DA’s Office should work to complete its OIS criminal investigations more quickly.

With the goal of more *transparent* OIS investigations:

- Each City agency involved in the investigation of OIS incidents should create a webpage to educate the public about that agency’s role in these investigations.
- SFPD should keep the public informed about each OIS investigation.
- SFPD should provide a more robust set of statistics about OIS incidents.

With *both* goals in mind:

- The City should create an oversight task force to mitigate the perception of bias in fatal OIS investigations and ensure that fatal OIS investigations are completed expeditiously and transparently.
- At the conclusion of each fatal OIS investigation, this newly created task force should issue a comprehensive “debriefing” report to the public.

INTRODUCTION

“There is no greater responsibility placed on members of law enforcement than the authority to use lethal force in the line of duty.”

— Then SFPD Assistant Chief of Police Morris Tabak¹

“Sunlight is said to be the best of disinfectants”

— United States Supreme Court Justice Louis Brandeis²

Transparency, it is said, is a cornerstone of democracy — the obligation to make information accessible to the public. Democracies prize and thrive on openness; they shun secrecy.

For over two hundred and fifty years, our society has recognized the necessity of transparency. In 1765, John Adams wrote: “[L]iberty cannot be preserved without a general knowledge among the people, who have a right . . . and a desire to know”³ In 2002, federal appellate court judge Damon J. Keith wrote: “Democracies die behind closed doors.”⁴

Transparency has no more important place than in the actions of our country’s law enforcement personnel.

Police officers have extraordinary authority; authority to investigate us, to detain us, to search us, to arrest us if they have reason to believe we have committed a crime. But with that power comes a tremendous responsibility and, in a democratic society, a need for transparency. Policing experts have observed that public disclosure provides the strongest form of oversight. A “secret police” is not often a hallmark of a free democracy, for good reason.

A police officer’s decision to use his or her authority to shoot to kill or use lethal force is the ultimate government power — the ability of our government to control our behavior⁵ — and is, therefore, when the need for transparency and accountability is the strongest.⁶ When details of a

¹ Then SFPD Assistant Chief of Police Morris Tabak, *Officer-Involved Shootings: A Five-Year Study* ii (Jan. 20, 2010), available at <http://wayback.archive-it.org/1895/20100415184524/http://www.sf-police.org/Modules/ShowDocument.aspx?documentid=24139>. (Ed. note: The Civil Grand Jury confirmed that all citation links to websites and online documents provided in this report were active at the time it published this report.)

² Louis D. Brandeis, *Other People’s Money and How the Bankers Use It* 92 (Frederick A. Stokes Co. 1914), available at <https://archive.org/stream/otherpeoplesmone00bran#page/92/mode/2up>.

³ John Adams, *A Dissertation on the Canon and Feudal Law* (1765), available at <http://teachingamericanhistory.org/library/document/a-dissertation-on-the-canon-and-feudal-law/>.

⁴ *Detroit Free Press v. Ashcroft*, 303 F.3d 681, 683 (6th Cir. 2002), available at https://scholar.google.com/scholar_case?case=15974758987197656757&hl=en&as_sdt=6&as_vis=1&oi=scholar.

⁵ See Power (social and political), [https://en.wikipedia.org/wiki/Power_\(social_and_political\)](https://en.wikipedia.org/wiki/Power_(social_and_political)).

⁶ See Peter Bibring, *California Supreme Court Rules for Police Transparency*, ACLU of Southern California (May 29, 2014), <https://www.aclusocal.org/california-supreme-court-rules-police-transparency/>.

fatal OIS incident⁷ or other use of lethal force⁸ are disclosed to the public, the community can determine for itself whether the involved officer's actions are justified.

There are justifiable reasons for withholding some details of deadly force incidents until the circumstances have been thoroughly investigated. But there is a common perception that far too often, too many details are left out and never publicly revealed. Police departments and related agencies have traditionally been reluctant to expose their actions to public review. And the media — usually the community's watchdog — often move on to the next story and fail to follow up on previous ones, particularly when investigations drag on for many months. As a result, the public is deprived of its right to know what occurred and what the investigations into the incidents revealed.

In today's climate, which has been destabilized by the spate of high-profile fatal shootings by police, it is more important than ever that investigations of OIS incidents and other uses of lethal force be handled as independently, timely, and transparently as possible.⁹

⁷ An "officer-involved shooting" or "OIS" is defined by SFPD Department Bulletin 15-128 as follows:

An officer's intentional discharge of a firearm to stop a threat (as described in Department General Order 5.02.I.C.a, b, and c)—whether or not physical injury or death results—shall be investigated as an Officer-involved Shooting. A negligent discharge that results in the injury or the death of a person shall also be investigated as an Officer-involved Shooting.

SFPD Department Bulletin 15-128 (05/26/15), available at <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/27696-DB%2015-128%3B%20Officer-Involved%20Shooting%20and%20Discharge%20Investigations.pdf>). Our inquiry focused on the investigation of fatal OIS incidents, but many of our findings and recommendations apply as readily to investigations of non-fatal OIS incidents. Therefore, to the extent possible, we intend our findings and recommendations to apply to *all* OIS incidents, regardless of whether the individual shot was killed.

⁸ While our focus is on fatal shootings, we believe that our findings and recommendations apply equally to any incident in which SFPD officers use lethal amounts of force. The type of force an SFPD officer uses that results in a person's death is not material. We believe the same expeditiousness and transparency should be used in investigating *any* use of lethal force incident.

⁹ See Editorial, *Trust in Police Requires Transparency*, Asbury Park Press, Aug. 28, 2015, available at <http://www.app.com/story/opinion/editorials/2015/08/28/police-involved-shootings-brick/71332952/>.

BACKGROUND

OIS incidents and their aftermath have shaken San Franciscans' trust in their police force. From autopsy results that have raised questions about SFPD accounts of the death of Amilcar Perez-Lopez, the shooting death of Mario Woods caught on cell phone video, and the drama-filled Alejandro Nieto wrongful death trial, to the hunger strike of the "Frisco Five," the controversial shooting death of Jessica Williams, and the resulting ouster of the Chief of Police, San Francisco has had its share of stark reminders that it is not immune from deaths of its citizens at the hands of its police. During the past five and a half years, from the start of 2011 through the beginning of June 2016, 18 people have been shot and killed in incidents involving SFPD officers. Six were killed in 2015 alone, and two already have been shot to death this year.

¹⁰

The SFPD and the DA's Office, the two entities fundamental to OIS investigations, recognize the importance of accountability in OIS investigations:

Peace officers perform a vital and often dangerous job in our communities. Situations occur where peace officers must use deadly force; however we expect that such force will be used only when legally necessary and as prescribed by law. When peace officers use deadly force, the public has a right to expect that a thorough and neutral examination will be conducted into these incidents and that all parties will be held legally accountable for their actions.¹¹

This report is the work of 19 citizens of San Francisco who are concerned about the number of OIS incidents in our City and the transparency — or lack thereof — of the official investigations of those shootings. We, the Civil Grand Jury, are individuals of varying ages; diverse ethnic, religious and socio-economic backgrounds; different political philosophies and opinions about the role of government. We are a varied lot. But despite our differing life experiences and worldviews, we share the view that the investigations of OIS incidents in our City lack transparency — that the citizens of San Francisco are not provided enough information to feel certain that the OIS investigation process works properly and that the results of such investigations are fair and just.

There are glimmers of hope that actions of the SFPD may become more transparent. In February 2016, the SFPD unveiled its new "Professional Standards and Principled Policing Bureau," as "part of an overall effort to increase transparency and accountability in order to better serve citizens of the City of San Francisco."¹² And in June 2016, the Police Commission approved a body-worn camera policy for SFPD officers after reaching a compromise on its contents with the

¹⁰ This report reflects incidents and developments through June 12, 2016.

¹¹ *Memorandum of Understanding Between the San Francisco District Attorney's Office and the San Francisco Police Department Regarding the Investigation of Officer-Involved Shootings and In-Custody Deaths*, Preamble, at 1 (July 15, 2005).

¹² <http://sanfranciscopolice.org/professional-standards-and-principled-policing-bureau>.

SFPD police officers' union, the San Francisco Police Officers Association. The new policy paves the way for SFPD officers to begin wearing cameras as early as August 2016.¹³

But much more is needed . . . especially with regard to OIS investigations. We unanimously undertook this investigation with the hope that our findings and recommendations will result in a more timely and transparent OIS investigation process that:

- Puts the responsibility for keeping the public informed about the status and results of OIS investigations on those City agencies involved in the process, not on tenacious reporters or community activists;
- Allows citizens to keep an eye on the institutions meant to protect and serve them;
- Publicly vindicates those SFPD officers who follow department policy and the law and holds accountable those who do not;
- Assures the community, including the families and friends of those individuals who lose their lives at the hands of SFPD officers, that the system works fairly and justly; and
- Provides clear evidence that the system works properly, or to support change, if, and when, it fails.

¹³ See Vivian Ho, *SF Police Commission OKs Body Cameras*, San Francisco Chronicle, June 2, 2016, at A5, available at <http://www.sfgate.com/news/article/SF-Police-Commission-weighs-body-cameras-7958492.php>.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of this investigation are to:

- Review the stated policies and procedures of the SFPD and other City agencies involved in the investigation of fatal OIS incidents;
- Determine whether the actual investigations of recent fatal SFPD OIS incidents follow the stated policies and procedures;
- Assess the timeliness and transparency of the stated policies and procedures and the actual investigations; and
- Provide recommendations to expedite the OIS investigation process and to enhance its transparency.

Our report is not an analysis of the SFPD's current policy on the use of lethal force or a judgment on the propriety of its use in any of the 18 incidents described in this report. Other groups with greater resources than the Civil Grand Jury have undertaken such an analysis.¹⁴

Our report also is not a review of the recent or proposed changes to SFPD's "use of force" policies, although we do support measures that should result in fewer OIS incidents, including de-escalation tactics, approaches that "create time and distance," more widespread training and better use of Crisis Intervention Teams, and similar efforts.¹⁵

Finally, our report does not attempt to tackle the complex, controversial relationship between race and law enforcement. We do, however, acknowledge the work being done and change being effected by groups like Black Lives Matter, Justice and Love for Alex Nieto Coalition, Justice4Amilcar, Justice 4 Mario Woods Coalition and others, which are working to bridge the current divide between communities of color and law enforcement here in San Francisco and around the country.

Instead, we make our recommendations to encourage a more timely, transparent, and accountable process for investigating and reporting on OIS incidents and other uses of lethal force . . . to lift the veil that shrouds these investigations . . . and to ensure that the lessons to be learned from the deaths of these 18 men and women are *actually* learned, and not lost.

Given our objectives, we reviewed documents relating to the policies and procedures used by those City agencies involved in OIS investigations.

¹⁴ As examples, we reference the San Francisco District Attorney-convened Blue Ribbon Panel on Transparency, Accountability & Fairness in Law Enforcement (www.sfdistrictattorney.org) and the United States Department of Justice's Office of Community Oriented Policing Services Collaborative Reform Initiative (<http://www.cops.usdoj.gov/Default.asp?Item=2842>; <http://sanfranciscopolice.org/Us-department-justice-collaborative-reform-initiative>).

¹⁵ See, e.g., SFPD Department Bulletin 13-120, *Response to Mental Health Calls with Armed Suspects* (06/17/13), available at <http://sanfranciscopolice.org/sites/default/files/Documents/PoliceDocuments/DepartmentBulletins/13-120.pdf>); SFPD Department Bulletin 15-106, *Avoiding the "Lawful but Awful" Use of Force* (04/27/15), available at <http://sanfranciscopolice.org/sites/default/files/Documents/PoliceDocuments/DepartmentBulletins/15-106.pdf>).

For each of the 18 fatal OIS incidents that have occurred since the beginning of 2011, we reviewed the charging decision letters¹⁶ issued by the DA's Office in those cases in which it has completed its investigation, final reports of the OCC in those cases in which it was called upon by a citizen to investigate, and the autopsy reports issued by the Office of the Chief Medical Examiner ("OCME").

We interviewed:

- Command staff at the SFPD;
- Commissioners and staff of the San Francisco Police Commission;
- Representatives of the San Francisco Police Officers Association;
- Investigators and prosecutors in the DA's Office;
- Management and attorneys at the OCC;
- Medical and administrative personnel at the OCME; and
- A lead forensic expert at the Crime Lab.

We attended public hearings of the DA-convened Blue Ribbon Panel on Transparency, Accountability and Fairness in Law Enforcement; public listening sessions conducted by the United States Department of Justice Office of Community Oriented Policing Services ("DOJ COPS") Collaborative Reform Initiative; and the San Francisco Public Defender's Justice Summit 2016 on the "use of force."

We also toured parts of the SFPD Training Academy where we observed the training of both recruits and seasoned officers. We even put ourselves in a police officer's proverbial shoes by participating side-by-side with SFPD officers in a perishable skills training course using a force option simulator. The simulator provides practice selecting and using reasonable force options to resolve a variety of tense, rapidly evolving real-life simulations. The goal of simulated use-of-force training is to reduce deaths and injuries and improve safety for both police officers and those they encounter.

Finally, we performed an extensive review of news articles, editorials, white papers, blogs, websites, and scholarly publications discussing "best practices" in the handling of investigations of OIS incidents and other uses of lethal force.

We conducted this investigation between February and June 2016.

¹⁶ For the definition of a "charging decision letter," see p. 15.

DISCUSSION

Every Fatal OIS Incident, By Definition, Results in the Loss of a Life

Upon delving into an examination of investigations into fatal SFPD OIS incidents, it is important to note the consequence of the actions taken by members of the SFPD in these incidents. Regardless of the propriety of the actions of those involved on either side, the ultimate consequence in every one of these occurrences is the loss of a life. Table 1 lists the names of the individuals killed in each of the 18 fatal OIS incidents which are the impetus for our report. Appendix A provides a synopsis of the events surrounding each fatal OIS incident.

Year	Name	Date
2016	Jessica Williams	May 19, 2016
	Luis Gongora	April 7, 2016
2015	Mario Woods	December 2, 2015
	Javier Ivan Lopez Garcia	November 11, 2015
	Herbert Benitez	October 15, 2015
	Alice Brown	March 17, 2015
	Amilcar Perez-Lopez	February 26, 2015
	Matthew Hoffman	January 4, 2015
2014	O'Shaine Evans	October 7, 2014
	Giovany Contreras-Sandoval	September 25, 2014
	Alejandro Nieto	March 21, 2014
2013	Dale S. Wilkerson	April 17, 2013
2012	Pralith Pralourng	July 18, 2012
	Dennis Hughes	May 9, 2012
2011	Steven Young	December 14, 2011
	Peter Woo	October 3, 2011
	Kenneth Wade Harding	July 16, 2011
	Joshua Smith	June 7, 2011

Table 1. Victims in Fatal SFPD OIS Incidents from January 2011 through June 12, 2016. (Source: Compiled by the Civil Grand Jury from various sources.)¹⁷

¹⁷ Table 1 includes only *fatal* OIS incidents. For statistics for *all* SFPD OIS incidents (both fatal and non-fatal) between 2009 and 2015, see Figure 4, p. 46.

The Investigation of SFPD OIS Incidents: A Primer

To conduct an informed and meaningful analysis into the transparency of the City's official process of investigating OIS incidents, we felt it important to understand exactly how the investigative process works: who is involved, what policies and procedures inform and guide the process, and the timeline involved.

We attempted to obtain this information from the websites of the various City agencies we believed to be fundamental to OIS investigations: the SFPD, the DA's Office and the OCC. But, in large part, we were unable to obtain the information we sought, because it does not appear on these agencies' websites.

- **SFPD** (<http://sanfranciscopolice.org/>)

We located General Orders and Department Bulletins on the "use of force," including those specifically dealing with OIS incidents,¹⁸ press releases relating to specific OIS incidents,¹⁹ and some statistics relating to OIS incidents.²⁰ We were unable, however, to find any information specifically designed to give the average citizen an overview of the process by which OIS incidents are investigated within the SFPD.

Notably, the SFPD's homepage displays a tab for "Information" about the agency that reveals a list of links to almost 50 different topics, the majority of them under the heading "public interest." And while OIS incidents currently lie at the center of a firestorm of public interest not only here in San Francisco, but across the nation, the only topics on the list related to OIS are links to internal "use of force" General Orders, which are highly technical, complicated, difficult to understand, and, with regard to at least one, General Order 8.11, as we discuss later in this report, is not adhered to by the SFPD in day-to-day practice.

- **DA's Office** (<http://sfdistrictattorney.org/>)

We located "charging decision letters" issued by the DA's Office at the end of its investigation of each OIS incident, in which the DA announces whether criminal charges against the officers involved are warranted, and sets forth relevant facts, applicable law and legal analysis supporting the decision.²¹ Again, however, we were unable to find any information specifically designed to give the average citizen an overview of the DA's role in OIS investigations.

¹⁸ <http://sanfranciscopolice.org/dgo>.

¹⁹ See <http://sanfranciscopolice.org/news>.

²⁰ See, e.g., <http://sanfranciscopolice.org/data#OIS>; <http://sanfranciscopolice.org/sites/default/files/SFPDOfficerInvolvedSuspectInvolvedShootings2000-Present.xlsx>.

²¹ <http://sfdistrictattorney.org/officer-involved-shooting-letters>.

- **OCC** (<http://sfgov.org/occ/>)

We located general information related to how one goes about making a complaint, as well as the resulting investigation process, but nothing specifically related to the investigation by the OCC of complaints made regarding OIS incidents.²²

We also found summaries of OCC investigations of certain, specific OIS incidents, but only by poring through months of “openness reports.” Even then, the summaries were sanitized so as not to reveal the identities of the individuals shot or the SFPD officers involved.

The only way we were able to fully understand and appreciate the overall OIS investigation process was through detective work, intensive online research, discussions with employees in these and other City agencies, and the examination of internal department documents not publicly available.

FINDING

- F.1. None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.

RECOMMENDATION

- R.1. Each of the three City agencies fundamental to OIS investigations — SFPD, DA’s Office and OCC — should create a “OIS Investigations” web page specifically devoted to educating the public about that agency’s role in the investigation of OIS incidents. Each agency’s web page should be comprehensive and answer the following questions:

- Who is involved in the investigation and what are their roles and responsibilities;
- Why is the agency involved in OIS investigations;
- What is the investigation’s purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why;
- When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame;
- How does the OIS investigation process work; and
- Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations.

Each agency should make its “OIS Investigations” web page available in English, Spanish, Chinese and Filipino (Tagalog).

Each agency should provide a link from its home page to its “OIS Investigations” web page, so that it can be accessed easily.

²² <http://sfgov.org/occ/complaint-process>.

Each agency should add its “OIS Investigations” web page to its website as soon as possible, but no later than six months after the date this report is published.

Because of the current lack of information readily available to the average San Franciscan, accompanied by our belief that everyone should have the opportunity to learn how the OIS investigative process works, we outline below how such an investigation occurs.

Agencies, Departments & Divisions Involved

Several units and divisions within the SFPD, as well as the DA’s Office, the OCC and other City agencies, participate in the investigation of OIS incidents. The key players and their general functions are described below. Their specific role and timeline in OIS investigations are described later in the report.

San Francisco Police Department

- **Homicide Detail**

“The Homicide Detail of the SFPD is responsible for investigating unlawful deaths, officer involved shootings with injury, in custody deaths, and deaths that are deemed suspicious by the San Francisco Medical Examiner.”²³

“With regard to Officer Involved Shootings, the mission of the Homicide Detail is to conduct timely and complete criminal investigations of all Officer Involved Shootings.”²⁴

The Homicide Detail responds to all incidents of lethal force by an officer. It takes command of the scene and leads the investigation.

- **Forensic Services Division**

“The mission of the Forensic Services Division is to assist in the criminal justice system through efficient and reliable identification, collection, evaluation, analysis, and comparison of physical evidence and to provide clear, objective interpretations of all findings.”²⁵

The Forensic Services Division includes:

- **Crime Scene Investigation (“CSI”)**, which provides scene processing and documentation; evidence collection; associated field forensic work, such as latent print processing, bloodshed splatter interpretation, trajectory analysis, crime scene sketches; incident reconstruction, if needed; and the securing of officer firearms used in OIS incidents.

²³ <http://sanfranciscopolice.org/investigations-2-homicide-detail>.

²⁴ Tabak, *Officer-Involved Shootings*, p. 79.

²⁵ *Id.* at p. 86.

- **Crime Laboratory**, which performs test firing, comparison, examination and forensic analysis on firearms involved in the shooting (both officer(s) and suspect(s)); gunshot residue analysis; DNA analysis; and any other crime lab work required by the investigation.

- **Behavioral Science Unit (“BSU”)**

“The mission of the Behavioral Science Unit is to provide and coordinate psychological support and education to all members of the San Francisco Police Department. [Its] role is to advise and consult with the chain of command on the impact of psychological issues; to minimize the negative effects of incident trauma on department members; and to assist all department members and their dependents with access to their psychological benefits and services.”²⁶

- **Psychiatric Liaison Unit**

“The Psychiatric Liaison Unit’s mission is to provide support and education regarding mental health issues” for the SFPD. The Psychiatric Liaison Unit assists at the scene of OIS incidents to defuse the situation, to gather information about the psychiatric history of those individuals with mental illness from family, coworkers, neighbors, etc., and to provide appropriate referrals to medical or mental health professionals.²⁷

- **Return to Duty Panel**

The Return to Duty Panel is tasked with reviewing the facts surrounding the OIS incident and determining “whether it is appropriate for the involved member to return to duty.”²⁸ The Panel asks: “Are there issues or indicators that preclude the officer from returning to his/her regular assignment at this time?”²⁹

The Panel is comprised of high ranking SFPD officers and incident investigators.³⁰

It is important to note that the panel does *not* consider whether the use of lethal force was “in policy” or “not in policy.” That determination is made at a later date by the Firearm Discharge Review Board (“FDRB”).

The Chief of Police may either concur or disagree with the Return to Duty Panel’s recommendation. The Chief of Police forwards his or her decision in writing to the Police

²⁶ *Id.* at p. 91.

²⁷ *Id.* at pp. 94-95.

²⁸ SFPD General Order 8.11, *Investigation of Officer Involved Shootings and Discharges* § II.G.4, p. 5 (09/21/05), available at <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14739-DGO8.11.pdf>.

²⁹ Sgt. John Crudo, SFPD Internal Affairs Division, *The Process of SFPD Officer-Involved Shooting (OIS) Investigations* 11 (May 5, 2015).

³⁰ See Appendix B for the composition of the SFPD Return to Duty Panel.

Commission. At its first meeting after it receives the Chief of Police's report, the Police Commission meets with the Chief of Police in *closed session* to review the Return to Duty Panel's findings and the Chief of Police's decision.

- **Risk Management Office**

"The Risk Management Office ("RMO") controls all Internal Affairs Units, the Legal Division, the Professional Standards Unit, and the [Equal Employment Opportunity] Unit in the SFPD. RMO investigates cases that involve officer misconduct and officer involved shootings. The RMO uses a structured system that identifies and manages behaviors that result in performance related problems by individual members."³¹

- **Internal Affairs Division ("IA" or "IAD")**

The Internal Affairs Division is responsible for investigating officer misconduct as well as officer-involved shootings/discharges. Two units within the Internal Affairs Division are responsible for investigating allegations against SFPD officers: one is criminal, while the other is administrative.

- **Internal Affairs Criminal Unit**

"The mission of the . . . Criminal Investigations Unit is to conduct thorough, timely, and impartial investigations into allegations of criminal misconduct by SFPD employees,"³² including any potential criminal conduct by SFPD officers involved in OIS incidents.

- **Internal Affairs Administrative Unit**

"The mission of the . . . Administrative Investigations Unit is to continue to conduct thorough, timely, and impartial investigations of allegations of procedural violations by [SFPD officers]. It is comprised of both sworn and civilian legal staff. Additionally, this unit also administratively investigates all officer-involved shootings and in-custody deaths."³³

- **Legal Division**

"The function of the Legal Division is to be prepared to assist the Office of the City Attorney for future possible civil litigation in defense of the SFPD."³⁴

³¹ <http://sanfranciscopolice.org/chief-staff>

³² *Ibid.*

³³ *Ibid.*

³⁴ Tabak, *Officer-Involved Shootings*, p. 93.

- **FDRB**

According to SFPD General Order 3.10:³⁵

It is the duty of the San Francisco Police Department to review every instance in which a firearm is discharged whether or not such discharge results in an injury or death. The Firearm Discharge Review Board³⁶ shall review every discharge of a firearm by a member.

The purpose of this review is to ensure that the department is continually reviewing its training, policy and procedures in light of the circumstances that lead to firearm discharges by members and to determine if the discharge was in policy.³⁷

San Francisco Police Commission

According to the Police Commission website:³⁸

The mission of the Police Commission is to set policy for the Police Department and to conduct disciplinary hearings on charges of police misconduct filed by the Chief of Police or Director of the Office of Citizen Complaints, impose discipline in such cases as warranted, and hear police officers' appeals from discipline imposed by the Chief of Police.

Commissioners are appointed by the Mayor [four seats] and the Board of Supervisors [three seats] and they oversee the Police Department and the Office Of Citizen Complaints. . . .³⁹

With regard to OIS cases, the Police Commission meets with members of the Return to Duty Panel and the Chief of Police to determine whether involved officers shall be allowed to return to

³⁵ SFPD General Order 3.10, *Firearm Discharge Review Board* (09/21/05), available at <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf>.

³⁶ See Appendix B for the composition of the SFPD Firearm Discharge Review Board.

³⁷ As defined by SFPD General Order 3.10:

"In Policy" means: "The actions of the officer in response to the circumstances leading to the discharge of his/her firearm were appropriate and consistent with department policy."

"Not in Policy" means: "The discharge of the firearm was not appropriate under the circumstances and was not consistent with department policy. This finding shall be accompanied by a recommendation for discipline, or a referral to [Internal Affairs] for further investigation. The Firearm Discharge Review Board shall assign a due date for cases found Not in Policy and referred back to [Internal Affairs] for further investigation."

SFPD General Order 3.10, *Firearm Discharge Review Board* § I.D.4, p. 3 (09/21/05), available at <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf>.

³⁸ <http://sanfranciscopolice.org/police-commission>.

³⁹ *Ibid.*

duty; receives and considers periodic reports on the status of OIS investigations from SFPD IAD; and conducts disciplinary hearings on any charges of misconduct filed by the Chief of Police or the OCC against any officer arising from an OIS incident.

OCME

The function of the OCME is to protect the public health and legal requirements of the City and County relating to forensic pathology. It performs the autopsy on the deceased in OIS incidents and determines the cause, circumstances, manner and mode of death.⁴⁰

DA's Office

“The District Attorney’s role in an officer-involved shooting is to conduct an independent criminal investigation. The purpose of the District Attorney’s investigation is to accurately, thoroughly, and objectively determine the potential criminal liability, or lack thereof, of any party involved.”⁴¹

In other words, the DA determines if any criminal laws appear to have been violated. The DA’s Office conducts its own investigation, then reviews evidence obtained from that investigation and evidence provided to it by the SFPD Homicide Detail, analyzes the pertinent laws, determines whether any appear to have been violated and considers whether sufficient evidence exists to bring criminal charges against any of the involved officers.

OCC

“The mission of the Office of Citizen Complaints is to promptly, fairly and impartially investigate civilian complaints against San Francisco police officers and make policy recommendations concerning San Francisco Police Department practices.”⁴²

The OCC was created by a charter amendment in 1982 as a civilian-staffed agency charged with the duty to take complaints from members of the public regarding SFPD officer misconduct or improper performance while on duty. All complaints are investigated unless it can be determined from the allegations themselves that the officer’s conduct was proper or the accusations are outside the OCC’s jurisdiction.

The OCC performs four main tasks:

- Investigates complaints, makes findings on those complaints, and, when warranted, makes recommendations on discipline to the SFPD Chief of Police and/or Police Commission;
- Mediates complaints;
- Makes policy recommendations concerning SFPD policies, practices and procedures; and
- Performs community outreach.

⁴⁰ Tabak, *Officer-Involved Shootings*, p. 90.

⁴¹ *Id.* at p. 81.

⁴² *Id.* at p. 84.

Historically, the OCC responded to the scene of each OIS incident to obtain a general understanding of what occurred but did not begin any type of investigation unless and until someone filed a complaint regarding the incident with the office. On June 7, 2016, the voters of San Francisco overwhelmingly passed Proposition D, an initiative ordinance amending the Administrative Code to require the OCC to “investigate any incident occurring within the City in which a San Francisco police officer fires a gun killing or physically injuring someone.”⁴³

Written Policies and Procedures Relating to OIS Investigations

Certain SFPD General Orders and Department Bulletins deal with the investigation of OIS incidents and use of force specifically or deal with topics which may encompass such incidents. See Appendix C1. The primary document setting forth SFPD department policy and procedure relating to OIS incidents is General Order 8.11, “*Investigation of Officer Involved Shootings and Discharges*,” (Appendix D) as revised by Department Bulletin 15-128, *Officer-involved Shooting and Discharge Investigations (Revision to Definitions in DGO 8.11)* (Appendix E).

Other SFPD policies concern the use of firearms and force generally, and while they do not specifically relate to the *investigation* of OIS incidents, they do help give a comprehensive view of the policies and procedures related to all aspects of OIS incidents. See Appendix C2.

The SFPD also has other published policies which guide their interactions, contact and communications with the community, which, while not specific to officer-involved shootings and use of lethal force, serve to build an expectation of transparency within the SFPD. See Appendix C3.

To the extent that these documents dictate, guide or inform the investigation of OIS incidents, we incorporate that information into the Investigation Timeline that follows.

⁴³ See Proposition D: *Office of Citizen Complaints Investigations*, available at <http://voterguide.sfelections.org/en/office-citizen-complaints-investigations>. Proposition D passed with more than 80 percent of the vote. See <http://www.sfelections.org/results/20160607/>. Section 96.11 of the Administrative Code now reads:

Sec. 96.11 INVESTIGATIONS OF OFFICER-INVOLVED SHOOTINGS.

The OCC shall conduct a timely and complete investigation of any incident occurring within the City and County of San Francisco in which a member of the uniformed ranks of the San Francisco Police Department discharges a firearm resulting in the physical injury or death of a person, even if the discharge is accidental. The Police Department and its officers and employees shall provide the OCC with prompt and full cooperation and assistance in connection with the OCC's investigations under this Section 96.11.

San Francisco, California, Admin. Code § 96.11. See Proposition D: *Office of Citizen Complaints Investigations*, Legal Text, available at <http://voterguide.sfelections.org/en/office-citizen-complaints-investigations>.

Two Separate, Concurrent Investigations: Criminal & Administrative

OIS incidents mandate two separate, but concurrent, immediate investigations: (i) criminal; and (ii) administrative.⁴⁴

A **criminal investigation** is conducted to determine whether anyone involved in the incident committed a crime, including whether the officers involved exhibited criminal conduct or criminal negligence during the shooting. In other words:

“Did the officers break any law by taking the action they did?”

Two different law enforcement agencies begin immediate independent criminal investigations once an OIS occurs:

- The SFPD Homicide Detail; and
- The DA’s Office.

If the OIS criminal investigation uncovers or raises significant issues, state and federal agencies may also participate in or conduct their own investigation, typically at the request of the City. These agencies may include the Department of Justice or Office of the Attorney General at the state level, and the United States Department of Justice or the Federal Bureau of Investigation at the federal level.

An **administrative investigation** is also conducted to determine whether the officers involved violated any SFPD policy or procedure during the shooting. In other words:

“Did the officers act in accordance with SFPD policy and procedure and use appropriate law enforcement tactics under the circumstances or should the officers be disciplined, retrained or fired because of their actions?”

SFPD IAD conducts these administrative investigations.

The OCC also conducts an independent administrative investigation by: (i) sending their own investigators to the scene to observe; (ii) conducting an independent review and analysis of evidence that is forwarded to it after being collected by the SFPD Homicide Detail; and (iii) performing any additional investigative tasks and interviews that it deems necessary to conduct a thorough investigation of the incident.

⁴⁴ We obtained much of the information contained in this section regarding the process of OIS investigations from a document entitled “*Officer-Involved Shootings: A Five-Year Study*,” commissioned by George Gascon shortly after he was sworn in as San Francisco Chief of Police on August 7, 2009, and written by then Assistant Chief of Police Morris Tabak. We are indebted to the late Mr. Tabak for his work and commend it to the reader. A copy of the report may be found at <http://wayback.archive-it.org/1895/20100415184524/http://www.sf-police.org/Modules/ShowDocument.aspx?documentid=24139>.

The reason for separate criminal and administrative investigations is because, while police officers receive due process protections and Fifth Amendment rights against self-incrimination as subjects of a *criminal* investigation, along with specific protections under the Peace Officer's Bill of Rights (Cal. Gov't Code § 3300 *et seq.*), police officers can be compelled by their employer to make a "statement against interest"⁴⁵ as subjects of an *administrative* investigation. (See Cal. Gov't Code § 3303.)⁴⁶

Therefore, it is necessary to maintain a one-way flow of information: While investigators from the administrative investigation get all information and evidence obtained from the criminal investigation, the criminal investigation receives no information from the administrative investigation.

We were informed, but have not been able to substantiate, that the administrative investigation work, by and large, is completed within a few months following an OIS incident. However, it cannot be fully wrapped up and no disciplinary proceedings may occur until after the criminal investigation is fully completed and the DA's Office has issued its charging decision letter.

OIS Investigation Timeline

When an OIS occurs, per the General Orders of the SFPD and other internal and related documents, the subsequent investigation should proceed as follows:⁴⁷



I. Day 1

A. An officer-involved shooting occurs.

II. Immediately or As Soon As Practical

A. SFPD

- **Involved officers** shall notify their immediate supervisor and Emergency Communications Division ("ECD"), which notifies the Field Operations Bureau, which then notifies key responders to OIS incident scenes, including personnel from SFPD: Command Staff, Homicide, Crisis Incident Response Team ("CIRT"), IAD, FDRB, Legal Division, RMO, Police Commission; DA; and OCC.
- **Supervisor** shall be responsible for scene until Homicide arrives.

⁴⁵ A "statement against interest is a statement a person would not normally make . . . which would put them in a disadvantaged position to that they would have had if they had not made the statement in the first place." (https://en.wikipedia.org/wiki/Statement_against_interest.)

⁴⁶ Notably, we learned that in the administrative investigations of each of the OIS incidents at the center of this report, the SFPD officers involved gave statements voluntarily. Therefore, it was not necessary to compel any of them to make a "statement against interest."

⁴⁷ This outline is designed to provide a much consolidated overview of what should occur at each stage of an OIS investigation and the projected amount of time each stage should take according to SFPD General Orders. A more extensive and comprehensive outline is provided at Appendix F.

- **Homicide Detail**, upon arriving at scene, shall assume command of scene and investigation, coordinate with all responders, and manage all aspects of evidence collection, non-officer witness interviews, and incident scene “walkthroughs.”
- **IAD** representatives shall participate in “walk through” of scene and observe Homicide interviews of officers via closed circuit feed.
- **CSI** shall collect physical evidence, and perform associated forensic field work.
- **Legal Division** shall ensure evidence beneficial for litigation is seized and document scene.
- **BSU** shall send members of CIRT to offer psychological support to involved officers.
- **Media Relations Unit** shall provide information to the media and act as a liaison with the family of the individual shot during the incident.
- **Police Range** personnel shall replace involved officers’ firearms.

B. OCME

- **Medical Examiner Staff**, when a fatality occurs, shall provide expert resources to criminal and administrative investigators at scene, remove the body from the scene, and conduct an autopsy on the remains.

C. DA’s Office

- **On-Call Assistant DA and DA Investigators**, upon arriving at scene, shall meet with Homicide Detail to walk-through scene, participate in collection and documentation of evidence, participate in non-compelled interviews of law enforcement witnesses and interviews of civilian witnesses, and confer with Homicide Detail regarding investigative process to follow.

D. OCC

- **On-Call OCC Investigator**, upon arriving at scene shall walk-through and observe scene with Homicide Detail, so that the investigator has a basic understanding of the circumstances and environment of incident.



III. The First Ten Days After the Incident

A. SFPD

- **Involved officer(s)** shall be assigned to respective Bureau Headquarters for a minimum of ten calendar days and shall not be allowed to return to duty until cleared by the Chief of Police and reviewed by the Police Commission. During that time, the officer(s) shall: (i) participate in mandatory debriefing with BSU; (ii) report to Police Range for post-discharge firearm debriefing, (iii) report to Training Academy for modified force options training, and (iv) participate in interview with IAD.

- **Homicide Detail** shall meet within 72 hours with DA, CSI, Forensic Services Division, and other offices and disciplines to determine investigative actions to be taken.
- **Crime Laboratory** shall conduct ballistics and firearms examinations, and perform DNA and other testing as requested.
- **Media Relations Unit** shall respond to media inquiries and to convey information to family of individual shot.
- **BSU** shall conduct a mandatory debriefing with involved officers within 72 hours, assess involved officer's ability to return to duty or need for additional support, participate in Return to Duty Panel hearing for involved officers and provide follow-up and psychological support.
- **Return to Duty Panel** shall conduct a return to duty hearing (*not open to the public*) within five business days of the incident, in which it reviews preliminary investigative findings by IA criminal investigators and votes on whether to recommend that involved officer(s) should be allowed to return to regular duty.
- **Chief of Police** shall determine, after consulting with the Return to Duty Panel, whether the involved officer(s) should be returned to regular field assignment and then forward written decision (*not available to public*) to Police Commission and OCC.
- **Police Commission** shall meet in *closed session* with the Chief of Police to review the Chief of Police's findings and decision regarding whether to allow involved officers to return to regular duty.
- **IAD** shall schedule interview of involved officer(s) and witness officers, obtain information from Homicide Detail and other evidence-processing personnel, and participate in return to duty hearing for involved officer(s).

B. OCME

- **Medical Examiner Staff** shall notify Homicide Detail of any physical evidence collected during autopsy.

C. DA's Office

- **DA Personnel** shall meet with Homicide Detail investigators to: (i) review the status of the evidence collected and witness and involved officer statements; (ii) obtain copies of all relevant case documents; (iii) agree on evidence to be submitted for further analysis and testing; (iv) agree on next steps to investigation; and (v) participate in interviews of additional witnesses.



IV. Within 45 Days of the Incident

A. SFPD

- **Homicide Detail** shall submit its final criminal investigation report to FDRB.
- **IAD** shall prepare final recommendation and report for submission to FDRB and Chief of Police.

- **Legal Division** shall work with IAD and OCC regarding evidence/document production and obtain incident report for any claim investigation.

B. DA's Office

- **DA's Office** shall, upon conclusion of its independent investigation and receipt of all reports from Homicide Detail, evaluate all evidence to determine potential criminal liability, or lack thereof, of any party and then notify SFPD of its decision in writing.

V. In Response to DA's Criminal Charges Against an Officer, If Any

A. SFPD

- **Chief of Police** shall suspend accused officer without pay when the officer is charged with a felony or any serious crime.
- **Accused Officer** shall remain on suspension pending resolution of criminal prosecution and adjudication of any pending administrative investigation.



VI. Within 60 Days of the Incident

A. SFPD

- **IAD** shall submit to the FDRB the completed administrative investigation with recommendations.

VII. Within 90 Days of Incident

A. SFPD

- **FDRB** shall convene within thirty days of receipt of the Internal Affairs investigative report (i.e., within ninety days of incident).



VIII. Within 210 Days of Incident



A. SFPD

- **FDRB**, within 120 days following their first meeting (i.e., within 210 days of incident), shall complete its investigation and issue its findings in accordance with General Order 3.10.

B. OCC

- **OCC Director** shall attend FDRB as an advisory member and receive and review FDRB's quarterly reports to Police Commission and provide written responses as appropriate.

IX. (Historically) At Any Point

A. OCC

- **OCC Investigators**, within 10 days of receiving a civilian complaint of police misconduct or improper performance [but likely immediately now based on the recent passage of Proposition D], shall interview the complainant and begin its own investigation of the allegations by requesting all documents and evidence accessible from or through the complainant; requesting records, documents and information from the SFPD and OCME; and identifying and scheduling interviews of witnesses
- **OCC Investigators**, upon receipt of records from SFPD, OCME and other agencies, shall review all reports, chronologies, interviews, and evidence and interview involved and witness officers.
- **OCC**, upon conclusion of the OCC's administrative investigation, shall prepare written findings as to whether or not allegations are sustained. In cases resulting in a sustained finding, OCC provides the Chief of Police a written report summarizing evidence, giving basis for the findings, and providing recommendations for discipline. *(Only a sanitized version of the report, without the names of the victim, complainant or officers involved, is made available to the public.)*

Justice Delayed Is Justice Denied

While the investigative process specified by the SFPD's General Orders as outlined above would lead one to believe that most OIS investigations are wrapped up within a reasonable timeframe of approximately seven months after the incident occurs, this is far from the case. In reality, we found that OIS investigations can and most often do take three to four times that long.

Both the SFPD and DA's Office acknowledge that criminal investigations of OIS incidents can easily take two years or longer to complete.

In an internal document entitled *The Process of SFPD Officer-Involved Shooting (OIS) Investigations*, the SFPD includes a "Flow of Criminal Investigations" chart which shows that the Homicide Detail and DA criminal investigations can take 26 months or longer just to get to the Internal Affairs Division for review. (See Figure 1, *Flow of Criminal Investigations*, on page 29.)

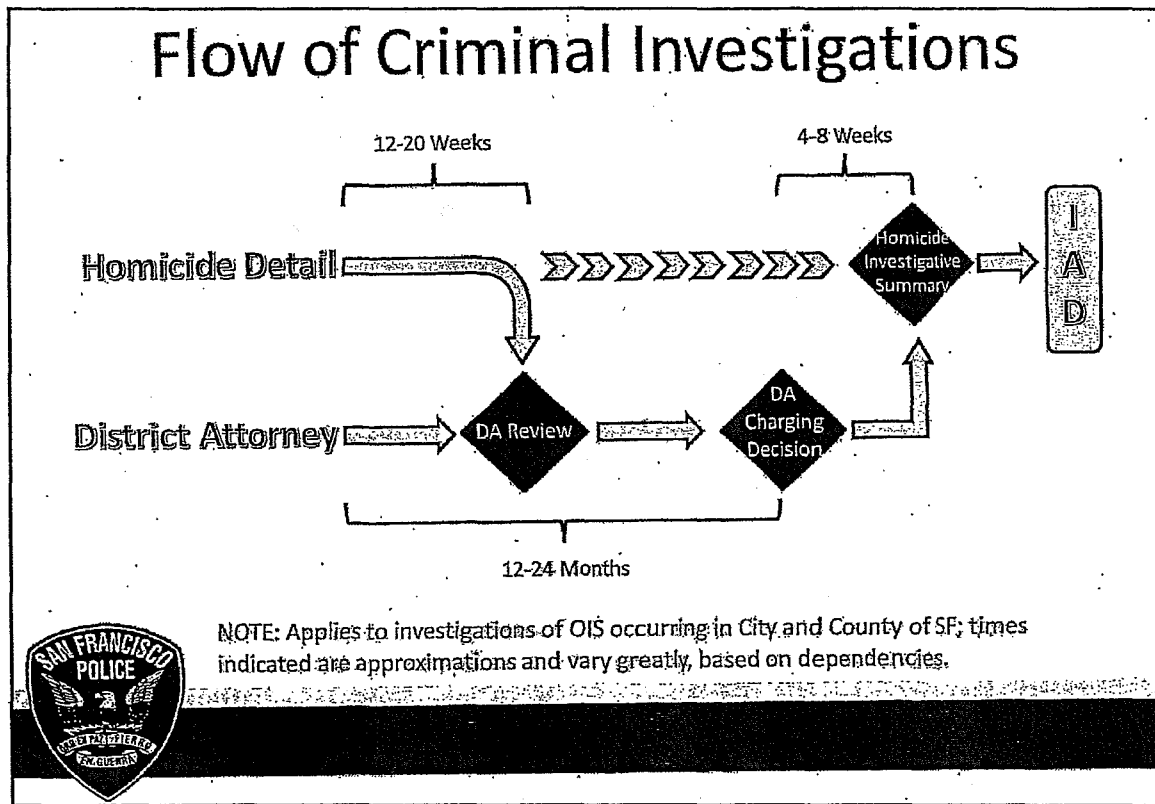


Figure 1. Flow of Criminal Investigations in OIS Incidents. (Source: *The Process of SFPD Officer-Involved Shooting Investigations*, p. 23 (SFPD, May 5, 2015).)

In the same *Process of SFPD Officer-Involved Shooting (OIS) Investigations* document, the SFPD includes a “Flow of Administrative Investigations” chart, which shows that the Administrative Investigation, concluding with the Internal Affairs Investigative Summary, can take 24-30 months to complete. (See Figure 2, *Flow of Administrative Investigations*, on page 30.) And this timeframe does not include the amount of time a hearing before the Police Commission would entail in those cases in which the administrative investigation reveals that disciplinary proceedings are warranted.

We believe a timeframe of this length is unacceptable. Even if a timeframe of this length included points where updates were given to the public — which as will be shown later in this report, it does not — a two-to-three-year investigation gives an appearance — justified or not — of, at one end of the spectrum, foot-dragging or a lack of concern, and, at the other end of the spectrum, bungling or a cover-up.

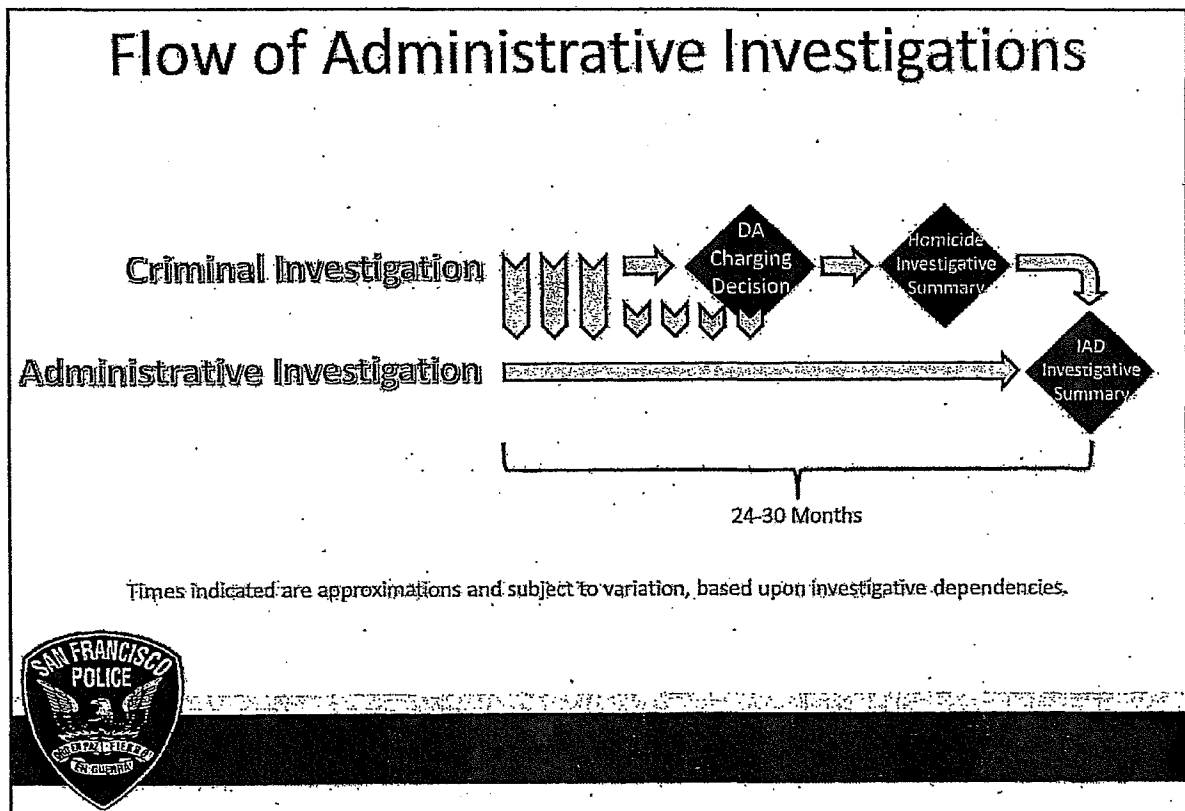


Figure 2. Flow of Administrative Investigations in OIS Incidents. (Source: *The Process of SFPD Officer-Involved Shooting Investigations*, p. 29 (SFPD, May 5, 2015).)

With investigations of this length, justice delayed truly is justice denied. This is true for all parties involved:

- **For the family and friends of the person shot**, who must await the outcome of the criminal and administrative investigations to put closure on an enduring tragedy;
- **For the officers involved in the OIS incident**, who, while they may have returned to duty, perform their duties under a cloud of uncertainty, not knowing whether they will have criminal charges filed against them or face disciplinary hearings; and
- **For the community**, which, with such an inordinate amount of time, wonders whether the killing was justified or questions why officers who may have committed a crime are still in a position of great authority and power and whether the system of determining one or the other is broken.

Because little information is made public during these OIS investigations, without inside information, it is difficult, if not impossible, to determine why they take so long. Using the authority of the Civil Grand Jury, however, we have been able to learn details about the process generally and certain investigations specifically that explain some of the delay. Based on the facts we uncovered, we make the findings and recommendations that follow with the goal of

reducing the time it takes to complete both the criminal and administrative OIS investigations to an acceptable length.

OIS Investigations Should Be Streamlined and Accurately Reflected in SFPD General Orders

General Order 8.11⁴⁸ sets forth a process and timeline which investigations of OIS incidents are to follow:

- **Homicide Detail Investigation.** The criminal investigation prepared by the Homicide Detail shall be completed and received by the Chair of the Firearm Discharge Review Board within forty-five-calendar days of the shooting event.
- **Management Control Division Investigation.**⁴⁹ The administrative investigation prepared by the Management Control Division shall be completed and submitted to the Chair of the Firearms Discharge Review Board within sixty-days of the shooting event.
- **The Firearm Discharge Review Board.** The Firearm Discharge Review Board shall convene within thirty calendar days of receipt of the Management Control Division investigation report. Within 120 calendar days following the first meeting of the Firearm Discharge Review Board, the panel shall complete its investigation and issue its findings in accordance with Department General Order 3.10.

General Order 3.10⁵⁰ outlines the functions and responsibilities of the FDRB and sets forth the procedures for reviewing, investigating, and reporting to the Police Commission cases in which SFPD officers discharge a firearm.

General Order 3.10 includes dates that are parallel to General Order 8.11 regarding the time by which the FDRB shall complete its investigation and issue its findings.

A review of investigations of OIS incidents that have occurred since January 2011 reveals that no investigation has met the timeframes set forth in the SFPD General Orders.

While we hope that the SFPD would attempt to bring its OIS investigations into alignment with the timeline set forth in its General Orders, we also realize that OIS investigations can be complicated, with many moving parts, numerous agencies and departments, and include a large number of variables and dependencies which can add to the length of the investigation process.

⁴⁸ <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14739-DGO8.11.pdf>

⁴⁹ Management Control Division is now called the Internal Affairs Division.

⁵⁰ <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf>

FINDING

- F.2. Because the SFPD consistently does not meet the time frame in its own General Orders by which investigations of OIS incidents are to be conducted and completed, the General Orders create false expectations for the citizens of San Francisco.

RECOMMENDATION

- R.2.A. The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.
- R.2.B. After receiving the results of the study of ways to streamline the OIS investigation process, the Police Commission should revise the General Orders to more accurately reflect the timeframes by which investigations of OIS incidents are to be completed.

SFPD's Field Operations Bureau Should Adopt a Uniform, Modern Method to Alert All Essential Responders of OIS Incidents

The SFPD's Field Operations Bureau uses different methods to alert different agencies that an OIS incident has occurred. These methods include both modern means, e.g., sending text alerts to SFPD personnel, and antiquated means, e.g., calling the telephone number of one of a number of rotating, "on-call" assistant District Attorneys.

It is our understanding that the SFPD's Field Operations Bureau uses a phone tree system to contact some of the essential responders, i.e., informing responders serially by using a hierarchical contact list. Further, in at least one incident the Field Operations Bureau left an alert of an OIS incident in the wrong voice mailbox, causing the on-call assistant DA and DA investigators to be substantially delayed in responding to the scene. The delay caused ripple delaying effects in the subsequent investigation.

FINDING

- F.3. The SFPD Field Operations Bureau's use of outdated methods, including a serial, hierarchical phone tree system, to alert some essential responders of an OIS incident is inherently time-consuming and results in slower response times, which can cause delays in OIS investigations both at the scene and afterwards.

RECOMMENDATION

- R.3.A. The SFPD Field Operations Bureau should implement standardized, modern methods to notify all essential responders of an OIS incident.

R.3.B. The SFPD Field Operations Bureau should require that all essential responders called to the scene of an OIS incident confirm with the Field Operations Bureau that they received the initial notification. If the Bureau does not receive confirmation from an essential responder within a designated period of time, it should contact an alternate responder for that agency.

SFPD and DA's Office Need a New Memorandum of Understanding Regarding OIS Investigations

The policies and procedures that govern the duties, roles and cooperation between the SFPD and the DA's Office in OIS investigations are set forth in a document entitled "*Memorandum of Understanding Between the San Francisco District Attorney's Office and the San Francisco Police Department Regarding the Investigation of Officer-Involved Shootings and In-Custody Deaths*" ("MOU").

This document became effective on July 15, 2005, when it was signed by then District Attorney Kamala D. Harris and then Chief of Police Heather J. Fong.

The current MOU states:

It is the intent of the District Attorney's Office and San Francisco Police Department to complete their review of these incidents as quickly as possible, consistent with the primary goal of conducting a thorough and objective review of the facts.⁵¹

While aspirational, this statement of intent is too vague to carry much weight.

The current MOU also states:

In any event, the San Francisco Police Department shall submit a complete copy of its criminal investigation file regarding the incident to the District Attorney Investigator assigned to the incident as soon as it is complete and not more than 60 to 90 days from the date of the incident, depending on the complexity of the investigation.⁵²

While this clause provides a measurable goal by which the SFPD shall provide the DA with its completed criminal investigation file, it lacks teeth because there is no penalty for failing to meet this deadline.

Moreover, the current MOU lacks a corresponding deadline by which the DA's Office shall complete its criminal investigation.⁵³

⁵¹ MOU, *Investigative Reports*, p. 7.

⁵² *Id.* at p. 8.

⁵³ *Id.*, *Final Action*, at pp. 8-9.

The lack of specific deadlines or targeted timeframes in the current MOU by which the DA's Office is to complete its portion of OIS criminal investigation, along with the lack of any enforcement mechanism to ensure timely compliance by either the SFPD or the DA's Office, allows investigations to drag on for years.

We understand that there are many variables that must be taken into account when determining a workable timetable by which to complete OIS investigations and that each investigation is unique. Because there are many factors to consider, timeframes for completion of OIS investigations will vary, perhaps significantly. Thus, the MOU cannot establish a specific timeframe. A statement of intent committing to a review of OIS incidents "as quickly as possible," however, is an inadequate commitment. Rather, the MOU should establish a process, accounting for the variables, to arrive at an acceptable timeframe for each OIS investigation.

FINDING

F.4. While there are many factors to consider when determining a timetable to complete an OIS investigation, the lack of a meaningful and enforceable process for establishing a timetable in the current MOU between the SFPD and the DA's Office allows OIS investigations to drag on too long.

RECOMMENDATION

- R.4. The SFPD and the DA's Office should jointly draft a new MOU in which each commits to an agreed-upon process to:
- Prioritize and expedite their investigations of OIS incidents within an established timeframe;
 - Make a public announcement when each completes its OIS investigation, so that the public may be better informed of the investigative results and the time taken by each agency to complete its OIS investigation.

DA's Office Needs to Complete Its OIS Investigations and Issue Charging Decision Letters More Quickly

Our investigation revealed that the DA's Office is the main bottleneck in the criminal investigations of OIS incidents, both fatal and nonfatal. Moreover, the SFPD's administrative investigation is subject to the outcome of the DA's Office's criminal investigation and cannot be completed until after the DA's Office completes its investigation and analysis and issues its charging decision letter. Therefore, as long as the investigation of an OIS incident remains open in the DA's Office, the SFPD's administrative investigation cannot conclude, a review of the incident by the SFPD's FDRB cannot happen, and any disciplinary proceedings that may be warranted cannot occur.

The DA's Office acknowledges that it takes too long to complete its criminal investigations. In interview after interview of DA's Office personnel, we were told that the DA's Office lacks the resources to give OIS investigations greater priority. OIS cases are spread out among a number of investigators and attorneys in the White Collar Crime Unit⁵⁴ of the DA's Office and are merely a part of their larger workload.

Moreover, we were told that the work done by the DA's Office is deadline-driven. This means that work is prioritized by that which carries the earliest deadline. If a case carries a looming deadline, such as a deadline by which to decide to charge a suspect, an arraignment date, a trial date or some other court-ordered deadline, then that case receives priority to meet that deadline. OIS investigations carry no such deadlines. The result of these factors is that the investigation and review of OIS cases are often relegated to the "bottom of the stack" in the DA's Office.

Nowhere is this low priority put in starker relief than by looking at the sheer length of time it takes for the DA's Office to complete its investigation and issue its charging decision letter in each OIS case.

Table 2, on page 36, shows a list of *all* OIS incidents — both fatal and non-fatal — by date, from the beginning of 2011 through June 12, 2016, involving SFPD officers, along with the date the DA's Office issued its charging decision letter in each case, as well as the number of days that transpired between the date the OIS occurred and the date the DA issued its charging decision letter. Fatal OIS incidents are marked in red.



Of the 18 fatal OIS incidents which are the focus of this report, ten cases are still open. Of the eight in which the DA's Office has issued charging decision letters, the shortest length of time between the date the OIS occurred and the date the DA issued its letter was **328 days** in the case of Alejandro Nieto; the longest length of time was **887 days** in the case of Steven Michael Young. In those eight cases, it took the DA's Office, on average, **611 days** to complete its investigation and issue its charging decision letter. That is 20 months.

If one considers all OIS cases, not just those involving fatalities, the average length of time it has taken the DA to complete its investigation and issue its charging decision letter is **654 days**.⁵⁵ That is almost 22 months.



The DA must recognize that OIS incidents receive a great deal of attention, for good reason, and that they are often controversial. Thus, the DA must take action commensurate with the importance attached and attention given to the investigation of these incidents.

⁵⁴ Because OIS investigations are handled by the White Collar Crime Unit of the DA's Office, these investigations do not compete for bandwidth with other homicides, rapes or other violent crimes.

⁵⁵ We were told that the inordinate amount of time the DA's Office takes to complete its criminal investigations in OIS cases is not unique to the current DA and that OIS investigations under prior DAs took similar amounts of time.

Name of Suspect/Victim	Date of Incident	Date of Letter	No. of Days Transpired
Suspect/Victim Name Not Disclosed	4-Jan-2011		Decision Letter Not Yet Issued
Joshua Smith	7-Jun-2011	5-Oct-2012	486
Roselyndo Nagayo Sicut	29-Jun-2011	13-Oct-2013	837
Kenneth Harding, Jr.	16-Jul-2011	26-Nov-2012	499
Jesus Octavio Paredes Rodriguez	17-Sep-2011	5-Aug-2013	688
Peter Yin Woo	3-Oct-2011	20-Aug-2013	687
Steven Michael Young	14-Dec-2011	19-May-2014	887
Larry Simonton	16-Dec-2011	11-Dec-2013	726
Dennis Hughes	9-May-2012	1-May-2014	722
Derryck King	13-May-2012	21-May-2014	738
Pralith Pralourng	18-Jul-2012	13-May-2014	664
Brian Cooper	4-Aug-2012	22-May-2014	656
Larry Massey	27-Aug-2012	22-May-2014	633
Oliver Jose Barcnas	20-Sep-2012	21-May-2014	608
Alexander Gibbons	14-Feb-2013	11-Mar-2014	390
Eddie Tilman	5-Mar-2013	24-Jun-2014	476
Peter Russell	15-Mar-2013	5-Feb-2016	1057
SFPD Officer	16-Mar-2013		
Ryan Daugherty	7-Apr-2013	29-Jun-2015	813
Dale Stuart Wilkerson	17-Apr-2013	26-Dec-2014	618
Carlos Miranda	20-Jul-2013	29-Jun-2015	709
Suspect/Victim Name Not Disclosed	27-Oct-2013		Decision Letter Not Yet Issued
Jaques Samuel	30-Dec-2013	26-Mar-2015	451
Suspect/Victim Name Not Disclosed	12-Jan-2014		Decision Letter Not Yet Issued
Ramon Wellington	4-Feb-2014	29-Jan-2016	724
Suspect/Victim Name Not Disclosed	8-Mar-2014		Decision Letter Not Yet Issued
Alejandro Nieto	21-Mar-2014	12-Feb-2015	328
Giovany Contreras-Sandoval	25-Sep-2014		Decision Letter Not Yet Issued
O'Shane Evans	7-Oct-2014		Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	6-Nov-2014		Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	3-Dec-2014		Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	4-Jan-2015		Decision Letter Not Yet Issued
Matthew Hoffman	4-Jan-2015		Decision Letter Not Yet Issued
Amilcar Perez-Lopez	26-Feb-2015		Decision Letter Not Yet Issued
Alice Brown	17-Mar-2015		Decision Letter Not Yet Issued
SFPD Officer	18-Sep-2015		
Herbert Benitez	15-Oct-2015		Decision Letter Not Yet Issued
Suspect/Victim Name Not Disclosed	24-Oct-2015		Decision Letter Not Yet Issued
Javier Ivan Lopez Garcia	11-Nov-2015		Decision Letter Not Yet Issued
Mario Woods	2-Dec-2015		Decision Letter Not Yet Issued
Luis Gongora	7-Apr-2016		Decision Letter Not Yet Issued
Jessica Williams	19-May-2016		Decision Letter Not Yet Issued

Table 2. Time Between OIS Date & Date of DA's Charging Decision Letter (Jan. 1, 2011–June 12, 2016). (Source: Compiled from data from *Annotated List of SFPD Officer Involved Shooting Investigations Dating Back to 2000*, released by the SFPD pursuant to White House Police Data Initiative⁵⁶ and DA's Office's charging decision letters.⁵⁷)

⁵⁶ <http://sanfranciscopolice.org/sites/default/files/SFPDOfficerInvolvedSuspectInvolvedShootings2000-Present.xlsx>; see also <https://www.whitehouse.gov/blog/2015/05/18/launching-police-data-initiative>.

⁵⁷ <http://sfdistrictattorney.org/officer-involved-shooting-letters>

FINDING

- F.5. The DA's Office takes too long to complete its criminal investigations and issue its charging decision letters in OIS cases. In the last five years, it has taken an average of 611 days to issue charging decision letters in fatal OIS cases and 654 days in all OIS cases, both fatal and non-fatal.

RECOMMENDATION

- R.5.A. The DA should immediately give the investigation of OIS cases priority and dedicate the departmental resources required to reduce the time the DA's Office takes to complete its criminal investigation and issue its charging decision letters in OIS cases.
- R.5.B. The DA should determine the resources necessary to reduce the length of time the DA's Office spends to complete its criminal investigations in OIS incidents and then make sufficient requests for those resources in the proposed budget for fiscal year 2017-2018, and thereafter.
- R.5.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the DA's Office to expedite OIS investigations. Allocation and/or release of these funds should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.
- R.5.D. The Board of Supervisors should approve these additional resources requested by the DA's Office and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, to expedite OIS Investigations. Approval of these additional resources again should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.

OCME Is To Be Commended for Its Improved Turnaround Times and More-Detailed Reports in OIS Cases

A thorough investigation of an OIS incident cannot occur without the services of the OCME. When a fatality occurs, the OCME dispatches a medical examiner and investigators to the scene to provide expert assistance and to transport the deceased to the OCME for an autopsy. The OCME conducts the autopsy, collects biological specimens for toxicological and histological examinations and physical evidence such as spent bullets found in the body, and documents its work with extensive notes and photographs. In the days that follow, the OCME issues a final autopsy report, documenting the results of its examination, analysis and testing, and giving its conclusion as to the cause, mode and manner of death.

The final autopsy report is provided to the Homicide Detail, the DA and to the OCC. The report is also available to those with a legitimate reason to have access to it. It is also available to the public for a fee.

Our investigation revealed that, prior to March 2015, the OCME faced a huge backlog of cases and was a bottleneck in both OIS and other investigations. Other agencies which utilized the services of the OCME often pointed to the OCME as the reason why their investigations were delayed or stalled.

Since the new Chief Medical Examiner (“CME”) came aboard in March 2015, however, the OCME bottleneck has been all but eliminated and turnaround times have improved.

We learned during our investigation that the new CME recognizes that OIS cases are highly visible and often controversial and, as such, assigns them high priority at the OCME. This is borne out in improved turnaround times in the issuance of OIS autopsy reports. (See Figure 3.)

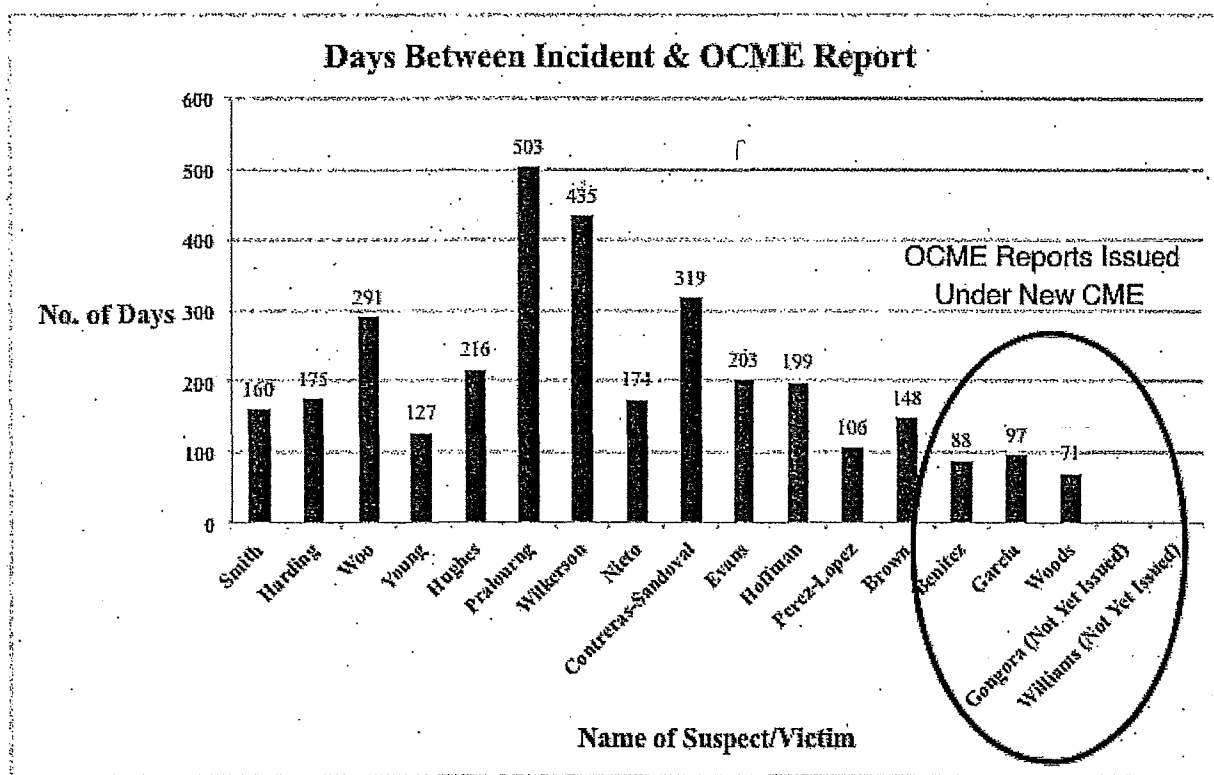


Figure 3. Length of Time Between Each OIS Incident and Date Respective OCME Issued Report. (Source: Compiled by Civil Grand Jury from OCME Reports.)

We learned from interviews with key personnel, along with our review of the OCME autopsy reports in recent OIS cases, that the new CME has also displayed a high degree of initiative, requesting incident scene evidence — such as video surveillance evidence — which may play a key role in interpreting autopsy results or analyzing what occurred.

Moreover, our comparison of autopsy reports issued by the OCME during the past 12 months with those that were issued earlier shows that the reports now include more photographs, increased documentation and greater detail.

FINDING

- F.6. Under the leadership of and commitment displayed by the CME since coming aboard in March 2015, the OCME's turnaround time has improved and its final reports have included more photographs and documentation and greater detail.

COMMENDATION

- C.6. The CME is to be commended for his leadership and commitment in eliminating the backlog and addressing other issues facing the OCME, and the OCME is to be praised for its improved turnaround times and more-detailed final reports.

RECOMMENDATIONS

- R.6.A. After the OCME releases each autopsy report in OIS cases, the CME should proactively call a meeting of the SFPD's Homicide Detail, DA's Office and OCC to help those agencies interpret the highly technical findings of the autopsy report. This meeting should be coordinated, if possible, to include reports from the Crime Lab on the results of its firearms comparisons, ballistics examinations and DNA analysis.
- R.6.B. When the new OCME building with autopsy observation facilities is completed, the CME should invite SFPD inspectors and DA and OCC investigators to observe autopsies in all fatal OIS incidents, so that questions can be answered quickly, observations shared early, and the spirit of teamwork and cooperation on the investigation can begin as early as possible.

OCC Should Receive Increased Funding to Pay for Interview Transcription Services

In OIS incidents, the OCC is immediately called to the scene to "walk-through" it and make observations, so that it will have a basic understanding of the circumstances and environment of the incident.

The OCC performs an independent administrative investigation to determine whether any of the SFPD officers involved in the incident displayed any misconduct. The OCC not only obtains and reviews the investigative files compiled by the SFPD Homicide Detail, but it also examines the evidence, interviews involved parties and officers, and arrives at its own conclusion

regarding the propriety of the police officers' actions.⁵⁸ The OCC staff includes both investigators and attorneys to perform its work.⁵⁹

In OIS cases, as in other cases it handles, the OCC interviews numerous individuals as part of its investigation process: each of the involved SFPD officers, any other SFPD officers who witnessed the incident, civilian witnesses, and, sometimes, experts. We learned that after each of these interviews, OCC staff must spend a substantial amount of time transcribing their own extensive interview notes for use throughout the investigation — time which could be spent on other aspects of the investigation process.

FINDING

F.7. OCC investigations are hampered and delayed by the fact that its investigators and attorneys must transcribe their own extensive notes of each witness interview.

RECOMMENDATIONS

- R.7.A. The OCC should allocate current year funds and include funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services, so that OCC staff can spend more of its time on investigations and legal analysis and less time on the transcription of interview notes.
- R.7.B. The Police Commission should support the OCC's funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.
- R.7.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the OCC for transcription services.
- R.7.D. The Board of Supervisors should approve the resources requested by the OCC and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.

Impediments to and Opportunities for Transparency in OIS Investigations

Attempts to make the investigation of OIS incidents more timely and more efficient solve only part of the problem. A timely investigation process may alleviate suspicions of foot-dragging and reduce the public's perception that the agencies performing the investigations do not consider them to be important. But without transparency during each step of the process, victims' families and friends, the police officers involved and the citizens of San Francisco are still denied the ability to determine for themselves that justice is being served.

⁵⁸ See generally <http://sfgov.org/occ/complaint-process>.

⁵⁹ See <http://sfgov.org/occ/frequently-asked-questions>, specifically, "What is the size and composition of the OCC staff?"

The SFPD recognizes the importance of communication and cooperation between the department and the citizens it serves.

In its Mission Statement, the SFPD states:

We Maintain Open Communication with all the Communities We Serve. Their Input Helps to Determine Police Policies, Priorities and Strategies. The Department recognizes the need to collaborate with the public to reduce crime, disorder, fear and all those negative factors lessening the quality of life. We cannot effectively deal with these by ourselves. Through open communication, we strive to increase public understanding of law enforcement complexities, to ensure the certainty that Department priorities match community expectations, and to inform the public of the reasons for police actions.⁶⁰

In its Vision Statement, the SFPD states:

The Police Department strives to maintain the trust of San Francisco community members by actively engaging with the neighborhoods it serves. The Police Department seeks to make its policies and operations as open as possible. When there are complaints involving the police department, both the public and the police are best served by a system of accountability that is expeditious and fair to all involved.⁶¹

A review of the General Orders and internal departmental documents related to the investigation of OIS incidents, however, provide very few opportunities for transparency which would allow the public insight into the investigation.

For example, in SFPD General Order 8.11, the primary General Order that deals with the investigation of OIS incidents, no opportunities for transparency are explicitly mentioned. In fact, just the opposite. There are a number of points in the investigation in which transparency is prohibited:

This report [containing the Chief of Police's decision whether the involved officers should be returned to their regular field assignment following an OIS incident] will be part of the officer's *confidential* personnel file and *shall not be disclosed to any member of the public* except by court order. The Police Commission shall, at the first Commission meeting following receipt of the report, meet in *closed session* with the Chief of Police to review the Chief's findings and decision.⁶²

⁶⁰ SFPD Mission Statement, "Our Statement of Values" (emphasis in original), *available at* <http://sanfranciscopolice.org/mission-statement>.

⁶¹ SFPD Vision Statement, *available at* <http://sanfranciscopolice.org/visionstatement>.

⁶² SFPD General Order 8.11, *Investigation of Officer Involved Shootings and Discharges* (09/21/05), at II.G.4., p. 6 (emphasis added), *available at* http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14739-DGO_8.11.pdf.

General Order 3.10, which directs the actions of the Firearm Discharge Review Board, espouses more transparency and, in fact, acknowledges the importance of transparency in the review of firearm discharges by its officers:

*The San Francisco Police Department recognizes the public's right to know about this department's use of deadly force. It is the policy of the San Francisco Police Department to provide as much information as possible through this public reporting process while complying with applicable civil and criminal laws and preserving the integrity of ongoing investigations.*⁶³

Other than these few points where transparency is explicitly prohibited or allowed, the policies and procedures regarding OIS investigations are silent on the topic of transparency. This silence allows SFPD command staff great leeway whether to share information regarding the status of OIS investigations with the public.

The SFPD should be commended for the information that it currently shares with the public regarding OIS investigations, especially in the hours and days immediately following each OIS incident. However, the SFPD provides very little information about its OIS investigations after the initial frenzy of interest dies down. We believe that transparency throughout the OIS investigation is warranted, not just at the beginning. It is only through an open and transparent accounting in *all* phases of an OIS investigation that the SFPD will maintain the public's trust that justice is served.

As Long As SFPD Is the Lead Agency on Its Own OIS Investigations, the Public Will Have the Perception the Investigations Are Biased

The SFPD has been criticized for investigating its own OIS incidents. Under the current procedure for investigating OIS incidents, the SFPD's Homicide Detail takes charge at the scene of each incident and acts as the lead agency throughout the investigation. We believe that this procedure was designed with the best of intentions. But the SFPD, the Police Commission and the Mayor must recognize and acknowledge that this creates a perception that these investigations are biased in favor of the officers involved.

That San Francisco has a built-in set of checks and balances, in the form of the DA and the OCC, should serve to mitigate not only the perception of bias, but the actual opportunity for bias in SFPD OIS investigations. Each has its own investigators at the scene from the start, and the DA and the OCC perform parallel, independent investigations, from both a criminal perspective (DA's Office) and an administrative angle (OCC).

⁶³ SFPD General Order 3.10, *Firearm Discharge Review Board* (09/21/05), at I.A., p. 1 (italics in original), available at <http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/14802-DGO3.10.pdf>.

But, this system of checks and balances does not completely eliminate the perception of bias. The fact remains that the SFPD Homicide Detail is the *lead* agency on the investigation, and, so, both the OCC and the DA's Office must, to a certain extent, rely on the SFPD Homicide Detail to actually handle investigation properly, accurately, completely, thoroughly and without bias.⁶⁴

The President's Task Force on 21st Century Policing ("President's Task Force"), in its final report, recommends having an external, independent body handle all fatal OIS investigations:

2.2 Recommendation: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.

....

2.2.2 Action Item: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.⁶⁵

Applying this recommendation in the context of investigations of fatal SFPD OIS incidents, however, poses a dilemma, because it appears that the SFPD currently seems to be the only agency with the resources, experience, and/or ability to investigate OIS incidents thoroughly and in a timely manner. And, as with the SFPD, each of the other agencies proposed to take the lead in the investigation of fatal SFPD OIS cases faces its own potential criticisms:

- The City and County of San Francisco Sheriff's Department is untrained, inexperienced and ill-equipped to handle such an investigation;
- The California Highway Patrol delegates its own OIS incidents in this area to the SFPD and, so, lacks the training, experience and resources;
- The OCC is considered by critics to be "toothless" and merely an extension of the Police Commission;
- Other police departments are either under federal judicial oversight regarding their handling of police misconduct cases (Oakland) or are arguably too far away geographically (San Jose); and
- The DA's office suffers from the perception that any investigation it leads could be politically motivated. Moreover, evidence shows that the DA's Office currently gives OIS investigations low priority.

While it appears that the SFPD is currently the only body currently equipped to take the lead in fatal OIS investigation, there are additional checks and balances that can be implemented and others that should be explored to mitigate the public perception that the investigations lack integrity.

⁶⁴ With regard to the OCC, an additional argument can be made that it does nothing to mitigate the perception of bias in the investigation of fatal OIS incidents because its director serves at the discretion of the Police Commission.

⁶⁵ President's Task Force on 21st Century Policing 2015. *Final Report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services, at pp. 20-21, available at http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

The President's Task Force states:

One way [an external and independent criminal investigation in fatal OIS and other use of force cases] can be accomplished is by the creation of multi-agency force investigation task forces comprising state and local investigators.⁶⁶

This idea of a multi-force agency was also floated by at least one of our interviewees who suggested that perhaps a multi-agency task force be created by members of law enforcement from each of the nine Bay Area counties.⁶⁷

We believe that a multi-agency task force would be logistically, financially and politically difficult to set-up. Given the political structure of the surrounding Bay Area counties and the myriad agencies that would necessarily be involved, it appears prohibitively complicated, at least in the near term. Instead, we believe that the City should use resources already within its power to create a more meaningful system of checks and balances to the current process whereby SFPD Homicide serves as the lead in the investigation of SFPD OIS incidents.

The City Should Create an Oversight Task Force to Mitigate the Perception of Bias in Fatal OIS Investigations and Ensure They Are Completed Expeditiously

Currently there is no oversight body that monitors an SFPD OIS investigation from start to finish. Yet, we believe there is a dire need for one . . . and one that will extend across traditional departmental lines to possibly avoid some of the self-interested departmental power plays that the citizens of San Francisco are seeing now. By having such an oversight body, we believe that perceptions of bias will diminish, investigations will occur more quickly and public trust in the process and all agencies involved will improve.

FINDING

- F.8. The current structure for investigating OIS cases lacks an oversight body to review the events surrounding the OIS incident and the actions of the SFPD officers, monitor the timeliness and fairness of the investigation, communicate regularly about the status of the investigation, and interpret and share the results of the investigation with the public.

RECOMMENDATIONS

- R.8.A. The Mayor's Office should form a new standing task force to oversee the investigation of OIS cases. The task force should include high ranking persons from the Sheriff's Office, the DA's Office, the OCME, the SFPD (including the Chief Homicide Inspector), and the OCC. The task force may also include a state or federal department

⁶⁶ *Ibid.*

⁶⁷ The Bay Area's nine counties are Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

of justice consultant or observer, and a knowledgeable, respected citizen of San Francisco.

R.8.B. The Mayor should charge the new task force to:

- Monitor the progress of each OIS investigation and hold each involved agency accountable for timely completion of its portion of the OIS investigation;
- Provide periodic press releases and/or press conferences to update the public on the status of each OIS case;
- Compile a summary of the findings from each involved agency and then evaluate those findings in group meetings to address any inconsistencies or unanswered questions;
- Facilitate a joint discussion among its members to formulate conclusions and “lessons learned”;
- Identify necessary policy or procedural changes; and
- Share its summary of the overall OIS investigation in public sessions so that the public has a voice in the process and may respond and ask questions.

SFPD Should Do a Better Job on Its Website of Informing the Public About Each OIS Investigation and Provide Statistics About OIS Incidents

The SFPD, until very recently, provided no easily-accessible statistics on SFPD OIS shootings. Within the past few months, however, the SFPD has begun providing some, albeit limited, data at the direction of the Mayor.

In a January 6, 2016 letter to the San Francisco Board of Supervisors, the Mayor listed “Accountability & Transparency: White House Police Data Initiative” as one of the comprehensive set of reforms he directed be undertaken immediately, after the shooting death of Mario Woods in December 2015. In the letter, the Mayor stated:

5. Accountability & Transparency: White House Police Data Initiative

At the Mayor’s direction, the San Francisco Police Department will enroll in the [sic] President Obama’s Police Data Initiative. This includes using open data to increase transparency, build community trust, and support innovation, as well as better using [sic] technology, such as early warning systems, to identify problems, increase internal accountability, and decrease unneeded uses of force. This information can serve as the foundation for community visibility into [sic] and increased trust.⁶⁸

At the beginning of April 2016, the SFPD announced that it had joined the President’s White House Police Data Initiative, an initiative providing recommendations for improved police

⁶⁸ January 6, 2016 letter from Edwin M. Lee, Mayor, City & County of San Francisco, to President London Breed, Members of the Board of Supervisors, at p. 3, available at <https://www.scribd.com/doc/294851874/S-F-Mayor-Ed-Lee-s-Letter-on-Police-Use-of-Force-Jan-6-2016>.

practices, including data transparency.⁶⁹ As part of its announcement, the SFPD stated on its website:

SFPD is determined to build trust, engage with our San Francisco community, and drive positive outcomes in public safety. We hope to be as *transparent* as possible — not only with our crime data, but with information about our department and its operations.⁷⁰

The initial data sets released at the time of the announcement included *Officer Involved Shootings, Suspect-Involved, 2009-2015*⁷¹ (see Figure 4) and *Annotated List of SFPD Officer Involved Shooting Investigations Dating Back to 2000* (see Figure 5).⁷²

Officer Involved Shootings, Suspect-Involved, 2009 – 2015*

Year	Total
2015	9
2014	8
2013	8
2012	6
2011	8
2010	11
2009	5

*As of February 2, 2016.

Figure 4. Officer Involved Shootings, Suspect-Involved, 2009 - 2015. (Source: SFPD website at <http://sanfranciscopolice.org/data#OIS>.)

The Mayor is to be commended for ordering the SFPD to become more transparent by providing data regarding OIS incidents on its website. Likewise, the SFPD is to be commended for following through. To reach its goal of building public trust, engaging with the community and driving positive outcomes in public safety, however, the SFPD must provide much more robust data on OIS incidents such as that provided by the Dallas Police Department and the Los Angeles County Sheriff's Department ("LASD").

⁶⁹ Sharing Our Data: SFPD Joins the White House Police Data Initiative, available at <http://sanfranciscopolice.org/data>.

⁷⁰ *Ibid.* (emphasis added).

⁷¹ <http://sanfranciscopolice.org/data#OIS>.

⁷² <http://sanfranciscopolice.org/sites/default/files/SFPDOfficerInvolvedSuspectInvolvedShootings2000-Present.xlsx>.

Reference#	Date	Time	Description	Compliance
14-003	Saturday, March 8, 14	14:44 hours	On Saturday, March 8, 2014, at approximately 14:44 hours, two uniformed officers assigned to the Mission Station housing unit responded to the 1300 block of Florida Street regarding a report of vandalism to a vehicle. When officers approached the vehicle, the driver backed up, then steered his vehicle toward one of the officers. The partner officer fired at the suspect, who was not struck. An officer at the scene was hit by gunfire. The suspect fled the scene and was later apprehended in another county.	Open
14-004	Friday, March 21, 14	19:11 hours	On Monday, March 21, 2014, at approximately 19:11 hours, four uniformed officers were among units responding to Bernal Heights park to investigate a report of a suspicious person with a gun in a holster. The officers located a man matching the description. The suspect drew a weapon from his hip holster and pointed it at the responding officers. The officers fired at the suspect, fatally striking him.	In Policy
14-005	Thursday, September 25, 14	06:00 hours	On Thursday, September 25, 2014, at approximately 0600 hours, officers responded to a report of a roll-over car collision at Battery and California Streets. The description of one involved car matched an armed carjacking vehicle that had been pursued by CHP officers from Richmond to San Francisco. As unknowing citizens approached this vehicle to render assistance, the occupant fired at them, narrowly missing a Good Samaritan. Officers attempted to coax the armed suspect's surrender. When the suspect emerged from his car and pointed a firearm at officers on scene, six uniformed officers fired at the suspect, fatally striking him.	Open
14-006	Tuesday, October 7, 14	20:58 hours	On Tuesday, October 7, 2014, at approximately 2058 hours, officers assigned to Southern Station observed an auto burglary in progress. The suspects returned to their vehicle as officers began to close in. As one of the officers, wearing a plainclothes cover, moved toward the suspects' vehicle, the driver pointed a firearm at him. The officer fired at the driver, who expired from the resulting wounds.	Open
14-007	Thursday, November 6, 14	19:51 hours	On Thursday, November 6, 2014, at approximately 1951 hours, four plainclothes officers assigned to Bayview Station observed an apparent narcotics transaction in the area of public housing 900 Connecticut Street. As two of the officers began to approach the four involved subjects, two men attempted to leave the scene. An officer pursued one of the fleeing suspects. The suspect produced a firearm from his hip area and pointed it at the officer. The officer fired at the suspect, wounding him. The suspect was taken into custody.	Open

Figure 5. Extract from Excel Spreadsheet entitled, “Annotated List of SFPD Officer Involved Shooting Investigations Dating Back to 2000. (Source: SFPD website at <http://sanfranciscopolice.org/sites/default/files/SFPDOfficerInvolvedSuspectInvolvedShootings2000-Present.xlsx>.)

The Dallas Police Department’s public information about OIS could serve as a model for the SFPD. On that agency’s homepage⁷³ is an “Officer Involved Shootings (OIS) Data” button, which clicks through to a webpage⁷⁴ that includes a message from the Chief of Police, sections on “Why the Dallas Police Department Provides Officer Involved Shooting Information,” “Investigating Officer-Involved Shooting (OIS) Incidents,” the Department’s General Order on use of deadly force, “Reducing Deadly Force Incidents,” and graphs and charts providing visual depictions of incidents per year, types of OIS, most common subject weapon types, maps of where OIS incidents occurred within the City of Dallas, and individual shooting summaries. (See Figure 6, *Screenshot of Data Charts and Graphs Regarding OIS Incidents Pulled from Dallas Police Department Website*, on page 48.)

The LASD public data sharing relating to deputy involved shootings may also provide a model for the SFPD to follow as it works toward better dissemination of OIS incident data and statistics. The LASD has a webpage devoted to “Deputy Involved Shooting Incident Data & Charts,” along with definitions and other information related to “deputy involved shootings,” “use of force,” “public complaints,” and employee discipline.” (See Figure 7, *Screenshot of Los Angeles County Sheriff’s Department Public Data Webpage Providing Deputy Involved Shooting Incident Data & Charts*, on page 49.)

⁷³ <http://www.dallaspolice.net/>.

⁷⁴ <http://www.dallaspolice.net/ois/ois.html>.

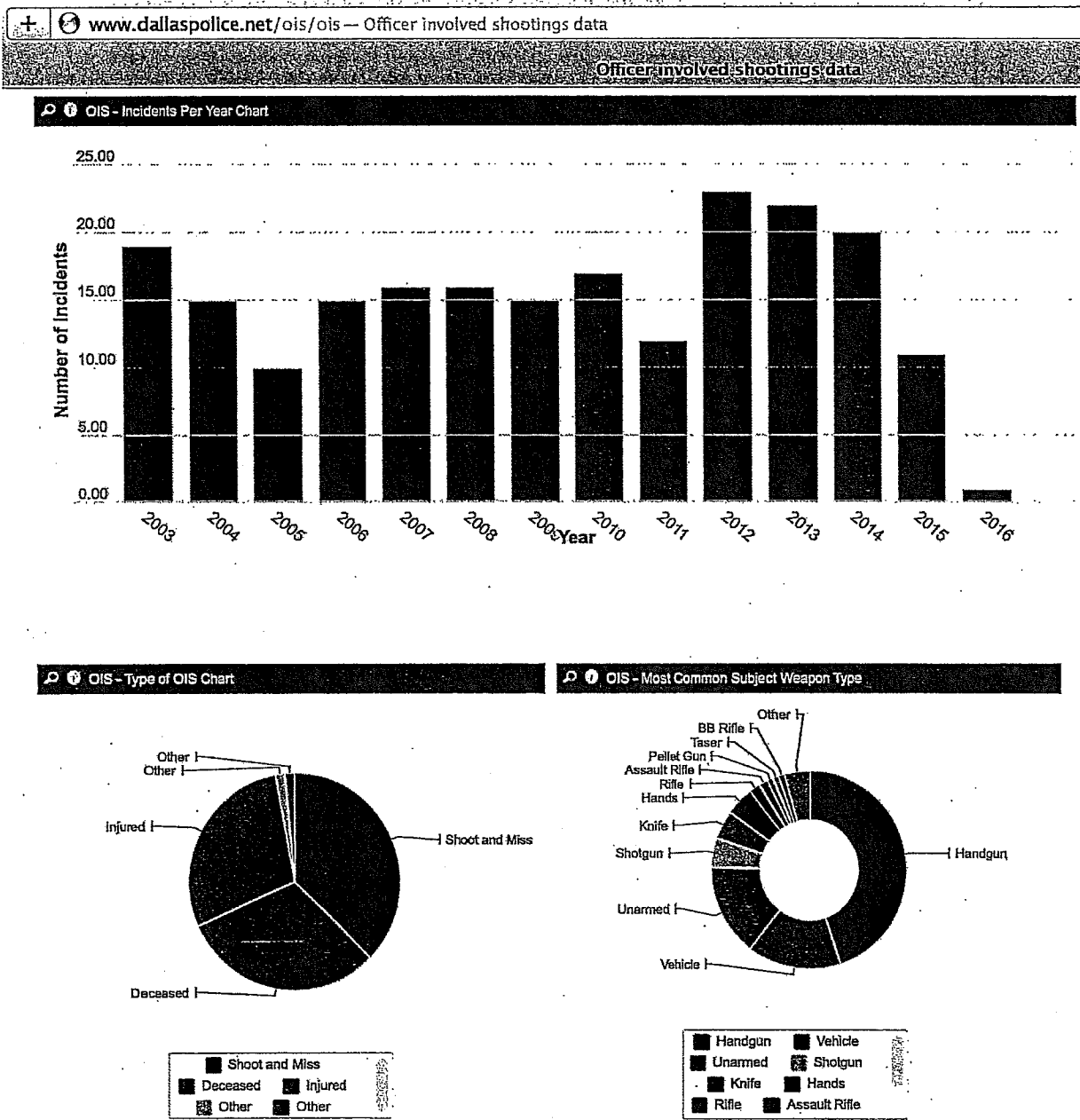


Figure 6. Screenshot of Data Charts and Graphs Regarding OIS Incidents Pulled from Dallas Police Department Website. (Source: <http://dallaspolice.net/ois/ois>.)

www.la-sheriff.org/s2/page_render.aspx?pagename=info_detail_32 - LASD - Public Data Sharing - Details

Los Angeles County Sheriff's Department

About Us | Patrol | Custody | Community Outreach | Public Data Sharing | Crime Information

Home > Public Data Sharing > Details

Search Sheriff's Website

Search all of lacounty.gov

Definitions & Terms

- Deputy Involved Shootings
- Use of Force
- Public Complaints
- Employee Discipline

Open Data

Open Data Los Angeles County

Deputy Involved Shooting Incident Data & Charts

These various Data Files contain all the Deputy-Involved Shooting Incidents which include the following: Hit Shootings Incidents, Non-Hit Shooting Incidents, Animal Shootings, Warning Shot Incidents, Unintentional Discharge Incidents and Shooting Incidents - Other that are downloadable in various formats i.e. csv, pdf, xml, etc.

All Shooting Incidents	Download Data	Map	Bar Graph	Pie Chart
Hit Shooting Incidents and Non-Hit Shooting Incidents	Download Data	Map	Bar Graph	Pie Chart
Animal Shootings, Warning Shot Incidents, Unintentional Discharge Incidents and Shooting Incidents - Other	Download Data	Map	Bar Graph	Pie Chart
Hit Shooting Incidents and Non-Hit Shooting Incidents with Suspect Details	Download Data	Map	Bar Graph	Pie Chart
Hit Shooting Incidents and Non-Hit Shooting Incidents with Deputy Details	Download Data	Map	Bar Graph	Pie Chart
Animal Shootings, Warning Shot Incidents, Unintentional Discharge Incidents and Shooting Incidents - Other with Deputy Details.	Download Data	Map	Bar Graph	Pie Chart

Figure 7. Screenshot of Los Angeles County Sheriff's Department Public Data Webpage Providing Deputy Involved Shooting Incident Data & Charts. (Source: http://www.la-sheriff.org/s2/page_render.aspx?pagename=info_detail_32.)

FINDING

- F.9. While the SFPD has taken important first steps in providing information and statistics regarding OIS incidents and resulting investigations, it must provide much more robust information to reach its stated goal of building public trust, engaging with the community and driving positive outcomes in public safety.

COMMENDATIONS

- C.9.A. The Mayor is to be commended for ordering the SFPD to become more transparent by joining the White House Police Data Initiative.

- C.9.B. SFPD is to be commended for joining the White House Police Data Initiative and taking its first steps as becoming more transparent on the issue of OIS incidents by posting its first data sets on its website.

RECOMMENDATION

- R.9. SFPD should make publicly available and prominently display on its website a more robust set of statistics, data and information on OIS incidents where its officers are involved, using the data release practices of law enforcement agencies like the Dallas Police Department and the Los Angeles County Sheriff's Department.

SFPD Should Formalize Its Practice of Providing as Much *Factual* Information As Possible As Early As Possible After Each OIS Incident

SFPD, primarily through its former Chief of Police, has made it a practice to speak with the press at the scene of OIS incidents, within a short time of the incident to provide preliminary facts about the incident.

FINDING

- F.10. SFPD's press conferences at the scene of the incident, or soon thereafter, are an important first step in creating a transparent investigation, provide crucial information about the events leading up to the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

COMMENDATION

- C.10. SFPD is to be commended for its practice of holding press conferences as soon as possible after each OIS incident to relay crucial background information about events leading up to and surrounding the incident.

RECOMMENDATIONS

- R.10.A. SFPD and the Police Commission should make it official policy for the SFPD to hold press conferences as soon as possible after *each* OIS incident.
- R.10.B. SFPD should limit comments made during these press conferences to the *facts* as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.

The SFPD also has made it a practice to post "updates" on its website within hours of an OIS incident providing preliminary facts about OIS incidents and providing crucial background information about the events leading up to the incident.

FINDING

- F.11. As with its press conferences at the scene of the incident, the SFPD's practice of posting "updates" on its website as soon as possible after an OIS incident are an important step in creating a transparent investigation, provide crucial information about the events leading up to the OIS incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

COMMENDATION

- C.11. SFPD is to be commended for its practice of posting "updates" on its website as soon as possible after each OIS incident to relay crucial background information about events leading up to and surrounding the incident.

RECOMMENDATIONS

- R.11.A. SFPD and the Police Commission should make it official policy for the SFPD to post "updates" on its website as soon as possible after *each* OIS incident.
- R.11.B. SFPD should limit comments made in these updates to the *facts* as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.

The SFPD also has made it a practice to hold a town hall meeting within a week or so of an OIS incident to provide updated facts about the incident and allow the community to ask questions.

FINDING

- F.12. SFPD's town hall meetings are crucial to a transparent OIS investigation, provide updated information about the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.

COMMENDATION

- C.12. SFPD is to be commended for its practice of holding town hall meetings after OIS incidents to provide updated facts about the incident and allow the community to ask questions.

RECOMMENDATIONS

- R.12.A. SFPD and the Police Commission should make it official policy for the SFPD to hold town hall meetings within a week after *each* OIS incident.
- R.12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs; the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should

attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.

SFPD Should Make It Official Policy to Release the Names of All Officers Involved in Each OIS Incident Within Ten Days, Unless a Credible Threat Exists to the Officers' Safety

In a 2014 ruling,⁷⁵ the California Supreme Court held that local departments can only withhold the names of officers involved in on-duty shootings if there is specific evidence to show that disclosing the name of an officer would pose a safety threat.

We were told that in the past the SFPD only released the names of officers involved in fatal OIS incidents when that information was requested by the press. We were also told that the SFPD now makes it a practice to release this information as a matter of course, usually within 10 days of the OIS incident. Table 3 shows, however, that the SFPD's practice in releasing the officers' names has been inconsistent. While the SFPD released the officers' names in six incidents — and did so within 10 days of the incident — the SFPD failed to release officers' names in two incidents in late 2015. There is no indication that the names of the officers involved in those two incidents were withheld due to any safety threat.

Individual Shot and Killed	Date of OIS	Date Names Released	No. of Days Elapsed
Jessica Williams	5/19/2016	5/27/2016	8
Luis Gongora	4/7/2016	4/16/2016	9
Mario Woods	12/2/2015	12/11/2015	9
Javier Lopez Garcia	11/11/2015	Not Released	
Herbert Benitez	10/15/2015	Not Released	
Alice Brown	3/17/2015	3/23/2015	6
Amilcar Perez-Lopez	2/26/2015	3/7/2015	9
Matthew Hoffman	1/4/2015	1/12/2015	8

Table 3. Length of Time Between Date of OIS Incident and Date Names of Officers Released, Fatal SFPD OIS from January 1, 2015 through June 12, 2016. (Source: Compiled by Civil Grand Jury from various media sources.)

Notably, when the SFPD releases the names of its officers involved in OIS incidents, it provides that information to the press, but does not make that information available on its website.

⁷⁵ *Long Beach Police Officer's Assoc. v. City of Long Beach*, 59 Cal. 4th 59 (Cal. 2014), available at <http://login.findlaw.com/scripts/callaw?dest=ca/cal4th/59/59.html>.

FINDING

- F.13. Although the release the names of officers involved in fatal OIS incidents is an important step in creating a transparent investigation and holding the SFPD and its officers-accountable for their actions, SFPD has had a spotty record regarding its release of the names of its officers involved in fatal OIS incidents.

RECOMMENDATIONS

- R.13.A. SFPD and the Police Commission should make it official policy for the SFPD to release the names of all officers involved in each OIS incident within 10 days, unless it has knowledge of credible threats to the officer's safety. In those instances in which the SFPD has knowledge that such credible threats exist, the SFPD should issue a statement stating it is withholding release of the names of the officers because of a credible threat to their safety.
- R.13.B. Simultaneous with its release of the names of the officers involved in an OIS incident or the statement that it is withholding release of that information, the SFPD should make the information available on its website.
- R.13.C. SFPD and the Police Commission should make it official policy that in those instances when the names of officers involved in an OIS incident are not released due to a credible threat to the officers' safety, the SFPD shall release the names of all officers involved as soon as the SFPD determines that the credible threat has passed.

The DA's Office Should Make a Public Announcement When It Issues Its Charging Decision Letters in OIS Cases and Make Them More Easily Accessible Online

It is fully understandable that the DA's Office must adhere to strict confidentiality while conducting its criminal investigation of an OIS incident. The public must accept that there will be limitations on transparency to maintain the integrity of the investigation itself.

As discussed earlier, however, at the end of its criminal investigation in each OIS incident, the DA's Office sends a letter to the Chief of Police, in which the DA announces whether criminal charges against the officers involved are warranted, along with supporting facts and legal analysis. The DA's Office also posts copies of each charging decision letter on its website.⁷⁶

To our knowledge, however, the DA's Office does not consistently hold a press conference or make a public announcement following its issuance of each charging decision letter to alert the public to the fact.⁷⁷

⁷⁶ <http://sfdistrictattorney.org/officer-involved-shooting-letters>.

⁷⁷ The DA did hold a press conference on May 10, 2016, however, to announce felony criminal charges against Alameda County Sheriff's Department deputies in the beating of Stanislav Petrov in a Mission District alley on November 12, 2015.

Further, while the citizens of San Francisco have access to the DA's charging decision letters, links to the letters are not listed in a manner that allows the public to access them easily. Each letter is identified only by the general location of the incident, not by the name of the individual shot. Further, while some of the letters are also identified by the date of the OIS incident, others are identified by the date the letter was issued.

FINDING

- F.14. The public's ability to learn of the result of the DA's criminal investigation of an OIS incident is hampered because the DA's Office rarely makes a public announcement that it has completed its investigation and because the DA's charging decision letters are listed in a confusing manner on the DA Office's website.

COMMENDATION

- C.14. The DA's Office is to be commended for the quality and comprehensiveness of its charging decision letters, which provide a summary of the facts, evidence and legal analysis underpinning the DA's decision whether to file criminal charges against the SFPD officers involved in OIS incidents, and which provide the citizens of San Francisco an understanding of the basis for the DA's decision.

RECOMMENDATION

- R.14.A. The DA's Office should make a public announcement each time it issues a charging decision letter so that the public is made aware that it has completed its OIS criminal investigation.
- R.14.B. The DA's Office should make its charging decision letters on its website more easily accessible to the public by including on the index page the name of the individual shot and the date of the OIS incident.

At the End of Each Fatal OIS Investigation, a Comprehensive "Debriefing" Report Should Be Issued to the Public

Only a resourceful, determined citizen using investigative skills can find the limited information that is produced about an OIS incident, such as the SFPD's initial press releases regarding the incident, the DA's charging decision letter, and perhaps even a sanitized, anonymized OCC report or Firearm Discharge Review Board summary. Even then, a full picture of the OIS incident and an understanding of the results of the subsequent investigation would likely be incomplete, because none of the City entities involved in OIS investigations create or publish a comprehensive report of the findings of the investigation.

FINDING

- F.15. Currently, citizens of San Francisco do not have access to a single, complete, comprehensive summary of the results and findings of a fatal OIS investigation. To restore the public's faith in the integrity of these investigations, such a summary should be made available.

RECOMMENDATION

- R.15. The Police Commission or the newly created OIS Investigation Oversight Task Force (see Recommendations R.8.A. and R.8.B.), in addition to summarizing the findings and conclusions of the various OIS investigations (again see Recommendations R.8.A. and R.8.B.), should examine each fatal OIS incident with a view to developing "lessons learned" and answering the following questions:

- What circumstances contributed to the OIS incident?
- What aspects of the interaction between the SFPD officers and the suspect, if any, could have been handled differently so that the loss of a life would not have occurred?
- What alternatives to deadly force may have been tried? What lessons can be learned?
- Should any SFPD policies and procedures be reviewed or revised because of the incident?

The entity making this review of the fatal OIS incident should publish its findings, as well as those from each of the other City agencies involved, in one comprehensive report that is made available to the public. The entity should then hold town hall meetings to share highlights from the report and the conclusions drawn from the OIS incident and should seek and allow for public comment and feedback.

CONCLUSION

Each City agency involved in the investigation of fatal OIS incidents owes it to the citizens of San Francisco, to the friends and family of those individuals shot and killed at the hands of SFPD officers, to those officers and their families, and to its own departmental integrity to complete its investigations as timely and as transparently as possible.

The fact that the lives of everyone involved in OIS incidents are irreparably, detrimentally changed is bad enough. Such tragedy should not be exacerbated by a subsequent investigation that is too slow or opaque.

We believe that the recommendations we make in this report are minimal first steps that must be taken immediately to start down the path toward fair and just OIS investigations that are worthy of the trust of the citizens of San Francisco. We also believe that these recommendations can be implemented with little upheaval to the agencies involved and with little cost to the City.

One key component of the OIS investigation which we do not discuss in our report is the public dissemination of information about disciplinary actions taken against officers involved in OIS incidents. Our exclusion of this topic is because such dissemination is governed by state law, which is outside the Civil Grand Jury's jurisdiction.

We recognize, however, that citizens may feel that complete transparency in an OIS investigation must include the ability to learn what disciplinary actions, if any, were taken against the officers involved.

Time and again during our investigatory interviews, California state laws restricting disclosure of police officers' personnel records were blamed for the lack of transparency regarding disciplinary actions taken against officers involved in OIS incidents.

"Our state's 'Pitchess statutes' (including Sections 832.7 and 832.8 of the Penal Code) and related case law essentially make all records relating to peace officer misconduct confidential and exempt from disclosure under the Public Records Act."⁷⁸

In February 2016, State Senator Mark Leno introduced SB 1286⁷⁹ in the California Senate, with the aim of allowing greater public access to peace officer records related to serious uses of force and sustained charges of misconduct.

SB 1286 was supported by social justice activists and police reform advocates as a way to improve police-community relations, but was opposed by law enforcement organizations, which

⁷⁸ ACLU, "Increasing Law Enforcement Transparency - SB 1286 (Leno)" fact sheet, available at <https://ssl.capwiz.com/aclu/ca/issues/alert/?alertid=71310801>; see also ACLU, "SB 1286 (Leno): Enhance Community Oversight on Police Misconduct and Serious Uses of Force" fact sheet, available at https://www.aclunc.org/docs/sb1286_factsheet.pdf. Under Section 832.7 of the California Penal Code, all law enforcement personnel records are confidential. A motion to obtain a police officer's confidential personnel records as evidence in a civil or criminal proceeding is known as a *Pitchess* motion (after *Pitchess v. Superior Court*, 11 Cal.3d 531 (1974)), the requirements for which are specified in Section 1043 of the California Evidence Code.

⁷⁹ For text of SB 1286, see http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1286.

contended the bill would invade officer privacy while existing civilian review boards and potential prosecution provided enough outside accountability of police.⁸⁰

The bill was effectively killed on May 27, 2016, when it was held in the Senate's Appropriations Committee without discussion.

Public disclosure of disciplinary action recommended by the Chief of Police or the OCC and/or taken by the Chief of Police or the Police Commission against officers involved in OIS incidents is effectively prohibited by California state law. Until those laws are changed, there can be no transparency into one of the key components of OIS investigations — officer discipline.

We encourage those citizens of San Francisco who believe that they deserve to know the findings, recommendations, and disciplinary action, if any, taken by the Chief of Police, the OCC and the Police Commission against the officers involved in OIS incidents, to work to change state law restricting disclosure of the contents of police officers' personnel files.

⁸⁰ For a list of organizations that supported and those that opposed SB 1286, see Senate Committee on Public Safety Bill Analysis of SB 1286, *available at* http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_1251-1300/sb_1286_cfa_20160412_170041_sen_comm.html.

REQUEST FOR RESPONSES

Findings and Required Response Matrix

FINDING	RESPONDER
F.1. None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.	SFPD DA's Office OCC
F.2. Because the SFPD consistently does not meet the time frame in its own General Orders by which investigations of OIS incidents are to be conducted and completed, the General Orders create false expectations for the citizens of San Francisco.	SFPD Police Commission
F.3. The SFPD Field Operations Bureau's use of outdated methods, including a serial, hierarchical phone tree system, to alert some essential responders of an OIS incident is inherently time-consuming and results in slower response times, which can cause delays in OIS investigations both at the scene and afterwards.	SFPD
F.4. While there are many factors to consider when determining a timetable to complete an OIS investigation, the lack of a meaningful and enforceable process for establishing a timetable in the current MOU between the SFPD and the DA's Office allows OIS investigations to drag on too long.	SFPD DA's Office
F.5. The DA's Office takes too long to complete its criminal investigations and issue its charging decision letters in OIS cases. In the last five years, it has taken an average of 611 days to issue charging decision letters in fatal OIS cases and 654 days in all OIS cases, both fatal and non-fatal.	DA's Office
F.6. Under the leadership of and commitment displayed by the CME since coming aboard in March 2015, the OCME's turnaround time has improved and its final reports have included more photographs and documentation and greater detail.	OCME
F.7. OCC investigations are hampered and delayed by the fact that its investigators and attorneys must transcribe their own extensive notes of each witness interview.	OCC
F.8. The current structure for investigating OIS cases lacks an oversight body to review the events surrounding the OIS incident and the actions of the SFPD officers, monitor the timeliness and fairness of the investigation, communicate regularly about the	Mayor

status of the investigation, and interpret and share the results of the investigation with the public.	
F.9. While the SFPD has taken important first steps in providing information and statistics regarding OIS incidents and resulting investigations, it must provide much more robust information to reach its stated goal of building public trust, engaging with the community and driving positive outcomes in public safety.	SFPD
F.10. SFPD's press conferences at the scene of the incident, or soon thereafter, are an important first step in creating a transparent investigation, provide crucial information about the events leading up to the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.	SFPD
F.11. As with its press conferences at the scene of the incident, the SFPD's practice of posting "updates" on its website as soon as possible after an OIS incident are an important step in creating a transparent investigation, provide crucial information about the events leading up to the OIS incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.	SFPD
F.12. SFPD's town hall meetings are crucial to a transparent OIS investigation and provide updated information about the incident and serve to mitigate false reporting, speculation and the dissemination of misinformation.	SFPD
F.13. Although the release the names of officers involved in fatal OIS incidents is an important step in creating a transparent investigation and holding the SFPD and its officers accountable for their actions, SFPD has had a spotty record regarding its release of the names of its officers involved in fatal OIS incidents.	SFPD
F.14. The public's ability to learn of the result of the DA's criminal investigation of an OIS incident is hampered because the DA's Office rarely makes a public announcement that it has completed its investigation and because the DA's charging decision letters are listed in a confusing manner on the DA Office's website.	DA's Office
F.15. Currently, citizens of San Francisco do not have access to a single, complete, comprehensive summary of the results and findings of a fatal OIS investigation. To restore the public's faith in the integrity of these investigations, such a summary should be made available.	Mayor

Recommendations and Required Response Matrix

RECOMMENDATION	RESPONDER
<p>R.1. Each of the three City agencies fundamental to OIS investigations — SFPD, DA’s Office and OCC — should create a “OIS Investigations” web page specifically devoted to educating the public about that agency’s role in the investigation of OIS incidents. Each agency’s web page should be comprehensive and answer the following questions:</p> <ul style="list-style-type: none"> ● Who is involved in the investigation and what are their roles and responsibilities; ● Why is the agency involved in OIS investigations; ● What is the investigation’s purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why; ● When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame; ● How does the OIS investigation process work; and ● Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations. <p>Each agency should make its “OIS Investigations” web page available in English, Spanish, Chinese and Filipino (Tagalog).</p> <p>Each agency should provide a link from its home page to its “OIS Investigations” web page, so that it can be accessed easily.</p> <p>Each agency should add its “OIS Investigations” web page to its website as soon as possible, but no later than six months after the date this report is published.</p>	<p>SFPD DA’s Office OCC</p>
<p>R.2.A. The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.</p>	<p>Police Commission SFPD DA’s Office OCC</p>
<p>R.2.B. After receiving the results of the study of ways to streamline the OIS investigation process, the Police Commission should revise the General Orders to more accurately reflect the timeframes by which investigations of OIS incidents are to be completed.</p>	<p>Police Commission SFPD</p>

<p>R.3.A. The SFPD Field Operations Bureau should implement standardized, modern methods to notify all essential responders of an OIS incident.</p>	<p>SFPD</p>
<p>R.3.B. The SFPD Field Operations Bureau should require that all essential responders called to the scene of an OIS incident confirm with the Field Operations Bureau that they received the initial notification. If the Bureau does not receive confirmation from an essential responder within a designated period of time, it should contact an alternate responder for that agency.</p>	<p>SFPD</p>
<p>R.4. The SFPD and the DA's Office should jointly draft a new MOU in which each commits to an agreed-upon process to:</p> <ul style="list-style-type: none"> ● Prioritize and expedite their investigations of OIS incidents within an established timeframe; ● Make a public announcement when each completes its OIS investigation, so that the public may be better informed of the investigative results and the time taken by each agency to complete its OIS investigation. 	<p>SFPD DA's Office</p>
<p>R.5.A. The DA should immediately give the investigation of OIS cases priority and dedicate the departmental resources required to reduce the time the DA's Office takes to complete its criminal investigation and issue its charging decision letters in OIS cases:</p>	<p>DA's Office</p>
<p>R.5.B. The DA should determine the resources necessary to reduce the length of time the DA's Office spends to complete its criminal investigations in OIS incidents and then make sufficient requests for those resources in the proposed budget for fiscal year 2017-2018, and thereafter.</p>	<p>DA's Office</p>
<p>R.5.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018; and thereafter, resource requests from the DA's Office to expedite OIS investigations. Allocation and/or release of these funds should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.</p>	<p>Mayor Mayor's Office of Public Policy and Finance</p>
<p>R.5.D. The Board of Supervisors should approve these additional resources requested by the DA's Office and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, to expedite OIS Investigations. Approval of these additional</p>	<p>Board of Supervisors</p>

resources again should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.	
R.6.A. After the OCME releases each autopsy report in OIS cases, the CME should proactively call a meeting of the SFPD's Homicide Detail, DA's Office and OCC to help those agencies interpret the highly technical findings of the autopsy report. This meeting should be coordinated, if possible, to include reports from the Crime Lab on the results of its firearms comparisons, ballistics examinations and DNA analysis.	OCME
R.6.B. When the new OCME building with autopsy observation facilities is completed, the CME should invite SFPD inspectors and DA and OCC investigators to observe autopsies in all fatal OIS incidents, so that questions can be answered quickly, observations shared early, and the spirit of teamwork and cooperation on the investigation can begin as early as possible.	OCME
R.7.A. The OCC should allocate current year funds and include funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services, so that OCC staff can spend more of its time on investigations and legal analysis and less time on the transcription of interview notes.	OCC
R.7.B. The Police Commission should support the OCC's funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.	Police Commission
R.7.C. The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the OCC for transcription services.	Mayor Mayor's Office of Public Policy and Finance
R.7.D. The Board of Supervisors should approve the resources requested by the OCC and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.	Board of Supervisors
R.8.A. The Mayor's Office should form a new standing task force to oversee the investigation of OIS cases. The task force should include high ranking persons from the Sheriff's Office, the DA's Office, the OCME, the SFPD (including the Chief Homicide Inspector), and the OCC. The task force may also include a state or	Mayor

federal department of justice consultant or observer, and a knowledgeable, respected citizen.	
<p>R.8.B. The Mayor should charge the new task force to:</p> <ul style="list-style-type: none"> ● Monitor the progress of each OIS investigation and hold each involved agency accountable for timely completion of its portion of the OIS investigation; ● Provide periodic press releases and/or press conferences to update the public on the status of each OIS case; ● Compile a summary of the findings from each involved agency and then evaluate those findings in group meetings to address any inconsistencies or unanswered questions; ● Facilitate a joint discussion among its members to formulate conclusions and “lessons learned”; ● Identify necessary policy or procedural changes; and ● Share its summary of the overall OIS investigation in public sessions so that the public has a voice in the process and may respond and ask questions. 	Mayor
<p>R.9. SFPD should make publicly available and prominently display on its website a more robust set of statistics, data and information on OIS incidents where its officers are involved, using the data release practices of law enforcement agencies like the Dallas Police Department and the Los Angeles County Sheriff’s Department.</p>	SFPD
<p>R.10.A. SFPD and the Police Commission should make it official policy for the SFPD to hold press conferences as soon as possible after <i>each</i> OIS incident.</p>	SFPD Police Commission
<p>R.10.B. SFPD should limit comments made during these press conferences to the <i>facts</i> as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.</p>	SFPD
<p>R.11.A. SFPD and the Police Commission should make it official policy for the SFPD to post “updates” on its website as soon as possible after <i>each</i> OIS incident.</p>	SFPD Police Commission
<p>R.11.B. SFPD should limit comments made in these updates to the <i>facts</i> as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.</p>	SFPD

<p>R.12.A. SFPD and the Police Commission should make it official policy for the SFPD to hold town hall meetings within a week after <i>each</i> OIS incident.</p>	<p>SFPD Police Commission</p>
<p>R.12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.</p>	<p>SFPD Board of Supervisors DA's Office OCC Police Commission Mayor</p>
<p>R.13.A. SFPD and the Police Commission should make it official policy for the SFPD to release the names of all officers involved in each OIS incident within 10 days, unless it has knowledge of credible threats to the officer's safety. In those instances in which the SFPD has knowledge that such credible threats exist, the SFPD should issue a statement stating it is withholding release of the names of the officers because of a credible threat to their safety.</p>	<p>SFPD Police Commission</p>
<p>R.13.B. Simultaneous with its release of the names of the officers involved in an OIS incident or the statement that it is withholding release of that information, the SFPD should make the information available on its website.</p>	<p>SFPD</p>
<p>R.13.C. SFPD and the Police Commission should make it official policy that in those instances when the names of officers involved in an OIS incident are not released due to a credible threat to the officers' safety, the SFPD shall release the names of all officers involved as soon as the SFPD determines that the credible threat has passed.</p>	<p>SFPD Police Commission</p>
<p>R.14.A. The DA's Office should make a public announcement each time it issues a charging decision letter so that the public is made aware that it has completed its OIS criminal investigation.</p>	<p>DA's Office</p>
<p>R.14.B. The DA's Office should make its charging decision letters on its website more easily accessible to the public by including on the index page the name of the individual shot and the date of the OIS incident.</p>	<p>DA's Office</p>
<p>R.15. The Police Commission or the newly created OIS Investigation Oversight Task Force (see Recommendations R.8.A.</p>	<p>Police Commission</p>

and R.8.B.), in addition to summarizing the findings and conclusions of the various OIS investigations (again see Recommendations R.8.A. and R.8.B.), should examine each fatal OIS incident with a view to developing “lessons learned” and answering the following questions:

Mayor

- What circumstances contributed to the OIS incident?
- What aspects of the interaction between the SFPD officers and the suspect, if any, could have been handled differently so that the loss of a life would not have occurred?
- What alternatives to deadly force may have been tried? What lessons can be learned?
- Should any SFPD policies and procedures be reviewed or revised because of the incident?

The entity making this review of the fatal OIS incident should publish its findings, as well as those from each of the other City agencies involved, in one comprehensive report that is made available to the public. The entity should then hold town hall meetings to share highlights from the report and the conclusions drawn from the OIS incident and should seek and allow for public comment and feedback.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

ACRONYM KEY (As Used in This Report)

Abbreviation	Term
BSU	SFPD Behavioral Science Unit
CIRT	SFPD Crisis Incident Response Team
CME	Chief Medical Examiner
CSI	SFPD Crime Scene Investigation
DA or DA's Office	Office of the District Attorney
DOJ COPS	United States Department of Justice Office of Community Oriented Policing Services
ECD	Emergency Communications Division
FDRB	Firearm Discharge Review Board
IA or IAD	SFPD Internal Affairs Division
MOU	Memorandum of Understanding Between the San Francisco District Attorney's Office and the San Francisco Police Department Regarding the Investigation of Officer-Involved Shootings and In-Custody Deaths
OCC	Office of Citizen Complaints
OCME or OME	Office of the Chief Medical Examiner
OIS	Officer-Involved Shooting
RMO	SFPD's Risk Management Office
SFPD	San Francisco Police Department

APPENDICES

Appendix A

Summary Accounts of Fatal SFPD OIS Incidents from 2011 - June 12, 2016

(Source: Compiled by the Civil Grand Jury from SFPD press releases, the DA's charging decision letters and media coverage of the incidents.)

1. Jessica Williams (May 19, 2016)

Name of victim:	Jessica Williams
Gender of victim:	Female
Race/ethnicity of victim:	African-American/Black
Age of victim:	29
Date and time of shooting:	May 19, 2016 @ approx. 9:45 a.m.
Location:	Elmira Street & Helena Street; Bayview District
Officer(s) involved:	Justin Erb
SFPD Press Releases re Incident:	<ul style="list-style-type: none">• Bayview District Officer Involved Shooting (Thursday, May 19, 2016) http://sanfranciscopolice.org/article/bayview-district-officer-involved-shooting
DA's Charging Decision Letter:	Not Yet Issued

A police sergeant and another officer from the City's Bayview station, conducting a stolen vehicle recovery operation, came across Williams sitting in a purportedly stolen car. Williams allegedly attempted to flee, but struck a utility truck parked nearby. According to a witness, as the officers approached the car on foot, Williams tried to dislodge the car, which had become wedged under the truck, by shifting it forward and in reverse. When Williams did not comply with police orders, the sergeant fired one shot, hitting Williams.

Police removed Williams from the car and began to provide medical aid until paramedics arrived and took her to San Francisco General Hospital where she died.

In a statement shortly after the incident, a SFPD spokesperson said there was no immediate indication that the woman was armed or was driving the car toward officers when she was shot.

2. Luis Gongora (April 7, 2016)

Name of victim:	Luis Gongora
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	45
Date and time of shooting:	April 7, 2016 @ 10:04 a.m.
Location:	400 block of Shotwell Street, between 18th Street and 19th Street; Mission District
Officer(s) involved:	Michael Mellone Nate Segar
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> ● SFPD Investigating an Officer Involved Shooting on Shotwell & 19th St (Thursday, April 07, 2016) http://sanfranciscopolice.org/article/sfpd-investigating-officer-involved-shooting-shotwell-19th-st ● Officer Involved Shooting Update (Friday, April 08, 2016) http://sanfranciscopolice.org/article/officer-involved-shooting-update ● SFPD Town Hall Meeting to Discuss Officer Involved Shooting, April 13, 2016 (Wednesday, April 13, 2016) http://sanfranciscopolice.org/article/sfpd-town-hall-meeting-discuss-officer-involved-shooting-april-13-2016
DA's Charging Decision Letter:	Not Yet Issued

City homeless outreach workers, who had responded to a report of a disturbance in a homeless encampment, called 911 to report a man waving a large kitchen knife. SFPD officers arrived minutes later. Video of the incident shows that within 30 seconds of getting out of their police cruisers, two police officers fired four beanbags and then seven gunshot rounds at Gongora, a homeless man who reportedly had been living in the encampment.

Paramedics rushed the man to San Francisco General Hospital, where he died during surgery.

In a press conference at the scene shortly after the incident, Police Chief Suhr said that his officers shot Gongora after he challenged them with the knife. Some witnesses purportedly

affirmed SFPD officers' account of events, but at least one said Gongora never challenged the officers and probably didn't understand what police were saying before he was shot.

3. Mario Woods (December 2, 2015)

Name of victim:	Mario Woods
Gender of victim:	Male
Race/ethnicity of victim:	African-American/Black
Age of victim:	26
Date and time of shooting:	December 2, 2015 @ 4:34 p.m.
Location:	Near Keith Street and Fitzgerald Street; Bayview District
Officer(s) Involved:	Charles August Nicholas Cuevas Scott Phillips Antonin Santos Winston Seto
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> • Officers Fatally Shoot Stabbing Suspect in the Bayview (Thursday, December 03, 2015) http://sanfranciscopolice.org/article/officers-fatally-shoot-stabbing-suspect-bayview • SFPD Town Hall Meeting Regarding Officer Involved Shooting on Keith St & Fitzgerald St (Friday, December 04, 2015) http://sanfranciscopolice.org/article/sfpd-town-hall-meeting-regarding-officer-involved-shooting-keith-st-fitzgerald-st • SFPD Chief Suhr Meets with African-American Advisory Forum (Monday, January 04, 2016) http://sanfranciscopolice.org/article/sfpd-chief-suhr-meets-african-american-advisory-forum • SFPD's Statement on the Medical Examiner's Autopsy Report (Thursday, February 11, 2016) http://sanfranciscopolice.org/article/sfpds-statement-medical-examiners-autopsy-report
DA's Charging Decision Letter:	Not Yet Issued

SFPD officers were dispatched to the area of Keith and Fitzgerald Streets after a man at San Francisco General Hospital reported that he had been slashed in the upper arm by a man at that location. On arriving at the scene, officers spotted and approached Woods, who matched the suspect's description. Upon seeing the officers, Woods purportedly grabbed a kitchen knife from his jeans pocket. When Woods refused to drop the knife, officers shot him four times with bean bags filled with lead shot. Although the bean bags stunned Woods, police say he still refused to drop the knife. The officers then attempted to subdue Woods by using pepper spray, which appeared to have no effect. One of the officers moved to a position on the sidewalk in an effort to prevent the suspect from fleeing. At this point, according to officers' statements, the suspect began to move toward the officer while raising his knife causing them to fire at the suspect in self defense, killing him.

Cell phone video taken by witnesses at the scene, however, appears to show Woods backed against a wall, leaning over at times and waving his hands. The footage also shows Woods shuffling along the sidewalk toward an officer in the seconds before he was shot, but does not appear to directly threaten the safety of the officers or others.

The autopsy report issued by the OCME states Woods was shot 21 times with 20 of those shots coming from behind him.

4. Javier Ivan Lopez Garcia (November 11, 2015)

Name of victim:	Javier Ivan Lopez Garcia
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	25
Date and time of shooting:	November 11, 2015 @ 4:15 p.m.
Location:	Construction Site next to St. Luke's Hospital at 3555 Cesar Chavez Street (@ Valencia Street); Mission District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> Active Shooter/ Robbery Suspect at St. Luke's Hospital in Mission District Shot & Killed by Responding Officers (Thursday, November 12, 2015) http://sanfranciscopolice.org/article/active-shooter-robbery-suspect-st-lukes-hospital-mission-district-shot-killed-responding

	<ul style="list-style-type: none"> • Veterans Day Active Shooter / Robbery Suspect Officer Involved Shooting Town Hall (Friday, November 13, 2015) http://sanfranciscopolice.org/article/veterans-day-active-shooter-robbery-suspect-officer-involved-shooting-town-hall
DA's Charging Decision Letter:	Not Yet Issued

SFPD officers responded to a construction site in the area of Valencia and Cesar Chavez after receiving reports of a person armed with multiple firearms. As officers arrived on scene they heard what they believed to be shots being fired.

The officers saw Garcia standing atop a construction elevator on the sixth floor of the building under construction pointing a rifle at St Luke's Hospital, next to the construction site.

When the officers ordered him to put down his gun, Garcia pointed it down towards the officers on the ground. Three officers fired at the suspect – two officers with rifles each fired one shot and a third officer fired three shots from a pistol – killing him.

Construction workers reported that the man had said "I just want to die" prior to taking the construction elevator up the building.

Later, SFPD officers learned that Garcia had robbed a Big 5 sporting goods store in San Bruno, taking a shot gun and ammunition from the store, before driving to the construction site

Police did not recover any shells from the scene, but a box of ammunition was recovered with rounds missing.

5. Herbert Benitez (October 15, 2015)

Name of victim:	Herbert Benitez
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	27
Date and time of shooting:	October 15, 2015 @ 12:06 p.m.
Location:	Eighth Street, between Market Street and Mission Street; South of Market District
Officer(s) Involved:	

SFPD Press Releases re Incident:	<ul style="list-style-type: none"> Update on Officer Involved Shooting on Market St and 8th St. (Thursday, October 15, 2015) http://sanfranciscopolice.org/article/update-officer-involved-shooting-market-st-and-8th-st
DA's Charging Decision Letter:	Not Yet Issued

A construction worker flagged down two SFPD officers, who were driving their police cruiser southbound on Eighth Street near Market Street, to complain that Benitez had been throwing glass bottles into the street near the construction site and refused to stop when asked.

When one of the officers attempted to handcuff Benitez to take him into custody, Benitez struggled with the officer and took the officer to the ground. While on top of the officer, Benitez took the officer's gun. The pinned officer called out to his partner, "He's getting my gun," and then, "He's got my gun – shoot him!" Upon hearing this, the second sergeant shot Benitez, hitting him twice.

Benitez died at the scene.

A witness at the scene purportedly corroborated the officers' accounts of what occurred.

6. Alice Brown (March 17, 2015)

Name of victim:	Alice Brown
Gender of victim:	Female
Race/ethnicity of victim:	White
Age of victim:	24
Date and time of shooting:	March 17, 2015 @ 7:00 p.m.
Location:	1603 Pine Street (@ Van Ness Avenue); Lower Pacific Heights District
Officer(s) Involved:	Thomas Maguire Michael Tursi
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> SFPD Officer Involved Shooting Van Ness Ave & Pine St (Wednesday, March 18, 2015) http://sanfranciscopolice.org/article/sfpd-officer-involved-shooting-van-ness-ave-pine-st

	<ul style="list-style-type: none"> • Officer Involved Shooting Town Hall Meeting (Wednesday, March 18, 2015) http://sanfranciscopolice.org/article/officer-involved-shooting-town-hall-meeting
DA's Charging Decision Letter:	Not Yet Issued

Two plainclothes SFPD officers investigating a possible stolen vehicle approached Brown, who was sitting in a car at the Chevron gas station at Pine Street and Van Ness Avenue. The officers reportedly displayed their police badges and identified themselves as police officers as they approached the vehicle. Brown drove toward the officers before hitting the gas station building with her car and then turning onto Pine Street.

At least one of the officers ran after the vehicle. Before reaching the end of the block, Brown made a U-turn and began driving the wrong way down the one-way street. Brown drove her car onto the sidewalk in an apparent attempt to hit one of the officers, striking a building and parked cars in the process. Brown then drove back onto the street, striking additional cars and forcing a motorcyclist to jump off his motorcycle in the middle of the street to prevent being hit. Brown then drove her car back onto the sidewalk a second time.

The two officers fired at Brown, hitting her five times. Brown's car came to rest on the sidewalk near Van Ness Street.

The officers rendered aid but Brown died at the scene.

7. Amilcar Perez-Lopez (February 26, 2015)

Name of victim:	Amilcar Perez-Lopez
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	21
Date and time of shooting:	February 26, 2015 @ 9:45 p.m.
Location:	Folsom Street and 24th Street; Mission District
Officer(s) Involved:	Eric Reboli Craig Tiffe
SFPD Press Releases re Incident:	None
DA's Charging Decision Letter:	Not Yet Issued

Two plainclothes SFPD officers responded to a call about a man with a knife chasing another man. According to police officials, Perez-Lopez was attempting to steal a bike from the second man. When the two officers ordered Perez-Lopez to drop the knife, he charged at them with the knife raised over his head, forcing the officers to fire at him, killing him.

The police explanation, however, runs counter to other witnesses' accounts of the incident.

While it was unclear why Perez-Lopez was threatening the other man with the knife – some say he was trying to steal the bike, others say he was in a heated negotiation to purchase the bike, and yet others say he was trying to get his cellphone back after the man borrowed it and then refused to return it – witnesses say that Perez-Lopez was no longer fighting with the man when officers arrived.

Perez-Lopez may not have known the officers were police as they were wearing plainclothes, although police officials say the officers were identifiable by their badges on the outside of their clothing. Perez-Lopez also may not have understood what the officers were saying because he did not speak English.

According to a private autopsy conducted at the request of Perez-Lopez's family, he was struck by six bullets: four shots hit him in the back, one hit him in the back of the right arm and one hit him in the head. The San Francisco medical examiner's office autopsy report released later corroborates the private autopsy.

8. Matthew Hoffman (January 4, 2015)

Name of victim:	Matthew Hoffman
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	32
Date and time of shooting:	January 4, 2015 @ 5:20 p.m.
Location:	630 Valencia Street (@ 17th Street) (Mission Police Station); Mission District
Officer(s) Involved:	Nicolas Pena Michael Serujo
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> SFPD Officer Involved Shooting at Mission Police Station (Monday, January 05, 2015) http://sanfranciscopolice.org/article/sfpd-officer-involved-shooting-mission-police-station

	<ul style="list-style-type: none"> ● SFPD Releases Suicide Letter Written by the Man Shot by Officers at Mission District Station. (Monday, January 05, 2015) http://sanfranciscopolice.org/article/sfpd-releases-suicide-letter-written-man-shot-officers-mission-district-station
DA's Charging Decision Letter:	Not Yet Issued

Three SFPD officers leaving Mission Station spotted Hoffman loitering in the station's restricted parking lot. They told him to leave and Hoffman began to comply but then stopped in the middle of the driveway blocking the officers' exit. The sergeants got out of their car and again directed Hoffman to leave. Hoffman began to walk backwards out of the parking lot while continuing to face the officers with his hands in his front shirt pockets. The officers told Hoffman to show them his hands. Hoffman then lifted his sweater, showing officers what appeared to be the butt of handgun. The officers drew their weapons as the suspect pulled the weapon from his waistband. Two of the officers shot five rounds each at Hoffman, hitting him four times. Police later discovered the weapon was an air pistol.

Hoffman was taken to San Francisco General Hospital where he died of his injuries.

During the post-shooting investigation, officers found several suicide letters on Hoffman's phone, including one addressed to the officers. It read:

"Dear Officer(s),

You did nothing wrong. You ended the life of a man who was too much of a coward to do it himself. I provoked you. I threatened your life as well as the lives of those around me. You were completely within your legal rights to do what you did. You followed protocols. You did everything right. I just wanted to find peace within myself. I am so sad and I am so lonely. There is no place for me here. Please, don't blame yourself. I used you. I took advantage of you. I am so lost and I am so hopeless. God made a mistake with me. I shouldn't be here. Please, take solace in knowing that the situation was out of your control. You had no other choice."

9. O'Shaine Evans (October 7, 2014)

Name of victim:	O'Shaine Evans
Gender of victim:	Male
Race/ethnicity of victim:	African-American/Black
Age of victim:	26

Date and time of shooting:	October 7, 2014 @ 9:32 p.m.
Location:	1 Jack London Alley (@ Bryant Street); South of Market District
Officer(s) Involved:	David Goff
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> • Officer Involved Shooting at Bryant & Jack London Alley (Wednesday, October 08, 2014) http://sanfranciscopolice.org/article/officer-involved-shooting-bryant-jack-london-alley • SFPD Town Hall Meeting Regarding Officer Involved Shooting (Thursday, October 09, 2014) http://sanfranciscopolice.org/article/sfpd-town-hall-meeting-regarding-officer-involved-shooting
DA's Charging Decision Letter:	Not Yet Issued

Six SFPD officers observed two men get out of a car parked just a few blocks from AT&T Park where a San Francisco Giants game was just ending, break into a Mercedes-Benz SUV parked nearby, steal a laptop, and then return to the first car.

One of the officers who was wearing a shirt over his uniform so he wouldn't stand out while working the post-baseball-game crowd, purportedly identified himself as a police officer as he walked up to the driver's side door.

Evans, who had remained in the car while the two others had committed the burglary, was sitting in the driver's seat. As the officer approached Evans, he saw a pistol on Evans's lap.

When the officer asked Evans to show him his hands, Evans reportedly pointed the gun at him, causing the officer to fire seven times into the car, striking Evans twice and hitting a passenger in the rear seat of the car once.

Evans and the other injured passenger were taken to San Francisco General Hospital where Evans died of his injuries.

Witnesses said Evans had his hands on the steering wheel at the time of the shooting, and Evans family and friends called the circumstances surrounding the shooting suspicious, including questioning why Evans would carry an unloaded gun and why the officer didn't remove the shirt covering his uniform before approaching Evans.

10. **Giovanly Contreras-Sandoval (September 25, 2014)**

Name of victim:	Giovanly Contreras-Sandoval
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	34
Date and time of shooting:	September 25, 2014 @ 6:00 a.m.
Location:	199 Battery Street (@ California Street); Financial District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> • Officer Involved Shooting California St and Battery St (Thursday, September 25, 2014) http://sanfranciscopolice.org/article/officer-involved-shooting-california-st-and-battery-st • Town Hall Meeting regarding the officer involved shooting on California and Battery St (Friday, September 26, 2014) http://sanfranciscopolice.org/article/town-hall-meeting-regarding-officer-involved-shooting-california-and-battery-st
DA's Charging Decision Letter:	Not Yet Issued

After carjacking a woman in Richmond and then leading law enforcement on a high-speed chase through Contra Costa County, Marin County and then into San Francisco, Contreras-Sandoval drove the wrong way up Battery Street and caused a three-car collision.

When bystanders ran to help him, Contreras-Sandoval started firing at them. One of those attempting to provide aid was struck with what may have been a bullet fragment.

Soon SFPD officers surrounded the vehicle and repeatedly ordered Contreras-Sandoval to drop his gun, but he refused. While waiting for a less-lethal beanbag shotgun to arrive to help subdue him, Contreras Sandoval pointed his gun at officers, prompting six to open fire, collectively shooting 32 rounds and hitting Contreras-Sandoval with ten.

Contreras-Sandoval was pronounced dead at the scene.

11. Alejandro “Alex” Nieto (March 21, 2014)

Name of victim:	Alejandro Nieto
Gender of victim:	Male
Race/ethnicity of victim:	Hispanic/Latino
Age of victim:	28
Date and time of shooting:	March 21, 2014 @ approximately 7:11 p.m.
Location:	10 Bernal Heights Boulevard (Bernal Heights Park); Bernal Heights District
Officer(s) Involved:	Nathan Chew Roger Morse Jason Sawyer Richard Schiff
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> • Officer Involved Shooting - Bernal Heights Park (Friday, March 21, 2014) http://sanfranciscopolice.org/article/officer-involved-shooting-bernal-heights-park • Town Hall Meeting Regarding Bernal Heights Officer Involved Shooting (Monday, March 24, 2014) http://sanfranciscopolice.org/article/town-hall-meeting-regarding-bernal-heights-officer-involved-shooting
DA’s Charging Decision Letter:	February 12, 2015 (328 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/305-Bernal%20Hill%20Park.pdf

A man called 911 to report a man with a gun in Bernal Heights Park.

Four SFPD officers responded and found Nieto who matched the description of the suspect. Nieto reportedly drew a laser-equipped weapon from his hip holster and pointed the weapon at the officers, sweeping them with the weapon’s sighting laser. The officers fired 59 shots at Nieto, striking him 15 times, killing him.

Nieto’s weapon was later identified as an electronic control weapon (i.e., a Taser), which Nieto carried for his job as a security guard at a nightclub.

12. Dale S. Wilkerson (April 17, 2013)

Name of victim:	Dale S. Wilkerson
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	60
Date and time of shooting:	April 17, 2013 @ approximately 9:45 p.m.
Location:	956 De Haro Street, between Southern Heights Avenue and 22nd Street; Potrero Hill District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> • Officer Involved Shooting on the 900 Block of De Haro Street (Thursday, April 18, 2013) http://sanfranciscopolice.org/article/officer-involved-shooting-900-block-de-haro-street • Chief Suhr Town Hall Meeting on Officer Involved Shooting. April 19th at 4:30 PM, "Potrero Hill Neighborhood House" 953 De Haro St. (Friday, April 19, 2013) http://sanfranciscopolice.org/article/chief-suhr-town-hall-meeting-officer-involved-shooting-april-19th-4-30-pm-potrero-hill
DA's Charging Decision Letter:	December 26, 2014 (618 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/309-956%20Deharo.pdf

Wilkerson called 911 to report that he had attacked his brother-in-law with a machete at his residence. When SFPD officers arrived, they were met by the victim, whom they saw suffered from multiple stab wounds to the head, arms, and chest. When they tried to help him, Wilkerson emerged from the residence with a claw hammer and purportedly charged the nearest officer with it above his head. The officer retreated and fired his gun twice, hitting Wilkerson once.

Both victims were taken to SFGH where Wilkerson died.

Neighbors said he appeared reclusive in the last 6 months, and a tenant said the two had had a physical altercation.

13. Pralith Pralourng (July 18, 2012)

Name of victim:	Pralith Pralourng
Gender of victim:	Male
Race/ethnicity of victim:	Asian
Age of victim:	32
Date and time of shooting:	July 18, 2012 @ 10:15 a.m.
Location:	Near Washington Street and Davis Street; Embarcadero District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> ● Officer-Involved Shooting at Washington & Davis Street (Wednesday, July 18, 2012) http://sanfranciscopolice.org/article/officer-involved-shooting-washington-davis-street ● Town Hall Meeting Regarding the Officer Involved Shooting (Thursday, July 19, 2012) http://sanfranciscopolice.org/article/town-hall-meeting-regarding-officer-involved-shooting
DA's Charging Decision Letter:	May 13, 2014 (664 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/299-Washington%20%26%20Davis%20St. Redacted.pdf

Pralourng, who had a history of schizophrenia, reportedly used a box cutter to slash a co-worker in an unprovoked attack at TCHO chocolate factory on Pier 17. He then chased the victim out onto The Embarcadero. Coworkers tried to reason with Pralourng to no avail and so called 911. Pralourng began walking south along The Embarcadero.

According to the SFPD, an officer caught up with Pralourng at Washington and Drumm Streets. He did not run, but was unresponsive and continued walking with a blank stare. When Pralourng reached Davis Street, the officer told him repeatedly to drop the box cutter. Instead, Pralourng reportedly lunged at the officer, so she shot him twice in the chest. The officer then handcuffed him, but then removed them and administered CPR when she realized the extent of his injuries.

Eyewitness accounts videotaped by Occupy San Francisco activist Robert Benson and posted to YouTube within a half hour after the incident, however, contradict the SFPD version of events.

In the videos, witnesses say they saw a female officer with short blond hair shoot Pralourng while he was handcuffed.

Pralourng later died at San Francisco General Hospital.

14. Dennis Hughes (May 9, 2012)

Name of victim:	Dennis Hughes
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	41
Date and time of shooting:	May 9, 2012 @ 10:38 p.m.
Location:	861 Post Street (near Hyde Street); Lower Nob Hill District
Officer(s) Involved:	Joshua Hinds or Victor Hui
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> San Francisco Police Officer-Involved Shooting (Thursday, May 10, 2012) http://sanfranciscopolice.org/article/san-francisco-police-officer-involved-shooting
DA's Charging Decision Letter:	May 1, 2014 (722 days after OIS) http://sfdistrictattorney.org/sites/default/files/Document/5.09.10-%20Post%20St..pdf

Rohnert Park police detectives, joined by SFPD officers as backup, went to Hughes' girlfriend's apartment looking for Hughes after finding the body of Hughes' mother in the Rohnert Park home the two shared.

After Hughes' girlfriend answered the door, Hughes spoke with officers through the door and then began shooting. As police retreated with the girlfriend, Hughes continued to shoot through the ceiling, floor, walls and into adjacent areas of the apartment building.

Hughes then barricaded himself in the apartment and sprayed a chemical agent such as Mace around the unit and lit several small fires.

After a standoff of about an hour, a SFPD sharpshooter fired a single shot at Hughes from an adjacent apartment building when Hughes stuck his head out of a window, killing him.

15. Steven Young (December 14, 2011)

Name of victim:	Steven Young
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	33
Date and time of shooting:	December 14, 2011 @ 1:25 p.m.
Location:	Larkin Street, between Bush Street and Sutter Street; Lower Nob Hill District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> • San Francisco Police Officers Involved in Officer Involved Shooting (Wednesday, December 14, 2011) http://sanfranciscopolice.org/article/san-francisco-police-officers-involved-officer-involved-shooting • SFPD Chief Suhr Holds Community Meeting Regarding the Officer Involved Shooting (Friday, December 16, 2011) http://sanfranciscopolice.org/article/sfpd-chief-suhr-holds-community-meeting-regarding-officer-involved-shooting
DA's Charging Decision Letter:	May 19, 2014 (887 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/302-Larkin%20%26%20Fern_Redacted.pdf

After SFPD officers pulled over the car driven by Young as part of a vehicle registration traffic stop, Young got out of the car and began running south on Larkin Street. Halfway down the block, Young allegedly turned around and began shooting at the officers. One of officers fired back, striking Young once in the head.

Young died the next day at San Francisco General Hospital.

According to officials, Young had two prior strikes against him under California's three-strikes law, as well as a warrant out for his arrest in San Mateo County. Young's family believed that Young would have rather died than go back to prison.

16. Peter Woo (October 3, 2011)

Name of victim:	Peter Woo
Gender of victim:	Male
Race/ethnicity of victim:	Asian
Age of victim:	44
Date and time of shooting:	October 3, 2011 @ 7:30 a.m.
Location:	636 Funston Street, between Balboa Street and Cabrillo Street; Inner Richmond District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> Officer Involved Shooting at the 600 block of Funston Ave. (Monday, October 03, 2011) http://sanfranciscopolice.org/article/officer-involved-shooting-600-blk-funston-ave
DA's Charging Decision Letter:	August 20, 2103 (687 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/310-636%20Funston_Redacted.pdf

SFPD officers, responding to reports of a stabbing, found a 78-year-old man in the doorway of the residence bleeding profusely from stab wounds to his forearm and hands.

Inside the home, officers found a 73-year-old woman who had been stabbed in the upper body. As officers tried to pull her to safety, they were confronted by Woo, the son of the victims. Woo confronted the officers with a knife in each hand above his head.

Woo reportedly ignored repeated commands from the officers to drop the knives and charged the officers. One of the officers fired an Extended Range Impact Weapon (i.e., a beanbag weapon), but it was ineffective in stopping Woo. Another officer then fired two rounds, striking him.

In searching the house, officers found Woo's 50-year-old sister hiding in a locked bedroom.

Woo and his parents were taken to San Francisco General Hospital, where Woo and his mother both died of from their injuries.

Officers subsequently learned that Woo was schizophrenic and suffered bouts of depression.

17. Kenneth Wade Harding (July 16, 2011)

Name of victim:	Kenneth Wade Harding, Jr.
Gender of victim:	Male
Race/ethnicity of victim:	19
Age of victim:	African-American/Black
Date and time of shooting:	July 16, 2011 @ 4:43 p.m.
Location:	Third Street and Oakdale Avenue; Bayview District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> ● Information on the Officer Involved Shooting. (Sunday, July 17, 2011) http://sanfranciscopolice.org/article/information-officer-involved-shooting ● San Francisco Police Department Community Meeting July 20th (Monday, July 18, 2011) http://sanfranciscopolice.org/article/san-francisco-police-department-community-meeting-july-20th ● Update on Officer Involved Shooting: GSR found on suspect's hand (Tuesday, July 19, 2011) http://sanfranciscopolice.org/article/update-officer-involved-shooting-gsr-found-suspects-hand ● Demonstration Arrests (Wednesday, July 20, 2011) http://sanfranciscopolice.org/article/demonstration-arrests ● Update on Officer Involved Shooting: Bullet Recovered from Harding Not From Police Firearm (Thursday, July 21, 2011) http://sanfranciscopolice.org/article/update-officer-involved-shooting-bullet-recovered-harding-not-police-firearm ● San Francisco Police Recover the Gun Used by Kenneth Harding (Friday, July 29, 2011) http://sanfranciscopolice.org/article/san-francisco-police-recover-gun-used-kenneth-harding

DA's Charging Decision Letter:	November 26, 2012 (499 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/323-3rd%20%26%20Newcomb.pdf
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According to police reports, two SFPD officers approached Harding on a Third Street light rail and escorted him off the car when he did not have proof of fare payment. Once on the platform, while one of the officers was using his radio to conduct a criminal check, Harding ran. Officers gave chase. While fleeing, Harding pulled out a gun and began firing at officers over his shoulder as he continued to run toward Mendell Plaza. The two officers returned fire. Harding collapsed on the ground, and officers requested emergency services.

Harding was taken to San Francisco General Hospital where he died.

An autopsy revealed that Harding died from a close-range penetrating gunshot wound to the right neck. The wound appeared to be self-inflicted based on the proximity of the weapon, the trajectory and the type of bullet recovered from the wound, which matched unused ammunition recovered from Harding's pocket, but which did not match weapons used by the SFPD officers at the scene. The autopsy also revealed that Harding had two other gunshot wounds, neither of which would likely have been fatal: one in his lower left leg and a graze gunshot wound to his left thigh.

Video taken of the incident shows Harding lying on the ground in a pool of blood surrounded by officers pointing guns at him, as well as a quickly-formed crowd of witnesses and onlookers shouting and taunting police.

Although some witnesses said Harding did not have a gun and no gun was recovered at the scene, video taken at the scene shortly after the shooting shows someone picking up a gun, shell casings and a cell phone lying near Harding and leaving the scene. Police later recovered the .380-caliber semi-automatic pistol after a Bayview resident led police to the gun after a weeklong effort to find it.

Harding's death sparked outrage in the community. Three days after the shooting, 43 people were arrested during a protest that led to vandalism of a Muni station and two assaults. The next day Police Chief Suhr was booed offstage during a town hall meeting about the shooting.

18. Joshua Smith (June 7, 2011)

Name of victim:	Joshua Smith
Gender of victim:	Male
Race/ethnicity of victim:	White
Age of victim:	25

Date and time of shooting:	June 7, 2011 @ 5.40 p.m.
Location:	65 Buena Vista East, between Haight Street and Duboce Street; Buena Vista District
Officer(s) Involved:	
SFPD Press Releases re Incident:	<ul style="list-style-type: none"> San Francisco Police Involved In Officer Involved Shooting (11-059) (Wednesday, June 08, 2011) http://sanfranciscopolice.org/article/san-francisco-police-involved-officer-involved-shooting-11-059
DA's Charging Decision Letter:	<p>October 5, 2012 (486 days after OIS) http://sfdistrictattorney.org/sites/default/files/FileCenter/Documents/318-65%20Buena%20Vista.pdf</p>

FBI agents notified SFPD that Smith, a suspect wanted in connection with two bank robberies in Irvine, California, was driving a stolen BMW that had been tracked to San Francisco. Police were able to track the BMW via a GPS installed in it and were conducting surveillance on the car when they saw Smith get into it. When police approached the car on foot to make an arrest, Smith attempted to run down one of them. Officers shot at the car, hitting Smith six times.

Smith later died at San Francisco General Hospital.

Smith had been dubbed the "Gen X Bandit" after wearing a stocking cap and a flannel shirt while allegedly robbing the two banks in Irvine on May 17, 2011.

Appendix B

Composition of SFPD Return to Duty Panel

(Source: Lt. Alexa O'Brien et al., *OIS Investigations: Criminal & Administrative Processes* 21 (Dec. 8, 2015).)

- Deputy Chief of Administration (Chair)
- Deputy Chief of the Member's Bureau
- Commander of the Member
- Commanding Officer of the Involved Member
- Captain of Risk Management
- Lieutenant of Internal Affairs Division
- Lieutenant of Homicide Detail
- Homicide Detail Investigator(s)
- Internal Affairs Division Investigator(s)
- Behavioral Science Unit representative

Composition of SFPD Firearm Discharge Review Board

(Source: Lt. Alexa O'Brien et al., *OIS Investigations: Criminal & Administrative Processes* 31 (Dec. 8, 2015).)

Voting Members

- Deputy Chief of Administration (Chair)
- Deputy Chief Airport
- Deputy Chief Operations
- Deputy Chief Special Operations

Advisory Members

- Police Commissioner
- Director of Office of Citizen Complaints
- Captain of Risk Management Office
- Captain of Training Division
- Range Master

Appendix C

Applicable SFPD General Orders and Department Bulletins

(Source: Compiled by Civil Grand Jury from SFPD General Orders and Department Bulletins, available at <http://sanfranciscopolice.org/dgo> and by searching the SFPD site (<http://sanfranciscopolice.org>.)

Appendix C1

OIS/Use of Force or Related/Applicable Thereto

The following SFPD General Orders and Department Bulletins deal with the investigation of officer-involved shootings and use of force specifically or deal with topics which may encompass such incidents.

Policy	Title	Date
General Order 2.04	Citizen Complaints Against Officers	07/20/94
General Order 2.07	Discipline Process for Sworn Officers	07/20/94
General Order 2.08	Peace Officers' Rights	08/10/05
General Order 3.10	Firearm Discharge Review Board	09/21/05
General Order 5.01	Use of Force	Rev. 10/04/95
General Order 6.01	Crime Scene Log	07/27/94
General Order 6.02	Physical Evidence and Crime Scenes	Rev. 10/01/97 Eff. 10/17/07
General Order 6.05	Death Cases	07/27/94
General Order 8.01	Critical Incident Evaluation and Notification	08/03/94
General Order 8.04	Critical Incident Response Team	08/03/94
General Order 8.09	Media Relations	08/24/94
General Order 8.11	Investigation of Officer Involved Shootings and Discharges	09/21/05
General Order 8.12	In-Custody Deaths	04/15/09
Dept. Bulletin 15-051	Use of Force Options: Reporting and Medical Assessment Requirements (Amends portions of DGO 5.01)	03/05/15
Dept. Bulletin 15-106	Avoiding the "Lawful but Awful" Use of Force	04/27/15
Dept. Bulletin 15-128	Officer-involved Shooting and Discharge Investigations (Revision to Definitions in DGO 8.11)	05/26/15

Appendix C2

Use of Firearms and Force Generally

The following SFPD General Orders and Department Bulletins concern the use of firearms and force generally, and while they do not specifically relate to the *investigation* of OIS incidents, we delineate them here to provide a comprehensive list of policies related to all aspects officer-involved shootings and use of force.

Policy	Title	Date
General Order 5.02	Use of Firearms	Rev. 11/01/95
General Order 8.02	Hostages and Barricaded Suspect Incidents	08/03/94
Dept. Bulletin 14-014	Reminder regarding Department General Order 5.02, Use of Firearms: Discharge of Firearm at Operator or Occupant of Moving Vehicles	01/07/14
Dept. Bulletin 14-015	Reminder Regarding General Order 5.02, Use of Firearms: Permissible Circumstances to Discharge Firearm	01/07/14
Dept. Bulletin 14-111	Documenting Use of Force	04/14/14
Dept. Bulletin 15-155	Response to Mental Health Calls with Armed Suspects	07/16/15

Appendix C3

Interactions, Contact and Communications with the Community

The following SFPD Statements and General Orders guide SFPD officers' interactions, contact and communications with the community, and while they are not specific to officer-involved shootings and use of lethal force, they serve to build an expectation of transparency within the SFPD.

Policy	Title	Date
	SFPD Mission Statement	
	SFPD Vision Statement	
General Order 1.08	Community Policing	09/28/11
General Order 2.01	General Rules of Conduct	08/11/05
General Order 2.05	Citizen Complaints Against Non-Sworn Members	07/20/94
General Order 5.17	Policy Prohibiting Biased Policing	Rev. 05/04/11

Appendix D

SFPD General Order 8.11 Investigation of Officer Involved Shootings and Discharges

San Francisco Police Department

8.11

GENERAL ORDER

09/21/05

INVESTIGATION OF OFFICER INVOLVED SHOOTINGS AND DISCHARGES

This order outlines the rules and procedures to be followed in the conduct of all officer-involved shooting and discharge investigations.

I. POLICY

It is the policy of the San Francisco Police Department to respond immediately and conduct a timely and complete investigation of all officer-involved shootings.

II. PROCEDURES

A. DEFINITIONS:

- **Officer-involved shooting.** An officer's discharge of a firearm that results in the physical injury or death of a person, even if it is an accidental discharge.
- **Officer-involved discharge.** An officer's discharge of a firearm that does not cause injury or death to a person. Shooting at, injuring, or killing animals also falls into this category, including accidental discharge without injury.

B. INVESTIGATION PROTOCOL: Officer-involved shootings that result in injury or death are investigated in two distinctly separate venues:

1. **Criminal Investigations.** Investigations to determine if there was criminal conduct on the part of the involved officer(s) are conducted separately by the Homicide Detail and the Office of the District Attorney.

Officer-involved shootings occurring on San Francisco International Airport property or in San Mateo County shall be investigated by the San Mateo County Sheriff's Office in conjunction with the San Mateo County District Attorney's Office.

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2. **Administrative Investigation.** Investigations to determine if the officer-involved shooting was within Department policy are conducted separately by the Management Control Division and by the Office of Citizen Complaints if and when initiated by a citizen complaint.

If the officer-involved shooting occurs on San Francisco International Airport property or on its surrounding areas, the Management Control Division shall contact the San Mateo County Sheriff's investigators and the San Mateo County District Attorney's Office investigators responsible for the criminal investigation and request copies of any reports those agencies have made that are relevant to the officer-involved shooting.

C. OFFICER-INVOLVED SHOOTINGS OCCURRING WITHIN THE CITY AND COUNTY OF SAN FRANCISCO. As soon as practical after an officer-involved shooting occurring within the City and County of San Francisco, the following notifications shall be made:

1. If practical, the member(s) involved shall notify Emergency Communications Division (ECD), and his/her immediate supervisor, or the platoon commander of the district in which the shooting took place.
2. ECD shall immediately notify the Field Operations Bureau Headquarters (Operations Center after normal business hours).
3. The Field Operations Bureau or the Operations Center shall make the following notifications:
 - a. The on-call Homicide Inspectors
 - b. The Crisis Incident Response Team (See DGO 8.04, Crisis Incident Response Team)
 - c. Management Control Division
 - d. District Attorney's Office
 - e. The Commanding Officer of the member(s) involved
 - f. Chair of the Firearm Discharge Review Board
 - g. Office of Citizen Complaints
 - h. San Francisco Police Department Command Staff
 - i. Legal Division
 - j. Captain of Risk Management
 - k. Secretary of the Police Commission

D. OFFICER INVOLVED DISCHARGES. In cases where injury or death has not occurred, the Commanding Officer of the member involved is responsible for conducting a thorough shooting investigation, including accidental discharges. The Commanding Officer may delegate this investigation to another Commissioned Officer. The Commanding Officer, however, shall be responsible for the proper conduct of the investigation, and the appropriate findings and recommendation as documented in an investigative summary. The Commanding Officer's Bureau Chief shall set an appropriate due date for this investigation. However, this investigation shall not exceed 45 days. Officer involved discharges require the following notifications:

1. If practical, the member(s) involved shall contact the platoon commander of the district in which the discharge occurred.
2. The platoon commander shall contact the officer's Commanding Officer.
3. If outside San Francisco, as soon as practical, the officer shall contact that jurisdiction's Police or Sheriff's Department requesting that entity contact the San Francisco Police Department.
4. An officer who discharges a firearm in an Officer-Involved Discharge shall be assigned to his or her respective Bureau Headquarters. The officer shall not return to regular assignment for a minimum of 5 days or unless, upon recommendation of the member's Commanding Officer with the approval of his or her respective Bureau Chief, the Chief of Police determines the member may return to his/her assignment.

E. OFFICER-INVOLVED SHOOTINGS OR DISCHARGES OCCURRING OUTSIDE THE CITY AND COUNTY OF SAN FRANCISCO. If a member discharges a firearm outside the City and County of San Francisco (except at an approved range or during lawful recreational activities) either while on duty or off duty, he/she shall follow these procedures:

1. Absent exigent circumstances, remain at the scene of the discharge and notify the law enforcement agency.
2. Immediately contact the on duty supervisor in your unit or detail.
3. As soon as practical, the member shall contact the senior ranking member on duty in the Bureau to which he/she is assigned, or the Operations

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Center after normal business hours, and report the incident. The senior-ranking member in the Bureau who is notified or the staff at the Operations Center shall notify the on-duty supervisor of the involved member. If the member's unit is closed, the notification shall be made to the Commanding Officer or Officer-in-Charge.

F. SCENE. The member who has discharged his/her weapon in an officer involved shooting should limit his/her investigation and activity to the following:

1. When officer safety permits: de-cock, holster, and strap in his/her firearm. He/she should not reload the weapon, or remove the magazine to examine its contents. Thereafter, he/she should not remove the weapon from the holster until directed to do so by the Homicide Detail. In cases involving shotguns and/or long rifles the weapon shall be placed on "safe" and isolated in a secure location.
 - a. Nothing in this order shall preclude a member from taking reasonable actions to provide/ensure officer and/or public safety.
2. As soon as practical, seek medical assistance/ treatment for injured persons.
3. As soon as practical, protect the crime scene and preserve all evidence. Prior to the arrival of the homicide detail investigators as provided under I.F.5., no person(s) should be permitted to enter the scene except to perform emergency medical assistance or assist in the preservation of the scene and evidence contained therein.
4. As soon as practical, attempt to obtain the name and address of any witness who may not remain at the scene.
5. When an officer-involved shooting occurs within the City and County of San Francisco, the crime scene(s) shall be under the control of the Homicide Detail upon the arrival of their investigators. No persons shall be permitted to enter the crime scene without the approval of the Homicide Inspector assigned the investigation or the Homicide OIC.
6. Nothing in this order shall prohibit a member from taking reasonable actions to ensure his/her safety or the safety of another person.

G. INVOLVED OFFICERS. The following actions will be taken in all cases of officer-involved shootings (resulting in injury or death):

1. All members shall be afforded all substantive and procedural rights and remedies as provided by applicable law, including without limitation thereto the Public Safety Officers' Bill of Rights.
2. When a supervisor arrives on the scene, the supervisor shall have the involved member(s) escorted from the scene. If more than one member is involved in the discharging of a firearm, absent exigent circumstances, the members shall be separated and will be kept separate from one another, and shall not discuss the incident with each other prior to being interviewed by the Homicide Detail Inspectors. If possible, the supervisor shall contact the investigator from the Homicide Detail and ascertain if the involved member is to be taken to the Homicide Detail, the Investigations Bureau, or the involved member's Station or Detail. In all circumstances the member shall be taken to a department facility.
3. Members of the department's C.I.R.T. program may assist the member(s) involved prior to their interview with investigators. However, they shall not discuss the facts or details of the shooting with the member.
4. Officers who discharge a firearm in an officer-involved shooting will be reassigned to his or her respective Bureau Headquarters. Officers shall not return to regular assignment for a minimum of 10 calendar days. This reassignment is administrative only and in no way shall be considered punitive.

Within 5 business days of an officer-involved shooting, the Chief of Police shall convene a panel to discuss whether it is appropriate for the involved member to return to duty. The Panel shall include a representative of the Behavioral Science Unit, the officer-in-charge of the Homicide Detail, the Deputy Chief, Commander, and Captain overseeing the involved officer's unit, the officer-in-charge of the Management Control Division, the Deputy Chief of Investigations and officer-in-charge of Risk Management.

The Chief, after consulting with the panel shall determine if the member should be returned to their regular field assignment, but only after completion of any mandatory debriefing (per DGO 8.04, Section 1.A), and any recommended retraining. This decision, including the factors supporting the decision, shall be contained in a written report that shall be forwarded immediately to the Police Commission. A copy of the report

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shall also be forwarded to the Director of the OCC. This report will be part of the officer's confidential personnel file and shall not be disclosed to any member of the public except by court order. The Police Commission shall, at the first Commission meeting following receipt of the report, meet in closed session with the Chief of Police to review the Chief's findings and decision. Officers shall not be returned to their regular duty until the Commission has met in closed session with the Chief of Police.

Any determination by the Chief not to return an officer to their regular assignment and to continue their reassignment is administrative only and in no way shall be considered punitive.

5. The officer shall receive a debriefing by the Crisis Incident Response Team and support as outlined in Section C., of Department General Order 8.04.

H. INVESTIGATIONS

1. Officer-involved shootings. The Homicide Detail and the Management Control Division shall respond immediately and conduct a timely investigation into every officer-involved shooting. These investigations shall utilize the same numbering system, and be consistent with each other, e.g., 03-01 (first O.I.S. of 2003), 03-02 (second O.I.S. of 2003) etc.
2. Officer-involved discharges. The Commanding Officer of the member involved shall contact the Management Control Division and obtain an O.I.D. number. The report prepared by the Commanding Officer of the member involved shall reflect the M.C.D. issued O.I.D. number. The final report submitted shall be routed through channels, to the Management Control Division for evaluation prior to review by the Chief of Police.

I. REVIEW OF INVESTIGATIONS

1. Officer-involved shootings.
 - a. Homicide Detail Investigation. The criminal investigation prepared by the Homicide Detail shall be completed and received by the Chair of the Firearm Discharge Review Board within forty-five-calendar days of the shooting event. If the criminal investigation report is not completed within forty-five calendar days of the shooting event, the Officer-in-charge of the Homicide Detail shall appear before the

Commission at the earliest possible meeting to explain why the report has not been completed.

- b. Management Control Division Investigation. The administrative investigation prepared by the Management Control Division shall be completed and submitted to the Chair of the Firearm Discharge Review Board within sixty-calendar days of the shooting event. If the administrative investigation report is not completed within sixty-calendar days of the shooting event, the Officer-in-charge of the Management Control Division shall appear before the Commission at the earliest possible meeting to explain why the report has not been completed.
- c. The Firearm Discharge Review Board shall convene within thirty calendar days of receipt of the Management Control Division investigation report. Within 120 calendar days following the first meeting of the Firearm Discharge Review Board, the panel shall complete its investigation and issue its findings in accordance with Department General Order 3.10. If the Firearm Discharge Review Board report is not completed within the required 120 calendar days, a representative of the Firearms Discharge Review Board shall appear before the Commission at the earliest possible meeting to explain why the report has not been completed.

Appendix E

SFPD Department Bulletin 15-128: Officer-involved Shooting and Discharge Investigations (Revisions to Definitions in DGO 8.11)



DEPARTMENT BULLETIN

A
15-128
05/26/15

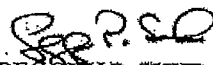
Officer-involved Shooting and Discharge Investigations Revision to Definitions in DGO 8.11

As originally adopted, Department General Order 8.11, Section II.A defined an Officer-involved Shooting (OIS) and an Officer-involved Discharge (OID). The definitions are revised as follows:

DEFINITIONS:

- **Officer-involved Shooting.** An officer's intentional discharge of a firearm to stop a threat (as described in Department General Order 5.02.I.C.a, b, and c)—whether or not physical injury or death results—shall be investigated as an Officer-involved Shooting. A negligent discharge that results in the injury or the death of a person shall also be investigated as an Officer-involved Shooting.
- **Officer-involved Discharge.** The discharge of a firearm intended to kill a dangerous or wounded animal (as described in DGO 5.02.I.C.d) or to signal help for an urgent purpose, when no other reasonable means exists (as described in DGO 5.02.I.C.e) shall be investigated as an Officer-involved Discharge. An officer's unintended discharge of a firearm that does not cause injury or death to a person also falls into this classification.

These incidents shall be investigated in accordance with these definitions, using the Department's corresponding OIS or OID protocols.


GREGORY P. SUHR
Chief of Police

Appendix F

Complete Officer-Involved Shooting ("OIS") Investigation Timeline

When an OIS occurs, per the General Orders of the SFPD and other internal and related documents, the subsequent investigation should proceed as follows:

I. Day 1

A. An officer-involved shooting occurs.

II. Immediately or As Soon As Practical

A. San Francisco Police Department ("SFPD")

1. **Involved officer(s)** shall immediately assess the scene and notify:
 - a. Emergency Communications Division ("ECD"). ECD, in turn, shall immediately notify:
 - (1) Field Operations Bureau Headquarters (or Operations Center after hours). Field Operations Bureau shall, in turn, notify:
 - (a) On-call Homicide Inspectors
 - (b) Crisis Incident Response Team ("CIRT")
 - (c) Internal Affairs Division ("IA" or "IAD")
 - (d) District Attorney's Office ("DA" or "DA's Office")
 - (e) Commanding Officer of the officer(s) involved
 - (f) Chair of the Firearm Discharge Review Board ("FDRB")
 - (g) Office of Citizen Complaints ("OCC")
 - (h) SFPD Command Staff
 - (i) Legal Division
 - (j) Captain of Risk Management
 - (k) Secretary of the Police Commission
 - b. Immediate Supervisor or Platoon Commanders of the district where shooting occurred.
 2. **Supervisor**, upon arriving at scene, shall:
 - a. Ensure all injured persons are attended to and emergency aid responds as necessary.
 - b. Obtain public safety statement from officers involved.
 - c. Order officers who discharged firearms not to discuss incident with anyone until they speak to their attorney, and are subsequently interviewed by investigators from Homicide Detail and DA or IAD.
 - d. Separate officers involved and transport them away from scene.

- e. Evaluate and adjust, as necessary, perimeter established around scene.
- f. Be responsible for scene until Homicide Detail arrives.
- g. Limit access to scene to emergency personnel.
- h. Designate officer to maintain crime scene log.
- i. Identify evidence and ensure it remains undisturbed until processed by Crime Scene Investigations (“CSI”).
- j. Ensure that witnesses remain at scene or are transported to police facility. Properly identify those witnesses who insist on leaving scene prior to being interviewed.
- k. Locate video or fixed cameras at or near scene.
- l. Provide SFPD Operations Center with updated information as warranted.

3. **Homicide Detail**, upon arriving at scene, shall:

- a. Assume command of scene and investigation (officer-in-charge).
- b. Meet with Supervisor in charge of scene and obtain pertinent information.
- c. Coordinate with and direct all police and investigative personnel at scene.
- d. Meet with the on-call DA attorney and DA investigators and IA investigators upon their arrival at scene.
- e. If death occurs at scene, confer with representatives of Office of Chief Medical Examiner (“OCME”) upon their arrival at scene.
- f. Along with DA and IA investigators, meet with CSI and Photo Lab personnel to:
 - (1) Discuss scene.
 - (2) Identify all evidence.
 - (3) Determine which evidence will be processed at scene and which will be processed later in the lab.
 - (4) Identify physical environment and evidence to be photographed.
- g. Direct neighborhood canvassing and development of investigative leads.
- h. Interview non-officer witnesses at scene or, if not practical, transport them to police facility (Homicide Detail criminal investigators and DA personnel).
 - (1) All interviews are audio recorded by both Homicide Detail and DA.
 - (2) Involved officers are always interviewed last to ensure that investigators have as complete a picture as possible prior to interviewing involved officers.
- i. Conduct a walk-through of scene with on-call representative of OCC.

- j. Coordinate with personnel from employee unions and legal representatives at scene and throughout investigation.
 - k. Along with DA representatives:
 - (1) Interview witness officers.
 - (2) Interview involved officers.
 - l. Brief Media Relations Unit and/or Chief of Police or his/her representative regarding status of the investigation.
4. **IAD** representatives shall:
 - a. Upon arriving, participate in “walk through” of scene.
 - b. Observe Homicide Detail interviews of involved officers and other departmental witnesses via closed circuit feed.
 - c. Make an appointment for involved officers to respond to IAD for administrative interview if necessary.
 5. **CSI**, upon arriving at scene, shall:
 - a. Confer with Homicide Detail and DA.
 - b. Locate, document and collect physical evidence, and perform associated forensic field work, such as latent print processing, bloodshed pattern interpretation, and trajectory analysis.
 - c. Prepare crime scene sketch with location of evidence and accurate distance measurements.
 - d. Take possession of discharged firearms from involved officers.
 6. **Legal Division**, upon arriving at scene, shall:
 - a. Ensure evidence beneficial for litigation is seized.
 - b. Document scene.
 7. **Behavioral Science Unit (“BSU”)** shall:
 - a. Send members of CIRT to scene, station or hospital to assist involved officers and offer psychological support. CIRT members are present as peer support only and are prohibited from discussing any aspect of incident.
 8. **Media Relations Unit**, upon arriving at scene, shall:
 - a. Confer with Homicide Detail and Command Staff.
 - b. Provide releasable information to the media.
 - c. Establish one member of the unit who will act as a liaison with the family of the individual shot during the incident. The liaison will attempt to establish contact with the family within the first 24 hours if circumstances permit.
 9. **Police Range** personnel shall:
 - a. Replace involved officers’ firearms.

B. OCME

1. **OCME**, when a fatality occurs, shall
 - a. Dispatch a Medical Examiner and a Medical Examiner Investigator to scene.
 - b. Provide expert resources to criminal and administrative investigators at scene.
 - c. Obtain a complete picture of the event that led to the fatality for use when performing the autopsy.
 - d. After the processing of the scene is complete, remove the deceased person and transport them to the OCME.
 - e. Formally notify the next-of-kin of the deceased person.
 - f. Conduct an autopsy on the remains, and collect:
 - (1) Biological evidence for toxicological examination.
 - (2) Physical evidence, such as spent bullets.
 - g. Write a final autopsy report in the weeks that follow, documenting the results of examination and testing.

C. DA's Office

1. **On-Call Assistant DA and DA Investigators**, upon arriving at scene, shall:
 - a. Meet with Homicide Detail to:
 - (1) Immediately walk-through scene and observe conditions of scene and evidence present.
 - (2) Confer regarding collection and documentation of evidence and participate in preserving and collecting evidence
 - b. Participate in non-compelled interviews of law enforcement witnesses, including officers involved and other departmental witnesses.
 - c. Participate in SFPD interviews of civilian witnesses, and to the extent warranted, conduct separate interviews of civilian witnesses.
 - d. Confer with Homicide Detail regarding investigative process to follow.

D. OCC

1. **On-Call OCC Investigator**, upon arriving at scene shall:
 - a. Walk-through and observe scene with Homicide Detail, so that the investigator has a basic understanding of the circumstances and environment of incident.

III. The First Ten Days After the Incident

A. SFPD

1. **Involved officer(s)** shall:
 - a. Participate in mandatory debriefing with BSU to learn about reactions to critical incidents and available resources.
 - b. Report to Police Range for post-discharge firearm debriefing to ensure that officer retains proficiency in firearm manipulation and operation.
 - c. Report to Training Academy for modified force options training to ensure that officer retains ability to effectively resolve shoot/no-shoot scenarios.
 - d. Obtain audio of interview with Homicide Detail.
 - e. Participate in interview with IAD.
 - f. Be assigned to their respective Bureau Headquarters for a minimum of ten calendar days. Officers, however, shall not be returned to their regular duty until the Police Commission has met in closed session with the Chief of Police to determine whether officers shall be allowed to return to duty.

2. **Homicide Detail** shall:
 - a. Meet within 72 hours with DA, CSI, Forensic Services Division, and other offices and disciplines to determine:
 - (1) Laboratory testing and analysis to be performed on evidence obtained.
 - (2) Timelines for test results.
 - (3) Additional witnesses to be interviewed.
 - (4) Other investigative actions to be taken.
 - b. Obtain sample of blood (first blood) of person shot for toxicological examination.
 - c. Continue witness interviews as necessary.
 - d. Provide involved officers with copy of their criminal interview prior to their interview with IAD.

3. **Crime Laboratory** shall:
 - a. Receive evidence collected and booked by CSI, and:
 - (1) Conduct ballistics examination of every expended shell casing and spent bullet collected and match them to the appropriate firearm.
 - (2) Examine department-issued firearms for adherence to trigger pull standards and inspect for unauthorized modifications.
 - (3) Verify that ammunition used by involved officers was department-issued

- (4) Perform DNA testing as requested.
 - (5) Perform other testing and analysis as required.
4. **Media Relations Unit** shall:
- a. Receive updates on investigation to respond to media inquiries and to convey information to family of individual shot.
 - b. Establish contact with family of individual shot if it has not already occurred to provide them with relevant information.
5. **BSU** shall:
- a. Conduct a mandatory debriefing with involved officers within 72 hours.
 - b. Assess involved officer's ability to return to duty or need for additional support.
 - c. Participate in Return to Duty Panel hearing for involved officers.
 - d. Provide follow-up and psychological support for officers and their families.
6. **Return to Duty Panel** shall:
- a. Convene five business days after incident.
 - b. Conduct a return to duty hearing within five business days of the incident.
 - c. Review preliminary investigative findings by IA criminal investigators.
 - d. Vote on whether to recommend that involved officer(s) should be allowed to return to regular duty.
 - e. Forward its recommendations to the Chief of Police.
7. **Chief of Police** shall:
- a. After consulting with the Return to Duty Panel, determine if the involved officer(s) should be returned to regular field assignment, but only after completion of mandatory debriefing and any recommended retraining.
 - b. Forward a written report, which contains the decision and factors supporting the decision, to:
 - (1) Police Commission.
 - (2) Director of the OCC.
8. **Police Commission** shall:
- a. At its first meeting following the receipt of the Chief of Police's return-to-duty report, meet in closed session with the Chief of Police to review the Chief's findings and decision regarding whether to allow involved officers to return to regular duty.

9. **IAD shall:**
 - a. Schedule interview of involved officer(s) and witness officers.
 - b. Obtain information from Homicide Detail and other evidence-processing personnel, including witness interviews, crime scene diagrams, lab requests, supplemental reports, etc.
 - c. Participate in return to duty hearing for involved officer(s).
 - d. Submit preliminary investigation to Chief of Police and make presentation to Police Commission following Return to Duty Panel.
 - e. Attend closed door session with Police Commission to determine return to duty for each involved officer.

B. OCME

1. **OCME shall:**
 - a. Notify Homicide Detail of any physical evidence collected during autopsy.
 - b. Arrange to have clothing evidence booked into Property Control Section for transfer to Forensic Services Division.

C. DA's Office

1. **DA Personnel shall:**
 - a. Meet with Homicide Detail investigators and review the status of the evidence collected, as well as witness and involved officer statements.
 - b. Obtain copies of all relevant case documents including supplemental reports, lab requests, chronological record of the investigation, and diagrams.
 - c. Agree on evidence to be submitted for further analysis and testing.
 - d. Identify timelines for expected laboratory test results.
 - e. Agree on additional statements to be obtained.
 - f. Participate in interviews of additional witnesses.

IV. Within 45 Days of Incident

A. SFPD

1. **Homicide Detail shall:**
 - a. Submit its final criminal investigation report to FDRB. If criminal investigation report is not completed within forty-five calendar days of incident, Officer-in-charge of Homicide Detail shall appear before Police Commission at earliest possible meeting to explain why report has not been completed.

2. **IAD shall:**
 - a. Receive report submitted to FDRB from Homicide Detail, which will be included in IA investigative case file.
 - b. Prepare final recommendation and report for submission to FDRB and Chief of Police.
3. **Legal Division shall:**
 - a. Work with IAD and OCC regarding evidence/document production.
 - b. Obtain incident report for any claim investigation.

B. DA's Office

1. **DA's Office shall:**
 - a. Obtain all necessary reports, including autopsy report from Office of the Medical Examiner and other laboratory reports.
 - b. Upon conclusion of its independent investigation and receipt of all reports from Homicide Detail, evaluate all evidence to determine potential criminal liability, or lack thereof, of any party.
 - c. After completing its investigation, shall notify SFPD of its decision in writing.

V. In Response to DA's Criminal Charges Against an Officer, If Any

A. SFPD

1. **Chief of Police shall:**
 - a. Suspend accused officer without pay when the officer is:
 - (1) Charged with a felony.
 - (2) Charged with any serious crime
 - (3) Charged with a violation of moral turpitude.
2. **Accused Officer shall:**
 - a. Remain on suspension pending:
 - (1) Resolution of criminal prosecution.
 - (2) Adjudication of any pending administrative investigation.
 - b. Have the opportunity to request Return to Duty hearing if:
 - (1) Officer is acquitted at trial and there are no pending administrative charges.

VI. Within 60 Days of Incident

A. SFPD

1. **IAD shall:**

- a. Prepare and submit to the FDRB the completed administrative investigation with recommendations. If this cannot be accomplished in accordance with established timelines, Commanding Officer of IAD shall appear before Police Commission at earliest possible meeting to explain why report has not been completed.
- b. Prepare a formal presentation of final report to FDRB.

VII. Within 90 Days of Incident

A. SFPD

1. **FDRB** shall:
 - a. Convene within thirty days of receipt of the IA investigative report (i.e., within ninety days of incident).

VIII. Within 210 Days of Incident

A. SFPD

1. **FDRB**, within 120 days following their first meeting (i.e., within 210 days of incident), shall:
 - a. Complete its investigation and issue its findings in accordance with General Order 3.10.

B. OCC

1. **OCC Director** shall:
 - a. Attend FDRB as an advisory member.
 - b. Receive and review FDRB's quarterly reports to Police Commission and provide written responses as appropriate.

IX. (Historically) At Any Point

A. OCC

1. **OCC Investigators**, within 10 days of receiving a civilian complaint of police misconduct or improper performance [but likely immediately now based on the recent passage of Proposition D], shall:
 - a. Interview the complainant.
 - b. Request all documents and evidence accessible from or through the complainant.
 - c. Notify SFPD of a civilian complaint.
 - d. Request records, documents and information pursuant to the OCC-SFPD document protocol.
 - e. Request the autopsy report from the OCME.
 - f. Identify and schedule interviews of witnesses.

2. **OCC Investigators**, upon receipt of records from SFPD, OCME and other agencies, shall:
 - a. Review all reports, chronologies, interviews, and evidence.
 - b. Interview involved and witness officers.

3. **OCC**, upon conclusion of the OCC's administrative investigation, shall:
 - a. Prepare written findings as to whether or not allegations are sustained. In cases resulting in a sustained finding, OCC provides Chief of Police a written report summarizing evidence, giving basis for the findings, and providing recommendations for discipline.

1 WWS
1 WWS

2015-2016 CIVIL GRAND JURY'S REPLY TO DEPARTMENTAL/AGENCY RESPONSES TO FINDINGS AND RECOMMENDATIONS MADE IN THE REPORT:

**INTO THE OPEN:
OPPORTUNITIES FOR MORE TIMELY AND TRANSPARENT INVESTIGATIONS OF FATAL SAN FRANCISCO POLICE DEPARTMENT OFFICER-INVOLVED SHOOTINGS**

FINDING AND RECOMMENDATION 1 WITH RESPONSES.

F.1.	None of the City agencies that are fundamental to OIS investigations has done an adequate job informing the citizens of San Francisco how the process works.
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SFPD	<p>Agree with finding.</p> <p>The SFPD agrees that in order to be more transparent, a document outlining the overall OIS process could be created to share with the public. The document would include the responsibilities of each agency involved in an OIS investigation. However, any detailed information regarding a specific investigation would not be made available due to laws governing the release of information relating to ongoing investigations.</p>
DA's Office	The District Attorney agrees with this finding.
OCC	<p>Disagree, partially.</p> <p>The OCC can only speak to the transparency efforts it has made, and not to the efforts made by the other agencies noted in this finding. As for the efforts of the OCC, state law prohibits the OCC from providing the public with factual information about specific cases, including most of the details of the processes used in any specific case. <u>Copley Press, Inc. v. Sup. Ct. (County of San Diego)</u> (2006) 39 Cal.4th 1272. It has been the experience of the OCC that most complainants concerns about transparency stem from the limitations imposed by state law, not any failure on the part of the OCC to divulge information that the OCC is permitted to share.</p> <p>That said, the OCC is able to inform the public about the process in general, and does so in the following ways, among others:</p> <ul style="list-style-type: none"> a) The OCC publishes annual and quarterly reports, which are also available at the OCC website, sfgov.org/occ. These reports note the specific OIS cases investigated, when the OIS incident occurred, and when the investigations were closed. b) The OCC publishes monthly Complaint Summary Reports, also known as Openness Reports, detailing cases resolved that month. These are redacted to omit any specific case identifier, such as the case names, or the complainants' or officers' names. The details provided include a summation of the allegations, the findings of OCC, and the action taken by the Chief of Police and/or the Police Commission on those case. These reports are also on the OCC website.

- c) The OCC's process for investigating cases is disseminated to the public through the OCC Community Outreach Strategic Plan. As part of that plan, OCC staff attend a wide variety of outreach events in the community, where staff introduce the OCC, its mission, provide information regarding procedures in general, and distribute OCC brochures.
- d) The OCC website describes the process for receiving and investigating complaints, which applies equally to OIS cases as it does to other kinds of complaints.

The Police Commission and the OCC staff deserve credit for the hard work they have put into these transparency efforts. Taken together, these steps have made the San Francisco police discipline system among the most transparent such systems in the state.

However, the OCC does agree with the Grand Jury that the addition of a webpage specific to the OIS process on the OCC website as described in Recommendation 1 would be a valuable resource for the community. The OCC is working on creating such a page, as described in the next response.

REPLY TO RESPONSES TO FINDING 1

The Civil Grand Jury appreciates that all three agencies recognize that they can do more to inform the citizens of San Francisco about how the OIS investigation process works. We also appreciate the work that each of the departments has done with regard to community outreach generally, and we encourage each department to continue those efforts. Specifically, with regard to the general process of OIS investigations, however, we believe that clear-cut information must be readily available to everyone *and* easily accessible. A sufficient level of transparency is not met by requiring an interested party to sift through monthly, quarterly or annual reports to find information on the OIS process or to have to make assumptions about how the process works.

- R.1. Each of the three City agencies fundamental to OIS investigations – SFPD, DA's Office and OCC – should create a "OIS Investigations" web page specifically devoted to educating the public about that agency's role in the investigation of OIS incidents. Each agency's web page should be comprehensive and answer the following questions:**
- **Who is involved in the investigation and what are their roles and responsibilities;**
 - **Why is the agency involved in OIS investigations;**
 - **What is the investigation's purpose, what goals does the investigation attempt to achieve, what parts are disclosable and/or disclosed to the public, and what parts are not and/or cannot be disclosed and why;**
 - **When does the investigation begin, what is the general time frame by which the public may expect the investigation to be completed, and what variables may affect this time frame;**
 - **How does the OIS investigation process work; and**
 - **Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations.**

	<p>Each agency should make its “OIS Investigations” web page available in English, Spanish, Chinese and Filipino (Tagalog).</p> <p>Each agency should provide a link from its home page to its “OIS Investigations” web page, so that it can be accessed easily.</p> <p>Each agency should add its “OIS Investigations” web page to its website as soon as possible, but no later than six months after the date this report is published.</p>
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SFPD	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>The SFPD agrees that information should be provided to the public consistent with the best practices in 21st century policing. The SFPD is evaluating and adjusting its website to provide improved information to the community. During this process, the SFPD will consider inclusion of the above recommendation, as well as review other agency websites for additional information that could be included. As required by the City and fully supported by the SFPD, information available on the website will meet the requirements of the Language Access Ordinance.</p>
DA’s Office	<p>This recommendation will be implemented no later than December 31, 2016. We are hopeful that by this date we will be able to post our new role and responsibilities based on the formation of the IIB [Independent Investigations Bureau].</p>
OCC	<p>This recommendation has not been, but will be, implemented in the future.</p> <p>As noted above with respect to Finding 1, the OCC agrees that the webpage described in this Recommendation would be valuable to the community. As part of a package of ongoing information technology improvements at the OCC, the Mayor and Board of Supervisors have allocated funding for a new Assistant Information Systems Analyst (Civil Service Classification 1051). I intend to task that individual with creating the webpage containing the information described in Recommendation I. Other staff are crafting the content, which will be translated as recommended.</p>

REPLY TO RESPONSES TO RECOMMENDATION 1

The Civil Grand Jury appreciates that each agency agrees to implement this recommendation.

We ask the SFPD not only to “consider inclusion of the above recommendation,” but to actually include the content recommended. We also ask the SFPD to set a “timeframe for implementation” as required by Penal Code § 933.05(b)(2).

We ask the DA’s Office to commit to implement this recommendation whether or not the formation of the IIB is successful within the timeframe indicated.

We ask the OCC to set a “timeframe for implementation” as required by Penal Code § 933.05(b)(2).

FINDING AND RECOMMENDATIONS 2.

F.2.	Because the SFPD consistently does not meet the time frame in its own General Orders by which investigations of OIS incidents are to be conducted and completed, the General Orders create false expectations for the citizens of San Francisco.
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SFPD	<p>Disagree with finding, partially.</p> <p>The 30, 45, and 60-day deadlines imposed in General Orders 3.10 and 8.11, when first issued, were considered industry standards. With advancements in technology and science, these investigative deadlines do not reflect inherent complexities such as forensic evidence processing. In addition, the current deadlines did not consider the dependencies of independent investigations now required that are outside the control of the SFPD, including the District Attorney's investigation and, in death cases, the Medical Examiner's investigation.</p> <p>The length of an OIS investigation is largely dependent on the outcome of these investigations, particularly the charging decision of the District Attorney's Office with respect to the officer. All relevant reports, including the Medical Examiner's report, are needed to complete the criminal investigation. Likewise, the trailing administrative investigation would not be complete without the District Attorney's Office determination of the criminal portion. Per California Government Code 3304(d), the time limit investigation of a personnel investigation tolls until (1) a criminal investigation; (6) civil litigation; or (7) criminal litigation where the officer is the defendant in the matter is completed.</p> <p>While the administrative case could be theoretically closed before conclusion of these investigations, SFPD's administrative investigation has a significant dependency on the finding of the District Attorney, because the officer must have acted lawfully to be within policy. It is conceivable that at the conclusion of an investigation, the District Attorney could charge the officer with a crime that the administrative investigation or the SFPD Homicide investigators had not foreseen.</p>
Police Commission	Response not yet provided.

REPLY TO RESPONSES TO FINDING 2

The SFPD must recognize its own extended response belies its disagreement with this finding and actually supports the finding itself. When the SFPD is not able to meet the timeframes set forth in its own General Orders for *whatever* reason, the General Orders create false expectations. General Orders must reflect the reality of the situation and set forth attainable deadlines.

We look forward to the Police Commission's response.

R.2.A. The Police Commission, in coordination with the relevant SFPD divisions, the DA and the OCC should immediately commission a comprehensive study of ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.

Police Commission	Response not yet provided.
SFPD	Recommendation has not been, but will be, implemented in the future. This recommendation is being reviewed by the U.S. Department of Justice Collaborative Reform Initiative (DOJ-CRI) review team and compared against national best practices. The SFPD will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.
DA's Office	This recommendation will not be implemented as we do not have adequate funding to commission the recommended study. However we have already determined several ways to improve the speed and independence of OIS investigations. In the 2016-17 budget we requested funding to create an Independent Investigations Bureau (IIB). This request was funded and we are waiting for the Mayor and the Board of Supervisors to remove the positions from reserve so that we can hire attorneys and investigators dedicated solely to investigating and prosecuting officer involved shootings and excessive use of force cases. This team will be able to send trained personnel to the scene of OIS cases which will dramatically improve our ability to capture evidence in a timely manner. Additionally, having dedicated personnel on these cases, rather than tasking the work to already overburdened prosecutors will mean faster charging and trial preparation than we are currently capable of achieving. The new unit will bring much needed improvement to our process which has been substantially limited by poor resources.
OCC	This recommendation requires further study. It is important to note that the OCC reports to the Police Commission, and this recommendation calls for the Police Commission to arrange for a study. The OCC defers to the Commission as to whether and how to do so. Once the Commission provides direction as to how it wishes to proceed, the OCC will make every effort to assist.

REPLY TO RESPONSES TO RECOMMENDATION 2.A.

While the Civil Grand Jury believes a comprehensive study is necessary, we are encouraged that each agency that has responded thus far appears committed to determine ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.

We look forward to the Police Commission's response.

We ask the SFPD to determine and implement ways to streamline its OIS investigation process regardless of whether the DOJ-CRI makes recommendations on the issue. We also ask the SFPD to set a "timeframe for implementation" as required by Penal Code § 933.05(b)(2).

We ask for clarification from the Mayor, the Board of Supervisors and the DA's Office as to the meaning and impact of placing positions in "reserve," why these positions are in reserve, what it takes to remove these positions from reserve, and when these positions will be removed from reserve.

If there is a chance that these positions will not be removed from reserve within the next 30-60 days, we ask the DA's Office to provide an alternate plan and timeframe by which it will streamline its OIS investigation process.

R.2.B. After receiving the results of the study of ways to streamline the OIS investigation process, the Police Commission should revise the General Orders to more accurately reflect the timeframes by which investigations of OIS incidents are to be completed.

Police Commission	Response not yet provided.
SFPD	Recommendation has not been, but will be, implemented in the future. This recommendation is being reviewed by the U.S. Department of Justice Collaborative Reform Initiative (DOJ-CRI) review team and compared against national best practices. The SFPD will review and implement recommendations made by the DOJ-CRI and the Civil Grand Jury.

REPLY TO RESPONSES TO RECOMMENDATION 2.B.

The Civil Grand Jury is encouraged that the SFPD appears committed to determine ways to streamline the OIS investigation process with the goal of reducing the overall time to conduct a full investigation.

We look forward to the Police Commission's response.

We ask the SFPD to determine and implement ways to streamline its OIS investigation process regardless of whether the DOJ-CRI makes recommendations on the issue. We also ask the SFPD to set a "timeframe for implementation" as required by Penal Code § 933.05(b)(2).

FINDING AND RECOMMENDATIONS 3.

F.3. The SFPD Field Operations Bureau's use of outdated methods, including a serial, hierarchical phone tree system, to alert some essential responders of an OIS incident is inherently time-consuming and results in slower response times, which can cause delays in OIS investigations both at the scene and afterwards.

SFPD	Agree with finding. Although the SFPD's Department Operations Center (DOC), a unit under the command of the Special Operations Bureau, currently has a notification system in place for OIS call outs, the best available technology should be used for all critical incident call outs. The SFPD should perform a review of best practices of similar-sized agencies.
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REPLY TO RESPONSE TO FINDING 3

The Civil Grand Jury is encouraged that the SFPD understands the importance of immediate notification to all essential responders that an OIS incident has occurred.

R.3.A. The SFPD Field Operations Bureau should implement standardized, modern methods to notify all essential responders of an OIS incident.

SFPD	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>The SFPD's Department Operations Center (DOC), a unit under the command of the Special Operations Bureau, has a system in place to notify all essential responders to OIS incidents. The SFPD has added an additional layer of notification specific to the on-call DA investigator, which requires a direct call from the Captain of the Major Crimes Division to the on-call DA investigator immediately after learning of an OIS incident. The SFPD will research available technology that can improve the notification process.</p>
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REPLY TO RESPONSE TO RECOMMENDATION 3.A.

The Civil Grand Jury appreciates that the SFPD has added an additional layer of notification specific to the on-call DA investigator. We ask the SFPD not only to *perform* "a review of best practices of similar-sized agencies" and to "research available technology," but to then *implement* those best practices and technology. We also ask the SFPD to set a "timeframe for implementation" as required by Penal Code § 933.05(b)(2).

R.3.B. The SFPD Field Operations Bureau should require that all essential responders called to the scene of an OIS incident confirm with the Field Operations Bureau that they received the initial notification. If the Bureau does not receive confirmation from an essential responder within a designated period of time, it should contact an alternate responder for that agency.

SFPD	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>The SFPD's Department Operation Center (DOC), a unit under the command of the Special Operations Bureau, will review the current process for notification to an OIS incident to ensure there is a process in place for first responders to confirm receipt of the notification and to log that confirmation. The process also should include a mechanism to ensure follow-up notification is done within a designated time span when a response from a first responder has not been received.</p>
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REPLY TO RESPONSE TO RECOMMENDATION 3.B.

The Civil Grand Jury ask the SFPD to set a "timeframe for implementation" as required by Penal Code § 933.05(b)(2).

FINDING AND RECOMMENDATION 4.

F.4.	While there are many factors to consider when determining a timetable to complete an OIS investigation, the lack of a meaningful and enforceable process for establishing a timetable in the current MOU between the SFPD and the DA's Office allows OIS investigations to drag on too long.
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SFPD	Disagree with finding, partially. The SFPD's Homicide Unit currently completes an OIS investigation and forwards it to the DA's office. However, the case and the Internal Affairs process cannot be closed until receipt of the results of the forensic analysis, the Medical Examiner's report, and the DA's final charging decision. These processes are not under the control of the SFPD.
DA's Office	The District Attorney agrees with this finding.

REPLY TO RESPONSES TO FINDING 4

The Civil Grand Jury appreciates that the DA's Office agrees with this finding. We understand that the SFPD's OIS investigation and the DA's OIS investigation, as it is currently configured, are interdependent on each other. This is all the more reason why an MOU must have a meaningful and comprehensive process for establishing a reasonable investigation timeline.

R.4.	The SFPD and the DA's Office should jointly draft a new MOU in which each commits to an agreed-upon process to: <ul style="list-style-type: none"> • Prioritize and expedite their investigations of OIS incidents within an established timeframe; <p>Make a public announcement when each completes its OIS investigation, so that the public may be better informed of the investigative results and the time taken by each agency to complete its OIS investigation.</p>
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SFPD	Recommendation requires further analysis. The SFPD is reviewing the current MOU and is in discussion with the DA's Office, as well as exploring additional resources to investigate OIS incidents.
DA's Office	This recommendation has not yet been implemented. We have drafted a proposed MOU and shared it with the SFPD. We are awaiting their feedback and acceptance of the new terms. We hope to reach agreement by September 30, 2016.

REPLY TO RESPONSES TO RECOMMENDATION 4.

The Civil Grand Jury is encouraged that a new MOU has been proposed by the DA's Office and is under review by the SFPD.

We ask the SFPD to confirm that it also expects to reach agreement by September 30, 2016, or to set a "timeframe for response" to this recommendation with its further analysis within six

months of the release of this report as required by Penal Code § 933.05(b)(3). We also ask the SFPD to provide clarification regarding the “additional resources to investigate OIS incidents” it is exploring.

FINDING AND RECOMMENDATIONS 5.

F.5.	The DA’s Office takes too long to complete its criminal investigations and issue its charging decision letters in OIS cases. In the last five years, it has taken an average of 611 days to issue charging decision letters in fatal OIS cases and 654 days in all OIS cases, both fatal and non-fatal.
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DA’s Office	The District Attorney agrees with this finding.
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REPLY TO RESPONSE TO FINDING 5

The Civil Grand Jury appreciates that the DA’s Office agrees with this finding.

R.5.A.	The DA should immediately give the investigation of OIS cases priority and dedicate the departmental resources required to reduce the time the DA’s Office takes to complete its criminal investigation and issue its charging decision letters in OIS cases.
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DA’s Office	This recommendation has been implemented in part, and will be fully implemented once the funding for the IIB is released and the positions are filled. The District Attorney has always given the investigation of OIS incidents top priority and has used the limited resources available to his office to ensure that each OIS investigation is conducted in a thorough and professional manner. However the historic lack of funding specifically dedicated to the investigation of OIS incidents has resulted in a much longer than optimal length of time required to complete each investigation and issue the charging decision letters. We have already determined several ways to improve the speed and independence of OIS investigations. As noted in response to Recommendation 2.A. we requested funding to create the IIB and this request was funded in the current fiscal year’s budget.
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REPLY TO RESPONSE TO RECOMMENDATION 5.A.

The Civil Grand Jury asks for clarification from the Mayor, the Board of Supervisors and the DA’s Office as to the meaning and impact of placing positions in “reserve,” why these positions are in reserve, what it takes to remove these positions from reserve, and when these positions will be removed from reserve.

If there is a chance that funding for the IIB will not be released within the next 30-60 days, we ask the DA’s Office to provide an alternate plan and timeframe by which it will streamline its OIS investigation process.

R.5.B.	The DA should determine the resources necessary to reduce the length of time the DA's Office spends to complete its criminal investigations in OIS incidents and then make sufficient requests for those resources in the proposed budget for fiscal year 2017-2018, and thereafter.
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DA's Office	This recommendation has been implemented. Our primary request in the 2016-17 budget was for staffing to improve the way we investigate and prosecute OIS cases. We recognized the long timeframe for completing our work as well as other problems with the process. This compelled us to request funding and push hard for the creation of a new unit in our office dedicated solely to this work because of its paramount importance. Unfortunately, the positions were placed on reserve so we have not been able to hire staff yet.
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REPLY TO RESPONSE TO RECOMMENDATION 5.B.

The Civil Grand Jury asks for clarification from the Mayor, the Board of Supervisors and the DA's Office as to the meaning and impact of placing positions in "reserve," why these positions are in reserve, what it takes to remove these positions from reserve, and when these positions will be removed from reserve.

If there is a chance that funding for the IIB will not be released within the next 30-60 days, we ask the DA's Office to provide an alternate plan and timeframe by which it will streamline its OIS investigation process.

R.5.C.	The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the DA's Office to expedite OIS investigations. Allocation and/or release of these funds should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.
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Mayor's Office	Recommendation has been implemented. The DA's Office budget for FY 2016-17 and FY 2017-18 includes \$1.8 million in each year and additional staffing of 14 positions to expedite OIS investigations.
Mayor's Office of Public Policy and Finance	Recommendation has been implemented. The DA's Office budget for FY 2016-17 and FY 2017-18 includes \$1.8 million in each year and additional staffing of 14 positions to expedite OIS investigations.

REPLY TO RESPONSES TO RECOMMENDATION 5.C.

The Civil Grand Jury asks for clarification from the Mayor, the Board of Supervisors and the DA's Office as to the meaning and impact of placing positions in "reserve," why these positions are in reserve, what it takes to remove these positions from reserve, and when these positions will be removed from reserve.

If there is a chance that funding for the IIB will not be released within the next 30-60 days, we ask the Mayor and the Mayor's Office of Public Policy and Finance to provide an alternate plan and timeframe by which it will help the DA's Office streamline its OIS investigation process.

R.5.D.	The Board of Supervisors should approve these additional resources requested by the DA's Office and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, to expedite OIS Investigations. Approval of these additional resources again should be contingent upon marked, measurable improvement by the DA's Office in the time it takes to complete its criminal investigations and issue its charging decision letters in OIS cases.
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Board of Supervisors	No response yet provided.
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REPLY TO RESPONSE TO RECOMMENDATION 5.D.

The Civil Grand Jury looks forward to the Board of Supervisors response. With regard to that response, we ask for clarification from the Mayor, the Board of Supervisors and the DA's Office as to the meaning and impact of placing positions in "reserve," why these positions are in reserve, what it takes to remove these positions from reserve, and when these positions will be removed from reserve.

If there is a chance that funding for the IIB will not be released within 30-60 days, we ask the Board of Supervisors to provide an alternate plan and timeframe by which it will help the DA's Office streamline its OIS investigation process.

FINDING AND RECOMMENDATIONS 6.

F.6.	Under the leadership of and commitment displayed by the CME since coming aboard in March 2015, the OCME's turnaround time has improved and its final reports have included more photographs and documentation and greater detail.
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OCME	<p>Agree with finding.</p> <p>The Office of the Chief Medical Examiner (OCME) prioritized decreasing turnaround time for the release of work product. This has positively impacted the production final reports associated with OIS incidents. The office understands the need for the timeliness of report generation and will remain vigilant in this regard. The OCME continues to stand behind its work product which continues to meet national standards.</p>
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REPLY TO RESPONSE TO FINDING 6

The Civil Grand Jury is pleased that the OCME agrees with this finding and again commends the CME and OCME for its improved turnaround times and more-detailed final reports.

R.6.A.	After the OCME releases each autopsy report in OIS cases, the CME should proactively call a meeting of the SFPD's Homicide Detail, DA's Office and OCC to help those agencies interpret the highly technical findings of the autopsy report. This meeting should be coordinated, if possible, to include reports from the Crime Lab on the results of its firearms comparisons, ballistics examinations and DNA analysis.
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OCME	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>The OCME will fully participate in after action conferences with regard to OIS incidents; however, the conference should be initiated by the agency leading the investigation as the agency will have a better understanding of the case status of each participating party.</p>
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REPLY TO RESPONSE TO RECOMMENDATION 6.A.

<p>The Civil Grand Jury appreciates that the OCME has agreed to participate fully in "after action conferences." We ask the OCME to set a "timeframe for implementation" as required by Penal Code § 933.05(b)(2). We also ask the OCME to reconsider its position that the conference should be initiated by the agency leading the investigation. Instead, we ask the CME to take the lead in calling a meeting to interpret the findings of the OCME investigation immediately after the agency has issued its report to streamline the overall OIS investigation and mitigate any delay.</p>	
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R.6.B.	When the new OCME building with autopsy observation facilities is completed, the CME should invite SFPD inspectors and DA and OCC investigators to observe autopsies in all fatal OIS incidents, so that questions can be answered quickly, observations shared early, and the spirit of teamwork and cooperation on the investigation can begin as early as possible.
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OCME	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>With a projected opening in Fall 2017, the design of the new OCME facility includes an autopsy observation room. The observation room will allow investigators to participate more fully in autopsies related to OIS incidents. Additionally, the observation room will reduce informational asymmetries, improve the flow of information and enhance information sharing allowing the investigation to begin as early as possible. Investigators will be encouraged to attend examinations in all homicide and suspicious cases.</p>
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REPLY TO RESPONSE TO RECOMMENDATION 6.B.

<p>The Civil Grand Jury appreciates that the CME will invite and encourage inspectors and investigators to observe autopsies as soon as the OCME moves into its new facilities.</p>	
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FINDING AND RECOMMENDATIONS 7.

F.7.	OCC investigations are hampered and delayed by the fact that its investigators and attorneys must transcribe their own extensive notes of each witness interview.
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OCC	Agree.
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REPLY TO RESPONSE TO FINDING 7

The Civil Grand Jury appreciates that the OCC agrees with this finding.

R.7.A.	The OCC should allocate current year funds and include funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services, so that OCC staff can spend more of its time on investigations and legal analysis and less time on the transcription of interview notes.
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OCC	This recommendation has been implemented.
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REPLY TO RESPONSE TO RECOMMENDATION 7.A.

The Civil Grand Jury appreciates that this recommendation has been implemented and thanks all personnel and entities involved making it happen.

R.7.B.	The Police Commission should support the OCC's funding requests in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.
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Police Commission	Response not yet provided.
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REPLY TO RESPONSE TO RECOMMENDATION 7.B.

The Civil Grand Jury appreciates that this recommendation has been implemented and thanks all persons and entities involved in making it happen.

R.7.C.	The Mayor and the Mayor's Office of Public Policy and Finance should include in the proposed budget for fiscal year 2017-2018, and thereafter, resource requests from the OCC for transcription services.
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Mayor	Recommendation has been implemented. The FY 2016-17 and FY 2017-18 budget includes ongoing \$231,000 for the OCC for transcription services.
Mayor's Office of Public Policy and Finance	Recommendation has been implemented. The FY 2016-17 and FY 2017-18 budget includes ongoing \$231,000 for the OCC for transcription services.

REPLY TO RESPONSES TO RECOMMENDATION 7.C.

The Civil Grand Jury appreciates that this recommendation has been implemented and thanks all persons and entities involved in making it happen.

R.7.D. The Board of Supervisors should approve the resources requested by the OCC and included by the Mayor and the Mayor's Office of Public Policy and Finance in the proposed budget for fiscal year 2017-2018, and thereafter, for transcription services.

Board of Supervisors	No response yet provided.
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REPLY TO RESPONSE TO RECOMMENDATION 7.D.

The Civil Grand Jury appreciates that this recommendation has been implemented and thanks all persons and entities involved in making it happen.

FINDING AND RECOMMENDATIONS 8.

F.8. The current structure for investigating OIS cases lacks an oversight body to review the events surrounding the OIS incident and the actions of the SFPD officers, monitor the timeliness and fairness of the investigation, communicate regularly about the status of the investigation, and interpret and share the results of the investigation with the public.

Mayor	Disagree with finding, partially. SFPD convenes its Firearm Discharge Review Board in connection with each OIS incident and summaries of incidents are provided to the Police Commission for review. The Firearm Discharge Review Board convenes quarterly and reports on the status of open SFPD OIS investigations.
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REPLY TO RESPONSE TO FINDING 8

While the Civil Grand Jury appreciates the work of the Firearm Discharge Review Board, the FDRB is not in a position to, and currently does not, perform the "oversight" function implicated in and anticipated by this finding.

R.8.A. The Mayor's Office should form a new standing task force to oversee the investigation of OIS cases. The task force should include high ranking persons from the Sheriff's Office, the DA's Office, the OCME, the SFPD (including the Chief Homicide Inspector), and the OCC. The task force may also include a state or federal department of justice consultant or observer, and a knowledgeable, respected citizen.

Mayor	Response not yet provided.
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REPLY TO RESPONSE TO RECOMMENDATION 8.A.

It appears that the Mayor has inadvertently neglected to include a response to this recommendation. The Civil Grand Jury looks forward to the Mayor's response.

R.8.B.	<p>The Mayor should charge the new task force to:</p> <ul style="list-style-type: none"> • Monitor the progress of each OIS investigation and hold each involved agency accountable for timely completion of its portion of the OIS investigation; • Provide periodic press releases and/or press conferences to update the public on the status of each OIS case; • Compile a summary of the findings from each involved agency and then evaluate those findings in group meetings to address any inconsistencies or unanswered questions; • Facilitate a joint discussion among its members to formulate conclusions and "lessons learned"; • Identify necessary policy or procedural changes; and • Share its summary of the overall OIS investigation in public sessions so that the public has a voice in the process and may respond and ask questions.
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Mayor	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>The Mayor's Office works with the DA's Office and the SFPD to monitor progress of each OIS investigation, provide periodic and timely updates to the public on the status of OIS cases, summarizes and evaluates findings, and jointly discuss OIS investigations. The dedication to timely resolutions coupled with additional resources have positively impacted the conduct of OIS investigations, and includes \$800,000 for the California Department of Justice's ongoing research of best practices related to OIS incidents. In implementing policy and procedural changes, SFPD has modified department general orders to assure time and distance and preserve the sanctity of life.</p>
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REPLY TO RESPONSE TO RECOMMENDATION 8.B.

Because the Mayor did not respond to Recommendation 8.A., it is not clear how the Mayor intends to implement this recommendation. While the Civil Grand Jury appreciates the work the Mayor's Office does with regard to OIS investigations, that work comes nowhere near the efforts called for by this recommendation. We ask the Mayor to clarify how the "additional resources," including "\$800,000 for the California Department of Justice's ongoing research" will impact the *timeliness and transparency* of OIS investigations. Also, while we are encouraged by and recognize the work being done by the Mayor's Office and many other departments, agencies, activists and "every day" citizens to modify the SFPD's use of force to preserve the sanctity of life, we encourage the Mayor not to miss the point of our entire report and of this recommendation, which is to make *investigations* of OIS incidents, when they do occur, more timely and transparent. Thus, we ask the Mayor to clarify his response and to set a "timeframe for implementation" as required by Penal Code § 933.05(b)(2).

FINDING AND RECOMMENDATION 9.

F.9.	While the SFPD has taken important first steps in providing information and statistics regarding OIS incidents and resulting investigations, it must provide much more robust information to reach its stated goal of building public trust, engaging with the community and driving positive outcomes in public safety.
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SFPD	<p>Disagree with finding, partially.</p> <p>The SFPD agrees that any information that is releasable should be shared with the public. However, as an OIS investigation is considered open and ongoing, the SFPD needs to remain cautious not to release information prematurely that may be inaccurate or any details that would compromise the outcome of the investigation. The SFPD will review other agencies' best practices to determine if similar processes can be implemented that would allow for more transparency without compromising the investigation.</p>
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REPLY TO RESPONSE TO FINDING 9

As evidenced by our report, findings and recommendations, the Civil Grand Jury recognizes that each agency involved in OIS investigations must weigh many factors in determining what information to release and at what point. We appreciate that the SFPD is open to the idea that it may be able to do a better job in providing more robust information.

R.9.	SFPD should make publicly available and prominently display on its website a more robust set of statistics, data and information on OIS incidents where its officers are involved, using the data release practices of law enforcement agencies like the Dallas Police Department and the Los Angeles County Sheriff's Department.
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SFPD.	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>As part of the SFPD's participation the the White House Initiative, staff began the process of implementing the items in this recommendation. The City's Department of Technology will be developing and enhancing the City's IT infrastructure which will include developing new websites for both the SFPD and Police Commission. At this time, the current website needs to be redesigned to make it more user-friendly and information readily accessible on a dedicated reports page. It is anticipated that the SFPD's IT Department will have the infrastructure developed within the second quarter of 2017.</p>
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REPLY TO RESPONSE TO RECOMMENDATION 9

The Civil Grand Jury appreciates that the SFPD has already begun providing statistics, data and information as part of the White House Police Data Initiative and, in fact, commended the SFPD for its efforts. (See C.9.B. on p. 50 of our report.) We ask the SFPD not only to "review other agencies' best practices," but to work to implement those best practices here. Moreover, there is

no reason why the SFPD must merely implement other agencies' best practices. Instead, we encourage the SFPD to strive to be a leader in making OIS investigations as transparent and timely as possible and release as much related information and data as possible.

While we understand the need to make the SFPD and Police Commission websites more user-friendly, and in fact, have made recommendations in that regard, we do not believe that the SFPD needs to wait until the infrastructure is in place before releasing more robust data and information on its website and by other means. Therefore, we encourage the SFPD to make a more robust set of statistics, data and information on OIS incidents available as soon as possible.

FINDING AND RECOMMENDATIONS 10.

F.10.	SFPD's press conferences at the scene of the incident, or soon thereafter, are an important first step in creating a transparent investigation, provide crucial information about the events leading up to the incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.
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SFPD	<p>Agree with finding.</p> <p>For the past five years, command staff has responded to the scene of critical incidents along with members of the Media Relations Unit. This allows for initial information to be provided as soon as possible. In addition, a meeting is completed within 10 days of an incident to provide additional information. A "press-exclusive" press conference could be added or substituted.</p>
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REPLY TO RESPONSE TO FINDING 10

The Civil Grand Jury appreciates that the SFPD agrees with this finding.
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R.10.A.	SFPD and the Police Commission should make it official policy for the SFPD to hold press conferences as soon as possible after each OIS incident.
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SFPD	<p>Recommendation has been implemented.</p> <p>The SFPD's current practice is to have a press briefing/conference as immediately as possible after each OIS incident, including a briefing at the scene of, or in close proximity to, the incident. At these briefings, preliminary information is provided by the Media Relations Unit, the Police Chief, or designee.</p> <p>Updated information is provided to the public through press releases, and any media inquiries are addressed through the Media Relations Unit. Updated information also is provided at community stakeholder or public meetings, held within 10 days of an OIS incident, as well as at the weekly Police Commission and at meetings with community leaders, stakeholders, and advocates.</p>
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Police Commission	Response not yet provided.
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REPLY TO RESPONSES TO RECOMMENDATION 10.A.

The Civil Grand Jury recognizes that the SFPD's "current practice" is to hold a press briefing/conference as soon as possible after each OIS incident and, in fact, we commended the SFPD for its efforts. (See C.10. on p. 50 of our report.) The point of this recommendation is to transform the SFPD's "current practice" into "official policy," either through a General Order (Police Commission) or by Department Bulletin (Police Chief) or by some other written method. We believe that while "current practice" serves only as a guide for future actions, "official policy" serves as a "directive" that recognizes the importance of these press conferences and mandates that they occur.

Therefore, we encourage the SFPD to revise its response from "recommendation has been implemented," to "recommendation has not yet been implemented, but will be implemented in the future," along with a "timeframe for implementation" of that official policy as required by Penal Code § 933.05(b)(2).

We look forward to the Police Commission's response.

R.10.B.	SFPD should limit comments made during these press conferences to the facts as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.
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SFPD	<p>Recommendation has been implemented.</p> <p>The SFPD strives to meet the highest operational and ethical standards and to continually improve how we meet the City's public safety objectives. The SFPD's goal is to incorporate the recommendations of the President's Task Force on 21st Century Policing, especially relating to transparency. These policies and practices are intended to provide accurate, timely, and reliable information to the public.</p> <p>The SFPD realizes that emerging technology, including the use of social media to post real-time video, provides additional information and evidence that may be different than the preliminary information gathered from witnesses and involved officers. As such, the SFPD will continue to explore best practices in transparency and media relations in an effort to disseminate accurate and reliable information that has been vetted.</p>
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REPLY TO RESPONSE TO RECOMMENDATION 10.B.

The Civil Grand Jury appreciates the SFPD's recognition that preliminary information gathered from witnesses and involved officers may be different than later-obtained evidence, including real-time video. This is all the more reason that the SFPD should limit its initial comments to facts and to resist the temptation to color or justify the events surrounding the incident. We encourage the SFPD and/or the Police Commission to incorporate language to this effect in its "official policy" relating to these press conferences.

FINDING AND RECOMMENDATIONS 11.

F.11.	As with its press conferences at the scene of the incident, the SFPD’s practice of posting “updates” on its website as soon as possible after an OIS incident are an important step in creating a transparent investigation, provide crucial information about the events leading up to the OIS incident, and serve to mitigate false reporting, speculation and the dissemination of misinformation.
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SFPD	<p>Agree with finding.</p> <p>Following the initial release of information relating to an OIS incident, the SFPD routinely provides updated information to the media by way of press releases, which are posted on its website. However, to help dispel egregious public information, staff should ensure that all information has been vetted prior to distribution to the public. At the conclusion of the investigation, the website could be updated to reflect the outcome.</p>
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REPLY TO RESPONSE TO FINDING 11

The Civil Grand Jury appreciates that the SFPD agrees with this finding.
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R.11.A.	SFPD and the Police Commission should make it official policy for the SFPD to post “updates” on its website as soon as possible after each OIS incident.
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SFPD	<p>Recommendation has not been, but will be, implemented in the future.</p> <p>The SFPD currently posts information released to the media as a “press release” relating to critical incidents, including OIS incidents, on its website. In addition, information relating to community and/or stakeholder meetings are released to the media and posted on the website. The SFPD will review best practices of other agencies to determine a process by which updated information can be shared on its website that will not compromise the ongoing investigation.</p> <p>As part of the SFPD’s participation in the White House Police Data Initiative, datasets relating to officer-involved shootings between 2009 and 2015 are posted. In addition, a website link to OIS incidents could be developed.</p>
Police Commission	Response not yet provided.

REPLY TO RESPONSES TO RECOMMENDATION 11.A.

The Civil Grand Jury recognizes that the SFPD’s “current practice” of posting information about each OIS incident on its website and, in fact, we commended the SFPD for its efforts. (See C.11. on p. 51 of our report.) The point of this recommendation is to transform the SFPD’s “current
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practice” into “official policy,” either through a General Order (Police Commission) or by Department Bulletin (Police Chief) or by some other written method. We believe that while “current practice” serves only as a guide for future actions, “official policy” serves as a “directive” that recognizes the importance of these website updates and mandates that they occur.

We also appreciate the SFPD’s intent to make these website updates as easy to find and access as possible.

We ask the SFPD to set a “timeframe for implementation” as required by Penal Code § 933.05(b)(2).

We look forward to the Police Commission’s response.

R.11.B.	SFPD should limit comments made in these updates to the <i>facts</i> as they are known at that time and refrain from making statements and using language to prematurely attempt to justify the actions taken by SFPD officers involved in the OIS incident.
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SFPD	Recommendation has been implemented. The SFPD has developed a process by which the Media Relations Unit, Homicide, and Internal Affairs coordinates with the Chief’s Office to ensure that only verified information is disseminated.
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REPLY TO RESPONSE TO RECOMMENDATION 11.B.

The Civil Grand Jury appreciates that the SFPD has developed a process for ensuring that only verified information is disseminated. We encourage the SFPD and/or the Police Commission to share that process in its “official policy” relating to these website updates.

FINDING AND RECOMMENDATIONS 12.

F.12.	SFPD’s town hall meetings are crucial to a transparent OIS investigation and provide updated information about the incident and serve to mitigate false reporting, speculation and the dissemination of misinformation.
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SFPD	Agree with finding. For the past five years, it has been a practice to hold a town hall, community, or stakeholder meeting within 10 days of an OIS incident in the affected community. The intent of these meetings is to provide preliminary information to the public. These meetings are chaired by the Police Chief and are regularly attended by members of the Police Commission and Board of Supervisors, as well as City officials. As an investigation evolves, further information is developed and disseminated to the public and the media.
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REPLY TO RESPONSE TO FINDING 12

The Civil Grand Jury appreciates that the SFPD agrees with this finding.

R.12.A.	SFPD and the Police Commission should make it official policy for the SFPD to hold town hall meetings within a week after <i>each</i> OIS incident.
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SFPD	<p>Recommendation requires further analysis.</p> <p>For the past five years, it has been a practice of the SFPD to hold a town hall, community, or stakeholder meeting in the area most affected by an OIS incident. Most recently, as the SFPD has been expanding its collaboration with community stakeholders and interfaith leaders, meetings have been held with these specific groups who represent those neighborhoods most impacted by the incident. The intent of these meetings is to provide information directly to community representatives and to engage in open dialogue to address concerns in a more productive environment. These community leaders then provide the information to their respective communities. The SFPD acknowledges the seriousness of these critical incidents, and the importance of transparency, and will draft a policy that will allow for information to be shared with the public whether at a public meeting or direct meeting with community leaders and stakeholders.</p>
Police Commission	Response not yet provided.

REPLY TO RESPONSES TO RECOMMENDATION 12.A.

The Civil Grand Jury recognizes that the SFPD’s “current practice” is to hold a town hall meeting within a week to 10 days after each OIS incident and, in fact, we commended the SFPD for its efforts. (See C.12. on p. 51 of our report.) The point of this recommendation is to transform the SFPD’s “current practice” into “official policy,” either through a General Order (Police Commission) or by Department Bulletin (Police Chief) or by some other written method. We believe that while “current practice” serves only as a guide for future actions, “official policy” serves as a “directive” that recognizes the importance of these town hall meetings and mandates that they occur.

We understand that traditional town hall meetings may no longer be the most productive method of disseminating information and providing the community with an opportunity to ask questions and voice its opinions and concerns regarding a particular OIS incident, because recent town hall and other meetings have been “hijacked” by special interest groups. We trust, however, that the SFPD recognizes how vital town hall meetings are in making investigations of OIS incidents transparent, and that the SFPD will be able to arrive at a creative solution that allows the SFPD to disseminate vital information, provides the community with a mechanism by which its questions and concerns can be voiced, and provides as much transparency as possible. We look forward to the SFPD’s analysis and proposed solution. We ask the SFPD to set a “timeframe for response” to this recommendation with its further analysis within six months of the release of this report as required by Penal Code § 933.05(b)(3).

We look forward to the Police Commission’s response.

R.12.B. The Chief of Police, the Supervisor for the district in which the OIS incident occurs, the DA, the Director of the OCC, all members of the Police Commission, and all members of the newly formed OIS Task Force (see Recommendations R.8.A. and R.8.B.) should attend the town hall meetings to show that they acknowledge the seriousness of the situation, understand how critical it is to have a thorough, accountable and transparent investigation and analysis of what occurred, and are united toward the goal of making that happen. Faith leaders and other community advocacy groups should also be invited to participate.

SFPD	<p>Requires further analysis.</p> <p>The SFPD and the Police Chief recommend and implement best practices with respect to procedures following OIS incidents including: (i) notification to the public; (ii) transparency of investigations; and (iii) updates on the status of investigations. SFPD currently partners with local faith based leadership and other community groups including the Street Violence Reduction Team and the San Francisco Interfaith Council.</p> <p>For the past five years, a town hall meeting has been convened within 10 days of an OIS incident as close as possible to the location of the incident. It is the practice of the SFPD to invite members of the Police Commission and Board of Supervisors, other City agency executives (OCC and DA), community and faith-based leaders, and media outlets. Staff attending from the SFPD include the Police Chief, Chief of Staff, Command Staff members, representatives of the Investigations Division and the District Station captain. This process is under review by Command Staff and Media Relations to ensure an orderly and transparent dissemination of the information continues to occur with technological advancements.</p>
Board of Supervisors	No response yet provided.
DA's Office	This recommendation has been implemented in part, and will be fully implemented by no later than December 31, 2016. The District Attorney's Office has attended a number of town hall meetings concerning OIS incidents over the last few years, and the District Attorney has personally met with the concerned community members, including family and friends, in connection with several of them.
OCC	Agree. / The recommendation has not been, but will be, implemented in the future. Should such a Task Force be created, I will attend Town Hall meetings. In addition, we currently attend public meetings called by the Chief of Police following Officer Involved Shootings.
Police Commission	Response not yet provided.
Mayor	Unable to determine if an answer from the Mayor was provided; it appears that no response was provided.

REPLY TO RESPONSES TO RECOMMENDATION 12.B.

The Civil Grand Jury understands that traditional town hall meetings may no longer be the most productive method of disseminating information and providing the community with an opportunity to ask questions and voice its opinions and concerns regarding a particular OIS

incident, because recent town hall and other meetings have been “hijacked” by special interest groups. We trust, however, that the SFPD recognizes how vital town hall meetings are in making investigations of OIS incidents transparent, and that the SFPD will be able to arrive at a creative solution that allows the SFPD to disseminate vital information, provides the community with a mechanism by which its questions and concerns can be voiced, and provides as much transparency as possible. We look forward to the SFPD’s analysis and proposed solution. We ask the SFPD to set a “timeframe for response” to this recommendation with its further analysis within six months of the release of this report as required by Penal Code § 933.05(b)(3).

We encourage all persons and agencies involved/interested in OIS investigations and/or named in this recommendation to assist the SFPD develop an official policy relating to town hall meetings or their equivalent.

We look forward to the Police Commission’s response.

FINDING AND RECOMMENDATIONS 13.

F.13. Although the release the names of officers involved in fatal OIS incidents is an important step in creating a transparent investigation and holding the SFPD and its officers accountable for their actions, SFPD has had a spotty record regarding its release of the names of its officers involved in fatal OIS incidents.

SFPD	<p>Disagree with finding, wholly.</p> <p>Since 2014 when the California Supreme Court ruled that agencies must release the names of officers involved in shootings, the SFPD has complied with that decision within 10 days of the incident. The ruling allowed for names to be withheld under certain circumstances, including if a credible threat to the officer’s safety existed. As such, the SFPD has done its due diligence when releasing the names of officers by ensuring any known, credible threat has been resolved prior to the release of the name(s) of the involved members. Additionally, the media has requested historical information relating to OIS incidents, including the names of involved officers, and the SFPD has complied with such requests.</p>
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REPLY TO RESPONSE TO FINDING 13

We understand that the SFPD believes that it has released the names of officers involved in OIS incidents since 2014. During the Civil Grand Jury’s investigation, despite a careful review of the SFPD’s website and local media accounts of the incidents, we were unable to find any evidence that the SFPD released the names of the officer(s) involved in the shootings of Javier Perez-Lopez (11.11.2015) and Herbert Benitez (10.15.2015). If we were mistaken, we apologize.

We ask the SFPD to provide details of how and when it released the names of the officers involved in those incidents.

In any event, we appreciate that the SFPD recognizes that it must release names of officers involved in OIS incidents unless a credible threat to the safety of the officer(s) exist(s).

R.13.A.	SFPD and the Police Commission should make it official policy for the SFPD to release the names of all officers involved in each OIS incident within 10 days, unless it has knowledge of credible threats to the officer's safety. In those instances in which the SFPD has knowledge that such credible threats exist, the SFPD should issue a statement stating it is withholding release of the names of the officers because of a credible threat to their safety.
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SFPD	Recommendation has been implemented. Since 2014, when the California Supreme Court ruled that agencies must release the names of officers involved in shootings, the SFPD has complied with that decision within 10 days of the incident. When a credible threat to the safety of the involved officer(s) exists, the SFPD will issue a statement to clarify why the information is being withheld.
Police Commission	Response not yet provided.

REPLY TO RESPONSES TO RECOMMENDATION 13.A.

The Civil Grand Jury asks the SFPD to direct us to the General Order, Department Bulletin or other written directive, which makes it official policy for the SFPD to release the names of officers involved in each OIS incident within 10 days of the incident or a statement that it cannot do so in those instances in which a credible threat to the safety of the officers involved exists.

R.13.B.	Simultaneous with its release of the names of the officers involved in an OIS incident or the statement that it is withholding release of that information, the SFPD should make the information available on its website.
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SFPD	Recommendation has not been, but will be, implemented in the future. This is in process. The City's Department of Technology will be developing and enhancing the City's IT infrastructure which will include developing new websites for both the Police Department and Police Commission. At this time, the current website needs to be redesigned to make it more user-friendly and information readily accessible on a dedicated reports page. We anticipate the SFPD's IT Department will have the infrastructure developed within the second quarter of 2017.
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REPLY TO RESPONSE TO RECOMMENDATION 13.B.

While the Civil Grand Jury understands the need to make the SFPD and Police Commission websites more user-friendly, and in fact, has made recommendations in that regard, we do not believe that the SFPD needs to wait until the infrastructure is in place before being able to make the names of officers involved in OIS incidents available on its website. Therefore, we encourage the SFPD to make this information available on its website as soon as possible.

R.13.C.	SFPD and the Police Commission should make it official policy that in those instances when the names of officers involved in an OIS incident are not released due to a credible threat to the officers' safety, the SFPD shall release the names of all officers involved as soon as the SFPD determines that the credible threat has passed.
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SFPD	Recommendation has been implemented. The SFPD ensures that prior to releasing officers' names that any known, credible threat has been resolved.
Police Commission	Response not yet provided.

REPLY TO RESPONSES TO RECOMMENDATION 13.C.

With all due respect, it appears by the SFPD's response that it may have misread or misunderstood this recommendation. The Civil Grand Jury recommends that the SFPD and Police Commission make it official policy that in the event a credible threat exists to officer safety that prevents the SFPD from releasing the names of officers involved in an OIS incident within 10 days, the SFPD release those names as soon as the threat has passed.

As such, we ask that the SFPD revise its response accordingly.

We look forward to the Police Commission's response.

FINDING AND RECOMMENDATIONS 14.

F.14.	The public's ability to learn of the result of the DA's criminal investigation of an OIS incident is hampered because the DA's Office rarely makes a public announcement that it has completed its investigation and because the DA's charging decision letters are listed in a confusing manner on the DA Office's website.
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DA's Office	The District Attorney agrees with this finding.
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REPLY TO RESPONSE TO FINDING 14

The Civil Grand Jury appreciates that the District Attorney agrees with this finding.

R.14.A.	The DA's Office should make a public announcement each time it issues a charging decision letter so that the public is made aware that it has completed its OIS criminal investigation.
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DA's Office	This recommendation has been implemented. We already prepare a letter summarizing each incident and post it to our website. Going forward, the District Attorney's Office will also issue a press statement each time a charging decision has been made relating to an OIS investigation.
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REPLY TO RESPONSE TO RECOMMENDATION 14.A.

The Civil Grand Jury recognizes that the DA's Office prepares and posts a letter on its website which summarizes each OIS incident and the results of its investigation, and, in fact, we commended the DA's Office for its efforts. (See C.14. on p. 54 of our report.) We appreciate that the DA's Office will now also issue a press statement each time it releases a charging decision letter.

R.14.B. The DA's Office should make its charging decision letters on its website more easily accessible to the public by including on the index page the name of the individual shot and the date of the OIS incident.

DA's Office | **This recommendation has been implemented.**

REPLY TO RESPONSE TO RECOMMENDATION 14.B.

The Civil Grand Jury appreciates that the DA's Office has already implemented this recommendation and thanks it for doing so.

FINDING AND RECOMMENDATION 15.

F.15. Currently, citizens of San Francisco do not have access to a single, complete, comprehensive summary of the results and findings of a fatal OIS investigation. To restore the public's faith in the integrity of these investigations, such a summary should be made available.

Mayor | **Agree with finding.**

REPLY TO RESPONSE TO FINDING 15

The Civil Grand Jury appreciates that the Mayor agrees with this finding.

R.15. The Police Commission or the newly created OIS Investigation Oversight Task Force (see Recommendations R.8.A. and R.8.B.), in addition to summarizing the findings and conclusions of the various OIS investigations (again see Recommendations R.8.A. and R.8.B.), should should examine each fatal OIS incident with a view to developing "lessons learned" and answering the following questions:

- **What circumstances contributed to the OIS incident?**
- **What aspects of the interaction between the SFPD officers and the suspect, if any, could have been handled differently so that the loss of a life would not have occurred?**
- **What alternatives to deadly force may have been tried? What lessons can be learned?**
- **Should any SFPD policies and procedures be reviewed or revised because of the incident?**

The entity making this review of the fatal OIS incident should publish its findings, as well as those from each of the other City agencies involved, in one comprehensive report that is made available to the public. The entity should then hold town hall meetings to share highlights from the report and the conclusions drawn from the OIS incident and should seek and allow for public comment and feedback.

Police Commission	Response not yet provided.
Mayor	<p>Requires further analysis.</p> <p>The Police Commission currently oversees and reviews the conduct of OIS investigations. Many of the reforms already implemented by SFPD - including time and distance / zone of danger, body worn cameras and use of force - are based on the findings from OIS investigations. The Police Commission also engages the Police Officers Association (POA) and provides a public forum for community members to comment on current practices and proposed reforms.</p> <p>In November 2016, San Francisco voters will vote on a City Charter Amendment to rename the Office of Citizen Complaints to the Department of Police Accountability. If approved by voters, the Charter Amendment would require that the Department of Police Accountability investigate claims of officer misconduct and use of force. Certain other reforms are pending and additional reforms will be proposed in the future.</p>

REPLY TO RESPONSE TO RECOMMENDATION 15.

The Civil Grand Jury appreciates that the agencies involved are implementing reforms to prevent future OIS incidents. We believe that reforms to the SFPD's use of force policy will result in positive change. As part of the reform process, steps must be taken and policies must be implemented to ensure that OIS investigations and their results are as transparent and timely as possible. This recommendation is directed at achieving that goal.

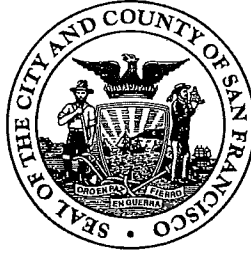
We appreciate that the Mayor believes that this recommendation warrants further analysis. We ask the Mayor's Office, as it conducts its further analysis, not to lose sight of the goals of this report, namely increased timeliness and greater transparency, and the goal of this recommendation, which is to provide a comprehensive summary of the results of each OIS investigation. We are confident that the Mayor, with input from the Police Commission, the SFPD, DA's Office, the OCC and all other agencies involved in OIS incidents and their investigation, as well as from neighborhood groups and community activists, will be able to arrive at a comprehensive solution that meets these goals.

We ask the Mayor's Office to clarify how it believes the proposed City Charter Amendment will further the goal of increased timeliness and greater transparency. We also ask the Mayor's Office to provide detail regarding "certain other reforms" that are pending and the "additional reforms" that "will be proposed in the future" and how these reforms will further these goals.

We look forward to the Mayor's analysis and proposed solution. We ask the Mayor's Office to set a "timeframe for response" to this recommendation with its further analysis within six months of the release of this report as required by Penal Code § 933.05(b)(3).

We also look forward to the Police Commission's response.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

DATE: September 9, 2016
TO: Members of the Board of Supervisors
FROM: ~~AC~~ Angela Calvillo, Clerk of the Board
SUBJECT: 2015-2016 Civil Grand Jury Report "Into the Open: Opportunities for More Timely and Transparent Investigation of Fatal San Francisco Police Department Officer-Involved Shootings"

We are in receipt of the following required responses to the San Francisco Civil Grand Jury report released July 6, 2016, entitled: **Into the Open: Opportunities for More Timely and Transparent Investigation of Fatal San Francisco Police Department Officer-Involved Shootings**. Pursuant to California Penal Code, Sections 933 and 933.05, the City Departments shall respond to the report within 60 days of receipt, or no later than September 6, 2016.

For each finding the Department response shall:

- 1) agree with the finding; or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation the Department shall report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided; or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

The Civil Grand Jury Report identified the following City Departments to submit responses (attached):

- Mayor's Office submitted a consolidated response for the following departments:
 - a. Mayor's Office of Public Policy and Finance
 - b. Police Department
 - c. City Administrator
 - d. Office of the Medical ExaminerReceived September 6, 2016
- Office of Citizen Complaints
Received September 6, 2016
- District Attorney
Received September 6, 2016

These departmental responses are being provided for your information, as received, and may not conform to the parameters stated in California Penal Code, Section 933.05 et seq. The Government Audit and Oversight Committee will consider the subject report, along with the responses, at an upcoming hearing and will prepare the Board's official response by Resolution for the full Board's consideration.

c:


Honorable John K. Stewart, Presiding Judge
Kathie Lowry, 2016-2017 San Francisco Civil Grand Jury
Kitsaun King, 2016-2017 San Francisco Civil Grand Jury
Jay Cunningham, 2015-2016 San Francisco Civil Grand Jury
Alison Scott, 2015-2016 San Francisco Civil Grand Jury
Kate Howard, Mayor's Office
Anthony Ababon, Mayor's Office
Naomi Kelly, City Administrator
Ben Rosenfield, Controller
Asja Steeves, Controller
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director
Severin Campbell, Budget and Legislative Analyst
Jadie Wasilco, Budget and Legislative Analyst
George Gascon, Office of the District Attorney
Cristine Soto DeBerry, Office of the District Attorney
Maxwell Szabo, Office of the District Attorney
Toney D. Chaplin, Police Department
Christine Fountain, Police Department
Sergeant Rachael Kilshaw, Police Commission
Dr. Michael Hunter, Office of the Medical Examiner
Christopher Wirowek, Office of the Medical Examiner
Joyce Hicks, Office of Citizen Complaints
John Alden, Office of Citizen Complaints

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MEMORANDUM

Date: July 6, 2016
To: Honorable Members, Board of Supervisors
From:  Angela Calvillo, Clerk of the Board
Subject: 2015-2016 CIVIL GRAND JURY REPORT

We are in receipt of the San Francisco Civil Grand Jury (CGJ) report released Wednesday, July 6, 2016, entitled: **Into The Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-involved Shootings** (attached).

Pursuant to California Penal Code, Sections 933 and 933.05, the Board must:

1. Respond to the report within 90 days of receipt, or no later than October 4, 2016.
2. For each finding the Department response shall:
 - agree with the finding; or
 - disagree with the finding, wholly or partially, and explain why.
3. For each recommendation the Department shall report that:
 - the recommendation has been implemented, with a summary of how it was implemented;
 - the recommendation has not been, but will be, implemented in the future, with a timeframe for implementation;
 - the recommendation requires further analysis, with an explanation of the scope of the analysis and timeframe of no more than six months from the date of release; or
 - the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

Pursuant to San Francisco Administrative Code, Section 2.10, in coordination with the Committee Chair, the Clerk will schedule a public hearing before the Government Audit and Oversight Committee to allow the Board the necessary time to review and formally respond to the findings and recommendations.

The Budget and Legislative Analyst will prepare a resolution, outlining the findings and recommendations for the Committee's consideration, to be heard at the same time as the hearing on the report.

Attachment

c: Honorable John K. Stewart, Presiding Judge
Nicole Elliott, Mayor's Office
Ben Rosenfield, Office of the Controller
Asja Steeves, Office of the Controller
Jon Givner, Office of the City Attorney
Alisa Somera, Office of the Clerk of the Board
Debra Newman, Office of the Budget and Legislative Analyst
Severin Campbell, Office of the Budget and Legislative Analyst
Jadie Wasilco, Office of the Budget and Legislative Analyst
Jay Cunningham, Foreperson, San Francisco Civil Grand Jury

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Civil Grand Jury - Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings

The text is listed below or attached:

Hearing on the recently published 2015-2016 Civil Grand Jury report, entitled "Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings."

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

