



FW: 6/17/25 CIVIL LAWSUITS AS DIIs IS THE ONLY AVENUE TO OFFICER DISCIPLINE.

From City Clerk <city.clerk@sanjoseca.gov>
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To Agendadesk <Agendadesk@sanjoseca.gov>

From: Charli Parkhurst <[REDACTED]>
Sent: Monday, June 16, 2025 9:07 PM
To: City Clerk <city.clerk@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Aubrey, Eddie <Eddie.Aubrey@sanjoseca.gov>; Chief.sjpd <chief.sjpd@sanjoseca.gov>; CAO Main <cao.main@sanjoseca.gov>
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Subject: 6/17/25 CIVIL LAWSUITS AS DIIs IS THE ONLY AVENUE TO OFFICER DISCIPLINE.

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This email addresses two items on the June 17th agenda;

4.1 The OIPA's Year End Report – recommendations #3 and #12

3.9 The million-dollar settlement in Tovar vs. City of San Jose

#3/#12: The SJPd Police Conduct Oversight Process should classify misconduct-related lawsuits as DIIs. It is important because civil lawsuits can reveal potential misconduct early which benefits everyone. Notably, CLASSIFYING CIVIL LAWSUITS AS DEPARTMENT-INITIATED INVESTIGATIONS (DIIS) IS THE ONLY AVENUE TO OBTAIN APPROPRIATE OFFICER DISCIPLINE. Civil litigation only results in money damages and/or injunctive relief; it cannot render discipline however justified. Classifying civil lawsuits as DII also ensures that the consideration of promotions, transfer or discipline levels are based upon a complete record sanctioned by the POA of an officer's past conduct.

In addition, the SJPd Police Conduct Oversight Process should classify as DIIs all SJPd use-of-force involving death or great bodily injury. Promptly reviewing such incidents can potential misconduct early which benefits everyone. Classifying these death/GBI incidents as DIIs is the ONLY AVENUE to obtain appropriate officer discipline. Classifying death/GBI incidents as DIIs also ensures that the consideration of promotions, transfer or discipline levels are based upon a complete record of an officer's past conduct. Such classification ensures these events are reviewed via an established procedure that both protects the rights of the officers and increases the confidence of the public given the role of the OIPA.

Chief Joseph's 6/12/25 memo regarding OIPA's recommendation #3 states:

The overwhelming majority of civil lawsuits are accompanied by IA complaints, the receipt of which automatically prompts OIPA review. However, in the rare instances when the civil lawsuit is unaccompanied by a formal complaint, the Assistant Chief will evaluate the civil complaint to determine if a DII should be initiated, which will trigger an OIPA review. The Department will add this new procedure to the Duty Manual by December of 2025.

Given Chief Joseph's assertion about an "overwhelming majority," it should be no burden for him to provide supporting data. The City Attorney could undoubtedly supply to both Chief Joseph and the OIPA the names and case numbers of Federal/State (county & small claims) over the past five years in which the City, SJPd or SJPd sworn employees are named as defendants. To limit the list, one could consider excluding certain cases such as car accidents without injury or other mutually agreed upon criteria. Then Chief Joseph and the OIPA could review the list against cases which complaints have been filed in the Police Conduct Oversight Process. Only at that time, can an educated determination be made about whether the Assistant Chief's evaluation should be implemented or modified.

In sum, the City and the public should be ever vigilant that SJPd is being reliable, dependable, trustworthy and accountable with the power given to it. One should not accept assertions without questions. Take, for example, SJPd's statement on its public records website that, **The San Jose Police Department is fully committed to complying with the law.** And yet, item 3.9 on the council's agenda shows a million-dollar settlement resulting from a 2021 incident in which the suspect Tovar was shot by multiple officers and then bitten repeatedly by a K-9. The Federal District Court Judge ruled the actions of the K-9 officer amounted to "excessive force" as "a matter of law." If one looks at the SJPd's records archive, there is no entry for any of the subject officers in any related category (OIS, GBI or sustained force allegation). As you can see from the table below, the Tovar case is not an isolated incident.

Text and link from SJPD website

[https://pd-sanjoseca.govqa.us/WEBAPP/rs/\(S\(5xz0awzejrz53s4bwna1a20g\)\)/openrecordssummary.aspx?view=6](https://pd-sanjoseca.govqa.us/WEBAPP/rs/(S(5xz0awzejrz53s4bwna1a20g))/openrecordssummary.aspx?view=6)

Senate Bills 1421 and 16 Records Archive

California Senate Bills 1421 and 16 **require** certain peace officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers to be made available for public inspection pursuant to the California Public Records Act. These bills are codified in Penal Code section 832.7. **The San Jose Police Department is fully committed to complying with the law.** If you want to read the law in its entirety, click [here](#).

Records will be publicly posted on the San Jose Police Department website when they are processed and released. Case types include the following:

- **(b)(1)(A)(i): Officer Involved Shootings (OIS)**
- **(b)(1)(A)(ii): Great Bodily Injury (GBI)**
- **(b)(1)(A)(iii): Sustained Unreasonable or Excessive Force (Excessive)**
-

Instructions and notes about the Senate Bills 1421 and 16 Records Archive grid below:

Keyword searches may be made by the following categories of information:

1. Case Type - See list above.
2. **Subject Officer(s)** - You may search by the first name or last name.
3. Date of incident
4. Event number

Table created from SB 1421/SB 16 Archive

Column 1	Column 2	Column 3			
Jury award or settlement amount	Litigation Case #	Incident date and subject officers' "NAME(S)"	Does search by Officer's name show an entry under Great Bodily Injury (GBI) regarding event listed in column 3?	Does search by Officer's name show an entry for Officer Involved shooting (OIS) regarding event listed in column 3?	Does search by Officer's show an entry for a sustained force allegation regarding event listed in column 3?
3.6 million	19-cv-01227	On 5/2/2018, Andy Martin was running on foot from officers trying to detain him. While chasing Martin, Officer "ALEXANDER RIBEIRO" hit him with a police car.	NO	NO	NO
2.95 million	17-cv-03860	On 7/4/2016, Anthony Nunes was shot and killed by officers "MICHAEL SANTOS" and "ANTHONY VIZZUSI"	NO	NO	NO
1.6 million	5:22-cv-00758	On 2/2/2020, Anthony Paredes was subjected to a sustained dog bite to his neck. The dog was commanded by Officer "MICHAEL JEFFREY"	NO	N/A	NO
1.3 million	5:21-cv-01849	On 5/30/2020, James Adgar was struck in the back of his leg by a foam projectile fired by Officer "JAMES ADGAR"	NO	NO	NO

1 million	5:21-cv-02497	On 1/21/2021, David Tovar was shot by multiple rounds fired by multiple officers ("HANS JORGENSEN," "ALVARO LOPEZ," "JAMES SOH") While the suspect lay wounded and motionless, Officer TOPUI FONUA's K-9 repeatedly bit the suspect for 2 minutes and 40 seconds. The Federal District Court Judge ruled the actions of the K-9 officer amounted to "excessive force" as "a matter of law."	NO	NO	NO
1 million	5:18-cv-04826	On 9/15/2017, Jacob Dominguez was shot and killed by Officer "MICHAEL PINA"	NO	NO	NO
500,000	5:20-cv-04824	On 5/29/2020, Derrick Sanderlin was shot in the groin by Officer "MICHAEL PANIGHETTI"	NO	NO	NO

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