

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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October 14, 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:

The following is a status report on the 2015-2016 Civil Grand Jury Report (Report), "Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings."

The Board of Supervisors Government Audit and Oversight Committee conducted a public hearing on September 15, 2016, to discuss the findings and recommendations of the Civil Grand Jury and the departments' responses to the Report.


The following City departments submitted a response to the Civil Grand Jury (copies enclosed):

- Mayor's Office submitted a consolidated response for the Mayor's Office of Public Policy and Finance, Police Department, City Administrator, and the Office of the Medical Examiner which was received on September 6, 2016
- Office of Citizen Complaints, received on September 6, 2016
- District Attorney, received on September 6, 2016
- Police Commission, received on September 26, 2016

The Report was heard in Committee, and Resolution No. 418-16 was prepared for the Board of Supervisors approval that formally accepted or rejected the findings and recommendations. The Board of Supervisors provided the required response on September 27, 2016 (copy enclosed).

If you have any questions, please contact Erica Major at (415) 554-4441.

Sincerely,

  
Angela Calvillo  
Clerk of the Board

- c: Members, Board of Supervisors
- 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
- Kelly Kirkpatrick, Mayor's Office
- Nicole Elliott, Mayor's Office
- Ben Rosenfield, Office of the Controller
- Todd Rydstrom, Office of the Controller
- Asja Steeves, Office of the Controller
- Jon Givner, City Attorney's Office
- 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
- Severin Campbell, Budget and Legislative Analyst
- Debra Newman, Budget and Legislative Analyst
- Jadie Wasilco, Budget and Legislative Analyst

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.

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**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





City and County of San Francisco

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

Certified Copy

Resolution

160616 [ Board Response - Civil Grand Jury - Into the Open: Opportunities for More Timely and Transparent Investigations of Fatal San Francisco Police Department Officer-Involved Shootings ]

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. (Government Audit and Oversight Committee)

9/27/2016 Board of Supervisors - ADOPTED

Ayes: 10 - Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee  
Excused: 1 - Avalos

10/7/2016 Mayor - RETURNED UNSIGNED

STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

CLERK'S CERTIFICATE

I do hereby certify that the foregoing Resolution is a full, true, and correct copy of the original thereof on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco.

October 11, 2016

Date

Reggy Nenin

for Angela Calvillo  
Clerk of the Board

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 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.

**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.

# OFFICE OF CITIZEN COMPLAINTS

CITY AND COUNTY OF SAN FRANCISCO



**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.4<sup>th</sup> 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.4<sup>th</sup> 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.4<sup>th</sup> 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](http://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

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.**

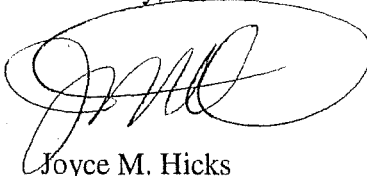
Response:

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. <a href="#">Copley Press, Inc. v. Sup. Ct. (County of San Diego)</a> (2006) 39 Cal.4th 1272. 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, <a href="http://sfgov.org/occ">sfgov.org/occ</a> . 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	

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><b>R.1.</b> 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"> <li>● Who is involved in the investigation and what are their roles and responsibilities;</li> <li>● Why is the agency involved in OIS investigations;</li> <li>● 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;</li> <li>● 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;</li> <li>● How does the OIS investigation process work; and</li> <li>● Where may the public go for more information about OIS investigations generally, as well as about specific OIS investigations.</li> </ul> <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><b>R.2.A.</b> 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.

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	<b>R.7.A.</b> 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	<b>R.12.B.</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.



George Gascón  
District Attorney

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.

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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 IIB 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.

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

**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.



Received via email  
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# The Police Commission

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## 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

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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 addressed 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  
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