

**PUBLIC RECORDS**  
**State Law Requirements,**  
**San Jose's Practice, and Discussion Questions**

**Section 1A. Public Information that Must be Disclosed  
Law Enforcement Information**

The information below is specific to Section 1A. Public Information that must be disclosed related to *Law Enforcement* Information, and provides the following: (1) a summary of sections applicable to San Jose under the Public Records Act; (2) information pertaining to San Jose's practice; and (3) questions to facilitate discussion.

**1A. Public Information that Must Be Disclosed – Law Enforcement Information**

**The Public Records Act**

Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of the police are exempt from disclosure EXCEPT for the following information:

(1) 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 – UNLESS disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation. (Govt. C. §6254(f).)

(2) The time, substance, and location of all complaints or requests for assistance received by the police department including the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved – UNLESS disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation. Moreover, the name of a victim of certain crimes may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.

(3) The current address of every individual arrested by the agency and the current address of the victim of a crime (except for certain crimes), 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 may be disclosed, UNLESS disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation. (Govt. C. §6254(f).)

### **Current Practice**

The San Jose Police Department (SJPD) has prepared a memorandum to the Sunshine Reform Task Force (see attachment) providing information on:

- The City's Public Records Act Policy
- Records maintained by SJPD
- State law and other statutory prohibitions and restrictions on public disclosure of law enforcement information
- Comparison of the City of Oakland and City of San Francisco on the release of information and routine procedures.
- SJPD's current practice for responding to Public Records Act requests

### **Key Questions for Discussion**

1. How should the privacy rights of parties involved in police investigations – complaining or responding parties, victims, witnesses, and accused suspects – be balanced with the public's right to access public records?
2. How should the privacy rights of police officers in their personnel and disciplinary records be balanced with the public's right to know?
3. Is there a way to provide the public with additional information without compromising police investigations, personal privacy (e.g., complaining or responding parties, victims, witnesses, accused suspects, and police officers), community involvement, etc?