



November 13, 2009

To Whom It May Concern:

On October 19, 2009, the City of San Jose received a Public Records Act Request for Police Records in regard to SJPD incident #09-130-0526, which occurred on May 10, 2009. The incident began as a call of a subject attacking his brother with a knife. Police responded and ultimately shot the suspect as he advanced toward them with a knife. The suspect subsequently died. The case was referred to the Santa Clara County District Attorney's Office for review. The matter was then referred to a criminal Grand Jury, which consists of citizens called upon to render verdicts on cases such as this. The Public Records Act request was initially denied because the requested information was exempted under Government Code Section 6254(f) as an open investigation, since the Grand Jury proceeding had not concluded. At the conclusion of the hearing and deliberations, the Grand Jury determined the officers acted lawfully in their use of force against the suspect.

On November 4, 2009, after the Grand Jury deliberations concluded, the San Jose Rules and Open Government Committee approved the release of the 9-1-1 tapes and police reports related to this incident (Item J.3.a. - Open Government Initiatives, Significant Public Records Act Requests, Consideration of Release of 911 Tapes and Police Reports of fatal shooting of May 10, 2009).

The data being released contains graphic details of a violent incident and may be considered disturbing to adults and unsuitable for children. Discretion is strongly advised in reviewing the released documents.

It is important to note the police reports are compiled in a manner that may not be linear or chronological, as officers from different units of the Department are conducting various tasks at different times. For example, patrol officers may locate and interview witnesses through a "neighborhood canvass" process. Detectives may later interview some of the same witnesses again and gain additional or differing information. In some instances statements might conflict. Initially, patrol officers usually screen witnesses for information about the incident. Detectives subsequently ask more qualifying detailed questions about the incident. Because of these factors, the sense of time might seem skewed and information contained in the reports might not make sense to those unfamiliar with police tactics, operations, or the investigative process.

November 13, 2009

Page 2

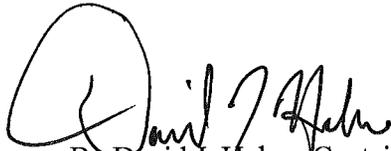
In an effort to protect the privacy concerns of victims and witnesses as well as preserve Department tactical operations, some information has been redacted from the police reports and audio tapes. This may make it difficult to discern the meaning of the reports and/or materials. A synopsis has been provided to assist readers in processing the information.

The 911 tapes relating to this event are described as follows:

- Track 1 - Recording of reporting party neighbor talking to call taker.
- Track 2 - Recording of reporting party inside house talking to call taker.
- Track 3 - Recording of family talking to call taker to learn when they could return home.
- Track 4 - Recording of Dispatcher and Officers as they handled the call.

Any questions related to this matter can be referred to Captain Dave Hober at (408) 277-5200.

Robert L. Davis
Chief of Police



By David J. Hober, Captain
Office of the Chief of Police