



Memorandum

TO: RULES & OPEN
GOVERNMENT COMMITTEE

FROM: Tom Manheim
Director of Communications

SUBJECT: POLICE RECORDS
WORK PLAN RESPONSE

DATE: 01-15-09

Approved

Date

1/15/09

RECOMMENDATION

Review responses to Police Records work plan items contained herein and provide direction.

BACKGROUND

On October 14, 2008, the Rules & Open Government Committee held a special meeting to consider the Police Records recommendations from the Sunshine Reform Task Force. The Committee heard extensive public testimony at this meeting, and then asked for additional information related to a number of items. On October 29, 2008, staff provided the Committee with a work plan detailing the additional information to be provided. At this meeting, the Chair of the Sunshine Reform Task Force's Public Records Subcommittee raised additional questions and the Rules Committee added these questions to the work plan.

ANALYSIS

The following information provides responses to all of the items contained in the work plan.

- I. **Additional Information** – *The Police Department will meet with the Public Records Subcommittee Chair to identify what information the Task Force believes is currently not being released that the Police Department should be releasing, and to see if agreement can be reached regarding what additional information should be regularly provided in response to a Public Records request.*

When the Rules & Open Government Committee (ROGC) considered the issue of Police Records in October 2008, much of the discussion focused on what information should be disclosed to meet the requirement in the California Public Records Act that "factual circumstances" regarding a criminal investigation be released. In response to the Committee's direction to determine what additional information the Sunshine Reform Task Force believes should be released, staff met three times with Bert Robinson, the Managing

Editor of the Mercury News and Chair of the SRTF Public Records Subcommittee as well as Sean Webby, a police reporter for the Mercury News. The Police Department shared material from several case files which was reviewed by Robinson and Webby. Following this review, they identified four categories of additional information for the synopsis that they believe would be a significant improvement if released to the general public in response to a public records request for information about a crime. The Police Department believes that additional information can be provided in all four of the categories identified by Robinson and Webby. Accordingly, the Department has revised its instructions for Police Report writing (Attachment A). This document covers the complete list of information that is to be included in the synopsis, with the additional information highlighted. The requested information and the additional information to be provided in the synopsis are shown in the following table:

Information Requested by SRTF	Modified Language in Report Writing Instructions
The names of suspects and victims, if those names are releasable under 6254f.	When multiple suspects are involved, include the names of those arrested, with the associated criminal violation.
Whether or not there is a relationship between the suspect and victim; and whether the event appears to be gang-related.	The relationship between the victim and suspect (known or unknown), including any gang affiliation, when relevant to the crime.
Whether an officer used force, what type of force, and the circumstances in which it was used.	When force is used, indicate the type of force (i.e. physical force, baton, TASER, etc.) and circumstances which caused its use (i.e. challenged to fight, physical resistance to arrest, etc.).
Any police actions of a high-profile nature involved in the response.	Any specialized resources involved that significantly assisted with the police response (Helicopter, K-9, MERGE, Bomb Unit, Horse Mounted Unit, etc.).

The Department has agreed to change its report writing procedures so that the information in the synopsis would in general be releasable to meet the "factual circumstances" requirement in the California Public Records Act. The synopsis would still be subject to review before being released to ensure that information is withheld: 1) to protect the safety of any person; and, 2) to ensure the successful completion of the investigation or a related investigation.

It should be noted that, while Robinson indicated that releasing this additional information would be a meaningful improvement in Police Department protocols, he continues to maintain, both as a Task Force representative and a member of the media, that redacted copies of Police Reports ought to be disclosed.

Recommendation: Accept this report and direct the Department to include the information above in the synopsis of every police report. This additional information will ensure that the “factual circumstances” that are of particular interest to the public will be available for release upon request, subject to review as described above.

II. **Modifications to Practices** – *The Police Department and Office of the District Attorney should evaluate if any changes to current practice are necessary to support the timely release of information consistent with #1 above.*

The Police Department has revised its report writing protocols and has agreed to begin training on the new requirements immediately, with the current class of recruits enrolled at the Police Academy. The Police Department will work with the District Attorney’s Office to determine whether any changes to current practice are necessary following approval of the new requirements by the City Council.

Recommendation: Accept this report and direct the Department to train those who write and review police reports on the new requirements at the Police Academy and at any other continuing training classes required to be taken by current officers.

III. **Institutionalize Improvements** – *Police Department should report back on how it will institutionalize recent improvements in responding to CPRA requests.*

The Department has taken two significant steps to institutionalize the recent improvements that have been noted in how it responds to CPRA requests: 1) the Police Department worked with the City Attorney’s Office to completely revise the Department’s duty manual, as it pertains to public records; and, 2) the Department instituted new procedures and training for police personnel working in the front lobby to insure proper responses to public records requests.

Duty Manual – The Duty Manual is the comprehensive document that sets out the Police Department’s policies for all sworn personnel. The Duty Manual has been updated in a number of areas related to when, whom or under what circumstances records, reports or information may be released. In addition, a new chapter has been added that provides Department personnel with guidance on adherence to the City’s Public Records Act Policy and Protocol (Chapter 6.1.1 of the City Policy Manual) with an emphasis on the specialized laws relating to records created and maintained by the Department. The policies affirm the public’s right to access records and, more importantly, set forth procedures by which such records will be made available to the public. The Duty Manual updates were approved and distributed in December 2008.

Front Counter Procedures – The Department has created new general guidelines for personnel who work at the front counters in the Police Department lobby. These guidelines were created shortly after a statewide audit of public records was published in 2007. In addition to the new guidelines, the Department created a Public Records Act Request Form in three languages, and signage showing the 24-hour number along with counter hours for

requesting information. The Department has conducted trainings and posted the general guidelines as a reminder in the lobby, and has made clear to lobby personnel that they should ask others in the Department if they do not know the answer to a question. Finally, a new procedure has been established to personally deliver a Public Records Act request to the appropriate personnel to facilitate a timely response.

Recommendation: Accept this report on the Department's efforts to institutionalize its improvements in responding to CPRA requests.

- IV. **Additional Information for the Media** – *During public comment, Attorney James Chadwick cited a Supreme Court case that he indicated would allow the City to provide greater access to records than that provided to other entities. The City Attorney's Office will research case law to confirm the legal basis for this approach.*

James Chadwick cited *Los Angeles Police Department v. United Reporting Publishing Corporation*, 528 U.S. 32 (1999).

The *United Reporting* case challenged the California Public Records Act when it was amended in 1996 to protect the addresses of victims and arrestees. Section 6254(f)(3) was added to permit access to the addresses of victims and arrestees "where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator ... except that the address of the victim of [certain crimes] shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury."

On the effective date of the statute, the Los Angeles Police Department and other law enforcement agencies denied United Reporting access to the address information because, according to United Reporting, "[its] employees could not sign section 6254(f)(3) declarations."

United Reporting sued, claiming the amendment was unconstitutional under the First Amendment. The United States Supreme Court agreed with the LAPD that the amendment simply regulated access to information in the hands of the police department. The Court stated:

This is not a case in which the government is prohibiting a speaker from conveying information that the speaker already possesses. (citation omitted.) The California statute in question merely requires that if [United Reporting] wishes to obtain the addresses of arrestees it must qualify under the statute to do so. [United Reporting] did not attempt to qualify and was therefore denied access to the addresses. For purposes of assessing the propriety of a facial invalidation, what

we have before us is nothing more than a governmental denial of access to information in its possession. California could decide not to give out arrestee information at all without violating the First Amendment.

United Reporting, supra, at 40 (emphasis added).

It has generally been held that the First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally. *Zemel v. Rusk*, 381 U.S. 1, 16-17 (1965). "Despite the fact that news gathering may be hampered . . . Newsmen have no constitutional right of access to the scenes of crime or disaster when the general public is excluded, and they may be prohibited from attending or publishing information about trials if such restrictions are necessary to assure a defendant a fair trial before an impartial tribunal." *Branzburg v. Hayes*, 408 U.S. 665, 684-685 (1972).

Recommendation: Accept this report and direct the Department to include the information described in Section I in the synopsis of every police report, so that all persons - not just the media - will have access to information of particular public interest.

- V. **Next Door Solutions Concern** – *During public comment, the Executive Director of Next Door Solutions, Kathleen Krenek, indicated the Police Department did not provide the names of victims of Domestic Violence that was important to a research project. The Police Chief indicated withholding this information was recommended by the City Attorney's Office. The Police Department and City Attorney's Office will evaluate whether the Department's response was consistent with the CPRA. The Department will determine whether any operational changes are necessary to ensure future responses are consistent with the CPRA.*

California law makes it clear that crime victims have a right to privacy in identifying information collected by the Police Department in the course of an arrest or investigation. This is reflected in the California Public Records Act which contains specific provisions, Government Code Sections 6254(f)(2) and (3), that require the Department to withhold the name and address of any person who is the victim of certain crimes, including domestic violence, when the victim or the victim's parent or guardian makes a request that no disclosure be made.

This provision has the practical effect of requiring the Department to ask the domestic violence victim if he or she wishes to have his or her name and address disclosed to any third person outside of the Department. Consequently, the victim must express a desire to have his or her name disclosed at all, including to a domestic violence advocate organization.

In approximately February 1999, the Domestic Violence Response Team began operating to provide immediate response to domestic violence calls by providing, among other things, crisis counseling, emergency shelter and assistance with the judicial process. To facilitate the DVRT and protect the privacy of victims of domestic violence as required by California law, the Department and the City Attorney's Office developed a consent form.

We understand that the Department has provided statistical information to Next Door when requested. This information should be available to domestic violence advocates for any period requested and the Attorney's Office has advised the Department accordingly. Thus, the Department will continue to provide statistical information derived from domestic violence reports upon request but cannot produce the protected information without the victim's consent.

Recommendation: Accept this report and direct the Department to continue providing statistical information derived from domestic violence reports upon request.

VI. **Budget Message Direction Regarding Police Statistical Reports** – *The Mayor's June Budget Message, approved by the City Council, contained the following direction:*

Direct the City Manager to conduct an assessment of the reports the Police Department currently assembles and ways to speed up the process. These are reports that would be compiled with much less staff time if we had an AFR/ RMS system, but in the interim the Chief should develop a proposed timeline that would allow for all necessary reports to be completed.

The Police Department will evaluate current resources, review the statistical reports it is currently providing, develop a timeline that will allow for all necessary reports to be completed, and make recommendations regarding the SRTF proposals regarding Law Enforcement Statistical Records.

The Sunshine Reform Task Force has recommended:

6.1.1.040 Statistical Reports Prepared by the San Jose Police Department

The San Jose Police Department must produce:

- A. A quarterly report on all stops conducted by San Jose police officers, including all traffic stops and pedestrian stops in which a person was questioned, photographed, frisked, patted down, detained, issued a citation or arrested. For each stop, the report will include the race and ethnicity of the person stopped, some geographic designation of the location of the stop, the reason for the stop, whether a citation was issued, whether a vehicle was searched and whether consent was granted for the search, and whether an arrest occurred.

- B. A quarterly report on the San Jose Department's use of force in arrests, including the race and ethnicity of the person arrested, some geographic designation of the location of the arrest, the reason for use of force by category (for example, refusal to comply with police orders, threatening behavior or language, engaged in use of force against another person, etc.) whether a warning was given prior to use of force, the type of force used by category (for example, firearms, Tasers, batons, pepper spray, hands and feet, etc), and the injuries sustained by the arrested party and officer, if any.
- C. The type and frequency of police statistical reports must be reviewed annually. The first annual review will take place 12 months after adoption of the public records section of the Open Government Ordinance. The review will be implemented by the Open Government Commission. In the event the Open Government Commission has not been operating for at least 6 months, the review will be implemented by the City Council.

The following report responds to the above referenced referrals.

Statistical Reports Issued

The Police Department has occasionally issued two statistical reports: the Force Response Report (FRR) and the Vehicle Stop Demographic Study (VSDS).¹

The FRR was initially issued as a voluntary Taser Study in 2004 and 2005. In 2006, this report was amended to cover all force responses and renamed Force Response Report. The last FRR was issued in 2007. The FRR provides statistical data on the incidents in which police officers have responded with force and tracks the following categories: location of incident, number of force incidents, numbers of suspects, day and time of week, source of call, incident type, officer assignment, officer activity prior to force response, suspect race, number of arrests, city of residence, crimes committed against the officer by the suspect, signs of chemical influence/mental illness, suspect status, gender, and suspect age.

The first VSDS report was issued in 1999 and was followed by three subsequent reports issued in FY 2000-01, FY 02-03 and in June of 2004. The study was specifically instituted to examine the issue of racial profiling, which is defined as a practice in which a police officer initiates a vehicle stop based upon the race or ethnicity of the driver.² The report

¹Neither of these reports is required by any government agency.

² While Section 6.1.1.040a requests data for pedestrian stops, the VSDS report does not include pedestrian stop data nor does the CAD capture all pedestrian stop data. Police contacts with the public range widely in purpose (e.g., investigatory to providing general information) and tracking the high number of contacts would result in the implementation of a new labor-intensive system. Implementation of such a process would require a change in the current model for police contact in that each pedestrian stop contact would

provides data on: reason for the stop, type of action taken, race/ethnicity of the driver, whether or not a search was conducted, whether or not contraband was found, and the number of persons stopped. However, it is important to note that with respect to racial profiling, any study that uses data on race/ethnicity/nationality based upon an officer's observations would not be considered valid by any social scientist. The only reliable data would require the officer making the vehicle stop to ask the individual how he or she self-identifies with regard to race/ethnicity/nationality.

Report Production: Current Technology, Capacity & Trends

Data Systems & Capacity

The Police Department assembles and analyzes the FRR and VSDS reports manually. The FRR is developed with data from the Records Management System (RMS). The VSDS is developed with data from the Computer Aided Dispatch (CAD) system.

When producing the FRR, staff must pull police reports, manually review the contents for quality control, and input the data into a stand-alone database. The Department's current RMS does not have the technological capability for data extraction for the types of reports developed, nor was it designed to produce analyzed data. Because of these limitations, the Department developed a Force Response Form, which is completed each time an officer uses force on a suspect. The current process to develop a Force Response Report requires a police officer to forward a copy of each Force Response form to the Research and Development Unit for manual data collection.

Production of the VSDS requires customized data extraction from a CAD database by Information Technology (IT) staff, which must also be validated by staff in the Crime Analysis Unit, in coordination with the Research and Development Unit. The validation process entails quality inspection of complete and accurate data field coding.

For both the FRR and the VSDS, the Police Department was able to produce only the most conventional methods of statistical analyses such as raw values and percentages. This descriptive data provides good information with respect to activity and frequency rates; however, the data was not statistically correlated to population(s) to measure statistical change or significance.

Lastly, given that the Police Department has limited expertise in statistical population analyses, the range of study for both reports is limited, and at times, appeared inadequate to the level of analyses desired and necessary to draw accurate conclusions from the data collected. The Police Department does not have the in-house expertise to perform these advanced statistical studies.

require that a police officer track the data sets captured during a pedestrian stop. It is important to note that the law enforcement procedures differ between a vehicle and pedestrian stop.

Trend Activity

Consideration should also be given to the trend activity regarding other law enforcement agency practices. It should be noted that other law enforcement agencies that produce these reports have experienced similar challenges and concerns with respect to the ability to produce such reports. Most recently, the cities of San Francisco and San Diego have discontinued the practice of issuing such reports and the SJPD is in process of exploring the decisions made by those and other jurisdictions. The table below provides a brief summary of preliminary research conducted by the SJPD to demonstrate the level of report type production, with an acknowledgement that the majority of cities are not producing these types of reports.

AGENCY	FRR	VSDS	CONSENT DECREE
Los Angeles PD*	Yes	Yes	Yes
San Francisco PD	No	No	No
San Diego PD**	No	No	No
Long Beach PD	No	No	No
Seattle PD	No	No	No
Riverside PD	No	Yes	Yes

*Los Angeles PD contracts out to a private consulting group. These reports are required by Consent Decree

**San Diego published a VSDS in 2001 only.

Further, the SJPD is in process of gathering additional perspectives on national best practices with respect to these reports. Moving forward, in order to respond to trends and our limited in-house statistical capacity, it is important for the SJPD to reconsider any opportunities to restructure how or if it produces these reports.

Efficiencies/Reduced Cycle Time

The Police Department is in process of procuring a new AFR/RMS system. A new AFR/RMS system will not support the production of the VSDS because the data needed to compile this report is captured only in the CAD system. However, the Police Department is exploring the cost and possibility of integration with an RMS that is supported by AFR, which would enable single point of data entry and could aid in the production of the FRR. The City has tentatively identified approximately \$2.57 million in funds to procure a new AFR/RMS system. At this time, however, funding is not available for the full implementation of an AFR/RMS solution, which is roughly estimated at \$3 to 6 million, not including hardware and software, to update the mobile data terminals (MDTs). During this preliminary AFR/RMS procurement stage, the City has issued a Request for Information (RFI) to learn more about the systems on the market and is in the process of obtaining a Return on Investment (ROI) analysis for this project.

Absent the implementation of improved technology efficiencies, an option to improve in-house report production is to add human resources. Prior to making any decisions on whether to dedicate more staff to completing these reports, it is important for the City to evaluate the list of other public safety priorities that would need to be offset in order to gain reduced cycle time to produce these reports or produce them more frequently. Below you will find a recommendation to issue reports biennially. This recommendation is based on department capacity to provide reports while at the same time implementing the RMS system.

Another option to remove the burden from the Department to analyze and produce these reports would be to obtain consultant services with expertise in advanced population statistical analyses and reporting. This would result in a more in-depth review of the data and would produce higher quality statistical reports. Staff would need to be dedicated to manually compile the data, but evaluation and report assembly could be outsourced. This option would require funding.

Recommendation: Given the City's budget situation, the Police Department will be presenting its service reduction proposals as part of the budget deliberation process. We recommend that the City Council reserve direction on this issue until it can be weighed against other public safety priorities. Concurrently, the City will consider the production of these reports on a biennial frequency by an outside consultant with expertise in advanced statistical, demographic and population trend analyses. At the time that the RMS implementation is complete, staff will return to Council for a discussion regarding the frequency of issuing these statistical reports.

VII. **Other Police Practices** – *Review what information is released in response to Public Records requests by the police departments in Honolulu, HI and El Paso, TX.*

Honolulu, HI – Honolulu, HI follows Hawaii's Uniform Information Practices Act (Modified). The UIPA exempts from disclosure "law enforcement records where disclosure could reasonably be expected in some particular, discernable way to interfere with pending enforcement proceedings."

A guide prepared by Hawaii's Office of Information Practices provides the following illustration: "Access to investigative records before an investigation is concluded could frustrate a legitimate government function where: (1) the target of the investigation could obtain premature access to the government's case; (2) witnesses could be subject to reprisal or harassment; (3) evidence could be destroyed; or (4) witnesses could be unwilling to provide information to the agency."

We are informed by the Hawaii Police Department Media Liaison Office that no criminal investigation reports are released until the investigation is closed, but a synopsis of major events is available to the public in the same manner as the San Jose Police Department's Watch Commanders Report.

El Paso, Texas – El Paso, Texas must comply with the Texas Public Information Act. The PIA exempts from disclosure information “held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime. . . if: (1) Release of the information would interfere with the detection, investigation, or prosecution of crime; (2) It is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; (3) It is information relating to a threat against a peace officer or detention officer collected or disseminated under [another Section]; or (4) It is information that: (A) Is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) Reflects the mental impressions or legal reasoning of an attorney representing the state.”

We are informed by the El Paso Police Department’s Records Department that it does not release any more information than is required under the PIA. And, any personal information will be redacted.

Recommendation: Accept this report.

The following additions to the Work Plan came from the Chair of the Sunshine Reform Task Force’s Public Records Subcommittee.

- VIII. **Police Reports Form 2’s and 3’s** – *Specify that Police Report Form 2’s and 3’s are releasable at the time a criminal complaint is filed. Adhere to the department’s current redaction regime for these reports, but allow the four exemptions currently in the task force recommendation (to protect safety, privacy, the course of the investigation, and confidential techniques) to be used to withhold the entire Form 2 or Form 3, when necessary.*

In most cases, when the criminal complaint is filed, the Form 2’s and 3’s are attached to the complaint that is filed with the Superior Court. (In gang, sexual assault and domestic violence cases, the Form 2’s and 3’s are redacted). Thus, the Department believes, anyone seeking copies of the Form 2’s or 3’s should obtain them from the Superior Court, since the Department does not keep copies of the reports redacted for the District Attorney’s Office. In some, limited instances, including homicides, crimes that generate voluminous reports, or cases with other policy concerns, the District Attorney’s Office may choose not to attach the Form 2’s and 3’s to the complaint. In those instances, the Department should not be required to disclose the Form 2’s and 3’s since the DA’s Office has made a determination that the information contained in the report(s) should not be made public. Because in all cases the District Attorney’s Office makes the final decision regarding what information should be redacted, the records should be obtained through that office or the Superior Court, not the Police Department. Once filed, the original filed records become court records, and disclosure is subject to court rules and authorization.

Recommendation: Accept this report and direct the Department to include the information described in Section I in the synopsis of every police report. This additional information will assure the public that the "factual circumstances" that are of particular interest will be available for release upon request, subject to review to ensure that information is withheld 1) to protect the safety of any person; and, 2) to ensure the successful completion of the investigation or a related investigation.

- IX. **Reverse Balancing Test** – *Create a "reverse balancing test" allowing reports to be released in circumstances other than those described in the ordinance when it is determined that the public interest in disclosure outweighs the various interests in withholding a document from disclosure. Give the Rules Committee explicit authority to weigh this balance and authorize release.*

The balancing test in the California Public Records Act allows the City to withhold information only if the public's interest in non-disclosure outweighs the public's interest in disclosure. We have discussed "the reverse balancing test" with Bert Robinson; his intent was to suggest a process for the Rules and Open Government Committee to apply the balancing test as described in the CPRA, and, if the public's interest in non-disclosure did not outweigh the public's interest in disclosure, then the information would be released. It should be noted, however, that since the existing balancing test does not weigh more heavily in favor of either disclosure or non-disclosure, there would be no material difference in practice between the current balancing test and a "reverse balancing test."

Recommendation: Accept this report and direct the Department to continue to apply the balancing test as described in the CPRA.

- X. **Reports from Other Agencies** – *Specify that reports produced by agencies other than the SJPd are not affected by the ordinance. Clarify what would happen to courtesy reports written by other agencies.*

Reports produced by agencies other than the SJPd, including courtesy reports written by other agencies, would not be affected by the City's ordinance.

Recommendation: Accept this report and direct the Department to continue to follow the CPRA for all reports produced by agencies other than the SJPd, including courtesy reports written by other agencies.

- XI. **Force Response Reports** – *Specify that Force Response reports -- which are multiple-choice documents categorizing force incidents and contain no narrative information -- are public record.*

Although the Force Response Reports are multiple choice documents, we disagree that they do not disclose sensitive information. On the contrary, the Force Response Reports contain information about the officer and the arrestee who was the subject of force. Information about the arrestee is protected by various statutes that prohibit compilation of criminal

histories. And, as has been noted in this memorandum, there is already a process in place that facilitates the gathering of aggregate data from the Force Response Report. Should questions ever arise about whether or not any individual officer has been using force inappropriately, these concerns should be handled through the Internal Affairs process, which is designed to ensure that proper investigations are done and that all the legal requirements and protections for such investigations are met. This serves to ensure the rights of victims, suspects, complainants, and officers are upheld.

Recommendation: Accept this report and direct staff to include, when force is used, the type of force (i.e. physical force, baton, TASER, etc.) and circumstances which caused its use (i.e. challenged to fight, physical resistance to arrest, etc.) in the synopsis of every police report. This additional information will assure the public that the "factual circumstances" that are of particular interest will be available for release upon request, subject to review to ensure that information is withheld 1) to protect the safety of any person; and, 2) to ensure the successful completion of the investigation or a related investigation.

- XII. **Statistical Reports** – *Include the Task Force's current approach on statistical records. This would make the reports quarterly rather than annual, add some additional information to the public report that is already tracked by the department, and include pedestrian stops as well as vehicle stops among the issues tracked.*

See Item VI (above).

- XIII. **Trial Period** – *In order to eliminate the possibility that the police department will be inundated with requests for reports, establish a six-month trial period in which the department will release no more than a set number of reports, with that number to be determined in consultation between the department and the rules committee. Evaluate the impact of the ordinance on the department at the end of the six-month trial.*

The Police Department does not believe such a limitation would be helpful. Instead, it would begin applying the new requirements in all cases.

PUBLIC OUTREACH

As directed by the Rules Committee, staff met with the Chair of the Sunshine Reform Task Force Public Records Subcommittee as well as a Mercury News reporter to discuss what additional information should regularly be disclosed regarding Law Enforcement records.

RULES AND OPEN GOVERNMENT COMMITTEE

SUBJECT: Police Records Work Plan Response

January 14, 2009

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COORDINATION

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



TOM MANHEIM

Director of Communications



San Jose Police Department Report Writing Format

When the San Jose Police Department documents reportable circumstances surrounding a crime or informational report, the following categories are used for documenting the circumstances surrounding the event in question:

LISTED INFORMATION:

Any information that provides additional clarification to information associated with a party, location, item of evidence, etc. not already covered in a designated collection box within the report.

SYNOPSIS:

- Date of the incident
- Time of occurrence
- Location of occurrence (include other significant locations as appropriate)
- The type of crime(s) involved, or non-criminal activity being reported (i.e. civil stand-by)
- The actions which constitute the completion of a crime or activity
- The relationship between the victim and suspect (known or unknown), including any gang affiliation, when relevant to the crime
- When force is used, indicate the type of force (i.e. physical force, baton, TASER, etc.) and circumstances which caused its use (i.e. challenged to fight, physical resistance to arrest, etc.)
- Anything unusual about the crime or investigation
- Any specialized resources involved that significantly assisted (Helicopter, K-9, MERGE, Bomb Unit, Horse Mounted Unit, etc.)
- The final disposition of the suspect (outstanding, captured, cited and released, etc)
- When multiple suspects are involved, include the names of those arrested, with the associated criminal violation, and, if known, the names of the suspect(s) outstanding.

NARRATIVE:

Provide all of the facts in a chronological order that are known about the incident at the time.

STATEMENTS:

Statements from witnesses, victims, suspect or uninvolved parties will be described here. Where appropriate, indicate when and/or where the interview was conducted and any special circumstances surrounding the interview (i.e. Miranda provided or not, child interview facility used, CPS worker in attendance, etc.) Indicate if a statement was recorded and where the recording can be found.

INJURIES:

Describe the nature and location of the injury (stab wound, gunshot wound, broken bone, lacerations, etc), medical assistance provided or declined, medical providers in attendance (i.e. ambulance attendant, Firefighter and assigned Engine Company, treating physician, etc.) and any other appropriate information necessary to clarify the extent of the injury.

PHYSICAL EVIDENCE:

Describe or list all physical evidence collected and the area stored (i.e. Central Supply, Homicide Unit, Vehicle Warehouse, etc.)

ADDITIONAL INFORMATION:

Additional information may include, but is not limited to, any information the officers feels will assist in the successful conclusion of the investigation, issues to be addressed by other units or departments (city or police), suggested detective follow-up to the investigation, etc.