



# Memorandum

**TO: PUBLIC SAFETY, FINANCE,  
AND STRATEGIC SUPPORT  
COMMITTEE**

**FROM:** Anthony Mata

**SUBJECT: SEE BELOW**

**DATE:** November 7, 2022

Approved

Date

11/7/2022

**SUBJECT: POLICE DEPARTMENT REFORM AND OPERATIONAL  
IMPROVEMENT RECOMMENDATIONS REPORT**

## **RECOMMENDATION**

Accept the status report on the outstanding recommendations for reform and operational improvement being tracked by the Police Department.

## **BACKGROUND**

On March 1, 2022, the City Council approved the San José Police Department's (Department) response to the reports by the CNA Corporation entitled, *Use of Force Assessment of the San José Police Department* and *21<sup>st</sup> Century Policing Assessment of the San José Police Department*.<sup>1</sup> In that response, the Department outlined the evaluation and follow-up as:

*The Department will return to the PSFSS Committee in fall 2022 to report on implementation of recommendations in Phase 1, provide additional analysis of recommendations not in Phase 1, and make a recommendation on how to and when to begin implementing additional recommendations in Phase 2.*

On May 10, 2022, the City Manager's Office presented the Report of the Reimagining Public Safety Community Advisory Committee and Charter Review Commission Public Safety

<sup>1</sup> Details from this meeting may be found here:

<https://sanjose.legistar.com/MeetingDetail.aspx?ID=930009&GUID=060D9C80-983A-433E-ACB7-A059BA052FDA>

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Recommendations to City Council.<sup>2</sup> In that memorandum, the City Manager's Office outlined the evaluation and follow-up as:

*Staff will return with an analysis of the recommendations contained in the Reimagining Public Safety Community Advisory Committee report to a fall 2022 Public Safety, Finance, and Strategic Support Committee meeting, along with a comprehensive review of all outstanding recommendations for reform and operational improvement being tracked by the Police Department.*

To ensure all recommendations were evaluated within the context of existing workloads, assignments, budget, and staffing, the Department gathered a comprehensive list of all the open recommendations. These were consolidated into a single document entitled Recommendations List, which is included in Attachment 1.

### **ANALYSIS**

The Department has five goals: (1) promote public safety; (2) partner with our diverse community; (3) workforce diversity, wellness, and development; (4) continuous improvement and innovative service delivery; and (5) secure adequate resources. Based on these tenets, the Department is constantly seeking opportunities to partner with our community to promote public safety. To do so means continuous evaluation and development. The recommendations in this report include policy revisions, process redesign, training enrichment, technology modernizations, and enhancements to transparency.

#### **Overview**

- The list of pending recommendations comes from 10 sources.
- There are currently 531 recommendations tracked by the Department, 494 of which are managed by the Department and 37 of which are managed by the City Manager's Office. The recommendations managed by the City Manager's Office are denoted by an "X" in the CMO Management column on the Recommendations List.
- 226 of the 531 recommendations, or 42%, are completed.
- 26 recommendations were described as activities or actions that are already a practice. As such, these will continue.
- There are 224 recommendations remaining to be completed.
- There are 55 recommendations that will not be completed, or 10% of the total recommendations.

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<sup>2</sup> Details from the meeting may be found here:

<https://sanjose.legistar.com/MeetingDetail.aspx?ID=957965&GUID=3D15D780-7A88-43B3-9C22-3DDD0130D861>

- Most recommendations involve changing policy (281), followed by community engagement (51) and training (50).

## **Highlights**

- Revision of use of force policies to emphasize de-escalation. The Department created a definition of de-escalation and an affirmative requirement that officers make reasonable efforts to de-escalate situations before using force when time and circumstances permit. These policy revisions also require officers to verbally identify themselves as a peace officer and warn that force may be used unless certain criteria apply.
- Revision of use of force policies to ensure increased oversight and analysis from an Executive Force Review Committee. The Executive Force Review Committee is comprised of Department command officers, identified by the Office of the Chief, and specially trained in force analysis and decision-making under stress. The Committee is responsible for analyzing force applied during an event, identifying any observed misconduct, identifying training opportunities, and documenting their analyses for review by the chain of command.
- Creation of Officer Advisory Boards or Vertical Staff meetings in all Bureaus throughout the Department. These forums ensure open communication and transparency between all ranks and assignments. In addition, members are afforded the opportunity to review and comment on pending policy changes.
- Revision of policies regarding First Amendment Activities and Civil Disturbances. The memorandum implementing these revisions addressed 19 recommendations, bringing the Department into alignment with best practices across all aspects of First Amendment Activities and Civil Disturbances, including planning, coordination, actions and behavior at the event, tactics, use of force, and reporting.
- Analysis and review of crowd control tools. The Department analyzed all the available options for less-than-lethal use of force and presented a report on the findings to City Council. With the City Council's support,<sup>3</sup> the Department deployed the Taser 7, pepper gel, and additional training, ensuring Department members are equipped with the best crowd control options and practices available.
- Implementation of Department-wide training. The Department completed training in Mobile Field Force, the Incident Command System, Hate Crimes, and Trauma-Informed Care. The Department is currently in the process of completing Advanced Incident Command System and LGBTQ+ Awareness training.
- Creation of a Mobile Crisis Assessment Team. The Department deployed the Mobile Crisis Assessment Team and the Psychiatric Emergency Response Team. Both entities

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<sup>3</sup> Details from this meeting may be found here:

<https://sanjose.legistar.com/MeetingDetail.aspx?ID=832164&GUID=46EB43F5-603F-4D5C-BB74-9C756E4502F3>

collaborate with County- and Community-based stakeholders to provide innovative, alternative services to those in a mental health crisis.

## Recommendation Sources

The quantity of recommendations provided by each source below may not coincide with the original number of recommendations recorded from that source. As the Department analyzed the recommendations, it was discovered some were identical or nearly identical. In those cases, the recommendations were combined into one record. For example, the CNA 21<sup>st</sup> *Century Policing Assessment* had eight separate recommendations to “create a consistent and ongoing methodology for determining the degree of public trust and legitimacy.” These were combined into one recommendation.

- The Office of the City Auditor has produced 16 audit reports involving the Department,<sup>4</sup> from which there are 45 open recommendations.<sup>5</sup> This category is referred to as **City Auditor** on the Recommendations List. The identifier numbering system for these indicates “audit number, recommendation number.” For example, “12-04, 30” refers to the fourth audit conducted in 2012 and the 30<sup>th</sup> recommendation from that audit.
- The Office of the Independent Police Auditor has produced annual reports since 1994, each containing recommendations for the Department.<sup>6</sup> In 2021, the Year End Report added 35 new recommendations to the preexisting list of 52 not implemented and 19 partially implemented Department recommendations, totaling 106 pending recommendations.<sup>7</sup> This category is referred to as **IPA** on the Recommendations List. The identifier numbering system for these indicates “report year – recommendation number recommendation”. For example, “2021-10.1” refers to the [IPA Year End Report 2021](#)<sup>8</sup> and the first recommendation under the described recommendation #10.
- On January 18, 2017, the University of Texas at El Paso released a report entitled [San José Police Department Traffic and Pedestrian Stop Study](#). This report included 6 multifaceted recommendations, of which five remain open. This report is referred to as **UTEP** on the Recommendations List.
- On September 15, 2020, the Department presented a report to City Council entitled [Police Department Preliminary After Action Report for the Public Protests, Civil Unrest,](#)

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<sup>4</sup> City Audit Reports may be found here: <https://www.sanjoseca.gov/your-government/appointees/city-auditor/audit-reports/audit-reports/>

<sup>5</sup> The Interactive Dashboard on the Status of Audit Recommendations may be found here: <https://www.sanjoseca.gov/your-government/appointees/city-auditor/audit-recommendations>

<sup>6</sup> IPA Reports may be found here: <https://www.sanjoseca.gov/your-government/appointees/independent-police-auditor/publications/archived-reports>

<sup>7</sup> The Interactive Dashboard of All IPA Recommendations (1993 to Present) may be found here: <https://www.sanjoseca.gov/your-government/appointees/independent-police-auditor/ipa-recommendations>

<sup>8</sup> <https://www.sanjoseca.gov/home/showpublisheddocument/89389/637983396074570000>

*and Law Enforcement Response from May 29 – June 7, 2020*.<sup>9</sup> This report included 41 recommendations and is referred to as **Internal AAR** on the Recommendations List.

- On March 1, 2022, the OIR Group presented a report to City Council entitled *Independent After Action Regarding the Events of May 29 – June 7, 2020*.<sup>10</sup> This report included 32 recommendations and is referred to as **OIR AAR** on the Recommendations List.
- On March 1, 2022, the CNA Corporation presented a report to the City Council entitled *Use of Force Assessment of the San José Police Department*. This report included 48 recommendations and is referred to as **CNA U of F** on the Recommendations List.
- On March 1, 2022, the CNA Corporation presented a report to the City Council entitled *21<sup>st</sup> Century Policing Assessment of the San José Police Department*. This report included 124 recommendations and is referred to as **CNA 21<sup>st</sup> CP** on the Recommendations List.
- On April 26, 2022, the California State Auditor released a report entitled *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct*. This report included 14 recommendations and is referred to as **State Audit** on the Recommendations List.
- On May 10, 2022, the Office of the City Manager presented a report to the City Council entitled *Report of the Reimagining Public Safety Community Advisory Committee and Charter Review Commission Public Safety Recommendations*.<sup>11</sup> This report included 73 recommendations from the Reimagining Public Safety Community Advisory Committee and 43 recommendations from the Youth Council, totaling 116 recommendations. These are referred to as **RIPS** and **RIPS YCR** respectively on the Recommendations List.

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<sup>9</sup> Details from this meeting may be found here:

<https://sanjose.legistar.com/MeetingDetail.aspx?ID=790213&GUID=60C7A176-EB69-4D46-815B-D3D9154FD206>

<sup>10</sup> Details from this meeting may be found here:

<https://sanjose.legistar.com/MeetingDetail.aspx?ID=930009&GUID=060D9C80-983A-433E-ACB7-A059BA052FDA>

<sup>11</sup> Details from the meeting may be found here:

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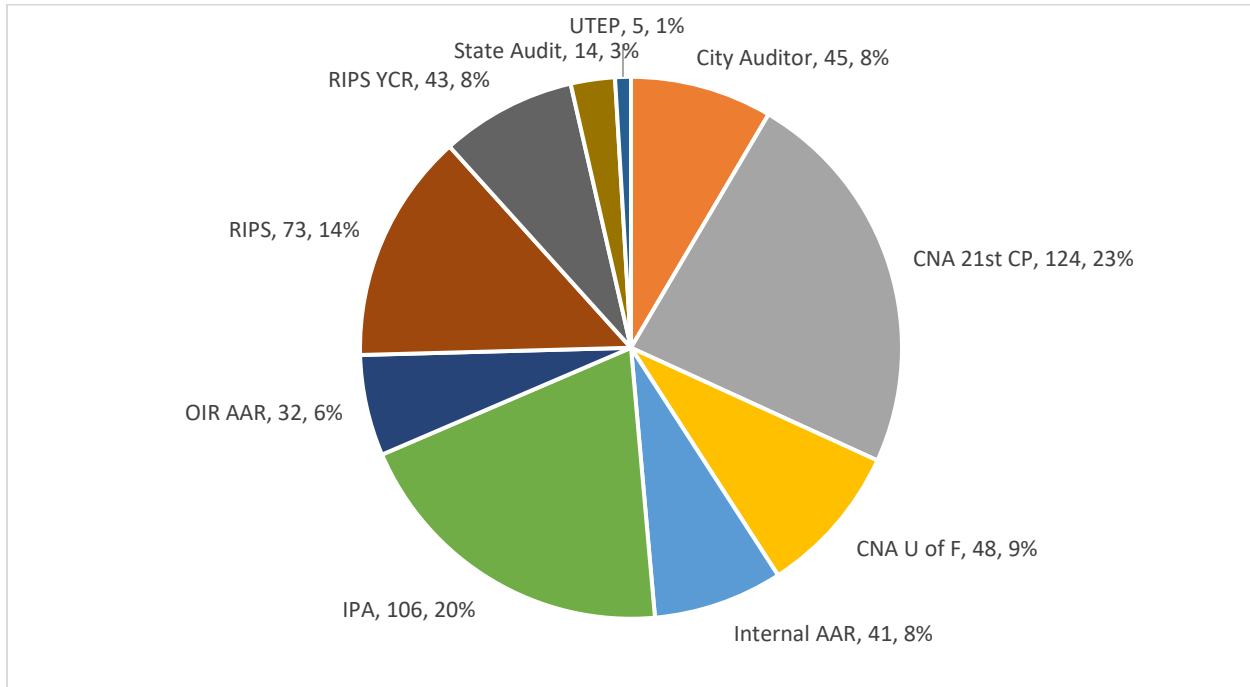
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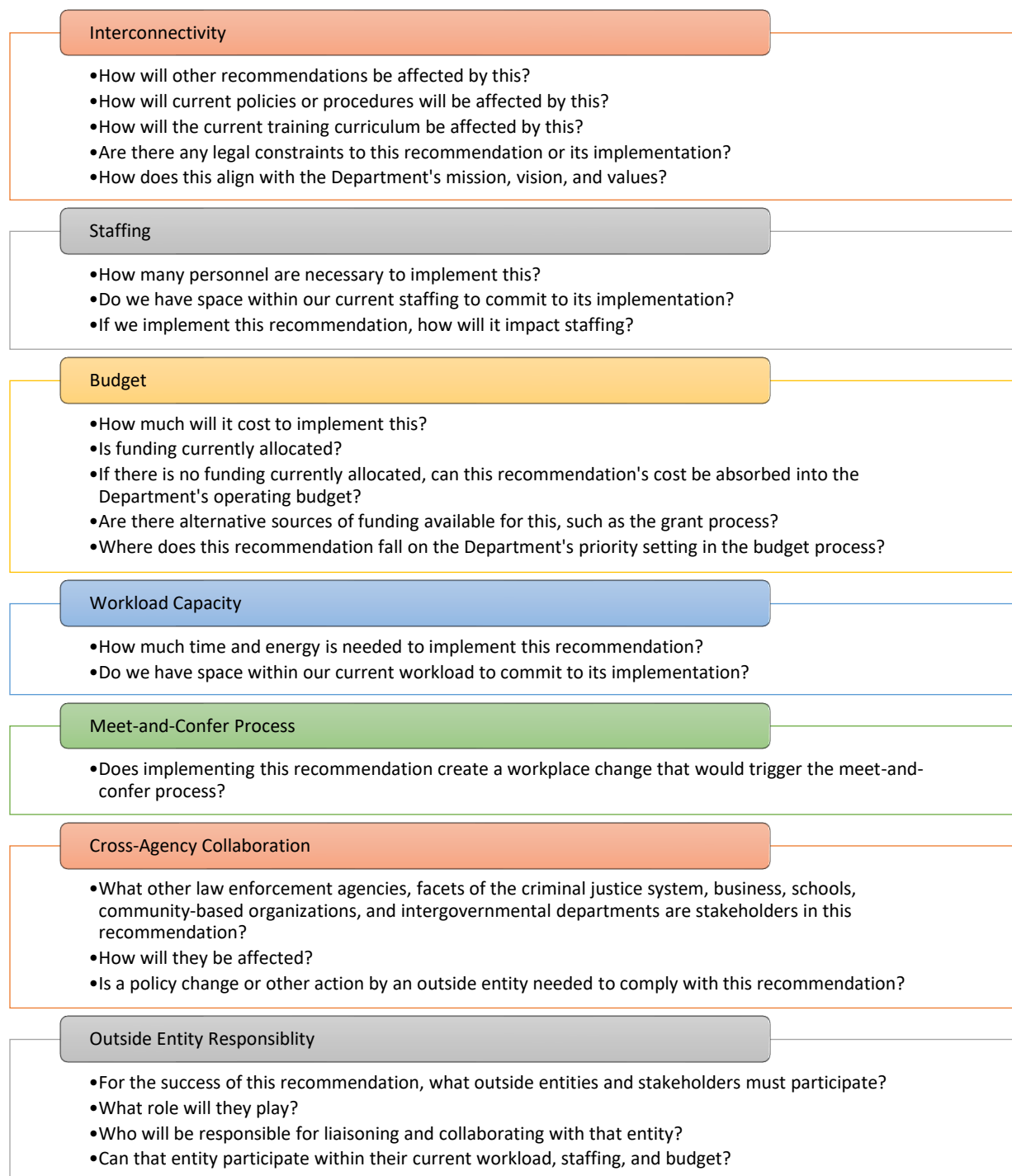
*Table 1: Recommendations by Source*



### Priority Determination

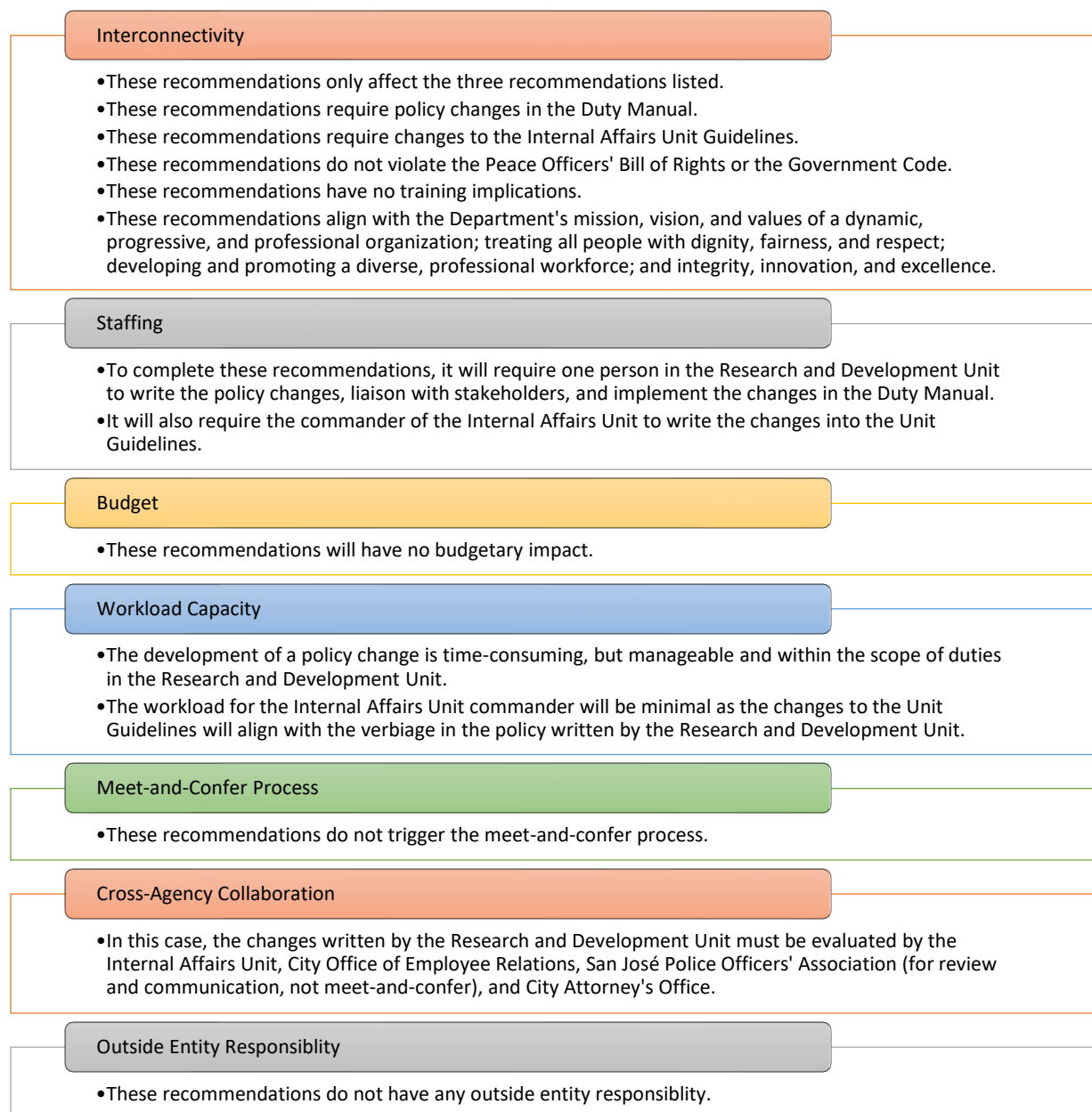
When recommendations are received, they undergo a priority determination process looking through seven lenses; 1) interconnectivity, 2) staffing limitations, 3) budget constraints, 4) workload capacity, 5) meet-and-confer process, 6) cross-agency collaboration, and 7) outside entity responsibility. The following figure provides a sampling of the questions asked under each lens during the priority determination process.

*Figure 1: Priority Determination Sample Questions*



Using these criteria, the Department then develops a preliminary plan of action for each recommendation. For example, recommendations IPA #2011-15, IPA #2021-10.1, and CNA 21<sup>st</sup> CP #1.1.3 all discuss allowing the Internal Affairs Unit to make sustained findings for allegations, rather than having them return to the chain of command for sustained findings. The following graphic illustrates the decision-making process for the categorization of these recommendations.

*Figure 2: Review of Recommendations IPA #2011-15, IPA #2021-10.1, and CNA 21st CP #1.1.3*





Based on the above analysis, Department staff determined these recommendations could fall into the *Currently in Progress* category as they may be accomplished within the Department's current workload, staffing, and budget. Once that determination was made, staff developed a plan of action to achieve these recommendations. In this case, the Department is developing a policy that will allow Internal Affairs investigators to provide recommended findings at the conclusion of their investigation. These findings will then be provided to the Department member's chain of command for review and recommended discipline, if applicable.

### **Priority Categorization**

Like the above scenario, every recommendation is evaluated and falls into one of the following categories for prioritization:

- *1 = Currently in Progress*: These are recommendations for which the Department is currently undertaking some action. This may be researching a topic, writing a proposal, reformatting policy, or collaborating with an outside entity. These are not complete but are being addressed within the Department's current workload. There are currently 104 recommendations in this category.
- *2 = Agree, but Not Started*: These are recommendations with which the Department agrees but has not started taking action to research or implement. A preliminary plan of action is developed through cursory analysis. However, when the recommendation moves into the *Currently in Progress* status, the Department's plan of action may change based on the Priority Determination factors listed above. There are currently 120 recommendations in this category.
- *3 = Disagree*: These are recommendations with which the Department disagrees and will not be implementing. There are currently 55 recommendations in this category.
- *C = Completed*: These are recommendations the Department has completed. There are currently 226 recommendations in this category.
- *M = Maintain*: These are recommendations in which the Department was told to continue a current practice. There are currently 26 recommendations in this category.
- *R = Needing Review*: When recommendations are received, they fall into this category, pending review by the Department's staff for priority determination and a preliminary plan of action. There are currently no recommendations in this category.

### **Pending Recommendations**

To better understand the overarching type of recommendation, the Department divided them into 15 groupings based on what the recommendation intends to accomplish.

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*Table 2: Recommendations by Grouping and Priority*

	Currently in Progress	Agree, but not Started	Disagree	Completed	Maintain	Needing Review	Total	%
<b>Alternative Approach</b>	4	6	2	2	2	0	16	3%
<b>Community Engagement</b>	35	9	1	5	1	0	51	10%
<b>Department Member Wellness</b>	0	0	0	3	0	0	3	1%
<b>External Analysis or Review</b>	0	14	0	2	0	0	16	3%
<b>Facilities Improvement</b>	0	2	1	3	0	0	6	1%
<b>Internal Analysis or Review</b>	1	4	0	8	2	0	15	3%
<b>Legislative Advocacy</b>	0	0	1	3	0	0	4	1%
<b>New or Additional Equipment</b>	0	6	1	0	0	0	7	1%
<b>Oversight</b>	2	0	5	0	0	0	7	1%
<b>Policy Change</b>	47	33	36	152	13	0	281	53%
<b>Recruiting &amp; Hiring</b>	0	5	1	10	1	0	17	3%
<b>Staffing</b>	1	3	1	2	1	0	8	2%
<b>Technology Improvement</b>	0	4	1	9	1	0	15	3%
<b>Training</b>	6	24	0	17	3	0	50	9%
<b>Transparency</b>	8	10	5	10	2	0	35	7%
<b>Total</b>	<b>104</b>	<b>120</b>	<b>55</b>	<b>226</b>	<b>26</b>	<b>0</b>	<b>531</b>	

**Funding and Budget Considerations**

78 of the *Currently in Progress* and *Agree, but Not Started* recommendations require additional budget resources. These are denoted by an “X” in the Budget Consideration column on the Recommendations List. Allocation of budget resources for these items will be evaluated through the budget process in the context of the City's overall fiscal condition and other Departmental program needs.

The 2022-2023 Operating Budget includes \$788,000 for implementation of the Police Reform Workplan. Of this amount, \$155,000 has been set aside to fund a Senior Analyst position in the Police Department to implement body-worn camera compliance audits<sup>12</sup>, \$320,000 has been set aside to fund racial equity training for the Police Department<sup>13</sup>, and \$3000 was spent to pay an outstanding invoice for translation services used to support the Reimagining Public Safety process (\$12,000 was spent on translation for the Reimagining Public Safety process during the 2021-2022 Fiscal Year, for a total of \$15,000 spent on translation between the current and

<sup>12</sup> As directed by the City Council under item 4.3 on the September 13, 2022 City Council agenda.

<sup>13</sup> This training is pursuant to direction provided by the City Council at the June 12, 2020 City Council meeting under item 3.1.

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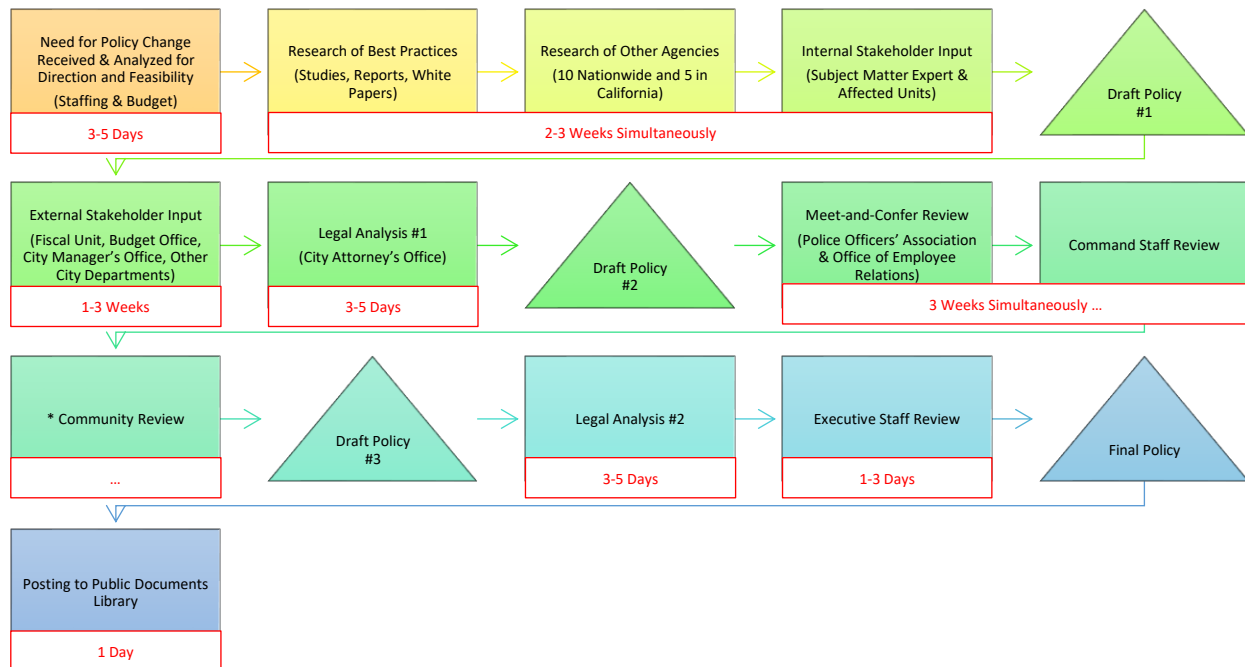
previous fiscal years). Of the \$788,000 budgeted, \$478,000 has been committed and \$310,000 remains available.

Of the recommendations requiring budget resources, staff believes there is an opportunity to use a portion of the remaining funding to advance many of the community engagement recommendations. As noted in the attached Recommendations List, staff is preparing a work plan for a community engagement consultant. The Department will be seeking the consultant's evaluation and recommendations on community engagement, relationship building, participation in Department activities, training, and policy direction, as a means to advance many of the recommendations in the “community engagement” category. The Police Reform Work Plan allocation could be used to fund this consultant work, which staff tentatively estimates at \$100,000.

### Policy Development Process

281 recommendations (53%) involve the development or revision of existing policies. Within the Department, the Research and Development Unit is responsible for completing all changes to Department policy or procedure. There is one lieutenant, three sergeants, and two officers assigned to the development of these changes, in addition to their other job duties. The following graphic illustrates the process by which policy changes are made and the time necessary to implement policy changes.

Figure 3: Policy Implementation Process



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As illustrated above, it takes approximately 8-12 weeks to create and implement policy changes. In exigent circumstances, these timelines may be accelerated, but at the cost of slowing other timelines due to workload saturation. For this reason, prioritization is critical in establishing a method to address the large quantity of recommendations. Having these recommendations appropriately categorized and prioritized will allow for efficient consideration by the Department, City Administration, and City Council in the future.

### **Future Plan**

The Department has established the following three-prong process for the recommendations moving forward:

1. Continue to work toward implementation of the items listed as *Currently in Progress*.
2. Seek funding for those items necessitating budget consideration.
3. Engage the community and the Reimagining Public Safety Community Advisory Committee to inform prioritization.
4. Whenever possible, move items from *Agree, but Not Started* into *Currently in Progress* based on the Priority Determination described above, with an emphasis on Community Engagement items.

### **EVALUATION AND FOLLOW UP**

The Department will report back to the Public Safety, Finance, and Strategic Support Committee in Fall 2023 with an update on the outstanding recommendations for reform and operational improvement.

### **COORDINATION**

This memorandum was coordinated with the City Attorney's Office, City Manager's Office, and Budget Office.

/s/

Anthony Mata  
Chief of Police

For questions regarding Police Department recommendations, please contact Lieutenant Steve Donohue, San José Police Department, Research and Development Unit at [stephen.donohue@sanjoseca.gov](mailto:stephen.donohue@sanjoseca.gov).

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For questions regarding other City Department recommendations, please contact Peter Hamilton, Office of the City Manager, at [peter.hamilton@sanjoseca.gov](mailto:peter.hamilton@sanjoseca.gov).

**Attachment 1:** Recommendations List