From: Norma Callender
Sent: Monday, June 25, 2018 4:36 PM
To: Jeff Moore (personal)
Subject: Fwd: Police Auditor Aaron Zisser

Rev. Moore,

Thank you! I agree with every word. Aaron is doing an excellent job as IPA while constantly requesting new ideas and input on how to improve his already stellar job.

Kindly,
Norma

Begin forwarded message:

From: Jethroe Moore
Date: June 25, 2018 at 3:54:38 PM PDT
To: Office of Mayor Sam Liccardo - City of San Jose <mayoremail@sanjoseca.gov>, District7 <district7@sanjoseca.gov>, District2 <district2@sanjoseca.gov>, District9 <district9@sanjoseca.gov>, District 6 <district6@sanjoseca.gov>, Johnny Khamis <district10@sanjoseca.gov>, District8 <district8@sanjoseca.gov>, Raul Peralez <district3@sanjoseca.gov>, Councilmember Chappie Jones <district1@sanjoseca.gov>, District4 <district4@sanjoseca.gov>
Cc: Bob Nunez , Hellen Sims , Mulugeta Habtegabriel , "T. Walk" , William Armaline Paul Kelly , Racy Ming Roxana Marachi , Broker Tanya Patterson Nebi Alemu Anna Griffin >, Cynthia Joseph James Staten Walter Wilson , Rick Callender Ross Pusey Raj Jayadev , Akemi Flynn Richard Konda Richard Hobbs Rev Nancy Palmer Palmer Jones >, Norma Callender Yvonne Maxwell , Wilbur Jackson Edgardo Garcia <edgardo.garcia@sanjoseca.gov>, LaDoris Cordell Tracey Kaplan , Virginia Groce-Roberts , Jenny Niklaus , Al Farley >, Jesus Ruiz Michael-Ray Mathews Kevin Lee , Keith Hames , Jon Pedigo Diane Fisher Kyle Dacallos "Dan Daniels Sr." >, Samina Sundas Steve Pinkston

Scott Myers-Lipton , Abraham Teferi
Rufus Whi Viera Whye
Jahmaka West Shawny Williams
<shawny.williams@sanjoseca.gov>, "Ed.D. Khalid Akil White"
, Anthony Williams < EllenRollins
Ruby Khan Dave Knopf
<christopher.knopf@sanjoseca.gov>, Mike Knox <michael.knox@sanjoseca.gov>, James
Gonzales >, Paul Kelly
Subject: Police Auditor Aaron Zisser
Reply-To: Jethroe Moore

June 25, 2018

Mayor and City Council

San Jose City Hall 200 E Santa Clara St

San Jose, CA 95113

To Whom It May Concern

I write on behalf of the San Jose/Silicon Valley NAACP to express our support for the good work of Office of the Independent Police Auditor Aaron Zisser. The services he has provide for the citizens of San Jose are unlike any other organizations. He has brought his skills as a young leader to his work, patiently guiding citizen through the process of complaints between police and community relations. His ability to motivate and organize others has had a lasting effect on this community and the surrounding region. After gaining the support from local officials and key community organizations and leaders, I would like to heartily endorse Police Auditor Aaron Zisser he embodies the public service role that is central to the profession of Police Auditor. His civic mindedness and commitment to community values make him most deserving of the entire community support that I'm sure will rally around him to protect his job and efforts.

In His Service

Pastor Jethroe Moore II, President

SAN JOSE/SILICON VALLEY BRANCH OF THE
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Milpitas Ca 95035 **San Jose, California 95109**
Phone

June 25, 2018

Mayor and City Council
San Jose City Hall 200 E Santa Clara St
San Jose, CA 95113

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Pastor Jethroe Moore II, President

Executive Officers: Rev. Jethroe Moore II, **President**; Bob Nunez, **1st Vice President;**
Hellen Sims, **2nd Vice President**; Antonio Walker, **Secretary**; Cynthia Joseph, **Treasurer**;
Executive Committee: Mulageta Habtegabriel, Nebi Alemu, James Staten, Anna Griffin, Tonya Patterson, Roxana Marachi, Tom Patterson, Racy Ming,
Website: http://www.sanjosenaacp.org **Email:**

From: Akemi Flynn
Sent: Tuesday, June 26, 2018 10:01 AM
To: The Office of Mayor Sam Liccardo; District7; District2; District9; District 6; District 10; District3; District8; District4; Rocha, Donald; Carrasco, Magdalena; Jimenez, Sergio; Arenas, Sylvia; District1; Taber, Toni; City Clerk
Cc: Asian Law Alliance; Raj Jayadev; Rev Jeff Moore; Bob Nunez; Hellen Sims; Mulugeta Habtegabriel; T. Walk; William Armaline; Kelly, Paul; Racy Ming; Roxana Marachi; Broker Tanya Patterson; Nebi Alemu; Anna Griffin; Cynthia Joseph; James Staten; Walter Wilson; Rick Callender; Ross Pusey; Richard Hobbs; Rev Nancy Palmer Palmer Jones; Norma Callender; Yvonne Maxwell; Wilbur Jackson; Garcia, Edgardo; LaDoris Cordell; Tracey Kaplan; Virginia Groce-Roberts; Jenny Niklaus; Al Farley; Jesus Ruiz; Michael-Ray Mathews; Kevin Lee; Keith Hames; Fr Jon Pedigo; Diane Fisher; Kyle Dacallos; Dan Daniels Sr.; Samina Sundas; Steve Pinkston; Scott Myers-lipton; Abraham Teferi; Rufus White; Viera Whye; Jahmaka West; Williams, Shawny; Ed.D. Khalid Akil White; Anthony Williams; EllenRollins; Ruby Khan; Knopf, Dave; Knox, Michael; James Gonzales; Paul Kelly; Frank Richardson; Alice Lynch; Yemeseratch Girma; Sheila Dawkins
Subject: Re: Police Auditor Aaron Zisser

To: Mayor Sam Liccardo & San Jose City Councilmembers

From: Frank Richardson, Alice Lynch, Yeme Girma, Sheila Dawkins on behalf the Beloved Community Team with PACT: People Acting in Community Together

Subj: Our Support for Aaron Zisser

We've recently been made aware of the SJPOA's unwarranted effort to have Aaron Zisser terminated as the city's IPA, and want to state clearly and emphatically that we are strongly opposed to such an action.

In his short tenure, Aaron Zisser has shown great integrity in his role, and has worked tirelessly to build bridges with the SJPD, community leaders, and you, our elected officials.

Mr. Zisser has admitted that he made a mistake, but it was one error in a long and detailed report. This hardly rises to the level of a willful violation of the City Charter. In our assessment, this occurrence actually underscores the need for the IPA's office to have access to all records needed to form a full statistical analysis, not just the vetted data that our Police Department chooses to share.

The IPA´s proven ability to provide objective review and thoughtful policy recommendations to the SJPD make him an invaluable asset to the police department and the community alike. City Council hired IPA Aaron Zisser specifically because of ¨his vast and diverse¨experience in law enforcement oversights and civil rights advocacy. He has proven track record in the Bay Area serving on the Santa Clara County Blue Ribbon commission, BART´s police oversight system and San Francisco's office of citizen complaints. As a South Bay native, he understands the diversity of the community he grew up in.

It is deeply regrettable, but by now we are not surprised the the SJPOA chooses to implement this tactic of bullying and intimidation whenever there is a move toward increased transparency and accountability.

In the over 3 hour session reviewing the 2017 IPA report numerous members of the community including representatives of mental health organizations, domestic violence survivor advocates and family members of police violence victims spoke in support of the report. PACT stands with all of these diverse community groups in supporting IPA Aaron Zisser and urges you to reject the absurd assertion that he should be removed from office.

On Jun 26, 2018, at 8:33 AM, Asian Law Alliance wrote:

Dear Mayor Liccardo, Members of the San Jose City Council:

The Asian Law Alliance has worked closely with both the San Jose/Silicon Valley NAACP and Silicon Valley De-Bug for many years on police accountability issues. We wholeheartedly endorse their support of Mr. Zisser. We have met with Mr. Zisser and have been thoroughly impressed with his commitment to enhancing communication and trust between the community and the San Jose Police Department.

Sincerely,

Richard Konda

Executive Director

Asian Law Alliance

San Jose, CA 95126-1248

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete the message.

From: Raj Jayadev
Date: June 25, 2018 at 6:33:11 PM PDT
To: Jethroe Moore
Cc: Office of Mayor Sam Liccardo - City of San Jose <mayoremail@sanjoseca.gov>, District7 <district7@sanjoseca.gov>, District2 <district2@sanjoseca.gov>, District9 <district9@sanjoseca.gov>, District 6 <district6@sanjoseca.gov>, Johnny Khamis <district10@sanjoseca.gov>, District8 <district8@sanjoseca.gov>, Raul Peralez <district3@sanjoseca.gov>, Councilmember Chappie Jones <district1@sanjoseca.gov>, District4 <district4@sanjoseca.gov>, Bob Nunez
Hellen Sims , Mulugeta Habtegabriel
, "T. Walk" , William Armaline
Paul Kelly <paul.kelly@sanjoseca.gov>, Racy Ming
Roxana Marachi , Broker Tanya Patterson
>, Nebi Alemu < >, Anna Griffin
Cynthia Joseph < , James Staten
Walter Wilson , Rick Callender
Ross Pusey , Akemi Flynn < >,
Richard Konda , Richard Hobbs Rev Nancy Palmer Palmer
Jones >, Norma Callender >, Yvonne Maxwell
>, Wilbur Jackson Edgardo Garcia
<edgardo.garcia@sanjoseca.gov>, LaDoris Cordell Tracey Kaplan
>, Virginia Groce-Roberts < , Jenny Niklaus
, Al Farley >, Jesus Ruiz >, Michael-Ray
Mathews Kevin Lee Keith Hames
Jon Pedigo Diane Fisher
Kyle Dacallos , "Dan Daniels Sr." < >, Samina Sundas
>, Steve Pinkston , Scott Myers-Lipton
>, Abraham Teferi >, Rufus White
>, Viera Whye < , Jahmaka West
Shawny Williams <shawny.williams@sanjoseca.gov>, "Ed.D. Khalid Akil White"
Anthony Williams , EllenRollins , Ruby
Khan >, Dave Knopf <christopher.knopf@sanjoseca.gov>, Mike Knox
<michael.knox@sanjoseca.gov>, James Gonzales < >, Paul Kelly

Subject: Re: Police Auditor Aaron Zisser

Subject: Re: Police Auditor Aaron Zisser

We at De-Bug completely agree with the NAACP's assessment of Aaron Zisser and his performance at the helm of the San Jose Police Auditor's Office. We have been thoroughly impressed with his commitment to listening, really listening, to impacted communities. Indeed, in his short time so far, he has managed to build trust and lines of communications with those who previously were hesitant to speak to the IPA or city officials. If the POA believes, as we do, that having an inclusive dialogue is critical to substantively advancing the relationship of the community and law enforcement -- they should be giving Aaron Zisser an award.

Raj Jayadev, Silicon Valley De-Bug

--

Raj Jayadev
Silicon Valley De-Bug // Albert Cobarrubias Justice Project
www.siliconvalleydebug.com // www.acjusticeproject.org

From: Zisser, Aaron
Sent: Tuesday, June 26, 2018 11:35 AM
To: Agendadesk
Cc: Raj Jayadev
Subject: FW: If you can forward to the clerk, or whomever should receive letters

See attached. Thank you.

Aaron Zisser

From: Raj Jayadev
Sent: Tuesday, June 26, 2018 11:33 AM
To: Zisser, Aaron <Aaron.Zisser@sanjoseca.gov>
Subject: If you can forward to the clerk, or whomever should receive letters

Hey Aaron, just restated most of the little note we emailed yesterday. Can you submit to the clerks for us in advance of today's meeting? Thanks! -raj

--
Raj Jayadev
Silicon Valley De-Bug // Albert Cobarrubias Justice Project
www.siliconvalleydebug.com // www.acjusticeproject.org

SILICON VALLEY
DE-BUG
San José, CA. 95126

June 26, 2018

To: San Jose City Council

From: Silicon Valley De-Bug

Re: Support of Aaron Zisser as head of the San Jose NAACP

The community and families of Silicon Valley De-Bug want to share our assessment of Aaron Zisser and his performance at the helm of the San Jose Police Auditor's Office. We have been thoroughly impressed with his commitment to listening, really listening, to impacted communities. Indeed, in his short time so far, he has managed to build trust and lines of communications with those who previously were hesitant to speak to the IPA or city officials. As an organization that works directly with those who either file complaints with the IPA, or have concerns around treatment by law enforcement, the role of the IPA, and who is running that office, is extremely important to us. We may be one of the only community organizations in San Jose that regularly walks community members into the office to file complaints. As such, the integrity of the office is critical to give people a sense that their voicing a compliant will have some value.

It is from that vantage point that we are sharing our perspective of Aaron Zisser's role as the IPA. We have been encouraged by Mr. Zisser's leadership and ideas moving forward.

If the POA believes, as we do, that having an inclusive dialogue is critical to substantively advancing the relationship of the community and law enforcement -- they should be giving Aaron Zisser an award.

Sincerely,

Raj Jayadev, Coordinator of Silicon Valley De-Bug

From: Joanne Segovia
Sent: Tuesday, June 26, 2018 11:50 AM
To: District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>
Cc: Paul Kelly Gregg Adam ; Tom Saggau DIRECTORS
Subject: Further Information of Formal Complaint IPA

Please see attached letter from Paul Kelly.

Joanne Segovia
San Jose Police Officers' Association
Executive Director

San Jose, CA 95112
T. F.

SAN JOSE POLICE OFFICERS' ASSOCIATION

• San Jose, California 95112

Telephone • Facsimile •

June 26, 2018

Honorable Sam Liccardo
Honorable Members of the City Council
City of San Jose
200 East Santa Clara Street
San José, CA 95113

Dear Mayor Liccardo and City Council,

We write to provide further information and context to accompany our "Formal Complaint of Alleged Misconduct of IPA Aaron Zisser" which was hand-delivered to your offices yesterday and was signed by over 500 members of the San Jose Police Officers' Association spanning the ranks of Police Officer to Assistant Chief.

As of yesterday, Mr. Zisser has continued his pattern of making misleading and inaccurate statements and pronouncements to the public related to his initial 2017 Annual Report. These statements made to numerous media outlets contradict his video taped testimony at the May 22, 2018 City Council meeting and reinforce our contention that he lacks the integrity to remain in his current position.

First, it is important to note that our allegation of official misconduct does not rest solely upon the now infamous pages 35 and 36 of Mr. Zisser's initial 2017 Annual report where Mr. Zisser purposefully sought to sensationalize statistics centered on race and policing. Rather, pages 35-36 represent the most egregious examples of Mr. Zisser's cavalier behavior.

With regards to Mr. Zisser's use of data relative to disparities in the treatment of suspects by San Jose Police based on race, on June 25 Mr. Zisser stated the following to the San Jose Mercury News:

> Zisser later clarified that the section was meant to demonstrate the usefulness and limitations of the dashboard, not to make a definitive statement about race and force.
>
> "We were showing what was available on the dashboard," he said. "Could we have done it a bit better? Absolutely."[1]

Mr. Zisser's excuse is absolutely untrue. A simple review of the initial (rejected) 2017 Annual Report or Mr. Zisser's presentation to the City Council on May 22, 2018 validates that Mr. Zisser ***at no time*** presented the "limitations" of the dashboard data based on the small number of incidents. Rather, Mr. Zisser stated that the "limitations" of the dashboard data were primarily the fact that the information is predominantly taken from police officer reports and that it only involves "reportable uses of force." Further, Mr. Zisser stated the limitations also included only "force" contacts vs. all "contacts." We include this slide from Zisser's presentation below:

[1] *"San Jose officer union wants police auditor out over maligned report,"* San Jose Mercury News, Robert Salonga, June 25, 2018; https://www.mercurynews.com/2018/06/25/san-jose-officer-union-wants-police-auditor-out-over-maligned-report/

Use of Force: SJPD Data Dashboard

1. **Dashboard as a useful tool for public**
2. **Police Strategies, LLC, analysis**
   - **Overall:** 50% lower than other cities studied; but average ratio of force per arrest
   - **Injuries:** 50% higher (per use of force); fractures 5 times higher
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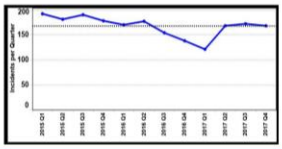
3. **Data limitations**
   - Reportable uses of force
   - Reliance on officers' narratives
4. **Dashboard limitations → preliminary**
   - Force only vs. all contacts
   - Aggregated vs. underlying records
   - Three separate dashboards: Demographics share dashboard w/ e.g., crime and resistance, but not w/ injury, weapons/tactics



Further, Mr. Zisser fails to disclose to the public, through his media interviews on June 25, that throughout his initial report he highlights "Key Statistics". These "Key Statistics" are explicitly separated and highlighted from all the other data presented in his initial report. Below is how Mr. Zisser chose to highlight this particular data from page 35-36 regarding disparate treatment based on race:

Key statistic
White suspects were reportedly more than 2.5 times more likely than Latinos and 81% more likely than Blacks to leave a use-of-force incident with "no charges" referred.

ii. Officer-involved shootings

While we respond to the scene, participate in the 90-day review panels, and review other information about officer-involved shootings, the IPA office's insights into such incidents are limited. First, we receive very few citizen complaints regarding officer-involved shootings and therefore audit very few IA investigations of such incidents. Second, Duty Manual section L 2646 mandates that the Chief of Police provide, on an annual basis, a public summary of the Panel's deliberations and recommendations to the Mayor and City Council.[6] These annual summaries have not been provided. We urge the Department to produce a summary reflecting panel reviews conducted in 2017 and to ensure that timely reports are made public each year. Chief Garcia has indicated that SJPD will issue these reports.

2017 saw a relatively high number of officer-involved shootings, though 2015 marked the peak in recent years.

As you can see, this was not a simple stating of the alleged "facts" or a demonstration of the limitations of the dashboard. Mr. Zisser's key statistic is meant to draw the reader's attention to the percentages highlighted. We do not know who Mr. Zisser thinks he is kidding, but the intent behind the data is clear. Nowhere in highlighting this "key statistic" is information for the reader informing them ***that the data derives from three***, just three cases where a suspect was sent to jail. In fact, to arrive at the statistics presented by Mr. Zisser here, he could not rely on the dashboard, he performed his own calculations to get at the "2.5 times more likely" and "81% more likely". His intent was to inflame the public and drive a wedge between people of color and police officers. It's shameful.

Sincerely,

Paul Kelly
SJPOA President

Cc: SJPOA Board of Directors
Gregg Adam
Tom Saggau

From: Paul Kelly
Sent: Tuesday, June 26, 2018 1:30 PM
To: Akemi Flynn; The Office of Mayor Sam Liccardo; District7; District2; District9; District 6; District 10; District3; District8; District4; Rocha, Donald; Carrasco, Magdalena; Jimenez, Sergio; Arenas, Sylvia; District1; Taber, Toni; City Clerk
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Subject: Re: Police Auditor Aaron Zisser

I wanted to provide you additional context supporting the POA's official misconduct complaint against the current IPA signed by over 500 police officers encompassing the ranks of officer to Assistant Chief .

Thank you

Paul Kelly, President
SJPOA

SAN JOSE POLICE OFFICERS' ASSOCIATION

• San Jose, California 95112

Telephone • Facsimile •

June 26, 2018

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Honorable Members of the City Council
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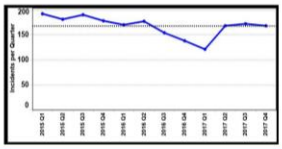

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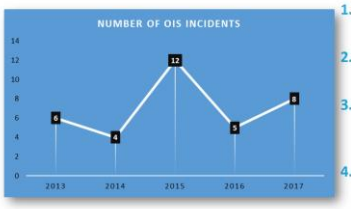
The question then becomes, did Mr. Zisser treat all statistical cases throughout his initial report in the same manner? No. As you can see from the presentation slide below, when presenting information on Use of Force: Officer-Involved Shootings and mentally ill suspects, he uses both the raw data and the percentage to provide perspective. Why the difference?

Use of Force: Officer-Involved Shootings



1. **Race:** Five OISs involved persons of color
2. **Weapons:** Two OISs involved individuals armed with a firearm
3. **Officer experience:** Two OISs involved officers with two years of experience
4. **Key Stat: 75% of OISs (6 out of 8) in 2017 involved individuals with a history of mental health needs**

Mr. Zisser is now stating publicly to the media that "I immediately committed to making the changes and have done so... worked closely with the Chief and his office to understand the concerns, so our changes were responsive."[2] As you

[2] "San Jose police officers want independent auditor removed," ABC 7 News, David Louie, June 25, 2018; http://abc7news.com/sjpd-officers-want-independent-police-auditor-removed/3652105/?sf192566804=1

know, this is the exact opposite of what Mr. Zisser said and did at the May 22, 2018 City Council meeting. In fact, he in essence told you, his boss, to go pound salt.

Mr. Zisser's exact words on May 22, 2018 in rejecting the council's request to correct his admitted misleading report was the following: "I am very disinclined to modify the report" and while chuckling he said "I guarantee you Councilmember there are other inaccuracies in this report" and "We can not be perfect, we can not get it right.". He also stated: " I'm not comfortable taking out all of this data."

Mr. Zisser admits his report was misleading but is uncomfortable taking out the misleading data and replacing it with accurate data and context. Wow. Mr. Zisser's statement that he immediately committed to making changes is untrue, false, misleading, and continues a pattern of avoiding the truth. His defense of his shoddy initial report provides even more proof that he lacks the integrity, openness and objectivity to perform the job the City Council appointed him to.

Setting aside Mr. Zisser's attempt to rewrite history yesterday through a series of media interviews, a troubling practice for someone charged with ensuring police accountability, we direct you to Chief Eddie Garcia's presentation to the City Council rebutting Mr. Zisser's initial annual report. We have never witnessed a Chief of the San Jose Police Department forced to publicly correct the IPA's annual report in so many instances. It is because of Chief Garcia that we now know that Mr. Zisser's "Key Statistic" on racial disparity rested on just 3 incidents. Mr. Zisser hid that from the public.

It is because of Chief Garcia that the Council was able to learn that use of force complaints were down, making up only 5.25% of all use of force cases in 2017 vs. 9.39% in 2016 (That's a decrease of 178.9% in Zisserspeak). Mr. Zisser chose to characterize that same statistic as follows: "Complaints regarding force are down dramatically, though much of this decline may track the overall decline in use of force during the same general period of time."[3] As Chief Garcia pointed out, total uses of force remained steady between 2016 (639 total cases) and 2017 (629 total cases). Uses of force went down by 1.56%, obviously not proportional to the 178.9% drop in the percentage of uses of force versus use of force complaints.

In order for police oversight to have legitimacy, it must be deemed fair and unbiased by the public and the police officers. The stakes are too high for us to simply chalk up Mr. Zisser's omissions, mistruths, and exploitations of data as "a rookie mistake." Mr. Zisser sold himself to the public and to the Council based on his extensive resume as a lead attorney with the Department of Justice with extensive experience in overseeing law enforcement related cases germane to the IPA's job.

We simply no longer trust Mr. Zisser's ability to carry out his duties in an impartial manner. We urge you to initiate the investigation we requested, just as would happen to any San Jose police officer accused of misconduct, incompetence, and including misleading information in an official city report.

Sincerely,

Paul Kelly
SJPOA President

Cc: SJPOA Board of Directors
Tom Saggau
Gregg Adam

[3] 2017 San Jose Independent Police Auditor's Report, page 5.

SAN JOSE POLICE OFFICERS' ASSOCIATION

• San Jose, California 95112

Telephone • Facsimile •

June 18, 2018

The Honorable Sam Liccardo
Mayor of the City of San Jose
200 East Santa Clara Street
San José, CA 95113

Re: Formal Complaint of Alleged Misconduct by IPA Aaron Zisser

Dear Mayor Liccardo:

The undersigned members of the San Jose Police Department allege that San Jose Independent Police Auditor Aaron Zisser ("IPA") has committed official misconduct that warrants his removal from office.

The San Jose City Council is the only body with the power to watch over this rogue watchman, and it must hold him accountable for his clear dereliction of his official duty.

The decision to file this formal complaint was not taken lightly. The police officers that serve our city must adhere to the highest standards of ethics and conduct in the performance of their official duties and when they do not meet these standards, then they are held accountable. We, as well as yourself, the city council, and the residents of San Jose, should expect no less from the individual appointed to oversee the members of the police department.

Jurisdiction and Request for Investigation

According to the City Attorney, the below charges, remedy requests, and demand that the City Council of San Jose undertake its investigative oversight function must be directed in the first instance to the Mayor. (See attached Letter from Rick Doyle, dated June 12, 2018.)

By this letter, the undersigned formally request that the Mayor and City Council investigate the actions, omissions and official misconduct of the IPA relating to the discharge of his official duties, specifically concerning the preparation and delivery of the 2017 IPA Year End Report for review by the City Council on May 22, 2018. To the extent such investigation substantiates the

below charges or uncovers additional misconduct, the undersigned request a vote by the City Council on the question of whether the IPA should be removed.

Relevant Codes, Policies, and Oaths

The duties of the IPA are prescribed within the San Jose City Charter, Code of Ethics, Municipal Code, and Administrative Policy Manual.

City Charter

The San Jose City Charter states: "City officers and employees must be independent, impartial and responsible in the performance of their duties and accountable to the members of the public." (Section 204 [emphasis added].) Section 607 of the San Jose City Charter complements this by requiring the City to adopt and maintain a Code of Ethics "to provide guidance to City officers and employees in their conduct while discharging their public responsibilities."

Code of Ethics

The purpose of the San Jose Code of Ethics is to charge "elected and appointed officials, and employees of the city" with the responsibility of "creat[ing] a City government that is responsible, fair, honest, and open." It was created to remind City officials and employees that they are "expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees." [Emphasis added.]

The Code of Ethics requires City officials to be "impartial and responsible in the fulfillment of their duties." They must "maintain the highest standards of integrity and honesty, and they are expected to treat all members of the public and fellow City employees with respect, courtesy, concern and responsiveness. The conduct of City officials and employees in both their official and private affairs should be above reproach to assure that their City position is not used for personal gain." [Emphasis added.]

Administrative Policy Manual: City Values

The City also maintains a list of values that employees and City officers should seek to embody. (San Jose City Administrative Policy Manual 1.2.4.) These values are meant to "serve as a foundation for how the City operates," and include "integrity" and "respect." Integrity is defined to include "[u]phold[ing] the highest work ethic" and "[being] open[,] honest, and accountable," and respect is defined to include "[t]reat[ing] everyone fairly."

IPA-Specific Charter, Municipal Code, and Mission Statement

These standards are also embedded in the rules governing the IPA. Under City Charter section 809 and Municipal Code section 8.04.010(A), the IPA is responsible for reviewing police

professional standards and determining that investigations against officers are "complete, thorough, objective, and fair." [Emphasis added.] The IPA's own website acknowledges that its mission is to "instill confidence in the complaint process through objective review of police misconduct investigations." (https://www.sanjoseca.gov/ipa/.)

Procedure for Removing the IPA

Section 900 of the City Charter defines the IPA as a City officer. By a vote of ten or more members, the City Council may remove the IPA for "misconduct, inefficiency, incompetence, inability or failure to perform the duties of such office or negligence in the performance of such duties, provided it first states in writing the reasons for such removal and gives the incumbent an opportunity to be heard before the Council in his or her own defense[.]" (City Charter, § 809.)

A violation of the City's Code of Ethics by a City official "constitutes official misconduct." (San Jose City Administrative Policy Manual 1.2.1.

Authority for Investigative Powers

As the City Attorney has explained, the broad authority that the City Charter delegates to the City Council to review misconduct by the IPA brings along with it the power of investigative oversight, or at least the authority to have "misconduct, inefficiency, incompetence, inability or failure to perform the duties of such office or negligence in the performance of such duties" investigated. (City Charter, § 809; Doyle letter.)

IPA Zisser's 2017 Report and His Presentation of the Report

The IPA's 2017 Report - as submitted to the City Council for review - excluded raw data in a critical, highly sensitive section (relating to peace officers and the use of force against racial minorities). This omission misled the public about how robustly the Report's findings were supported. It effectively shaded the Report's conclusions to more closely align with the IPA's desired conclusions - confidence intervals and basic statistical competence be damned.

In the City Council's hearing on May 22, 2018, the IPA was present to discuss the 2017 Report. At that hearing, Mayor Liccardo said to the IPA: "I guess the problem is you're presenting statistics as if somehow or another we should draw an inference from the conclusion, when I know that if there was just any change in any variability of one person in one incident in any of those categories [it] would lead to a completely different conclusion."

The IPA then admitted: "I think the criticism is fair. I think the use of statistics or percentages rather than numbers - I can see now that that was misleading." Despite acknowledging that the Report was misleading, the IPA maintained that he was "very disinclined to modify the report." He "guarantee[d]" the Council that there were other inaccuracies in the report, and that his office "cannot be perfect."

But this is not about perfection. This is about competence, honesty and impartiality.

This point was underscored when the IPA attempted to mislead the Council about its own hearing. The Mayor had to interrupt to object to the IPA's characterization of his request. "Let me be really clear," the Mayor said, "I never asked you to take data out. What I asked you was to insert raw data - which is far more accurate and far less misleading."

As the Mayor then explained, the IPA's report and behavior evidenced a "cavalier attitude" about the importance of full disclosure concerning how robust his findings were.

Analysis

The IPA failed to discharge his responsibilities to comply with the letter or the spirit of the Code of Ethics and his charge under the City Charter. He was not "fair, honest, and open" and did not "demonstrate the highest standards of personal integrity, honesty and conduct." He was not "impartial" and brought "reproach" on the City in his public affairs.

The IPA cavalierly dismissed the importance of presenting an honest assessment of how robust his findings were.

A person charged with the responsibilities of the IPA should know, errors in official reports concerning race and police officers have real-world impacts.

We allow that the IPA was honest to the extent he admitted that humans are not perfect. But no one was expecting perfection. What we were expecting was professionalism, honesty, impartiality, openness, and a basic level of competence.

The report's blatant decision to ignore the concept of 'statistical significance' as taught in every introductory statistics class constitutes either astonishing incompetence or malice. Either one is misconduct in a report of this prominence on a question of this much importance.

If the City Council determines that the record does not already contain sufficient facts to support a finding of official misconduct, it is incumbent upon the City Council to initiate an investigation and oversight to determine more about the mental state of the IPA during the drafting, finalization, and presentation of the 2017 Report. Motive matters.

Remedy

Based on the above, the undersigned request that:

1) The City Council investigate the allegations herein and any other wrongdoing or improper acts that come to the attention of the City Council during the investigation; and

2) The City Council invoke the procedure outlined in City Charter section 809. The City Council should consider the results of the investigation into the IPA and then hold a vote on such removal after 1) stating in writing the reasons for such removal 2) giving the IPA an opportunity to be heard before the Council in his own defense; and

3) The City Council deliver any other sanction against the IPA or any other City employee or officer that it deems just and proper based on the results of its investigation.

Thank you for your prompt attention to this matter.

Sincerely,

SAN JOSE POLICE OFFICERS' ASSOCIATION

Paul Kelly, President

Sean Pritchard, Vice President

Franco Vado, Chief Financial Officer

Cat Alvarez, Director

Joaquin Barreto, Director

Edward Chan, Director

Greg Connolly, Director

Ted Davis, Director

Rick Delisser, Director

Steve Slack, Director

Anthony Kilmer, Director

Jose Martinez, Director

Dave Wilson, Director

David Woolsey, Director

Mark Alvares	2653
Greg DuQuite	2672
Christopher Wilson	2702
Johnson Fong	2710
Ted Trujillo	2725
Bill Miller	2786
Steve Payne	2805
Rick Yu	2812
Vanessa Payne	2817
Raul Martinez	2836
Salvador Lopez	2849
Richard Weger	2850
Steve Wilson	2857
Brett Moiseff	2863
Juan Tovar	2876
Tedy LaCap	2892
Lawrence Day	2893
Gary Jungling	2919
David Knopf	2923
Annie Nguyen	2940
Mark Bustillos	2941
Aurelio Rodriguez	2954
Parker Hathaway	2957
Alex Keller	2960
Rick Foster	2964
Joseph Stewart	2967
John Hagele	2968
Christopher Buell	2970
Jim Ureta	2985
Christina Lacap	2994
Ron Tabron	2999
Steve Swenson	3000
Bach Tran	3018
Damian Bortolotti	3026
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Jon Kaiser	3038
Alan Lee	3041
Michael Wentling	3041
Karen Aten	3047
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Paul Messier	3049
Paul Cook	3050
O. Raya	3070
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Troy Murray	3081
Jaime Almaraz	3082
Hoa Tran	3084
Troy Murphy	3085
Paul Kelly	3099
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Sergio Farias	3217
Hung Bui	3227
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Paul Hickey	3235
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Donald Guess	3298	Keith Mizuhara	3377
Rubens Dalaison	3294	Jason Pierce	3380
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Troy Sirmons	3304	Charles Mathis	3400
Todd Trayer	3301	Mark Womack	3402
Vinh Trinh	3308	Angelika Castanon	3403
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Mark Natwicj	3326	Jaime Jimenez	3425
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Tony Alfonzo	3333	Victor Rodriguez	3442

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Lisa Tindall	3462	Brian Shab	3549
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Cat Alvarez	3509	Bryan Jett	3577
Mario Brasil	3513	Gil Fox	3583
Tommy Troy	3518	Andy Lacayo	3584
Steven Jeffrey	3520	Joaquin Barreto	3585
Jermine Thomas	3522	Gary Garrison	3587
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Parminder Thandi	4415

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Sargon Badal	4437
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Huy Nguyen	4466
Daniel Rodriguez	4475
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Sebastian Wisniewski	4482
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Vanessa Verceluz	4491
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Mario Margiotta	4494
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Jimmy Robnett	4501
Kyle Burchfiel	4502
Jennifer Rodriguez	4505
Kevin Doran	4511
Andrew Farley	4511
Todd Davidson	4519
William Barrett	4520
Derek Hanada	4522
Ranjan Singh	4524
Eduard Moreno	4525
Espiridion Reyes	4530
Damien Thomsen	4538
Laurie Hirahara	4547
Mark Koska	4549
Casey Beatty	4550
Jordan Epperson	4554
Travis Flosi	4556
Chase Brower	4559
Nikko Landis	4563
Ryan Balog	4566
Arbraham Escobedo	4567
Eliseo Anaya	4568
Steve Lui	4575
John Lippert	4583
Lyle Paskett	4584

Bradon German	4587
Clifford Grodin	4591
Hieu Huynh	4594
Kent Nishimura	4596
Kevin Hua	4599
Eduardo Pedreira	4620
Alexandro Barbieri	1614T
Eugene Thompson	1619T
Ellen Cox	1624T
Aidan Hintze	1655T
Victor Perez	3493
Joe Sipiora	4356
Todd McMahon	4184
Ken Muto	3280
Larry Risner	4358

Enclosure
cc: Members of the City Council
Dave Sykes, City Manager
Richard Doyle, City Attorney
Jennifer Schembri, Director, Office of Employee Relations
Edgardo Garcia, Chief of Police
Christopher Knopf, Assistant Chief of Police

From:
Sent: Tuesday, June 26, 2018 3:22 PM
To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>
Cc: Zisser, Aaron <Aaron.Zisser@sanjoseca.gov>; 'Yvonne Maxwell' ; 'Andre' Chapman (SJC)' ; 'Wilbur Jackson' ; 'walter wilson'

Subject: BLKC Support Letter for IPA Aaron Zisser

Mayor and Council,

Please see BLKC's attached letter of support for IPA Aaron Zisser.

Reginald Swilley
Co-Chair
Black Leadership Kitchen Cabinet

June 26, 2018

Mayor, and San Jose City Council Member,

The Black Leadership Kitchen Cabinet (BLKC) and very happy to have Arron Zisser as the Independent Police Auditor (IPA). He has reached out to the African American community since he first became the IPA.

Aaron's commitment to be thorough in this position, his selfless approach to serving and his understanding the unique concerns of the African American community has been displayed in many of his engagements with BLKC.

Our community has consistently been disappointed with the Police Officers Association. The issues of police misconduct here and all across the United States has been exacerbated by their lack of understanding and concern for the people they serve.

It is incumbent upon you, the Mayor and Council Members, to make sure the very people that you hire to protect our citizen do not feel that they can bully you or any others that they are

sworn to protect. I really don't put all the blame on them because the culture of policing has been poisonous for many years here in the United States. They too have been acculturated to believe that their power is greater than even those that hire them.

That "Blue Line" is something that should never have been allowed. Their commitment should be to all the law abiding people that traverse this city and not to each other.

Your guidance is mandatory, and Aaron Zisser is the tool by which you (we) monitor and address concerns for effective and just policing in San Jose.

Please allow Mr. Zisser to continue to serve this city as the Independent Police Auditor.

Rev. Reginald Swilley
Co-Chair Black Leadership Kitchen Cabinet.

THE BLACK LEADERSHIP KITCHEN CABINET OF SILICON VALLEY

www.blkc.org

June 26, 2018

Mayor, and San Jose City Council Member,

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Aaron's commitment to be thorough in this position, his selfless approach to serving and his understanding the unique concerns of the African American community has been displayed in many of his engagements with BLKC.

Our community has consistently been disappointed with the Police Officers Association. The issues of police misconduct here and all across the United States has been exacerbated by their lack of understanding and concern for the people they serve.

It is incumbent upon you, the Mayor and Council Members, to make sure the very people that you hire to protect our citizen do not feel that they can bully you or any others that they are sworn to protect. I really don't put all the blame on them because the culture of policing has been poisonous for many years here in the United States. They too have been acculturated to believe that their power is greater than even those that hire them.

That "Blue Line" is something that should never have been allowed. Their commitment should be to all the law abiding people that traverse this city and not to each other.

Your guidance is mandatory, and Aaron Zisser is the tool by which you (we) monitor and address concerns for effective and just policing in San Jose.

Please allow Mr. Zisser to continue to serve this city as the Independent Police Auditor.

Rev. Reginald Swilley
Co-Chair Black Leadership Kitchen Cabinet.

A COALITION OF AFRICAN-AMERICAN COMMUNITY ORGANIZATIONS, AGENCIES, BUSINESS OWNERS AND INDIVIUALS IN SILICON VALLEY

AFFILIATES PAST AND PRESENT

100 Black Men
100 Black Women
A Cup of Col1d Water
African American Community Service Agency
African American Heritage House - SJ
African American Student Advocates
Akoma Arts
Alameda Business Association
Alliance for Black and Brown Advocacy
Alpha Kappa Alpha
Alpha Phi Alpha
Antioch Baptist Church
APRI/UFCW 5
Assembly Member Ash Kalra
Bible Way Christian Center
Bill Wilson Center
Black Chamber of Commerce
Black Infant Health
CAHS
California Alliance of African American Educators
CHASE (Community Hope and Sober Events)
Cisco Black Employee Network
City Flight
CME Society
Creative Solutions
Department of Family and Children Services
Dept. of Family & Children Svcs.
DFCS CAT Coordinator
Dr. Martin Luther King Association of Santa Clara
Eagle Eye International
Evergreen Community College - AFFIRM
FAME - Ethiopian Community
Independent Police Auditor
Kappa Alpha Psi
Links SJ
Live Oak Adult Day Services
Maranatha Christian Center
Minority Business Consortium
Museum and Strategic Management Consultant
NAACP/Black Caucus/Flame Keepers
National Council of Negro Women
Norton/Basu LLP
Open Bible Faith Community Church
Parent's Choice, Inc.
PFS
Piedmont Hills HS
Positive Steps Consulting
R.P.C.C.
San Jose City College - Umoja
San Jose Fire Department
San Jose Police Department
San Jose State University
San Jose's Park & Recreation Department
San Juan Bautista CDCs
Santa Clara County Alliance of Black Educators
Santa Clara County Black Lawyers Association
Santa Clara County Office of Education
Santa Clara County Office of Human Relations
Santa Clara Valley Water District
Santa Clara Water District
Satellite Health Cure
SCC Public Affairs
Second Baptist Church of Redwood City
Senator Jim Beall
Sigma Gamma Rho
Silicon Valley African Productions
Silicon Valley Faces
SJ/SV NAACP
South Bay AFL-CIO Labor Council
SSA
St. James
Stride Center
Tabia
Trinet
Ujima
Unity Care Group
Unity Care Group Board
Valley Transportation Authority
West Valley College
WPCTS Inc.
Xcel Educational Services
Year Up
Zeta Phi Beta

From: Bill Armaline
Sent: Tuesday, June 26, 2018 3:07 PM
To: Jethroe Moore ; Raj Jayadev
Cc: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; Bob Nunez ; Hellen Sims Mulugeta Habtegabriel ; T. Walk Kelly, Paul <PAUL.KELLY@sanjoseca.gov>; Racy Ming Roxana Marachi ; Broker Tanya Patterson ; Nebi Alemu Anna Griffin Cynthia Joseph James Staten Walter Wilson Rick Callender Ross Pusey Akemi Flynn Richard Konda Richard Hobbs >; Rev Nancy Palmer Palmer Jones Norma Callender Yvonne Maxwell Wilbur Jackson Garcia, Edgardo <EDGARDO.GARCIA@sanjoseca.gov>; LaDoris Cordell ; Tracey Kaplan Virginia Groce-Roberts Jenny Niklaus Al Farley Jesus Ruiz ; Michael-Ray Mathews ; Kevin Lee >; Keith Hames ; Jon Pedigo Diane Fisher Kyle Dacallos ; Dan Daniels Sr. Samina Sundas Steve Pinkston ; Scott Myers-Lipton Abraham Teferi Rufus White ; Viera Whye ; Jahmaka West Williams, Shawny ; Ed.D. Khalid Akil White ; Anthony Williams EllenRollins ; Ruby Khan Knopf, Dave <CHRISTOPHER.KNOPF@sanjoseca.gov>; Knox, Michael <MICHAEL.KNOX@sanjoseca.gov>; James Gonzales ; Paul Kelly
Subject: Re: Police Auditor Aaron Zisser

Mayor Liccardo and All,

The SJSU HRI would like to echo the statements made by SV Debug and the SJ/SV NAACP on the critical role and commendable performance of the Independent Police Auditor, Aaron Zisser.

Further, we would like to introduce two related concerns:

1) If the SJPOA has methodological problems with the reporting of the IPA on (for example) use of force, the obvious solution would be to provide thorough, accurate, publicly transparent use of force data so that such investigations are not required. In fact, we hold the position that ALL law enforcement agencies should have to make their

data publicly available (including reports to the DOJ) such that local and national publics have immediate, accurate access to these statistics.

2) It would be a dangerous precedent for an IPA, who is already arguably hamstrung in their ability to hold law enforcement accountable, to be terminated because of a methodological dispute in a single study. First, methodological disputes should be settled by appropriate professionals, such as those at our Institute. Second, the message sent by termination would be that the IPA's office has little protection from the whims of the SJPOA, (and thus pointless).

We appreciate you taking these concerns into consideration. Thank you all for your time.

peace. b.

William Armaline
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Facebook: http://www.facebook.com/sjsuHumanRightsProgram
Recent book, *The Human Rights Enterprise*: http://www.wiley.com/WileyCDA/WileyTitle/productCd-0745663702.html