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# Memorandum

**TO:** PUBLIC SAFETY, FINANCE AND STRATEGIC SUPPORT COMMITTEE

**FROM:** Deanna J. Santana  
Robert L. Davis

**SUBJECT:** SEE BELOW

**DATE:** November 12, 2009

Approved

Date

11/12/09

**SUBJECT: REPORT ON THE OUTCOMES FROM THE OCTOBER 14, 2009 SPECIAL PUBLIC SAFETY, FINANCE, AND STRATEGIC SUPPORT COMMITTEE MEETING**

## RECOMMENDATION

Accept staff report on the outcomes from the October 14, 2009 Special Public Safety, Finance, and Strategic Support Committee meeting.

## OUTCOME

This report provides information on the key themes from the October 14 Special Public Safety, Finance, and Strategic Support Committee meeting as well as next steps.

## BACKGROUND

On May 5, 2009, the City Council issued the following referral to the Public Safety, Finance, and Strategic Support (PSFSS) Committee:

“PSFSS will add to its workplan biannual community outreach sessions on public safety issues. These are meetings to be held in addition to their regular PSFSS meetings and to take place in the evening to allow for full Council and community participation. A full report of these sessions will be heard at both PSFSS and Council. To ensure that these meetings promote effective community dialogue with participation from all key stakeholders, the PSFSS Committee is to bring to the Rules Committee an outreach plan and a process to allow for public input in agenda development.”

Prior to holding its first meeting, the PSFSS Committee and Rules and Open Government Committee agreed that input obtained from this meeting would be used to assess whether there are any additional issues that have not been surfaced through the City’s ongoing efforts to

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improve and/or enhance police services. The Committee also agreed that any issues, trends or themes would be referred to the Police Department's existing work plan or to the Consortium for Police Leadership in Equity (CPLÉ) for possible research. When the meeting framework was developed, it was acknowledged that adding to the Police Department's work plan would be weighed against competing priorities, current fiscal constraints, and that the CPLÉ would maintain final determination of its research.

### ***PSFSS Committee Meeting Framework***

On October 14, 2009, the PSFSS Committee held its first special evening meeting in the City Council Chambers. Up to 60 people attended the 2-hour meeting. Committee Chairperson Madison Nguyen welcomed the community members and reviewed a timeline of the key events leading up to the special PSFSS Committee Meeting. Information was then presented by City Manager Debra Figone on the number of efforts the City has initiated in the last 18 months in response to concerns from some community members regarding policing in San Jose. A copy of the presentation, which included both the timeline and City efforts, is available online at <http://www.sanjoseca.gov/clerk/CommitteeAgenda/PSFSS/20091014/PS20091014a.pdf>

The meeting design structured to provide community members with the opportunity to provide input on the City's efforts to improve police services and to express their own ideas to improve policing in San José. The purpose of structuring the meeting in this way was to enable community members to provide targeted feedback on potential workplan items or policy decisions for the City Council to consider, as well as to provide a forum for asking questions and expressing view points. Specifically, and in addition to "Open Forum" comments, community members had the option of responding to any of the three questions below:

1. What reactions do you have to the City efforts to date?
2. What ideas do you have for addressing policing issues?
3. What do you want to know about police services?

Discussion on key themes and suggestions from the meeting, as well as next steps, are discussed in the Analysis Section of this report.

### ***Outreach/Engagement Effort***

To ensure community awareness of the meeting, staff developed a comprehensive communications plan that was guided by the City Council approved "Community Engagement Process." Key efforts included development of a multilingual flyer (English, Spanish and Vietnamese) that was mailed and/or emailed to over 500 contacts, including people who have in the past expressed interest in this topic, neighborhood associations, faith-based organizations, school districts, Chambers of Commerce, and community-based organizations. In addition, information was posted on the City's home page and at community centers and libraries. Information also ran on the City's cable channel and on City Hall information monitors. Media advisories were sent to all local media outlets, including ethnic media.

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The next PSFSS Committee special evening meeting on police services is scheduled for April 14, 2010.

### **ANALYSIS**

The PSFSS Committee used the three questions mentioned above to help initiate and facilitate public discussion. Public feedback was broken down into three themes and suggestions for improvement. These themes and suggestions provide a summary of key points; they are not an exhaustive list of every comment that was made. *Also, input obtained at this meeting is only reflected of speaker's opinions at that meeting and should not be considered reflective of the San Jose community.* Below is discussion on each as well as next steps, where applicable.

#### **Theme 1: City's Efforts are Producing Positive Changes**

In general, speakers felt that the City's efforts to date to improve police services and community relations are producing positive changes. Some speakers noted a "night and day" difference in how the Police Department currently provides police services in the Downtown Area compared to a year ago. Specifically, speakers said that the City should be commended for the reduced number of public intoxication arrests [Penal Code Section 647(f)] and highlighted the Public Intoxication Task Force as an example of improved communication and problem solving between the City and community.

#### **Theme 2: Expand Community Policing Services**

Several speakers identified community policing as an effective way to build relationships between the Police Department and residents, enhance trust and contribute to public safety. Some residents suggested that the Police Department should do more to involve residents, including youth, in community policing programs like Neighborhood Watch and Crime Prevention.

#### **Theme 3: Expanded Engagement**

Several speakers identified groups and organizations that could help improve police relations, but are currently not being utilized at all or not to their full potential. Both the Human Rights Commission and Police Officer's Association made themselves available to engage in community outreach and community-building activities.

#### ***Suggestions for Police Department Work Plan***

In addition to the themes above, members of the public also offered some suggestions for improving police services and community relations. As noted, the input obtained that evening is reflective only of the individuals that provided input at the meeting; it cannot be used to characterize the greater San Jose community.

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***1. The Police Department should use consent forms to authorize searches.***

***Comment/Next Steps:*** The Administration would like to explore areas that can be strengthened and/or improved, and evaluate operation and legal concerns that might arise. Given the fluid nature of most police contacts, pausing to request a signed consent form could deter from the momentum of the investigation or dissuade an individual from providing consent; therefore, possibly impacting the outcome of a case.

***Current Practice:*** Although California State Law does not require the use of a signed consent form to conduct a consensual search, the Department has a consent form (available in multiple languages) that officers make available to individuals to read and sign. Often, individuals choose not to sign the form.

***2. Investigate Resisting Arrest and Disturbing the Peace Arrests with the same diligence that was used to address Public Intoxication Arrests.***

***Comment/Next Steps:*** The City does handle resisting arrest and disturbing the peace arrests with the same diligence as other arrests. As noted above, the recent efforts to evaluate public intoxication arrests, and the initiatives put into place, have also been utilized for resisting arrest and disturbing the peace arrests. Recent efforts initiated to examine use of force procedures may inform additional process improvement for the Police Department.

On September 29, 2009, the City entered into an agreement with the Consortium for Police Leadership in Equity (CPLE), a UCLA research group, to conduct an independent analysis of police records, including personnel records, arrest data, etc. In April/May 2010 time period, the CPLE is anticipated to issue a report and recommendations regarding police practices in the areas of racial profiling, use of force, etc. The information will inform the Administration on next steps.

***Current Practice:*** The Police Department has recently enhanced internal procedures to provide better oversight, more detailed documentation and increased training to all criminal investigations. For example, the Department now conducts random spot arrest report audits to verify narrative information and report submission timeliness, as well as ensure supervisory review and sign-off for all in-custody arrests. Staff will continue to explore areas for improvement. The training has been incorporated into the Police Academy as well as the Department's Continuous Professional Training (CPT) Program.

***3. The Police Department should conduct more community meetings and provide forums for victims of crimes to be heard as well as hire more victims' rights advocates.***

***Comment/Next Steps:*** The Department will reach out to the group that vocalized interest in participating/meeting and will continue to respond to community meeting requests.

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**Current Practice:** The Department's community policing model is a multi-faceted approach for addressing public safety issues through the use of traditional law enforcement efforts, as well as prevention, problem-solving, community engagement, and partnerships.

Community meetings are one component of the Department's community policing model. The Department responds to requests for community meetings from many different organizations, including neighborhood/community groups, schools, associations, businesses, and individuals. On average, staff attends 10-15 community meetings a week. Community meetings, in general, serve as a forum to provide citizens with information regarding police services, to discuss law enforcement/quality of life issues, and to offer an open forum for the exchange of ideas. These forums also provide the City the opportunity to collect balanced input used for policy development and/or program changes. In response to hiring more victims' rights advocates, in this fiscal environment, it is unlikely that there are opportunities for additional resources to expand services or hire more staff.

**4. The City should provide more public access to police records.**

**Comment/Next Steps:** It is anticipated that the CPLE study, currently underway, will yield information/recommendations as to what statistical data should be reported by the Police Department concerning police activity. As noted by City Manager Debra Figone at the November 4, 2009 Rules & Open Government Committee meeting, each request should be evaluated based on the specific nature of the circumstances under review and on a case-by-case basis. A measure to ensure a balanced review of the release of records should be guided by three key considerations:

1. The high community interest in this case in understanding what happened;
2. Any privacy concerns for the individuals directly involved; and
3. The City Council decision on the release of police records.

**Current Practice:** On October 20, 2009, as part of its review of Sunshine Reform Task Force recommendations, the City Council approved guidelines to be used by the Police Department for providing information to the public about the "factual circumstances" surrounding a crime or arrest, complaint or request for assistance and other incidents. These guidelines also make clear that, 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 and others by the California Constitution. Council reports related to this item are available online at <http://www.sanjoseca.gov/clerk/Agenda/20091020/20091020a.pdf>

In addition, on November 4, 2009, the Rules and Open Government Committee considered the release of police records in the Mr. Daniel Pham incident. Given the unique circumstances surrounding this case, the Rules Committee directed the City to go beyond City Policy and the California Public Records Act requirements and release police records, including police reports, 911 tapes, and other audio and video tapes. This information is scheduled to be released on November 13, 2009.

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### ***5. The Police Department should provide training on mental health issues.***

***Current Practice:*** In addition to State-mandated training required for all Department members, the Department's Training Unit incorporated a 40-hour class on Crisis Intervention Training (CIT) specifically for the current police academy. This training has been available to Department members since the inception of the Crisis Management Unit in 1999. The San Jose Police Department is the first agency in the country to provide this training to all police recruits. Additionally, the Crisis Management Unit (CMU) provided a stand alone 4-hour block of training to all Department members on suicide prevention.

***Comment/Next Steps:*** Staff will continue to explore training opportunities with available resources. Recent efforts initiated to examine use of force procedures may inform additional process improvement for the Police Department.

## **CONCLUSION**

While the October 14, 2009 special PSFSS Committee meeting on police services can be generally characterized as receipt of positive feedback on current Police Department efforts, recent media coverage of a video taped arrest of Mr. Phuong Ho has raised significant concerns about police officers' use of force practices and the Police Department's use of force policies and procedures. An October 25, 2009 online press release provides background information on this case (<http://www.sjpd.org/iNews/viewPressRelease.asp?ID=290>).

As a starting point toward ensuring police officers are in compliance with Department use of force policies and procedures, and that policies and procedures are appropriate, the following key initiatives are underway by the Chief of Police:

- Creation of an internal advisory group comprised of command officers, supervisors and training personnel to review use of force training curriculum being taught in the Police Academy and in Officer Update Courses to ensure it complies with state standards and SJPD policies and procedures.
- Creation of a Department panel to review use of force cases on a regular basis to ensure compliance with policies and procedures and identify training issues.

In addition to the above efforts, Police Department staff, including the Chief of Police, has met with members from the Vietnamese-American community to address concerns.

Finally, on November 9, 2009, the Rules and Open Government will discuss adding a review of all initiatives underway dealing with the use of force at the November 19<sup>th</sup> PSFSS Committee. ***It is acknowledged that the Police Department's efforts mark a first step toward addressing use of force and concerns expressed by the public. The Administration also anticipates additional efforts to be implemented as more information becomes available from the Police***

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*Department's above-referenced review and current efforts to obtain nationwide best practices with respect to use of force from public safety experts.*

Given the input provided at the October 14 Special PFSS Committee meeting and current issues, the Administration suggests that the use of force review be the priority work plan item resulting from this recent public engagement efforts.

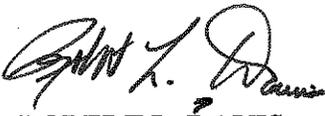
**COORDINATION**

This report has been coordinated with the Office of the City Attorney.

**CEQA**

Exempt.

  
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