



SACRAMENTO  
SAN FRANCISCO

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June 3, 2019

**VIA E-MAIL AND U.S. MAIL**

*jennifer.schembri@sanjoseca.gov*

Jennifer Schembri  
Director of Employee Relations  
Office of the City Manager, City of San Jose  
200 E Santa Clara St  
San Jose, CA 95113

**Re: Expansion of Review Authority for Independent Police Auditor**

Dear Jennifer:

In lieu of meeting on June 4, 2019, the San Jose Police Officers' Association (POA) provides a written response to your March 19, 2019 letter and the enclosed proposed side letter agreement contained in it.

You will recall that the POA made an extensive proposal to the City back in the summer of 2018. Our proposal included a side letter agreement which set forth three areas of expansion of the review authority for the Independent Police Auditor (IPA). We proposed to give the IPA expanded authority over Department Initiated Investigations, officer-involved shootings, and use of force data.

The City's proposal largely mirrors the POA proposal, except it adds areas of expansion. These are unnecessary because subsequent to when we began discussing the expansion of the IPA's authority, the California Legislature has passed Senate Bill 1421 and Assembly Bill 748. These enactments create a basis in state law whereby the IPA may exercise greater oversight over the Department.

For example, whereas the City proposal gives the IPA expanded authority to review records concerning officer involved shootings and uses of force resulting in great bodily injury (paragraphs 2 and 3), Senate Bill 1421 provides extensive authority to permit the IPA to request and review police records, including personnel records, pertaining to those areas.

Similarly, to the extent paragraph 3 expands the IPA's authority regarding review of body worn camera footage, Assembly Bill 748 now requires police departments to publish footage on a strict timeframe in response to requests for such information.

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Jennifer Schembri

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The third paragraph of the City's proposal also seeks "Use of Force statistics." The POA has expanded its initial proposal on this subject to permit the IPA to access additional Department materials.

We present this proposal in writing in lieu of meeting on June 4 in order to emphasize the POA's continuing desire to get this done. Please advise us about the City's preference for next steps.

Very truly yours,

MESSING ADAM & JASMINE LLP



Gregg McLean Adam

GMA:krb

Enclosure

cc: Edgardo Garcia, Chief of Police  
Dave Knopf, Assistant Chief of Police  
Elsa Cordova, Senior Executive Analyst  
Paul Kelly, President, San Jose POA  
Sean Pritchard, Vice President, San Jose POA  
Tom Saggau, Consultant, San Jose POA

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TENTATIVE SIDE LETTER AGREEMENT  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
THE SAN JOSE POLICE OFFICERS' ASSOCIATION

**INDEPENDENT POLICE AUDITOR EXPANSION OF OVERSIGHT**

The City of San Jose and the San Jose Police Officers' Association tentatively agree to the following expansion of police oversight:

1. To provide the Independent Police Auditor the same oversight over Department Initiated Administrative Investigations of San Jose Police Officers as the San Jose Municipal Code currently provides for Citizen Initiated Complaints;
2. To expand the oversight of the Independent Police Auditor concerning Officer Involved Shootings - specifically to authorize the Independent Police Auditor to review completed criminal and administrative investigations as if a Citizen Initiated Complaint had been made concerning the OIS; and,
3. To allow the Independent Police Auditor access to aggregate [statistical](#) Use of Force data, [including the San Jose Police Department "dashboard,"](#) in Use of Force cases where no complaint was received.

The parties shall continue to meet and confer to determine the means by which these agreements are adopted into local laws once ratified by the two parties.

**FOR THE CITY**

**FOR THE UNION**

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David Sykes  
City Manager

Date

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Paul Kelly  
President, SJPOA

Date

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Jennifer Schembri  
Director of Employee Relations

Date

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Sean Pritchard  
Vice President, SJPOA

Date

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Edgardo Garcia  
Chief of Police

Date

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Franco Vado  
CFO

Date

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Gregg Adam  
Attorney

Date

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Tom Saggau  
Labor Consultant

Date

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Dave Woolsey  
Director

Date

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Dave Wilson  
Director

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Greg Connolly  
Director

Date

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Steve Slack  
Director

Date

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Jose Martinez  
Director  
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Rick Delisser  
Director  
Date

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Joaquin Barreto  
Director  
Date

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Eddie Chan  
Director  
Date

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Anthony Kilmer  
Director  
Date

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Teddy Davis  
Director  
Date

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Catherine Alvarez  
Director  
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