



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Cover Memo

File #: LB 19-047, **Version:** 1

DATE: November 5, 2019

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT

Response to City Council Referral: Hayward Police Department Use of Deadly Force - Independent Investigations

RECOMMENDATION

That Council considers adopting a policy where the City Manager requests an independent investigation from the California Department of Justice, Office of the Attorney General (DOJ/AG), if a death results from the use of force during an Officer Involved Shooting (OIS) incident involving Hayward Police Department (HPD) officers.

SUMMARY

On June 4, 2019, the City Council approved a referral memorandum regarding the use of deadly force by the Hayward Police Department (HPD) and directed City staff to evaluate and report back regarding independent investigative options. The referral included a recommendation that if an external investigative option were to be adopted, the HPD officer-involved shooting (OIS) death of Agustin Gonzalez, which occurred on November 15, 2018, would be included within the scope of such request.

As required by state law, HPD currently conducts internal investigations whenever an OIS results in a death. There are several components to an internal HPD investigation, including an administrative investigation into compliance with policies, procedures, and tactics, an internal criminal investigation to determine if any crimes were committed by any of the actors involved in the OIS, including possible criminal actions of the officers or anyone injured or killed as a result of the incident, and, as required by State law and consistent with Alameda County protocols, the District Attorney conducts an independent criminal investigation to determine if the actions of the officers' warrant pursuing criminal charges.

In response to the June 4 referral, staff evaluated five independent investigation models, two of which are currently being practiced, that include:

1. Independent criminal investigations conducted by the Alameda County District Attorney's Office (*current practice*)

2. Independent investigations conducted by a plaintiff's attorney(s) during the civil lawsuit process (*current practice*)
3. Independent investigations conducted by the State of California Department of Justice, Office of the Attorney General (*DOJ/AG*)
4. Independent investigations conducted by an independent auditor (*appointed by police chief/sheriff or governing board of city/county*)
5. Independent investigations conducted by a civilian review board or police commission (*appointed by governing board of city/county*)

After careful review and evaluation, staff recommends Council consider adopting a policy where the City Manager would submit a request to the DOJ/AG to conduct an investigation if a death results from the use of force during an OIS incident involving HPD officers. This DOJ/AG investigation would be in addition to the internal HPD and Alameda County District Attorney investigations currently in place.

ATTACHMENTS

Attachment I Staff Report