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Yolanda M. Jackson

June 9, 2020

Mayor London Breed
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Mayor Breed:

We write to you at this moment of local and national crisis to urge you to recommit to timely and meaningful reforms of the San Francisco Police Department (SFPD). As the largest legal organization in northern California committed to police reform, we pledge our resources to assist you and our police department.

As you know, there remains deep distrust and anger within communities across the country toward law enforcement due to a long and continuing history of police violence against people of color. Unfortunately, this is also true in San Francisco. This moment presents an opportunity to reinvigorate police reform efforts, which have been dangerously delayed and in some respects fallen short of community expectations. We commend your pledge as Mayor to Commit to Action with Obama.org. Our more specific recommendations align with the pledge to review use of force policies, engage communities by including a diverse range of input, experiences, and stories, report to the community and seek feedback, and reform the community's police use of force policies.

Over four years ago, San Francisco's leadership undertook the Collaborative Reform Initiative (CRI), an ambitious effort to reform the SFPD following the officer-involved shooting of Mario Woods, a 26-year-old African American man, among others. Great gains in several areas have been made through the CRI process, most notably in SFPD's Use of Force policy (DGO 5.01) and practices, and most recently, on Bias Free Policing DGO 5.17. Overall, however, the CRI process is years behind schedule and in need of revival. Of 272 major reform recommendations made in October 2016 by the U.S. Department of Justice (USDOJ), SFPD has "substantially" implemented just 40 to date.¹ At the same time, USDOJ also directed SFPD to update all 119 of its Department General

¹ See San Francisco Police Department Collaborative Reform Initiative, Phase II - 18 Month Progress Report, Hillard Heinze (March 2020), at <https://oag.ca.gov/system/files/attachments/press-docs/Final%20Hillard%20Heintze%20Phase%20II%20Report%20for%20the%20San%20Francisco%20Police%20Department-1.pdf>.

Orders (DGO)—many of which are decades out of date—but that systematic review is only getting underway now.

Unfortunately, it is not just the timeline that presents a serious challenge. The California Department of Justice (Cal DOJ) identified a number of problems in a recent progress report on SFPD's efforts that the Bar Association of San Francisco's Criminal Justice Reform Task Force (BASF-CJTF) believes must be addressed.² BASF-CJTF continues to offer our support and partnership in improving the CRI reform process at this juncture and we are happy that we have developed the research, resources to do so. We've worked collaboratively with SFPD since 2015.

We outline below a number of specific recommended first steps but first raise an overarching concern. BASF-CJTF is troubled by SFPD's failure to engage more members of the community in a meaningful way during the CRI reform process. At USDOJ's recommendation, Executive Sponsor Working Groups (ESWG) were established by SFPD to elicit community views to assist SFPD in improving its policies, as well as increase legitimacy and public trust in the process. Unfortunately, with the exception of the Community Policing ESGW, most of the working groups were not as open or inclusive as hoped, often proved unsuccessful in actually incorporating community input, and now have ceased meeting regularly. Sadly, many community members and organizations stopped participating quite some time ago. Stalwarts like BASF's CJTF have remained involved, but for the ESGWs to succeed, SFPD must renew its outreach to the community—especially young people of color—and the SFPD officers who lead the ESGWs must begin – we hope with your encouragement – to incorporate the community's input meaningfully into SFPD's implementation of the remaining recommendations.

Overall, our experience informs us that the CRI reform process has lost momentum and is not delivering the changes that San Franciscans expect. It is noteworthy that the Minneapolis Police Department failed to timely implement federal recommendations, despite commitment to doing so by the department and

² BASF-CJTF (Criminal Justice Task Force), consisting of judges, prosecutors, public defenders, law enforcement officers, private attorneys, civil rights advocates, and others, was convened at the same time that the reform process was initiated, and has been deeply involved in it from the beginning. For example, BASF-CJTF members were integral to drafting the original revisions to DGO 5.01 (the use of force policy) as well as DGO 1.08 (Community Policing) and 5.17 (Bias Free Policing), and our members participate on each of the Executive Sponsor Working Groups.

the city's leadership.³ We cannot similarly allow reforms to stall here in San Francisco.

BASF-CJTF remains a committed partner in improving and speeding the CRI reform process, as well as promoting other steps to improve policing in San Francisco. We are therefore calling upon you and other stakeholders to take the following actions immediately to reinforce community trust in the reform process:

- 1. Expedite implementation of the Serious Incident Review Board and amend DGO 5.01 to include as reportable force, any use of force to overcome resistance irrespective of complaint of injury or pain; and such review must occur within 30 days and results must be publicly reported.** In January 2020, an SFPD officer detained a young African American man with her knee on his back and neck, similar to the tactic that killed George Floyd; in the last several days, Chief Scott announced an investigation.⁴ Regardless of whether this use of force was consistent with current SFPD policy, SFPD should have immediately reviewed the incident, and all use of force incidents, to determine if it complied with policy and whether changes to policy and training were necessary. Current policy requires the reporting of this use of force only if “persistent complaint of pain” is also reported. SFPD must establish new protocols for documentation of force that requires supervisors to review body worn camera footage and create/broaden an internal Use of Force Review Board to review all uses of force immediately to enable continuous, critical examination of SFPD's policies, training and practices. As part of this review, supervisors must be required to determine and document whether *any* force was justified and whether officers followed de-escalation requirements set out in DGO 5.01. Findings of these reviews should be made publicly available online.
- 2. Appoint and confirm experienced police reform advocates to the two vacant seats on the Police Commission.** It is imperative that the two vacant Police Commission seats be filled by individuals who are

³ “Thousands of Complaints Do Little to Change Police Ways,” Shaila Dewan and Serge Kovalski, N.Y. Times, May 30, 2020, at <https://www.nytimes.com/2020/05/30/us/derek-chauvin-george-floyd.html>.

⁴ “Video surfaces amid George Floyd death fallout showing SF police kneeling on man's neck,” Michael Barba, S.F. Examiner, May 30, 2020, at <https://www.sfexaminer.com/news/video-surfaces-amid-george-floyd-death-fallout-showing-sf-police-kneeling-on-mans-neck/>.

experienced, knowledgeable and committed to police reform, and have a demonstrated understanding of and ties to those communities most often subject to over-policing or excluded from much needed police services.

3. **Require greater transparency and information sharing by SFPD with the Department of Police Accountability (DPA).** Currently the DPA does not have direct access to SFPD's body worn camera footage although civilian oversight agencies in other counties do. Nor does DPA have direct access to SFPD's manuals, training materials, unit and bureau orders, and instead must request access to this basic information in each case. DPA must request use of force and stop data in each case instead of having direct access which is necessary for DPA's complaint investigations and audit functions.
4. **Create greater transparency regarding officer disciplinary hearings and findings.** The Police Commission should revise its rules governing misconduct cases to maximize transparency, consistent with state law. There should be timely reporting of all DPA and Internal Affairs Department (IAD) cases, including at a minimum, public disclosure of a factual summary, disciplinary recommendations, findings, and the disposition of each case (i.e., whether discipline was imposed by the Chief and/or the Commission).
5. **Hold SFPD and the SF Police Commission accountable to deadlines and increase community participation in the CRI process.** Deadlines for each of the outstanding USDOJ recommendations should be posted for the public on SFPD website and monitoring and reporting mechanisms implemented to assure compliance. SFPD should be required to complete and post for public comment their revisions to all Department General Orders they intend to update this year and the next two years. SFPD should reconvene ESWGs on Use of Force, Accountability, Community Policing and Recruitment with renewed community participation to complete USDOJ recommendations. Members of the ESWG on Bias are meeting but have called for greater community participation. SFPD should convene immediately Working Groups for those Department General Orders for which community input is imperative.

We know that you and the other stakeholders remain committed to timely and meaningful reform of SFPD. As the last week has amply demonstrated, the stakes for San Francisco could not be greater. We stand in partnership with the City we



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love and with law enforcement.

Regards,

Stuart Plunkett
President, Bar Association of San Francisco

Yolanda Jackson
Executive Director, Bar Association of San Francisco

CC: Police Chief William Scott, Board of Supervisors, Police Commission