



Memorandum

TO: PUBLIC SAFETY, STRATEGIC
SUPPORT & FINANCE COMMITTEE

FROM: Deanna J. Santana

**SUBJECT: MAYOR REED'S TRANSITION
COMMITTEE REPORTS**

DATE: March 29, 2007

Approved

Kay Winer

Date

4/8/07

The purpose of this memo is to outline the status of Council or Council Committee review of the five Subcommittee Final Recommendation reports related to Mayor Reed's Transition Committee. There were five subcommittees established by Mayor Reed for purpose of issuing Final Recommendations to the mayoral transition process. The five subcommittees established were:

- Government Reforms & Ethics
- Jobs & Economy
- Environment
- Education
- Public Safety

The status of each Subcommittee's Final Recommendations report is as follows:

Government Reforms & Ethics—This Final Recommendations were reviewed and acted on by the Rules & Open Government Committee in February and March. Council consideration for a portion of the Final Recommendations (e.g., cost benefit analysis, Revolving Door Ordinance, and Lobbyist Ordinance) is scheduled for April 3, 2007. Separately, staff has reported to both the Rules & Open Government Committee and City Council on the status of implementing the Reed Reforms and is preparing for a status report in late April.

Jobs & Economy—Review of the Subcommittees Final Recommendations is not included in the Community & Economic Development Committee's workplan, but some of the recommendations have been scheduled as City Council Study Sessions (e.g., industrial land conversion and General Plan hearing frequency) or are included in the 6 month Committee workplan.

Environment—Under the guidance of the Mayor's Office, the Transportation & Environment Committee spread out the Environmental Subcommittee report recommendations over the entire 6 month work plan rather than trying to address them all at one time. Several have already been discussed and the Green Building Policy changes have been considered by the City Council.

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Education—The Neighborhood Services Committee reviewed the Final Recommendations on March 8, 2007 and the City Council approved the Committee's minutes on March 20, 2007. By motion of Councilmember Pyle, seconded by Councilmember Nguyen, the Final Recommendations were accepted. No further action was recommended other than Councilmember Pyle's request that CEOs be added to future Task Force meetings, if any are held.

Public Safety—Attached to this report is the Public Safety City Service Area's report on the Final Recommendations issues by Mayor Reed's Public Safety Subcommittee. A separate discussion of the recommendations will be held by the Public Safety, Strategic Support & Finance Committee on April 19, 2007 with a full report of the Committee's minutes scheduled for May 1, 2007.

COORDINATION

This memo was coordinated with the Mayor's Office.



Deanna J. Santana
Deputy City Manager

For questions, please contact Deanna J. Santana, City Manager's Office, at 408-535-8173.



Memorandum

TO: Public Safety, Strategic Support
and Finance Committee

FROM: Robert L. Davis

**SUBJECT: MAYOR REED'S TRANSITION
COMMITTEE RECOMMENDATIONS**

DATE: April 5, 2007

Approved

Ray Wines

Date

4/10/07

BACKGROUND

This memorandum is being submitted at the direction of the City Manager's Office in response to the final recommendations made by the Public Safety Subcommittee of Mayor Reed's Transition Committee.

ANALYSIS

The Department's response to each recommendation is provided below:

Transition Committee Recommendation #1

Create a Task Force to oversee the policies of the Downtown, ensuring the safety and enjoyment of patrons and police.

SJPD Response:

The Department has long recognized the effectiveness of working with community members to identify and improve community safety issues Citywide. Ongoing efforts in the downtown area have assisted downtown business owners and the Department in successfully resolving a number of issues specific to downtown. It was for this purpose that the Downtown Working Group was established at the direction of Council. Moreover, in terms of having a task force oversee the policies of downtown, the Department recognizes that the City Council is responsible for establishing overall policy direction for the City, and that the City Manager and department heads determine operational methodology to put those policies into practice.

Additionally, the Department also continues its own ongoing annual, monthly, weekly, and sometimes daily meetings with nightclub and business owners. Department liaisons work with the downtown Nightclubs and Restaurant Owners' Association, as well as the Downtown

Business Association and other interested members of any organization wishing to participate in meetings with the Department's Entertainment Zone (EZ) coordinator or supervisors. In these meetings, public safety issues and various problems related to downtown are discussed and collaborative strategies are developed to address ongoing concerns. Examples of some of the outcomes of these more recent efforts include:

- Club/business owners are more involved in the ownership of problems
- Club/business owners are more cooperative in complying with closure requirements
- Club/business owners accept accountability for private security
- Cruise strategies developed by the Department have been successful in curtailing downtown congestion, and nightclub owners have supported these efforts
- Club/business owners are complying with 1:30 a.m."cease entertainment" provisions of their entertainment permits
- Patrol officers are redeployed, when resources allow, from other districts in the City to patrol the downtown on foot to address owners' concerns regarding criminal activity and juvenile curfew violations.

These examples of collaborative efforts to work with downtown business owners have had a positive impact in the downtown area.

The Department's experience in working with San Jose's nightclub operators indicates the operators are more aware that ensuring a safe downtown environment is good for business. The Department also recognizes the importance of trying to help a business succeed. It is due in part to the efforts of the Department that many people feel safe to come to the downtown area. Police officers have been approached by patrons exiting downtown venues who have expressed their appreciation to the officers for their efforts in keeping downtown safe. The distinction of being the "Safest Big City in America" encourages patrons to come to the downtown area at night. Downtown San Jose provides an environment where patrons can eat, drink, and patronize night clubs knowing they are safe. The Department is also aware of the ever-increasing numbers of residential developments in the downtown area. As such, the concerns and needs of current homeowners, future homeowners, and daytime businesses should also be considered when discussing the policies of downtown, since the success of downtown does not depend solely on having nightclubs.

In conclusion, because of the ongoing efforts of the Downtown Working Group, along with all of the Department's efforts, the Department does not see the need to create another task force.

Transition Committee Recommendation #2

The hard closing of downtown bars and nightclubs should be replaced with a gradual closing. Allow bars, clubs, and restaurants to stay open until 3am. They would stop serving alcohol at 1:30am, clear all drinks off the bar at 2:00am, and allow non-alcoholic drinks and food until 3am. This will stop the simultaneous exodus of all bar patrons and reduce the intensity of crowds and propensity of violence.

SJPD Response:

The Department believes that the term "hard closing" is a misnomer. Closing times are governed by City Conditional Use Permits, Entertainment Permits and state law regarding alcohol sales. Generally, the clubs are in reasonable compliance. The Entertainment Zone officers have no standardized closing procedure and people can leave downtown when they choose. Entertainment Permits require businesses to clear patrons at a reasonable time after closing, or if fights are occurring. When downtown businesses comply with clearing patrons at the appropriate time, officers do not need to intervene.

Closing times of downtown bars and nightclubs is a very complex issue with a long history in San Jose. Currently, to address downtown nightclub closures, a pool of approximately 30 - 50 officers are available to work the Entertainment Zone. Thursday evening averages 25 officers and five sergeants, Friday and Saturday evening averages 45 officers and six sergeants, and Sunday evening averages five officers and one sergeant, depending upon the season and scheduled events. Officers volunteer at the end of their regular ten-hour shift and work two hours of Entertainment Zone overtime to focus resources at closing time. Officers make arrests as necessary, issue citations and enforce curfew laws. To transition to a 3 a.m. closing would require an increase in overtime hours for Entertainment Zone officers and will further extend their shift. Currently, Entertainment Zone supervisors already meeting with bar and club owners to establish a staggered club exit time. This voluntary compliance by businesses has been working fairly well.

In the 2005-2006 Civil Grand Jury's Report, "Racial Profiling by SJPD: Perception vs. Reality," one recommendation addressed this issue:

Civil Grand Jury Finding #6

The cost to the City of San Jose of policing the EZ is significant. During fiscal year 2005-2006, police overtime costs are stated to be about \$840,000. Also, long shifts may contribute to officer stress, fatigue, and performance degradation.

The Department's response to this recommendation stated in part, "Sergeants are assigned to monitor and direct officers during this period. The Department has seen no evidence that the EZ shift contributes to or results in officer stress, fatigue, or degradation of performance. The Department is not aware of any situation where an officer's fitness for duty has been questioned during EZ enforcement."

This response was based on a two-hour shift holdover. To extend a volunteer officer another hour would indeed be cause of concern for the Department as it pertains to fatigue and officer-safety issues.

Due to staffing shortages, the Department has had to rely on overtime funding to support the Entertainment Zone. With the reduction of overtime funding, the Department could no longer rely on off-duty officers to assist the Cruise Management Detail (CMD). As a result, the

Department has had to rely on swing shift officers to clear gridlock along Santa Clara Street as well as provide support to the Entertainment Zone closing of nightclubs. This is often counter-productive and leads to officer and public safety issues in adjoining police districts. When numerous officers from the swing shift are called to respond downtown to assist in cruise management and/or night club closings, other areas of the City are affected.

Currently, the Central Division utilizes a "downtown policing response team" to address all crime problems in the core area of downtown, including the Entertainment Zone. The downtown policing response team consists of a lieutenant, two sergeants, and 10-16 officers from all patrol divisions. At 10:00 p.m. on Friday and Saturday nights, officers respond downtown from their beat assignment and are divided into foot patrol teams. The officers saturate the area, conduct enforcement as necessary, and provide curfew enforcement. A 3 a.m. closure could literally strip the rest of the City of police resources during a significant event downtown. Even with a 1:30 a.m. stop of alcohol being served, it is the Department's experience that the after-hours partying will simply continue at the later hour. Current Bureau of Field Operations' staffing levels cannot support this recommendation.

The Department receives numerous complaints from residents living in and around establishments that serve alcohol. The common complaints include loitering, graffiti, public urination, and loud music after closure of these establishments. Extending the closing hours of bars and nightclubs will only extend these problems to a later time in the morning when the Department has fewer resources available.

The Department would consider a 3:00 a.m. closing trial period of downtown bars and night clubs if the following issues were addressed and in place, since they would help mitigate the problems being experienced at some of the nightclubs:

- The Police Department is designated to approve and issue permits for entertainment venue promoters who chose to operate in San Jose. This would be similar in design to the current process in which the San Jose Police Department issues Entertainment Permits. Currently, entertainment venue promoters in the City are not regulated
- Changes should be made to the process used to issue Conditional Use Permits (CUP) to entertainment venues to place restrictions on the quantity of nightclubs and bars, the quantity of patrons allowed within those establishments, and the location of entertainment venues
- Citywide police staffing shortages and an adequate overtime budget need to be addressed

The Department also believes the City should consider conducting a cost-benefit analysis that would determine whether the number of City resources being expended in the Entertainment Zone is offset by benefits to the General Fund. The advantages of a vibrant downtown should also be considered in this study.

Transition Committee Recommendation #3

Prioritize the enforcement of ABC laws and increase penalties for business owners who habitually violate these laws.

SJPD Response:

The Department agrees with this recommendation. However, the Alcoholic Beverage Control (ABC) is the state agency that governs the issuance of alcohol permit licenses. The recommendation to increase penalties for business owners who violate ABC laws would require new state legislation.

The Department's ability to prioritize ABC enforcement has been limited due to staffing issues. The Vice Unit is currently understaffed and the ABC has extremely limited resources for the San Jose area. The Vice Unit has provided ABC legal update training to uniformed officers in an effort to enhance enforcement of the laws. Utilizing trained patrol officers to conduct premise checks, the Vice Unit personnel then conduct required follow-up working collaboratively with the ABC to identify business owners who habitually violate the law and/or conditions of their Entertainment and Conditional/Special Use Permits. Cruise Management Detail (CMD) officers sometimes work, when available, in a plain-clothes capacity to assist in these efforts.

It is important to consider that the Department must prioritize the manner in which limited resources are directed to conduct enforcement according to the severity of the crime. When incoming calls-for-service exceed patrol staffing availabilities, these proactive enforcement efforts cannot be done. Although the Police Department has been successful in applying limited resources toward a wide range of prevention, enforcement, and intervention issues, the cumulative impact of these staffing constraints has made it difficult to keep pace with the unparalleled growth and expansion of downtown.

Transition Committee Recommendation #4

Establish a continual re-evaluation of police policies and tactics in the handling of late night crowds until an appropriate resolution is met, striking a healthy balance with business needs and public safety.

The Department already engages in continuous ongoing evaluation of policies and tactics, to include the handling of late night crowds, in an effort to minimize any negative impact on the public (see response to Recommendation #1). Yet it is important to recognize that the Police Department's primary responsibility is to provide public safety to everyone. Clearly, there cannot be compromises made that would ever diminish public safety for any of the many stakeholders in the City. As stated in the Department's response to Recommendation #1, the Department recognizes the importance of trying to help a business succeed and will always work to achieve a mutually beneficial resolution. The Department will continue to work with the Downtown Working Group and any and all stakeholders to address these same concerns.

As an example, in 2006, by working with residents and business owners, a mutually beneficial plan was developed to impact cruising concerns in the downtown area.

Transition Committee Recommendation #5

Include additional training for police officers who work the area so that they are better equipped to handle the large crowds.

SJPD Response:

The SJPD has a long history of effective crowd control management. Officers are well trained and supervised when dealing with these situations. Nevertheless, the Department actively seeks new and effective tactics and training in order to develop best practices. The SJPD has received nationwide recognition for dealing with large crowds effectively with a historically low amount of resources. The Bureau of Field Operations (BFO) provides ongoing crowd control management training to all patrol officers. The tactics developed by the Department are based upon limited resources. If and when any additional training would be of value to the organization, a proactive effort would certainly be made to provide such training.

The Department recognizes the value of educating the public and business owners regarding issues with the downtown area. It benefits all stakeholders when there is a clear understanding of the laws and the police policies in place to deal with downtown issues. The efforts of the Downtown Working Group assist the Department in this endeavor.

Transition Committee Recommendation #6

Look into reinstating pay jobs for police officers, where bars and clubs pay to have an officer assigned specifically to their business. This works better for both the business owner and the officer. The fee should be paid to the city and not directly to the officer so that there is no question of impropriety.

SJPD Response:

Because of problems the Department experienced in the past where officers worked directly for nightclubs, the Department revised the provisions in the Duty Manual dealing with outside employment and conflicts of interest. The recommendation as stated would be in violation of Department policy. The Department firmly believes it is inappropriate to have officers paid by any employer or establishment whose major business is the sale and/or service of alcoholic beverages. Department policies are structured in such a way to ensure there never is an appearance of impropriety by an officer working at or for a nightclub. When an officer is subject to the authority and direction of a club owner, albeit indirect, there are inherent conflicts of interest that are not in the best interest of the Department, City, or community. Indeed, if officers routinely work for the same venue, it could be assumed by an observer that the officers are being paid by the night club.

In support of this position, the previously referenced 2005-2006 Santa Clara County Civil Grand Jury Report, "Racial Profiling by SJPD: Perception vs. Reality" the Grand Jury made the recommendation that stated in part, "In no case should police officers be employed by club owners."

The Department agreed with the Civil Grand Jury's recommendation, and the Department's response to Council stated in part, "The Department had determined that there could be a conflict in the scope of responsibility for a police officer, who could receive direction from a secondary employer that might conflict with the law."

The recommendation to have the City collect fees related to secondary employment is similar in nature to an issue that was addressed in the late 1990's when the Downtown Entertainment Zone Program was originally structured so that nightclub owners would be responsible for some of the costs. Due to difficulties the City had in fee collection and the resistance of some nightclub owners to pay, the program was abandoned.

Transition Committee Recommendation #7

The City should convert the Mayor's Gang Task Force into an agency for all jurisdictions to give it more power and increase public involvement.

SJPD Response:

The Mayor's Gang Prevention Task Force (MGPTF) was created in 1991 to address the issues of community safety, violence, and gang-involved youth. The task force includes members of law enforcement; Parks; Recreation and Neighborhood Services department (PRNS); other government agencies; faith-based organizations; businesses; not-for-profit organizations; and social service organizations to develop coordinated programs to prevent, intervene, and suppress gang activity and crime among young people in San Jose. The Police Department has always supported, as part of its community policing philosophy, the three-pronged approach of prevention, intervention, and enforcement, which has been a key component of the Task Force as it works to reconnect youth to their families, schools, communities, and their futures.

Indeed, the City of San Jose attributes much of its success in remaining the "Safest Big City" to the work of the Mayor's Gang Prevention Task Force, which is one of San Jose's leading grass-roots initiatives to address gang violence. With the necessary collaboration already in place, the Department would require further clarification from the Public Safety Subcommittee, as to what specific actions it believes would enhance what is already being done.

The Department encourages members of the Public Safety Sub-Committee to review the 2005-2007 Mayor's Gang Prevention Task Force Strategic Work Plan for extensive details on the outreach efforts conducted by this group.

Transition Committee Recommendation #8

San Jose needs more accurate statistics on Gang, Gang Membership and Gang Activity. Teachers and other school officials, patrol officers, probation officers, jail classification programs, VCET, and Juvenile Hall should all be included in the gathering of gang information.

SJPD Response:

The Department agrees that data and statistics can be a valuable tool to aid members of the community and assist law enforcement in the identification of at-risk youth and gang trends. The Department's present ability to maintain real-time data entry has been hampered due to civilian staffing shortages within the Department.

The SJPD maintains data related to gang activities derived from reported incidents in the Records Information System (R.I.S.). A summary of this information is provided on a regular basis to the MGPTF.

Over the last several years, the SJPD has reached out to other law enforcement agencies to provide training related to the data collection of gang-related incidents. The SJPD's School Liaison Unit works collaboratively with school officials, teachers and parents to share information when appropriate. It must be remembered that much of the information being collected pertains to juveniles. This information is extremely confidential and highly regulated by state law.

The recommendation to involve more members of the community to provide gang-related information should be reviewed and further explored by members of the MGPTF.

Transition Committee Recommendation #9

Support of a new initiative to publicize records regarding gang members who have been required to register their name and address with the San Jose Police Department. The public and parents have a right to know about violent gang members who live in our community.

SJPD Response:

As previously stated, juvenile records are protected under state law. Knowing that many gang members are juveniles, the Department must be cautious in the release of any criminal intelligence information. The release of known gang member names could potentially result in an increase in gang activity, in that rival gangs could utilize this information to target listed gang members. In addition, gangs might see this as a source of free advertising for their respective groups.

Additionally, because some gang members are juveniles, this recommendation may contradict the efforts of the Santa Clara County Juvenile Detention Reform (JDR) committee, whose primary focus is to minimize the incarceration of juveniles and focus more on prevention and intervention strategies for our youth.

Transition Committee Recommendation #10

Greater funding is needed for Community based Youth Organizations to identify and prevent the next generation of gang members. Gang life is a cycle, and for many gang members it is a family cycle. To break this cycle, special attention should be given to children who have relatives in gangs.

SJPD Response:

The Department fully agrees with this recommendation.

Transition Committee Recommendation #11

Reinstate Gang Injunctions to stop street gang intimidation and activities by preventing particular gang members from loitering on neighborhood streets, corners, parks, and other public places. Using Project Crackdown will be an important tool for this action.

The first gang abatement program was conducted by the Department in 1992 and received positive response from the press and members of the community. The SJPD created this tool and successfully defended this initiative to the California State Supreme Court. To date, the City has obtained three gang abatements with one currently in effect. These efforts have greatly improved the quality of life in these areas of the City. Because gang abatements are labor and time intensive for both the Police and the City Attorney's Office, other effective strategies are also employed to reduce gang violence. If it is determined that the abatement process is the most effective tool against gang violence, the Department remains committed to working with the City Attorney's Office to continue gang abatement efforts.

Transition Committee Recommendation #12

Closer coordination with County Probation and State Parole by our Police Department will lead to better enforcement of the probation and parole conditions. This will allow for greater monitoring of gang members who have been paroled from prison.

SJPD Response:

The Department is always seeking to maintain and build stronger relationships with our law enforcement and community partners. Investigators from the Gang Investigations Unit regularly attend monthly meetings with members from the County Probation Department. Information and gang-intelligence is shared and strategies are formulated. Additionally, members from the

Violent Crimes Enforcement Team (VCET) attend weekly Police and Corrections Team (PACT) meetings. Officers from VCET personally meet with individuals being paroled back into the City. At these meetings, the parolees are provided information regarding the expectations of the Department as it pertains to the terms of their parole.

While effective, it should be noted this is a resource-intensive effort, which is extremely difficult to sustain with existing staffing levels of both the SJPD and local and state officials. Moreover, past efforts have demonstrated that when police focus their resources on neighborhood problems, the neighborhoods are stabilized and the gang-related crimes are reduced. A balanced combination of enforcement, intervention and prevention initiatives is vital toward developing an effective and comprehensive anti-gang strategy.

Transition Committee Recommendation #13

The City needs to invest in the men and women who keep the streets safe for the citizens of San Jose.

The Department agrees with this recommendation.

Transition Committee Recommendation #14

Make the Police and Fire Department the first priority in any budget discussion.

SJPD Response:

The Police Department recognizes the impact of public safety staffing needs as it relates to the staffing needs of other City departments. The Department remains committed to working with all City departments in its effort to ensure that San Jose is a safe place to live, work and play. However, the Police Department also recognizes that ensuring a community's safety is the first and foremost responsibility of a local government.

Transition Committee Recommendation #15

Increase the police staff including IT personnel to assist the Police in effectively using computer programs. This will increase communication and streamline the administrative work that needs to be completed, allowing more time for officers to be on patrol.

SJPD Response:

The Department agrees with this recommendation and respectfully recommends the Public Safety Subcommittee review the "SJPD's Proposed Five-Year Staffing Plan: 2007-2012." In that report, the Department provided a detailed analysis of staffing needs for the entire city of San Jose

In addition to the issues addressed in the Five-Year Plan, the 2004-2005 Santa Clara County Civil Grand Jury report entitled "Problems Implementing the San Jose Police Computer Aided Dispatch System" recommended 24/7 CAD support. An additional study paid for by the City supported this finding. Achieving 24/7 CAD support, as well as the appropriate staffing levels for the Police Department's Information Technology Group and the City's Information Technology Department has not yet been realized due to budget constraints.



ROBERT L. DAVIS
Chief of Police

RLD:LR:CE