

Memorandum

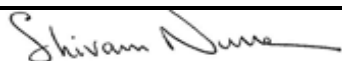
**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Shivaun Nurre

**SUBJECT: POLICE RELATED REPORTS
PREPARED BY CNA
CORPORATION**

DATE: February 18, 2022

APPROVED



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INFORMATION

RECOMMENDATIONS

1. Accept the report prepared by the CNA Corporation entitled *San José Police Department Implementation of 21st Century Policing*
2. Accept the report prepared by the CNA Corporation entitled *Use of Force Assessment of The San José Police Department*

BACKGROUND

Following the May 25, 2020 death of George Floyd, protests ranged across cities nationwide. San José was no exception. In response, the Mayor and City Councilmembers proposed a variety of police reform directives. The Mayor signed on to the Reimagining Police Pledge¹ which has four directives: (1) review force policies, (2) engage the community in that review, (3) report review findings to the community and seek feedback, and (4) reform use of force policies. A detailed Police Reforms Workplan was created, and most items have either been completed or are still in progress.

Under the Police Reforms Workplan, the Independent Police Auditor was directed² to be the lead in soliciting an independent consultant to produce a Use of Force Report and a Report on 21st Century Policing Principles.

¹ The Reimagining Policing Pledge is a call for mayors and local officials to review and reform use of force policies, redefine public safety, and combat systemic racism within law enforcement. <https://www.obama.org/policing-pledge/>

² See 06/09/20 City Council Memorandum (Mayor, Jones, Peralez, Diep & Carrasco) item 3.6, #6
06/12/20 City Council Memorandum (Jimenez) item 3.1, #3
06/12/20 City Council Memorandum (Arenas) item 3.1, #1a, #1b
06/12/20 City Council Memorandum (Esparza) item 3.1, #1a, #1b
06/16/20 City Council Memorandum (Mayor) item 3.3, Pages 5, 6
08/18/20 City Council Memorandum (Mayor, Jones, Diep, Peralez, Carrasco) item 4.3, #1

A formal request for proposals (RFP) for a Report on the Department's Use of Force and 21st Century Policing Policies issued on December 2, 2020. Six proposers submitted bids; each of which met the minimum requirements. The evaluation panel, comprised of representatives from the SJPD Command Staff, the City Manager's Office, and the IPA office recommended the CNA Corporation as the best value vendor. A contract with CNA was finalized in March 2021. The contract directed that CNA work collaboratively with the community engagement consultant to be chosen through a separate RFP conducted by the City Manager's Office. CNA provided its final report to the IPA in February 2022.

ANALYSIS

USE OF FORCE

CNA was directed to conduct background research, conduct interviews, and analyze information, including the Department's policies and procedures that govern use of force; training materials on use of force, including both the academy phase and the recruit/FTO phase; directives on how use of force incidents are reported and documented; directives describing the process, roles and responsibilities for the review of use of force incidents; equipment, tools, and tactics; use of force aggregate data and, if necessary, records of specific force encounters involving use of force and professional/academic resources related to best practices and innovative approaches to policies, practices, and training on use of force. CNA was directed to produce a report setting forth recommendations to the Department that reflect best practices and innovative approaches regarding use of force.

The Use of Force Assessment Report includes 39 findings and 51 separate recommendations. The Summary of Key Recommendations states that the Department:

- should better define levels of resistance and state the minimum resistance level needed for each use of force option;
- should create a force review board or unit to identify policy, training, equipment, and personnel implications and include community representatives as part of its efforts;
- should adopt a "physical coercion against resistance" definition of force. The SJPD should provide concrete prohibitions on the use of electronic control weapons;
- should revise the Duty Manual to provide comprehensive guidance on post-incident requirements, particularly for incidents involving lethal force;
- should use Section L 2610 (Providing First Aid) of the Duty Manual as a template for detailing the medical steps officers are required to take after using force;
- should pursue implementation of a new use of force reporting system that allows for better information entry, case tracking, review, analyses, and summary report creation; and,
- should look further into racial disparities found in the quantitative analyses, identify potential reasons for the differences, and—where reasons are identified—take remedial steps.

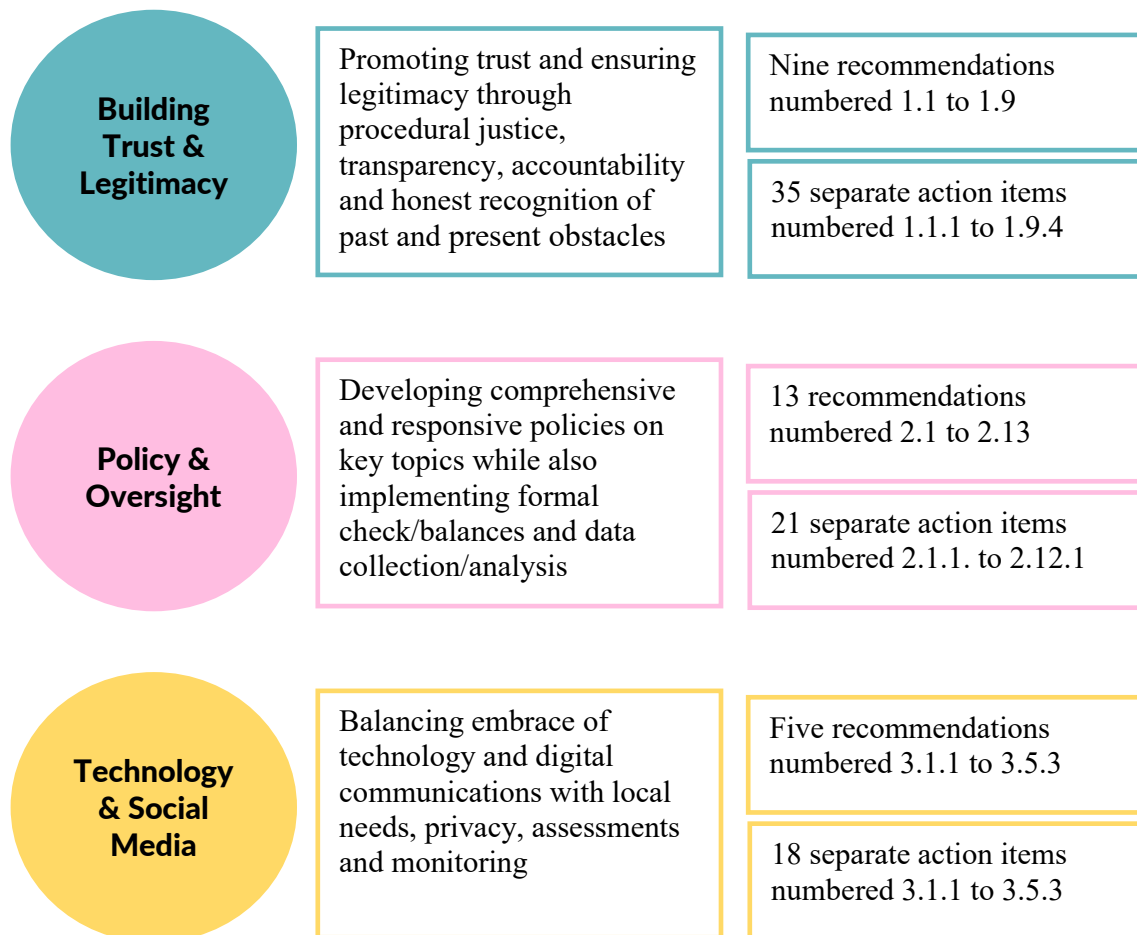
Chief Mata has submitted a separate report outlining the Department's analysis and implementation considerations of these recommendations.

21st Century Policing Assessment

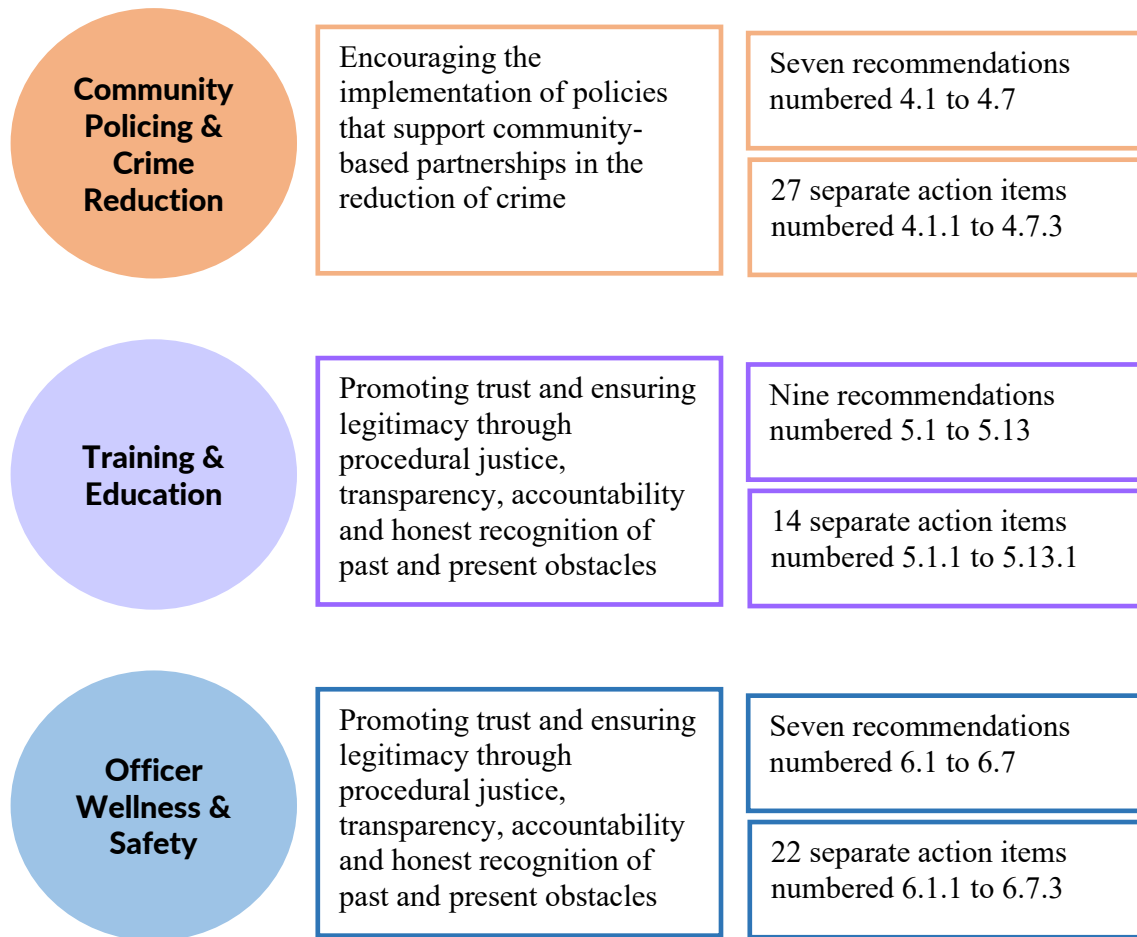
In December 2014, President Obama issued an Executive Order creating the President’s Task Force on 21st Century Policing. The goal of the Task Force was to identify the best means to provide an effective partnership between law enforcement and local communities that reduces crime and increases trust.” A diverse group of law enforcement leaders, academics, youth leaders, and advocates were appointed to serve. The Task Force organized a national information-gathering effort that included testimony from over 100 experts as well as voices of community members. The Task Force also collected over 1000 pages of written input from the public.

The Task Force unanimously developed nearly 60 recommendations to reduce crime reduction and build trust between law enforcement and the communities they serve.³

Six pillars, depicted below, were identified. Each pillar has associated themes, recommendations, and action items.



³ <https://obamawhitehouse.archives.gov/blog/2015/12/18/law-enforcement-leads-change>



The City directed CNA to review the Department's overall policies and operations, exclude any specific incidents or police officers, and provide a report containing a substantive analysis and discussion of:

- 21st Century Policing Recommendations that have been fully implemented by SJPDP;
- 21st Century Policing Recommendations that have not been fully implemented by SJPDP, whether full implementation is advised and, if so, how to achieve full implementation including associated costs and equipment; and,
- 21st Century Policing Recommendations that have *not* been implemented by SJPDP, whether full implementation is advised and, if so, how to achieve full implementation including associated costs and equipment.

Given that each pillar contains multiple recommendations and action items, one can appreciate that CNA outlined many separate recommendations. These are depicted in the report as follows:

1.2 Recommendation: Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

1.2.1 Action Item: *The U.S. Department of Justice should develop and disseminate case studies that provide examples where past injustices were publicly acknowledged by law enforcement agencies in a manner to help build community trust.*

This language comes directly from the 21st Century report drafted by President Obama's Task Force.

Status: Partially Implemented

Full Implementation: The CNA assessment team advises the SJPD to fully implement a public recognition of historical injustices and measure levels of community trust as part of a comprehensive engagement approach

CNA Recommendations for Full Implementation:

1.2.1: Provide a public acknowledgement of the role that police have had in past and present injustice and discrimination.

1.2.2: Create a consistent and ongoing empirical methodology for determining the degree of public trust and legitimacy.

This language reflects CNA's assessment of Department's implementation.

For a quick overview of the Report, the Executive Summary provides a summary of key findings and a summary of key recommendations. Appendix C enumerates each recommendation along with CNA's assessment of cost and priority.

Chief Mata has submitted a separate report outlining the Department's analysis and implementation considerations of these recommendations.

CONCLUSION

The Independent Police Auditor thanks the CNA Group members for taking on this complex and important work, namely Thomas Christoff, Jessica Dockstader, Monique Jenkins, Daniel S. Lawrence, Cody Stephens, and Zoë Thorkildsen. The IPA also thanks the San José Police Department for its diligence in providing documentation and staff interviews necessary for a detailed assessment. Special thanks to Lt. Steve Donohue for his commitment to this project. We thank Jennifer Chen for her invaluable guidance provided along the way. We hope this report, and others, will provide concrete elements that allow for informed dialogue among all those who seek an improved relationship between the police department and the community it serves.

SHIVAUN NURRE
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