

# Memorandum

**TO: San Jose Human Rights Commission    FROM: Les White**  
**Independent Police Auditor**

**SUBJECT: Response to HRC Report on                      DATE: March 15, 2007**  
**Policing Issues in San Jose**

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The City of San Jose's Human Rights Commission (HRC) and the Independent Police Auditor (IPA) recently released a report detailing the comments made by residents during two community forums they recently held regarding police conduct and operations. The purpose of this memorandum is to respond to the issues raised in the report and to provide information about the ongoing steps the San Jose Police Department has been taking to address these issues.

First and foremost, it is important to note that both I and Chief of Police Rob Davis believe it is of the utmost importance that residents in San Jose have the opportunity to voice any complaints they may have about the services they receive from the City. It is also important that employees of San Jose listen to the complaints of the residents. This is why Chief Davis was more than willing to attend both of the forums and listen to the complaints in person. He has advised me that he felt a number of the residents had some very valid concerns about specific incidents involving police officers, and that he was taking actions to look into these issues. Chief Davis also agreed that the way police officers treat individuals is very important if law enforcement officers are to maintain the trust of the community, and he indicated he would ensure that the ongoing training at the Police Department continues to stress this fact.

Hence, with the intention of helping those who have read the HRC report to understand what specific steps the Police Department has already taken to address the main issues raised in the report, the following are highlights that should provide answers:

## **Issue 1: Communications, Respect and Dignity**

As already stated, both the Chief and I believe that officers' ability to communicate with and treat San Jose residents with respect and dignity is a crucial component of their jobs. It is for this reason that the San Jose Police Department has made it a key part of the ongoing training that officers undergo every two years. It is also the reason why the Department, starting in 2004 under the direction of Chief Davis, began to work with various segments of our community to make a series of community outreach videos that help officers to understand more about members of San Jose's minority communities and to learn ways to communicate with them more effectively. The series, entitled *Community San Jose*, has already produced three segments, which includes training about the Muslim, Sikh and Vietnamese communities. These have been well received both by Department members and the community at large, particularly since the Department used members from the various communities to appear in the training videos. Moreover, the videos have also won several awards from the video production industry.

Additionally, to ensure that new officers understand the importance of treating residents with respect and dignity, Chief Davis continues to teach the eight-hour Ethics Course at the San Jose Police Academy, a course he has taught for over 10 years. Chief Davis is one of the only chiefs of a major American city who continues to teach at a police agency's academy, yet he believes that having the recruit officers hear about the Department's policies and philosophy in regards to treating residents with respect and dignity from the Chief of Police himself is a very powerful way of letting officers know that this philosophy comes right from the top of the organization.

The San Jose Police Department has also taken the lead in the State of California in providing training to its officers in the area of Crisis Intervention Training (CIT). This is specialized training officers receive that helps them understand more about individuals with mental illness and the best ways to interact with them while handling police events. The course, taught by a San Jose officer who holds a doctorate in Psychology and others from the Santa Clara Valley Department of Mental Health, has become a model program, with officers from throughout the State of California having attended the 40-hour course that is certified by the State of California's Commission on Peace Officers Standards and Training. Since 1999, approximately 507 San Jose officers have been trained and certified as SJPD CIT officers. The officers receive special recognition and are listed in the 9-1-1 Dispatch system so that when a call involving someone who is mentally ill is received all attempts can be made to dispatch a CIT trained officer.

As always, the Police Department welcomes any specific ideas the Human Rights Commission may have in regards to improving training. What may be of great help and value to members of the commission would be for them to attend some of the training courses conducted by the Police Department so they can see for themselves the high quality of training the Police Department provides. This would be a good first step for the members, which would make any subsequent recommendations to the Department much more valuable.

## **Issue 2: Racial Profiling**

Racial profiling is a difficult issue to address no matter what one's belief may be on the subject. What is important to note is that the San Jose Police Department recognizes that racial profiling is something that can occur. Generally defined and recognized as an incident in which a police officer makes a vehicle stop on a member of a minority background based solely upon the color of the detainees' skin, the Police Department has long made it a policy that racial profiling is not allowed in the SJPD. In an effort to determine whether there is any indication that racial profiling is occurring within the ranks of San Jose officers, the Department took steps in 1998 to become the first major police department to initiate a voluntary study of the vehicle stops SJPD officers make. All of the information collected to date has indicated that there is no evidence that SJPD officers engage in this behavior.

Moreover, a Santa Clara County Grand Jury report issued on May 1, 2006 also indicated that, although there were concerns raised by some in the community that some officers were intimidating to them, there was no evidence of racial profiling within the ranks of the SJPD. This finding was also underscored in a recent *San Jose Mercury News* article which reported on the activities of SJPD officers handling the myriad of activities associated with the nightlife in the downtown. The news article, dated February 18, 2007, stated, "To move beyond the rhetoric, *Mercury News* reporters fanned out across the downtown on selected weekends during a seven-

month-period, delving into the city's nightlife from the perspectives of the police, clubs, and customers. In more than 100 hours on the streets, they did not witness racial profiling."

It should also be noted that in the year 2006, the Department handled 413,731 formal calls for service. It only received 9 formal complaints of racial profiling.

I would also like to point out that although there is no indication that SJPD officers engage in racial profiling, this does not mean that the Department does not continue to ensure that ongoing training in this area occurs. It is included in both the Academy's regular training curriculum, as well as a point of discussion during the ongoing, biannual training each officer undergoes.

### **ISSUE 3: Issues with the Complaint Process and Calls for a Police Review Board**

The City of San Jose instituted the current Office of the Independent Police Auditor in 1993 as a result of community concerns that were raised after the incidents surrounding the Rodney King incident in Los Angeles. A great many meetings and discussions were held between residents throughout the community, San Jose City Council members and Police Department leaders. The result of this lengthy process led to the creation of the IPA, whose function it is to audit the complaint process handled by the Internal Affairs Unit of the San Jose Police Department. There was a healthy balance struck between the needs and wants of those in the community who felt someone needed to be looking at what SJPD Internal Affairs was doing and the legal interests and concerns of SJPD Officers who were being accused of misconduct. While there was no one group that got everything it wanted when the IPA position was created, the City has come to realize that that current IPA system has been very effective. Indeed, the San Jose IPA model has been showcased as a successful model of ensuring complaints against officers area handled professionally and objectively.

Hence, while there are some in the community who would like to see more direct involvement by the IPA or others in SJPD Internal Affairs issues, this need is not borne out when one looks at the number of complaints that are actually made against SJPD Officers. For example, in 2006, there were 107 formal complaints filed against officers while they handled 413,731 formal calls for service and tens of thousands of informal contacts with residents. This represents a complaint ratio of one formal complaint for every 3,866 calls for service. It should also be noted that during the recent citizen satisfaction survey the City completed in November of 2006, those surveyed rated the Police Department with some of the highest customer satisfaction ratings of any of the City's departments. Part of the reason why there is so much support for the Police Department is because the Department does take each and every complaint seriously, and there is no indication that the current SJPD Internal Affairs model, nor the business model employed by the IPA, needs to be changed.

It should also be noted that at the request of the City Council, the SJPD Internal Affairs Unit is conducting a study of the Internal Affairs practices and procedures of 17 major cities across the country. This study will shed more light on SJPD's complaint handling process, and it is scheduled to be issued at the end of May, 2007.

#### **Issue 4: Tasers**

The Police Department began issuing Tasers to all SJPD officers working patrol in April of 2004. Due to the ongoing study the Police Department is conducting in regards to Taser usage, it has become evident that Tasers have had a significant impact in helping officers to avoid using deadly force in a number of situations. It has also been shown that the use of Tasers has reduced the number of injuries to both officers and combative suspects, due to the fact officers do not need to engage in as many hand-to-hand confrontations with the suspects. The Department has regularly reported on Taser usage, and past reports are available for viewing at [www.sjpd.org](http://www.sjpd.org). Moreover, in 2006, the Department decided to begin voluntary tracking of all use of force incidents involving SJOPD officers, in addition to Taser usage, and it will be releasing this expanded report within the next few days.

The Department believes the 2006 Use of Force Report indicates that Tasers have become a valuable less-lethal tool for officers, which is also indicated by the fact that the number of law enforcement agencies at the local, state and federal level viewing them as standard equipment for officers continues to grow.

#### **Issue 5: Excessive Force**

The San Jose Police Department received 72 excessive use of force complaints in 2006, compared with 33,995 total arrests officers made during this time period. The upcoming IA study already mentioned should shed more light on the issue of excessive force complaints, particularly if the SJPD average is lower than that of most other major cities. It should also be noted that there were only six individuals who raised this issue at the two forums held the HRC, while no information was captured indicating over how many years these complaints may have actually been spread.

#### **Issue 6: Cinco De Mayo**

Some people who spoke at the forum indicated that they felt San Jose officers exhibited a high-level of violence during the after-parade Cinco de Mayo celebrations. It is a well documented fact that San Jose Cinco de Mayo celebrations that take place in the late evening and early morning hours have involved ongoing disturbances and some violent incidents, particularly in the downtown. The San Jose Police Department continues to work with the community and business owners to try and mitigate the impact of these disturbances, although it is not uncommon for officers to become engaged in physical confrontations with violent suspects. In the year 2006, there were 162 arrests made and 427 citations issued that were associated with the three days of the Cinco Day Mayo celebrations. The Department continues to call upon the community, particularly parents, to help quell the disturbances that have taken place during this otherwise festive and worthwhile holiday.

In addition to providing more specific recommendations to the Department to address Cinco de Mayo celebration problems, it would be helpful also for the Human Rights Commission to make some specific recommendations regarding steps that could be taken to reduce or eliminate the problems associated with the Cinco de mayo celebrations.

### **Issue 7: Downtown San Jose**

While there were four speakers who addressed concerns they had about police operations in response to downtown nightclub problems, it should be noted that the City Council has created a Downtown Working Group, co-chaired by Councilmember Forrest Williams and Chief Rob Davis, to address these issues, and many members of the community and City staff are currently engaged in this effort.

### **Issue 8: Positive Comments about the Police**

Four speakers made positive comments about the police, and these comments were similar in nature to the many hundreds of similar comments routinely heard by officers at the hundreds of community/neighborhood meetings they attend throughout the year. I know the Chief and the Department were glad to hear such comments expressed at the forums.

### **Issue 9: Lack of Police Service for Alviso**

The feelings by some Alviso residents that the City of San Jose has not done enough to provide them a variety of services, including those from the Police Department, are sentiments that date back to 1968 when Alviso was incorporated into San Jose. The SJPD has worked long and hard to ensure that residents of Alviso receive levels of service that are commensurate with those received throughout the City's neighborhoods. This very issue was studied just last year when the Police Department conducted a review of police services in Alviso. During the first quarter the average response time for a Priority One call (a life-threatening incident or a serious in-progress event) in the Alviso area was 5.29 minutes. This was in contrast to an average response time of 8.67 minutes for a Priority One call for service in Police District Robert as a whole, the police district in which Alviso is located. The citywide average response time for a Priority One call during this same time period was 7.09 minutes. During this time period, there were eight Priority One calls for service in Alviso and 154 in District Robert.

While response times fluctuate in any area of the City of San Jose for a variety of reasons, it can be stated generally that Alviso receives the same level of Police Department attention and service that any given neighborhood located within San Jose receives.

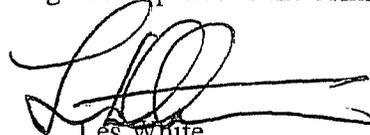
### **Response to the HRC's Recommendations**

In regard to the HRC recommendation that the City Council direct the Police Department to prioritize and implement officer training to reinforce respectful treatment towards members of the community, as already indicated in this memo this is something that has already been done. It should also be noted that the Police Department has taken a very proactive role in recruiting officers from all of the ethnic and minority backgrounds found within San Jose, and this has led to a Department that is reflective of the community it serves; a Department that truly is sensitive to the many racial and ethnic groups in San Jose. Indeed, SJPD's positive relationships with all segments of the San Jose community are renowned throughout the law enforcement community in general and the community itself particularly.

Finally, the HRC suggests that because speakers at the forums outlined complaints against the Police Department that there is a need to increase oversight of the current complaint process. One needs to keep things in context and perspective, recognizing that by the very nature of what

police officers are asked to do in our communities that there will be complaints against them. The key question is whether or not San Jose has an effective system to address those complaints, and there is no evidence to suggest that the current system itself has not been successful, particularly when compared to other major cities.

Both Chief Davis and I would be happy to address any additional questions members of the Human Relations Commission may have regarding this response to the commission's report.

A handwritten signature in black ink, appearing to read 'Les White', with a long horizontal stroke extending to the right.

Les White  
City Manager

