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OCT 06 2009

by City Manager's Office

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Nadine Nader

SUBJECT: Early Council Packet

DATE: October 6, 2009

Approved Deanna Santana Date 10/6/09

EARLY DISTRIBUTION COUNCIL PACKET FOR OCTOBER 20, 2009

Please find attached the Early Distribution Council Packet for the October 20, 2009 Council Meeting.

3.4 2008-2009 Annual Budget Report.

Recommendation:

(a) Accept the 2008-2009 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter 701(F).

(b) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2008-2009 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions).

(c) Adopt a resolution approving amendments to City Council Policy 1-18 entitled Operating Budget and Capital Improvement Program Policy to modify the distribution of General Fund Ending Fund Balance and the Sale of Surplus Property Proceeds as described in the Mayor's June budget Message for Fiscal Year 2009-2010 and approved by the City Council.

(d) Adopt a resolution amending Resolution No. 72737 (the Schedule of Fees & Charges) as amended to eliminate the subpoenaed officer court appearance fee.

(City Manager's Office)

DISTRIBUTED SEPARATELY ON OCTOBER 2, 2009

3.x Proposition 1A Securitization.

Recommendation: Adopt a resolution approving the form of Purchase and Sale Agreement and related documents with respect to the sale of the City of San José's Proposition 1A Receivable from the State of California and authorizing the City Manager, or other authorized officers, to execute and deliver these documents, and authorizing and directing other actions as necessary in connection with the completion of the sale of the Proposition 1A Receivable. (Finance/City Manager's Office)
TO BE DISTRIBUTED SEPARATELY

3.x Sunshine Reform Task Force recommendations on Law Enforcement Records, Police Department Statistical Reports and Fire Department Statistical Reports.

Recommendation:
(a) Approve the Sunshine Reform Task Force (SRFT) recommendations on Ethics and Conduct, Technology, Administration and Accountability, and portions of SRTF recommendations on Public Records, as amended by the Rules and Open Government Committee, with the exception of Sections 6.1.1.050 – Statistical Reports prepared by the Independent Police auditor, which will be considered by the Rules and Open Government Committee at a later date.
(b) Adopt a resolution implementing these provisions on a pilot basis.
CEQA: Not a Project. (City Manager's Office)

8.x State Homeland Security Grant Program.

Recommendation:
(a) Adopt a resolution:
  (1) Authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara to accept program funds from the County for 2008 State Homeland Security Grant Program funding for Police and Fire Department training and exercise events in an amount up to $1,204,946 and Fire Department funding for the 2008 Metropolitan Medical Response System Grant Program in the amount of $321,221; and
  (2) Authorizing the City Manager to negotiate and execute additional amendments to the agreement and all related documents without further Council action.
(b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund in fiscal year 2009-2010:
  (1) Establish a city-wide appropriation to the Fire Department for the 2008 Metropolitan Medical Response System (MMRS) Grant Program in the amount of $321,221; and

(2) Increase the estimate for Revenue from the Federal Government by $321,221.

CEQA: Not a project. (Police/Fire/City Manager's Office)

These items will also be included in the Council Agenda Packet with item numbers.

NADINE NADER
Assistant to the City Manager

COUNCIL AGENDA: 10-20-09
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Tom Manheim

SUBJECT: **SEE BELOW**

DATE: 09-28-09

Approved Deanna Santana Date 10/1/09

SUBJECT: THE SUNSHINE REFORM TASK FORCE PROPOSALS ON 1) LAW ENFORCEMENT RECORDS; 2) POLICE DEPARTMENT STATISTICAL REPORTS; AND 3) FIRE DEPARTMENT STATISTICAL REPORTS AS AMENDED BY THE RULES AND OPEN GOVERNMENT COMMITTEE.

RECOMMENDATION

1. Approve the Sunshine Reform Task Force (SRTF) recommendations on Law Enforcement Records, Police Department Statistical Reports and Fire Department Statistical Reports as amended by the Rules and Open Government Committee (ROGC).
2. Direct staff to proceed with the implementation of the SRTF recommendations as amended by ROGC.

OUTCOME

Approval will have three outcomes:

1. Law Enforcement Records – Permit the Police Department to implement *Guidelines for Providing Information about the "Factual Circumstances" Surrounding the Crime or Incident and "Substance" of Complaint or Request for Assistance* (Attachment A).

2. Police Department Statistical Reports – Defer publication of Police Department statistical reports and refer a review of the type and frequency of future statistical reporting by the Police Department, along with the pending analysis and recommendations of statistical reporting by the Consortium for Police Leadership in Equity (CPLE), to the Public Safety, Finance and Strategic Support Committee (PSFSSC).

3. Fire Department Statistical Reports – Defer publication of Fire Department statistical reports pending full implementation of the Fire Department Records Management System (RMS), and refer a review of the type and frequency of future statistical reporting by the Fire Department to the PSFSSC.

BACKGROUND AND ANALYSIS

Law Enforcement Records

6.1.1.010 Reports Prepared by Law Enforcement. The Task Force recommended that "all reports prepared by Law Enforcement, including *Police Report, Domestic Violence Supplemental, Property Report, Force Response Report, Traffic Collision Report* and *Juvenile Contact Report* (collectively referred to as "Police Reports"), are public records subject to disclosure...unless one or more general or specific exemptions detailed by the Task Force applies."

6.1.1.020 General Exemptions. The SRTF recommended general exemptions to the above recommendation if needed to:

- protect the safety of any person
- ensure the successful completion of an investigation
- prevent the disclosure of legitimate law enforcement techniques that require confidentiality in order to be effective
- prevent an unwarranted invasion of privacy

The SRTF also recommended that any redactions under the privacy exemption be limited in the following situations:

- the information was given to the police by the person requesting it;
- the information pertains to the actions of a police officer in official conduct of his or her duties; or
- the information is required to be made public pursuant to the California Public Records Act, Government Code Section 6254(f) or any other provision of state or federal law.

In addition, the SRTF recommended that redactions must:

- be limited to information needed to further the purpose of the exemption;
- use numerical or alphabetic designations as substitutes for names; and
- be justified in writing.

The SRTF began discussing access to Police Department records in early 2007, holding a special meeting on February 24th that included a panel of stakeholders as well as public comment intended to inform the SRTF of the various community perspectives and experiences with requests for law enforcement records. The Task Force met again on September 20, 2007, to review the SRTF Public Records Subcommittee recommendations on Police records, and once more on January 31, 2008, to complete its final recommendations on the topic. These recommendations, along with the other SRTF Phase II recommendations, were submitted to the ROGC on August 13, 2008. These meetings were attended by a number of interested

stakeholders. A complete list of interested stakeholders who participated at those meetings is attached (Attachment B). Some stakeholders advocated for disclosure of police reports with minimal redaction. Others expressed concern about the possible effects on the privacy rights of victims. Still other stakeholders asserted that disclosure of information beyond that required by the California Public Records Act would adversely impact ongoing investigations and the candor of witnesses and victims in the future.

The ROGC began its review of the SRTF recommendations with a special meeting on October 14th, 2008, focusing on requests for law enforcement records. During this meeting, the Police Department expressed concerns that approval of SRTF proposals could endanger ongoing crime investigations by providing access to information that should remain confidential while the investigations are in progress During this meeting, the discussion focused on the ambiguity in language contained in the California Public Records Act (CPRA) regarding the obligation to disclose the "factual circumstances" regarding a crime or incident, and the "substance" of a complaint or request for assistance. The administration was directed to work with the Police Department and the Chair of the SRTF Public Records Subcommittee to see if they could reach agreement on language clarifying the ambiguity in the CPRA. The ROGC reviewed the clarifying language at its January 21, 2009 meeting. At this meeting, the Santa Clara County District Attorney (DA) raised concerns about the proposal and the ROGC directed staff to work with the DA, SRTF Public Records Subcommittee Chair and the Police Department to determine whether an agreement could be reached among the three interests. Staff met with and held a series of conference calls with the three interests and eventually reached agreement on what information would be released regarding "factual circumstances" and "substance." However, the DA and Chair of the Public Records Subcommittee were unable to reach agreement on additional disclaimer language to be included with the guidelines. These differences could not be resolved.

The DA's Office insisted on language specifying that, "Information shall not be released if the release will constitute an unwarranted invasion of privacy." The SRTF representative maintained that transparency would be better served by eliminating the new guidelines completely, rather than by including what he perceived as a broadening of the Department's ability to withhold information. The Administration, in consultation with the City Attorney's Office, concluded that the additional language was unnecessary, because the obligation to protect the identification of victims of certain crimes is clearly established in State law and the Department would have other mechanisms to protect certain information, should it be necessary.

Consistent with ROGC direction, the *Guidelines for Providing Information about the "Factual Circumstances" Surrounding the Crime or Incident and "Substance" of Complaint or Request for Assistance* were distributed to 34 stakeholder groups (Attachment C), including a number of law enforcement and victim's rights agencies as identified by ROGC, as well as additional organizations suggested by Attorney James Chadwick and the DA's Office. Stakeholders were given five weeks to provide responses, and this deadline was extended another week to allow additional responses. Ten responses were received (Attachment D). Attachment E contains an analysis of the comments and the positions of those providing them.

Staff returned to the ROGC on August 19th, 2009, with the compromise proposal, *Guidelines for Providing Information about the "Factual Circumstances" Surrounding the Crime or Incident and "Substance" of Complaint or Request for Assistance.* This document would guide the Police Department regarding what information could be provided when responding to a request for information about a complaint or request for assistance. During that meeting, the ROGC voted to modify the proposal in support of the DA's position by adding language in support of the privacy rights of victims and other parties. That modified proposal is the basis for the ROGC recommendation on law enforcement records now before the City Council.

As noted previously, numerous members of the public and representatives of community organizations attended SRTF and ROGC discussions on law enforcement records and provided comments. In addition, the City received letters from 20 organizations and 266 private individuals regarding the issue. Public comment included strong support for increased access to law enforcement information as well as concerns over protection the privacy rights of victims and the ability of the Police Department to continue to conduct effective investigations. Attachment F contains an analysis of the comments received on the topic during 2006-2008.

A binder containing the historical record of correspondence has been created and is available for review in the City Clerk's Office and on the 18th Floor of City Hall.

ROGC recommendation: The ROGC does not recommend approval of the SRTF proposal. Instead, the ROGC recommends continuing to adhere to the California Public Records Act (CPRA). Government Code Section 6254(f) requires, among other things, the disclosure of the "factual circumstances" of complaints and requests for assistance. Noting that the CPRA does not provide specific guidance on the meaning of "factual circumstances," the ROGC also recommends approval of the *Guidelines for Providing Information about the "Factual Circumstances" Surrounding the Crime or Incident and "Substance" of Complaint or Request for Assistance*. These recommendations are intended to balance the competing interests of public access, personal privacy, and the need to protect information that must be kept confidential for the purpose of ongoing investigations.

6.1.1.040 Statistical Reports Prepared by the San José Police Department

The SRTF recommended that the Police Department produce three reports (*Use of Force, Vehicle Car Stop, and Pedestrian Stops)* on a quarterly basis. This recommendation would increase the frequency of two reports *(Use of Force* and *Vehicle Car Stop)* historically produced on an annual basis by the Police Department, and would require a new quarterly report on *Pedestrian Stops*. Production of these reports is highly labor-intensive since, absent an electronic Records Management System, all data must be compiled by hand.

ROGC recommendation: The ROGC recommends that any decision about the future production of statistical reports by the Police Department be referred to the Public Safety, Finance and Strategic Support Committee (PSFSSC) after the Consortium for Police Leadership in Equity (CPLE) has completed an analysis of and provided recommendations on what

statistical reporting would be most useful and meaningful with regard to understanding the quality of police practices in San Jose. In addition, ROCG recommends that continuing production of statistical reports that have been produced in the past be deferred until the Committee has made a recommendation. Finally, the ROGC recommends that the Police Department continue to collect data that it currently collects to produce its annual *Vehicle Stop Report* and *Force Response Report.*

6.1.1.060 Statistical Reports Prepared by the San Jose Fire Department

The SRTF proposal would expand the information provided on Fire Department service performance and require the information to be published quarterly.

ROGC recommendation: As a result of the severe resource constraints facing the Fire Department and the resulting delay in implementing the RMS system, the ROGC recommends deferring further action until the Department has completed implementation of its RMS system and can report to the Public Safety, Finance and Strategic Support Committee about the resources necessary to produce and post online the recommended statistical reports.

PUBLIC OUTREACH

Access to law enforcement records has been widely debated and the specific proposal presented to the ROGC was distributed to 34 stakeholder organizations to seek feedback. The issue of statistical reports prepared by the Police Department and Fire Department has been publicly debated before the SRTF and the ROGC on a number of occasions.

COORDINATION

This report was coordinated with the Police Department, Fire Department and City Attorney's Office.

CEQA

Not a project.

Tom Manheim
Director of Communications

Attachments

6.1 Public Information That Must Be Disclosed

6.1.1 Law Enforcement Information

6.1.1.010 Reports Prepared By Law Enforcement

The San Jose Police Department understands that, with some exceptions, certain information must be provided about arrests, complaints and requests for service under the California Public Records Act (CPRA). In complying with the requirements of the CPRA, the Department will provide a response that contains the information required to be released under the CPRA, subject to the limitations of the CPRA and other state and federal laws. However, since the CPRA does not define clearly what constitutes the "substance" or "factual circumstances" of an arrest, complaint or request for assistance, subject to the limitations explained above, the Department proposes that the following information be provided:

Information about the "substance" of complaint or request for assistance will include:

- The type of crime or activity involved
- The actions which constitute the elements of the crime

Information about the "factual circumstances" surrounding the crime or incident will include:

- Whether the suspect is known or unknown to the victim
- Whether the crime appears to be gang-related, if the San Jose Police Department believes such disclosure is appropriate
- Whether force was used, and if so, the type of force used (e.g. physical force, baton, TASER, etc.) and the circumstances which resulted in the use of force (e.g. challenge to fight, resistance to arrest, etc.)
- Whether any specialized resources (e.g. Helicopter, K-9, MERGE, Bomb or Mounted Units, etc.) provided significant assistance
- Whether the suspect was arrested

When responding to requests for information, the Police Department will only release information that is consistent with all other obligations and limitations contained in the CPRA and in other State and federal law, including the right of privacy afforded to victims by the California Constitution.

6.1.1.020 General Exemptions

[Deleted – Not recommended by the Rules and Open Government Committee]

6.1.1.030 Specific Exemptions

[Deleted – Not recommended by the Rules and Open Government Committee]

6.1.1.040 Statistical Reports Prepared by the San Jose Police Department

Publication of Police Department statistical reports will be deferred and the review of the type and frequency of future statistical reporting by the Police Department, along with the pending analysis and recommendations of statistical reporting by the Consortium for Police Leadership in Equity, will be referred to the Public Safety, Finance and Strategic Support Committee.

. . .

6.1.1.060 Statistical Reports Prepared by the San Jose Fire Department

Publication of Fire Department statistical reports will be deferred pending full implementation of the Fire Department Records Management System (RMS) and the review of the type and frequency of future statistical reporting by the Fire Department will be referred to the Public Safety, Finance and Strategic Support Committee.

. . .

Representatives of Stakeholder Organizations Participating at the February 24, 2007, September 20, 2007 and January 31, 2008, Meetings of the Sunshine Task Force

ORGANIZATION	REPRESENTATIVE
American Civil Liberties Union	Mark Scholsberg, Sanjeev Bery
California First Amendment Coalition	James Chadwick
Coalition of Justice	Aram James
Community Solutions	Perla Flores
District Attorney's Office	Joann McCracken
Mental Health Advocacy Project	Brenna Silverstein
New American Media	Raj Jayaolev
Next Door Solutions	Kathleen Krenek
Santa Clara County Police Chiefs Association	Scott Vermeer
Santa Clara County Public Safety and Justice Committee	Kristina Cunningham
San Jose Mercury News	James Chadwick
Silicon Valley De-Bug	Raj Jayaolev, Edward Imamura
Silicon Valley NAACP	Norma Callender, Jeff Moore, Gail Bautista, Walter Wilson, Karl Hoffower, Diedre Grace
Silicon Valley YMCA	Dr. Keri McClain, Sandy Davis
St. Julie Billiart Parish	Jon Pedigo

SUNSHINE REFORM TASK FORCE POLICE RECORDS RECOMMENDATIONS – OUTREACH LIST

Hon. Edmund G. Brown, Jr.
Attorney General
California Department of Justice

Mr. Salvador Bustamante
San Jose Coalition for Immigrants Rights

Mr. Walter Wilson
African-American Community Service Agency

Ms. Kathleen Kreneck
Executive Director
Next Door Solutions

Mr. Scott Wagers
Senior Pastor
Community Homeless Alliance Ministry

Brenna Silberstein
Housing Rights and Patients' Rights Attorney
Mental Health Advocacy Project and Public Interest Law Firm

Chief Bruce Cumming
President
Santa Clara County Police Chiefs Association

Mr. Ron Cottingham
President
Peace Officer's Research Association of California

Mr. Raj Jayadev
Coordinator
Silicon Valley De-Bug

Rev. Jethro Moore II
President
San Jose/Silicon Valley National Association for the Advancement of Colored People

Ms. Skyler Porras
Director of San Jose Office
American Civilian Liberties Union of Northern California

Ms. Sandy Davis
Director, Rape Crisis Center
Young Women's Christian Association of Silicon Valley

Rev. Jon Pedigo
Saint Julie Billiart Parish

Ms. Patricia Diaz
Executive Director
Services Immigrant Rights and Education Network

Mr. Jerry Dyer
President
California Police Chiefs Association

Mr. John McGuinness
President
California Peace Officers' Association

Tara Shabazz
Executive Director
California Partnership to End Domestic Violence

Ms. Safaa Ibrahim
Executive Director, San Francisco Bay Chapter
California Council on American-Islamic Relations

Ms. Anne Im
Director of Community Programs & Advocacy
Asian American for Community Involvement

Mr. Terry Francke
General Counsel and Founder
CALIFORNIANS AWARE, The Center for Public Forum Rights
Mr. Joe Steward

Executive Director
California Narcotic Officers' Association

Mr. Wes McBride
Executive Director
California Gang Investigators Association

Mr. Tom Newton
General Counsel
California Newspaper Publishers Association

Mr. Peter Scheer
Executive Director
California First Amendment Coalition

Ms. Rene Milam
Vice President / General Counsel
Newspaper Association of America

Ms. Lucy Dalglish
Executive Director
Reporters Committee for Freedom of the Press

Ms. Norma Hotaling
Executive Director
The Sage Project, Inc.

Ms. Suzanne Brown-McBride
Executive Director
California Coalition Against Sexual Assault

Ms. Suzanne Doty
Chairperson
Santa Clara County Commission on the Status of Women

Ms. Heather Mayew
Chairperson
Child Abuse Council of Santa Clara County

Charter Legal Services for Children and Youth

Pat Mitchell
Executive Director
Silicon Valley FACES

Erin O'Brien
President/CEO
Community Solutions

Desa Bubnovich
Evert Wolscheimer
Support Network for Battered Women

Tom Norris

City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Dear Tom:

Thank you for extending an invitation to Silicon Valley FACES to provide input on the new guidelines that the City of San Jose is considering implementing regarding providing information about the "substance" and "factual circumstances" surrounding a crime or incident. I have reviewed the proposed guidelines with the management team of our Victim Witness Assistance Center.

The best interest of victims is our main concern. While the proposed guidelines seem reasonable to us, we do have some questions:

> How will this information be released (e.g. by releasing the crime report itself, some other way)?
>
> Victims must be protected especially, but not exclusively, in cases of domestic violence and sexual assault. How can we ensure that the victim's personal information won't be released?

Clarification regarding these two questions would be very much appreciated.

Sincerely,

Pat Mitchell

Pat Mitchell, SFCC
Executive Director
Silicon Valley FACES
7/20/2009

777 N. First Street, Suite 220, San Jose, CA 95112 408-286-9663 x326 www.svfaces.org

Norris, Tom

From: Leslie McGill [lmcgill@californiapolicechiefs.org]
Sent: Wednesday, July 08, 2009 12:44 PM
To: Norris, Tom
Subject: Guidelines for for Providing Information on Police Reports

Tom:
We received your letter of June 19th and have reviewed your "Guidelines for Porviding Information about the Factual Circumstnaces Surrounding the Crime or Incident and Substance of Complaint or Request for Assistance." We appreciate the opportunity to review and respond and have no objections to the guidelines. Thanks!

Leslie McGill, CAE
Executive Director
California Police Chiefs Association
PO Box 255745
Sacramento, CA 95865-5745
916-481-8000 phone
916-481-8008 fax
916-804-3527 cell
lmcgill@californiapolicechiefs.org
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CALIFORNIA PEACE OFFICERS' ASSOCIATION
1455 Response Road, Suite 190 | Sacramento, CA 95815 | P 916-263-0541 | F 916-263-6090

July 10, 2009

Tom Norris
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Re: Sunshine Reform Taskforce – Comments

Dear Mr. Norris:

Thank you for your invitation to comment on the City's Rules and Open Government Committee's Sunshine Reform Taskforce Recommendations concerning the release of information from the San Jose Police Department.

We have reviewed the recommendations and conclude that they are unnecessary due to the existing California Public Records Act, and federal and state laws the police department must follow in releasing information.

Sincerely,

John Standish

Bureau Chief John Standish
President, 2009-2010

Norris, Tom

From: Sandy Davis [sdavis@ywca-sv.org]
Sent: Tuesday, July 14, 2009 4:04 PM
To: Norris, Tom
Cc: Stacy Castle
Subject: new guidelines

Hi Tom,

Thank you for including Rape Crisis in reviewing the new guidelines that San Jose is considering for the release of information in police reports.

The guidelines appear to be pretty straightforward and non-threatening to a victim of a violent crime. However, if bullet #2 under "factual circumstances" were to include the victim's name, address, or identifying information regarding the relationship, the YWCA Rape Crisis Center would take issue and strongly encourage not including such information.

Best regards,

Sandy Davis

Director, YWCA Rape Crisis Center

SANTA CLARA COUNTY
POLICE CHIEFS' ASSOCIATION

CALIFORNIA HIGHWAY PATROL

CAMPBELL POLICE DEPARTMENT

GILROY POLICE DEPARTMENT

LOS ALTOS POLICE DEPARTMENT

LOS GATOS/ MONTE SERENO POLICE DEPARTMENT

MILPITAS POLICE DEPARTMENT

MORGAN HILL POLICE DEPARTMENT

MOUNTAIN VIEW POLICE DEPARTMENT

PALO ALTO POLICE DEPARTMENT

SAN JOSE POLICE DEPARTMENT

SAN JOSE STATE UNIVERSITY POLICE DEPARTMENT

SANTA CLARA COUNTY DISTRICT ATTORNEY

SANTA CLARA COUNTY SHERIFF'S OFFICE

SANTA CLARA POLICE DEPARTMENT

SUNNYVALE DEPARTMENT OF PUBLIC SAFETY

July 15, 2009

Tom Norris
Public Records Manager, Office of the City Manager
City of San Jose
200 East Santa Clara Street
San Jose CA 95113

Dear Mr. Norris:

This letter is in response to your solicitation for input from the Santa Clara County Police Chiefs' Association relative to the release of information in police reports as requested by San Jose's Rules and Open Government Committee. Thank you for allowing us to comment on this proposal.

At our July 9, 2009 Police Chiefs' Meeting we discussed and voted on the document "guidelines for providing information about the factual circumstances surrounding the crime or incident and substance of complaint or request for assistance". After some discussion the Police Chiefs' group voted to reject the guidelines. By way of a voice vote of 13 "yes", 0 "no", and 2 abstentions the Chiefs' Association believes that the proposed guidelines are unnecessary and that the California Public Records Act (CPRA) provides balanced, appropriate and lawful guidance when it comes to release of information.

Moreover, all other cities in Santa Clara County and virtually every city in the State of California, we believe, adhere to the rules and regulations of the CPRA relative to the release of information. The Police Chiefs' Association believes that the City of San Jose should do the same.

Please contact me at (408) 776-7315 if you have any questions regarding this issue.

Sincerely,

Bruce C. Cumming
Past President
Santa Clara County Police Chiefs' Association

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

304 North Sixth Street, San Jose, CA 95112 P.O. BOX 1345 San Jose, California 95109
Phone (408) 295-3394 Fax (408) 295-4355

Executive Officers
Rev. Jethroe Moore II
President

Chris Elias
Vice President

Sheeva Ghassemi
Vice President and General Counsel

Gail Bautista
Treasurer

Deb Williams
Secretary

Executive Committee
Barbara Boone

Glenna Brambill

Norma Calleuder

James Charles

Mai Doan

Anthony JD Feurtado

Coy Garrett

David Ginsborg

Sharon A. Godbolt

Dr. Karl Hoffower

Salvador Martinez

Archie Moore

Tony Walker

Linda Vu

July 16, 2009

Tom Manheim
Director of Communications
200 East Santa Clara Street
San Jose, Cal. 95113

The San Jose/Silicon Valley NAACP joins the San Jose City Council in committing to improve the safety and security of the communities and streets within the City of San Jose . Numerous residents and business people have expressed their concerns regarding police stops, contacts, and use of force, and general police attitudes.

The SJ/SV NAACP requests that a heavy emphasis be placed on all contacts and stops, this included both pedestrian and vehicle stops. The information from all stops should be recorded and the information collected should include.

- Location and time of the stop.
- What initiated the need for stop
- Was suspect arrested?
- Was suspect ticketed?
- Were pictures taken of individuals or other occupants?
- Was a pat down performed?
- Was the vehicle searched?
- Was information recorded on suspect?

There is a clear correlation between attitudes; attitude can and will make a difference in our personal lives and work environment. Attitude has a lot to do with interpersonal communications, self-esteem and your perceptions of others and theirs of you. Some of the San Jose Police Department deal in an abusive, sarcastic manner with the public, and have shown a recurring pattern of discourtesy and detachment." This causes continuing difficulties experienced by police authorities in developing effective channels of communication with their local communities.

In order to maximize the efforts of community leaders in securing safe streets for their families, the San Jose/Silicon Valley NAACP kindly asks that you help the members of our communities in changing the current climate that exits in our Police Department.

In the Spirit of Community

Jethroe Moore II

Pastor Jethroe Moore II

Website: http://www.sanjosenaacp.org Email: sjnaacp@sanjosenaacp.org

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE

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Facsimile: (916) 324-8835
E-Mail: Connie.LeLouis@doj.ca.gov

July 20, 2009

City of San Jose
Office of the City Manager
Tom Manheim
Director Communications
200 East Santa Clara Street
San Jose, CA 95113

Dear Mr. Manheim:

Thank you for your correspondence to the Office of Attorney General Edmund G. Brown, Jr., regarding the City of San Jose's proposed guidelines for the release of information in police reports. We appreciate being apprised of matters of public concern.

We appreciate that you have requested input from our office, however, it is the Department of Justice's general policy that local governments are primarily responsible for local policy matters, and that the appropriate local resources be utilized for resolution of such matters. Additionally, the Attorney General does not seek to impose his own policy judgments or control the administration of guidelines by local-level officials. Therefore, we do not have any comments regarding this matter.

Thank you again for contacting our office.

Sincerely,

CONSTANCE L. LELOUIS
Supervising Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

CLL:kmp

July 21, 2009

Mr. Tom Norris
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

RE: Comments on Guidelines

Dear Mr. Norris,

Thank you for the opportunity to comment on the proposed guidelines interpreting the city's responsibilities under the California Public Records Act and specifically, Government Code Sec. 6254 (f), subparagraphs (1) and (2). These provisions can be properly characterized as an exception to the general law enforcement investigatory records exemption, requiring routine disclosure to the public by law enforcement agencies of the basic facts from reports of incidents and arrests. Together, the exceptions give the public and press a small but hugely important window into the daily workings of law enforcement agencies and the basic facts about crime and related activities requiring the attention of law enforcement agencies. The exceptions exist not just to allow citizens to monitor crime, but to also monitor the performance of law enforcement agencies.

The California Newspaper Publishers Association is a nonprofit trade association representing approximately 850 daily, weekly and student newspapers in California. For well over a century, CNPA has worked to defend the rights guaranteed by the First Amendment, including the rights of publishers to disseminate and the public to receive information about matters of public interest. The Newspaper Association of America is a non-profit organization representing the interests of more than 2,000 newspapers in the United States and Canada. Several NAA member newspapers publish in California. NAA members account for nearly 90 percent of the daily newspaper circulation in the United States and wide range of non-daily newspapers. One of NAA's key strategic priorities is to advance newspapers'' First Amendment interests, including the ability to gather and report the news.

Guidelines

The proposed guidelines do not appear to have the force of law, since there will be no remedy for violation. Our experience is that public access will suffer, as soon as the custodian of government records perceives the release of information as difficult or unflattering to the agency or its personnel, even if the law mandates disclosure. We recommend that the City of San José incorporate the guidelines as part of the Sunshine Ordinance. Unless the guidelines are enforceable, they will not be effective in promoting transparency of government operations.

General observations

The public has expressed a strong desire for broad and complete access to its government. Recently almost 83 percent of voters approved Proposition 59, the Constitutional Sunshine Amendment, which begins: The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials shall be open to public scrutiny (California State Constitution, Article 1 Sec. 3). The amendment also provides for broad construction of laws that provide public access and narrow construction of laws that exempt information from disclosure or close a meeting of a public body. The California Public Records Act makes it clear that it sets the floor, not the ceiling for public access: Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter (Government Code Section 6253 (e)).

The factual circumstances surrounding the arrest
The substance of complaints for assistance

When a law enforcement agency arrests someone, the CPRA generally requires this basic information to be released: *The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.*

Amidst all this specific information about the individual arrested, the legislature added one fundamentally important unspecific directive: from the record created as a result of the arrest, agencies must disclose "the factual circumstances surrounding the arrest." We believe this means the agency must disclose that part of whatever information it has created as a consequence of the arrest in any form of "writing" (broadly defined as virtually any form of communication, See Govt. Code Section 6252 (g)) that describes the factual circumstances surrounding the arrest. Based on the virtually unlimited circumstances that could cause an agency to arrest someone, we believe the city's well-intended proposed guidelines requiring disclosure of a checklist of specific information could work to restrict instead of expand the information that is required to be disclosed by the law. The guidelines should not be interpreted narrowly to cover just how the arrest took place, but also should permit disclosure of any information that would enlighten the public about the circumstances that caused the arrest.

The guideline list for information about requests for assistance is quite a lot shorter, but potentially more expansive. It defines the substance of the complaint or request as requiring disclosure of the *type of crime involved* and the *actions which constitute the elements of the crime*. We object to the guideline's reference to "actions which constitute the elements of the crime", since that phrase may be construed to have an overly technical

and legal meaning. We believe a guideline might better describe the responsibilities of law enforcement agencies under the CPRA if it interprets "substance" of the complaint or request as requiring the City to release records that give a clear description of the nature of the complaint or request, the parties involved, and any other information relevant to the community's ability to monitor crime in its neighborhoods, or the actions of its law enforcement officers.

In the end, whatever descriptive terms are used, the guidelines should communicate to the custodian of the records and the public alike that from the information gathered about an arrest and report, the agency will routinely release that portion of the facts that tells the complete story of what happened. The words "including but not limited to" should be inserted at the beginning of the lists. The preamble to the guidelines should also recognize that the public has a fundamental right to timely and complete information about crime and the law enforcement agency's efforts to control it (California State Constitution, Article 1 Sec. 3 and Govt. Code Sec. 6250) and that the guidelines are intended to create access to additional information than that required to be disclosed by Section 6254 (f) as authorized by Government Code Section 6253 (e).

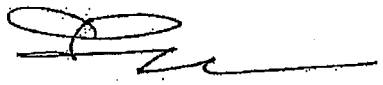
Conclusion

Access to basic police incident information is vital to our members. Many states, recognizing that a vibrant democracy is enhanced when the public has access to law enforcement records, have allowed public access to appropriately redacted law enforcement investigatory records from inactive cases, 911 tapes, accident reports and have allowed increased access to information in active cases if release would not harm certain identified public interests. The Reporters Committee for Freedom of the Press has a Guide to Law Enforcement Records that allows anyone to compare each state's laws for access to law enforcement records. Our quick look at the Reporters Committee's website (http://www.rcfp.org/policerecords/index.html) reveals that California's public access law on this issue is near the bottom.

We urge the city to study other state's laws with the eye toward expanding the public's ability to access more information easily about crime and law enforcement operations when release of that information would harm no more important public interest than the public's constitutional right to know.

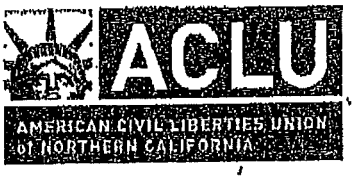
Thank you for allowing the CNPA and the NAA to comment on the proposed guidelines.

Sincerely,



Thomas W. Newton
California Newspaper Publishers Association

René P. Milam
Newspaper Association of America



SAN JOSE OFFICE
111 North Market Street
Suite 940
San Jose, CA 95113
ph: 408.282.8970
fax: 408.282.8975

July 22, 2009 .

Members of the San José City Council Rules Committee:
Mayor Chuck Reed, Vice Mayor Judy Chirco, Councilmember Nancy Pyle, Councilmember Pete Constant,
Councilmember Madison Nguyen (alt.)
200 E. Santa Clara St.
San José, CA 95113 .

Dear Members of the Rules Committee:

I am writing in response to a letter sent by Director of Communications Tom Manheim (dated June 22, 2009), requesting input from the ACLU of Northern California about the City's proposed alternative language (offered in replacement of language approved unanimously by the Sunshine Reform Task Force) regarding the release of police reports.

After careful review, we have found this alternative proposal to contain only the façade of reform and to be so lacking in substantive improvements in transparency of the police department that, rather than recommend a lengthy series of amendments, we must, unfortunately, oppose it entirely.

As drafted, this proposal suffers a complete disconnect from the overarching goals that were stated in the creation of the Sunshine Reform Task Force (SRTF) in the Spring of 2006. We encourage the City to either return to the moderate language proposed by the Sunshine Reform Task Force for full consideration (while the ACLU of Northern California believes that their recommended language was less strong than it could have been, we consider it a positive step forward) or to do nothing at this time and postpone this effort until there is a sincere commitment by the City Council to achieve real sunshine reform as applied to local law enforcement.

If there are any questions regarding our position on this proposal, please do not hesitate to contact me at either sporras@aclunc.org or (408) 282-8970 x302.

Kindest Regards,

Skyler Porras
Director San José Office
ACLU of Northern California

Cc: Councilmember Rose Herrera, Councilmember Sam Liccardo, Councilmember Nora Campos, Councilmember Pierluigi Oliverio, Councilmember Kansen Chu, Councilmember Ash Kalra

RON TYLER, *CHAIRPERSON* | N. QUINN DELANEY, LISA HONIG, LINDA LYE, *VICE CHAIRPERSONS* | NANCY PEMBERTON, *SECRETARY/TREASURER*
NAYA HARRIS, *EXECUTIVE DIRECTOR* | CHERI BRYANT, *DEVELOPMENT DIRECTOR* | LAURA SAPOHARA, *COMMUNICATIONS DIRECTOR* | JUSTINE GARVER, *ORGANIZING DIRECTOR* | ALAN SCHLOSSER, *LEGAL DIRECTOR*
ANN BRICK, MARGARET C. CROSBY, JULIA HARUMI MASS, MICHAEL RISHER, JORY STEELE, *STAFF ATTORNEYS* | NATASHA MINSKER, NICOLE A. OZER, MARK SCHLOSBERG, DIANA TATE, *POLICY DIRECTORS*
FRANCISCO LOBACO, *LEGISLATIVE DIRECTOR* | VALERIE SMALL NAVARRO, *SENIOR LEGISLATIVE ADVOCATE* | TIFFANY MOK, *LEGISLATIVE ADVOCATE* | SKYLER PORRAS, *SAN JOSE DIRECTOR*

AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA
39 DRUMM STREET, SAN FRANCISCO, CA 94111 | T/415.621.2493 | F/415.255.1478 | TTY/415.863.7832 | WWW.ACLUNC.ORG

Norris, Tom

From: fwms@comcast.net

Sent: Thursday, July 30, 2009 5:26 PM

To: Norris, Tom

Cc: Manheim, Tom; Suzanne Doty; Amy Bishop-Dunbar; Annie Goeke; Beckie Urrutia-Lopez; Beth McGovern; Catherine Ward-Seitz; Charlotte Lesser; Christine Baboomian; Cynthia Vasquez; Darcie Green; Diana Goodrow; Diana Cooper; Grace Walker; Hazel Wetherford; Honora Miller; Jean Richards; Katie Sloan; Kellie Hawkins; Laura Adler; Lillian Litzsey; Lorraine Provost; Marie Lemelle; Mary Wiberg; Nadine Washington; Olivia Rodriguez; Paula Devine; Phyllis Gordon; Rhonda Rangel; Rita Turner; Santa Barbara CSW; Shante Morgan Dunsseau; Shawna Scott; Aejaie Sellers; Beckie Urrutia-Lopez; Becky Hellwig; Carla Collins; Darcie Green; Delorme McKee-Stovall; Jeanette McNeely; Lata Patil; Lynda Ramirez Jones; Sabby Kaur; Teresa Castellanos; Veronique Zerbib

Subject: Fwd: City of San Jose's Request to CSW for Input Regarding New Guidelines that Governs the Release of Information in Police Reports

Tom,

At the CSW Meeting of July 13, 2009, the City's request to CSW for input regarding new guidelines that governs the release of "Factual Circumstances" surrounding the crime or incident and "Substance" of complaints or request for assistance was discussed. After the discussion, the Commission needed information regarding the guidelines before responding to the City's request. I was given the task to review the guidelines, update members of the Commission and respond to the City's request.

The City requested that CSW provide their comments by July 23, 2009. However, due to the overwhelming requests for clarification of the new guidelines, the deadline to receive input was extended to July 30, 2009.

After a thorough review of the guidelines and discussing them with the City Manager's Office and SJPD, it was concluded that the guidelines are being proposed by SJPD to define what constitutes the "substance" or "factual circumstances" of an arrest, complaint or request for assistance, since the California Public Records Act (CPRA) is mute regarding the definition. These guidelines were developed in response to recommendations of the Sunshine Reform Task Force. The guidelines do not provide any additional data beyond the CPRA. They define the information that will be provided.

Based upon our understanding and intentions of the proposed guidelines, CSW's response is as follows:

- CSW request that the City of San of Jose insures that these new guidelines protect the rights (safety, security, privacy) of women and children.
- Place CSW on the guidelines review meetings schedule to allow Commission members to participate.
- Schedule a guidelines review meeting with CSW Board.
- Clarify whether these guidelines are expansive or procedural.

CSW's response is based upon the information in the memo from the City and discussions we had with the City Manager,s Office and SJPD. As participate in the reviews and learn more about the impacts of the guidelines, CSW will evaluate its position regarding the guidelines.

Please call me at 408-281-8687 if you have any questions regarding CSW's response.

Regards,
Forrest Williams
Santa Clara County
CSW Commissioner

--- On **Wed, 7/22/09, fwms@comcast.net** ***<fwms@comcast.net>*** wrote:

From: fwms@comcast.net <fwms@comcast.net>
Subject: City of San Jose's Request to CSW for Input Regarding New Guidelines that Governs the Release of Information in Police Reports
To: Date: Wednesday, July 22, 2009, 4:22 PM

Suzanne,

&n

bsp;
At the CSW Meeting of July 13, 2009, I was asked to respond to the City of San Jose's Request to CSW for Input Regarding New Guidelines that Governs the Release of Information in Police Reports. The City requested that CSW provide their comments by July 23, 2009.

I discussed these new guidelines with Tom Manheim, City Manager's Office, and Tom Norris, SJPD. There have been many requests for clarification of these new guidelines. Because of this, the date to receive input has been extended to July 30, 2009. I have several additional questions for the City Manager's Office before I finalize my input. If any of you have input for consideration, please send it to me by July 24, 2009.

Regards,
Forrest Williams
Commissioner
CSW

Attachment E

GUIDELINES FOR PROVIDING INFORMATION ABOUT THE "FACTUAL CIRCUMSTANCES" SURROUNDING THE CRIME OR INCIDENT AND "SUBSTANCE" OF COMPLAINT OR REQUEST FOR ASSISTANCE

RESPONSES TO REQUEST FOR COMMENTS

The request for comments was sent to 34 separate stakeholder organizations in the 3rd week in June.

A total of 10 responses have been received as of July 31, 2009. The breakdown is as follows:

Opposed to guidelines in favor of Sunshine Reform Task Force recommendations or other guidelines (3 responses)

- American Civil Liberties Union of Northern California
- California Newspaper Publishers Association and Newspaper Association of America (1 response, 2 signatories)
- National Association for the Advancement of Colored People, San José/Silicon Valley Branch

Opposed to guidelines as unnecessary (2 responses)

- Santa Clara County Police Chiefs Association
- California Peace Officers Association

No objections to guidelines (1 response:

- California Police Chiefs Association

No objections as long as victims' personal identification remains private (3 responses)

- Santa Clara County Commission on the Status of Women
- Silicon Valley FACES
- YWCA Rape Crisis Center

No position (1 response)

- Office of the Attorney General, California State Department of Justice

Summary of Correspondence and Public Comments to the Sunshine Reform Task Force (SRTF) Regarding Police Records

I. Correspondence to the SRTF received 2006-2008 regarding Police Records

During the latter part of 2006 through Fall of 2008, the SRTF received numerous letters and emails from organizations and private individuals expressing their opinions and positions on public access to Police records beyond that prescribed by the California Public Records Act (CPRA).

Supporting Increased Public Access to Police Records

The Task Force received correspondence from 266 private individuals and 9 organizations in support of public access to Police records beyond the requirements of the CPRA. Of the correspondence from private individuals, 154 were email messages generated and transmitted via the ACLU Northern California web site. The organizations that sent correspondence included the following:

Asian Americans for Community Involvement
American Civil Liberties Union, Northern California Chapter
Asian Pacific Islander: Justice Coalition of the Silicon Valley
Council on American Islam Relations, California
Californians Aware
Law Foundation of the Silicon Valley
San Jose Coalition for Immigrant Rights
San Jose Mercury News
Services, Immigrant Rights, and Education Network

Supporting Increased Public Access to Police Records with Limitations

One organization, Next Door Solutions, wrote in favor of increased public access to Police records but with limitations in the cases of sexual assault.

Expressing Concern Regarding Increased Public Access to Police Records:

Three private individuals and 9 organizations wrote the Task Force expressing concerns that increased public access to Police records could result in violations of privacy rights and/or jeopardize ongoing investigations. Those organizations included the following:

California Partnership to End Domestic Violence
California Police Chief's Association
Santa Clara County Domestic Violence Advocacy Consortium
Santa Clara County Office of the District Attorney
Santa Clara County Police Chief's Association
State of California Department of Justice
Support Network for Battered Women
YMCA Rape Crisis Center
YMCA of Silicon Valley

II. Public Comment given at September 20, 2007 Sunshine Task Force Meeting regarding the Public Record Subcommittee Proposals on Police Records

Supporting the Public Record Subcommittee Proposals

Eight private individuals and 7 representatives of organizations provided comments in support of the Public Record Subcommittee proposals. The organizations included:

American Civil Liberties Union, Northern California Chapter
California First Amendment Coalition
Coalition of Justice and Accountability
Mental Health Advocacy Project
San Jose Mercury News
Silicon Valley NAACP
St. Julie Billart Parish

Supporting the Public Record Subcommittee Proposals with Limitation:

One private individual and a representative of 1 organization supported the Public Record Subcommittee proposals with a limitation to protect the privacy rights of victims. That organization was Next Door Solutions.

Opposing the Public Records Subcommittee Proposals:

Four private individuals and representatives of 5 organizations provided comments in opposition to the Public Record Subcommittee proposals. Those organizations included:

Community Solutions
Santa Clara County District Attorney's Office
Santa Clara County Police Chiefs Association
Santa Clara County Public Safety and Justice Committee
Silicon Valley YMCA

III. Public Comment given at January 31, 2008 Sunshine Task Force Meeting Regarding Revised Language on Police Statistical Reports

Support for Revised Language on Police Statistical Reports

Five private individuals and representatives of 1 organizations spoke in favor of the revised. That organization was the Silicon Valley NAACP.

Reyes, Tess

From: Duenas, Norberto
Sent: Tuesday, September 15, 2009 8:51 PM
To: Reyes, Tess
Subject: FW: Intergovernmental Relations Hot Sheet for 8.31.09

Attachments: Intergovernmental Relations Hot Sheet 8.31.09. 2.doc; 2009-10_CSJ_Priority_Bills_08_31_09-1.doc

Intergovernmental Relations Ho... 2009-10_CSJ_Priority_Bills_08_...

pls print attachments and place in my in box.

thanks.

nd.

-----Original Message-----
From: Shikada, Ed
Sent: Tuesday, September 01, 2009 8:18 AM
To: Santana, Deanna; Duenas, Norberto; Krutko, Paul
Cc: Shotwell, Betsy; Miller, Roxanne / Sacramento Office
Subject: FW: Intergovernmental Relations Hot Sheet for 8.31.09

Sharing this FYI.

Betsy/Roxanne - Going forward, please include Deanna, Norberto, and Paul (the DCMs) on these so they are in the loop.

Thanks!
Ed

-----Original Message-----
From: Roxanne Miller [mailto:sjlegsac@pacbell.net]
Sent: Monday, August 31, 2009 2:13 PM
To: Figone, Debra; Shikada, Ed; Shotwell, Betsy
Cc: Cranford, Sandra; Cervantes, Yolanda; Soto, Eileen
Subject: Intergovernmental Relations Hot Sheet for 8.31.09

Attached is the IGR Hot Sheet for August 31. Please note also attached is a listing of priority City Bills. This listing is in addition to our priority State budget related bills.
Please let me know if you have any questiosn.
Thanks,
Roxanne
(cell) 916-803-3946

--
Roxanne L. Miller
Legislative Representative
Sacramento Office
City of San Jose

770 L Street, Suite 1235
Sacramento, CA 95814
(916) 443-3946 (office)
(916) 803-3946 (cell)
sjlegsac@pacbell.net

COUNCIL AGENDA: 10-20-09
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Robert L. Davis
Darryl Von Raesfeld
Jennifer A. Maguire

SUBJECT: **SEE BELOW**

DATE: September 28, 2009

Approved Deanna Santana

Date 10/5/09

Council District: City-Wide

SUBJECT: **ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE GENERAL FUND AND ADOPTION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE COUNTY OF SANTA CLARA TO ACCEPT 2008 STATE HOMELAND SECURITY GRANT PROGRAM (SHSGP) FUNDS AND 2008 METROPOLITAN MEDICAL RESPONSE SYSTEM (MMRS) GRANT FUNDS**

RECOMMENDATION

It is recommended the City Council:

1. Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara to accept program funds from the County for 2008 State Homeland Security Grant Program (SHSGP) funding for Police and Fire Department training and exercise events in an amount up to $1,204,946 and Fire Department funding for the 2008 Metropolitan Medical Response System (MMRS) Grant Program in the amount of $321,221.

2. Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund in fiscal year 2009-2010:

   a. Establish a city-wide appropriation to the Fire Department for the 2008 Metropolitan Medical Response System (MMRS) Grant Program in the amount of $321,221; and

   b. Increase the estimate for Revenue from the Federal Government by $321,221.

3. Adopt a resolution authorizing the City Manager to negotiate and execute additional amendments to the agreement and all related documents without further Council action.

OUTCOME

The Council's approval of 2008 SHSGP recommendations will provide continued funding for the San José Police Department and Fire Department to attend training and exercise events to enhance the Departments' capabilities in terrorism prevention, mitigation, and deterrence. The 2008 MMRS grant funding will enable the Fire Department to purchase pharmaceuticals and equipment, fund a deployment exercise in 2010, and limited management and administration costs. The San José Fire Department, through its Office of Emergency Services, will administer a portion of the 2008 SHSGP grant funding for Fire Department training and the entirety of the 2008 MMRS grant funding.

BACKGROUND

The federal Department of Homeland Security (DHS) through its Homeland Security Grant Program (HSGP) has awarded 2008 grant funding to the State of California for a number of grant programs. The State, as grantee, has awarded funding to designated Operational Areas within the State for expenditure of select grant funding. The County of Santa Clara is one of several Operational Areas in California that is administering this funding. The County of Santa Clara has allocated funding which the City of San José is to receive under the 2008 State Homeland Security Grant Program (SHSGP) and Metropolitan Medical Response System (MMRS) programs funded through HSGP. Both of these grants reimburse the City for eligible grant expenditures.

As in the last several years, the SHSGP grant will again provide funding for local law enforcement and fire departments to attend training and exercise events. These are designed to enhance capabilities in the field of terrorism prevention, mitigation, and deterrence, as well as in rescue systems and methods of confined space rescues.

The funds from the 2008 MMRS program will continue San José's existing program, designed to protect first responders from bio-terrorism events. San José's Metropolitan Medical Task Force, funded through this grant, is a partnership consisting of San José's Fire and Police Departments, County of Santa Clara Public Health Department, and American Medical Response (AMR), the contracted medical transport provider for the County and hospitals.

ANALYSIS

The City of San José is to receive 2008 SHSGP and 2008 MMRS funding from the County of Santa Clara, acting as the grant administrator for funds awarded to the State of California under the 2008 HSGP. The term of the grant is for the period October 23, 2008 through December 31, 2010.

Per the Agreement (see Attachment A), the San José Police Department (SJPD) and Fire Department (SJFD) will be allocated up to a maximum of $1,204,946 for the purpose of conducting and attending approved training and exercise events. This allocation for training and exercise events is available to all jurisdictions within the Santa Clara County Operational Area

and are approved for dispersal and allocation by the Homeland Security Training & Exercise Grants Advisory Group (HSTEGAG). To access these grant funds that are not being appropriated as part of this Council action, the SJPD and SJFD will submit a training/exercise request form to the Santa Clara County Office of Emergency Services (SCCOES) for approval by the HSTEGAG for each training and/or exercise it has proposed for grant funding. Once these requests are approved by HSTEGAG, the respective department will request appropriation of the approved funds up to the maximum amount indicated above.

The SJPD has already received approval from the HSTEGAG to expend $77,940 of the allocated maximum for the training of approximately 120 sworn Police personnel in Incident Command System (ICS) 300/400. This funding will reimburse overtime costs incurred by the SJPD to attend the training. The training is designed to instruct participants in the central tenets of the National Incident Management System (NIMS) and provide a balance between flexibility, standardization when developing plans, process, procedures, agreements and roles for all types of incidents regardless of cause, size, location, or complexity. There will be six separate training events between September 2009 and March 2010.

Additionally, the SJPD has received approval from the HSTEGAG to expend $54,300 of the allocated maximum for the upcoming Urban Shield Exercise scheduled from October 23rd through October 26th, 2009. This funding will reimburse overtime costs incurred by the SJPD to participate in and host one of 25 scenarios throughout the greater Bay Area during the exercise. The exercise is designed to challenge the skills and determination of the competing teams by testing their tactical skills in a series of real-life scenarios. Specific locations have been chosen that replicate identified problem areas and Tier 1 Critical Infrastructure sites within the greater San Francisco Bay Area.

The SJFD has also requested consideration for partial funding of Rescue Systems II. Funding would be used for tuition, participant overtime, and backfill for participants, in addition to other allowable costs under the grant. At this time, the training has not yet been approved.

The following is a list of projected training and exercise events to take place over the next year that will be attended or conducted by the SJPD and SJFD. They are expected to be funded through the 2008 SHSGP grant on a reimbursement basis. The appropriation of funds for the SJPD training and exercise events listed below are recommended in the 2008-2009 Annual Report, which is also being reviewed by the City Council on October 20, 2009. The appropriation of funds for the SJFD training not yet approved will be requested during the 2009-2010 mid-year budget process.

Event Name & Dates	Grant Funding
SJPD - Incident Command System (ICS) 300/400 Training / September, 09 through March, 2010	$77,940
SJPD - Urban Shield Exercise / October 23-26, 2009	$54,300
SJFD – Rescue Systems II / November 2-6, 2009	TBD*
Total Costs	**$132,240**

*TBD (To be determined) although amount could total up to $1,072,706.

The amount for SJFD reimbursement for the November 2009 training could total up to $1,072,706. This amount is the total grant funding that remains available for the County of Santa Clara to allocate for requested but not yet approved trainings across all local jurisdictions. SJFD's training request is expected to be one among several to be funded from this source.

The 2008 MMRS grant funds will be utilized for the purchase of multiple pharmaceuticals, casualty simulation training and rescue equipment (e.g. gurneys), a deployment exercise, and minor management and administrative costs (e.g. conference registrations).

EVALUATION AND FOLLOW-UP

As additional training events are applied for and approved, City Council action may be required to appropriate additional grant funding.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1**: Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum does not meet any of the above criteria, but it is posted on the City's website as part of the October 20, 2009 Council agenda.

COORDINATION

This memorandum has been coordinated with the Department of Planning, Building, and Code Enforcement and the Office of the City Attorney.

COST SUMMARY/IMPLICATIONS

The City of San José will be reimbursed by the County of Santa Clara for grant-related expenditures of up to $1,204,946 for training and exercise costs incurred by SJPD and SJFD during the term of the 2008 SHSGP grant. Additionally, the City will be reimbursed by the County of Santa Clara up to $321,221 for eligible 2008 MMRS grant expenditures.

There are no matching funds or in-kind services required under either of these grants (SHSGP and MMRS).

CEQA

Not a project.

D/c Carrillo
for ROBERT L. DAVIS
Chief of Police

DARRYL VON RAESFELD
Fire Chief

JENNIFER A. MAGUIRE
Budget Director

For questions please contact Rick Cheney, Grants Analyst, at 408-277-4488.

I hereby certify that there will be available for appropriation in the General Fund in the Fiscal Year 2009-2010 moneys in excess of those heretofore appropriated therefrom, said excess being at least $321,221.

JENNIFER A. MAGUIRE
Budget Director

Attachment A