

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.4th 59. As you know, the OCC is still prohibited from releasing much more than that about any specific investigation. Copley Press, Inc. v. Sup. Ct. (County of San Diego) (2006) 39 Cal.4th 1272. But the OCC does work diligently to provide to the public that information which the OCC is allowed to disseminate.

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

Response:

Disagree, partially.

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

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

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

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

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

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

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

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

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

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

Response:

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

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

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

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

Response:

Agree.

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

Findings and Recommendations Relating to Streamlining

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

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

Response:

This recommendation requires further study.

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

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

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

Response:

Agree.

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

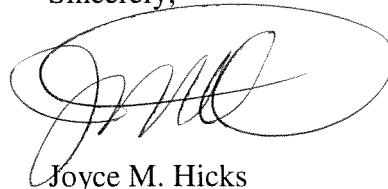
Response:

This recommendation has been implemented.

Conclusion

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

Sincerely,



Joyce M. Hicks
Executive Director
Office of Citizen Complaints

Enclosure

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

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

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

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

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

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