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May 29, 2007

The Honorable Mayor Chuck Reed
Distinguished City Councilmembers
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113-1903

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San Jose City Clerk
2007 MAY 30 P 2:33

Re: **6/21/07 San Jose' City Council Special Meeting (Various Police-Related Reports)
Human Rights Commission's Supplemental Recommendations**

Dear Mayor Reed and Councilmembers:

At the April 25, 2007 meeting of the Rules and Open Government Committee, and indeed before that, in the memorandum from Independent Police Auditor Barbara Attard and me conveying the IPA/HRC report on the community forums, I represented that HRC would be submitting recommendations supplemental to the combined IPA/HRC report. The ROGC Chair specified that such supplemental recommendations would have to be filed no later than June 7th, 2007, in order to be considered at the 6/21/07 City Council special meeting.

This serves as the cover memorandum for the HRC supplemental recommendations. Since the role of IPA differs considerably from that of HRC, the use of supplemental recommendations was deemed appropriate early in the planning process. This enables HRC to fulfill its mission without diminished contribution due to a perceived conflict of interest that would restrict IPA's involvement.

The HRC initially delegated the responsibility of drafting these supplemental recommendations to a planning committee, that undertook arrangements for the community forums held at City College in November 2006 and at Eastside Union School District in January 2007. Two other HRC commissioners were added to the panel in March 2007. All committee members attended at least one of the community forums.

At its 5/17/07 meeting, the HRC considered the committee's ten written draft recommendations and two other verbal suggestions for recommendations. The enclosed set of three supplemental recommendations is the product of a serious, deliberative process, entailing considerable exchange in drafting, and prompted by the community forums. The HRC approved these supplemental recommendations by varying votes of approval, with a quorum present at each vote.

Mayor Reed, Distinguished Councilmembers
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At the 6/21/07 Special City Council meeting regarding various reports on police practices, Vice-Chair Robert Sippel and I will be present to speak to such concerns, questions, comments, or the like, as may be directed to the HRC, its fact-finding process, the combined IPA/HRC report, and its supplemental recommendations. As always, the HRC appreciates the honor and opportunity to be of service to the City of San Jose'. Thank you for your consideration in this regard.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence M. Boesch". The signature is written in a cursive, flowing style.

Lawrence M. Boesch
Chair, Human Rights Commission

Enc.
LMB:tih

Human Rights Commission Supplemental Recommendations

1. All officers will carry business cards and be required to give them out on request, for any stop or arrest.
2. Police will adopt a procedure for connecting non-English-speaking persons with the AT&T language services available through the San Jose Police Department dispatch.
3. Sensitivity and cultural awareness training will be required of all members of the Police Department and implemented in a cascading manner where each level is responsible for participating in the training of the officers in their immediate subordinate level.

Appendix to Supplemental HRC Recommendations

I. Introduction

The following comments were made on two topics by speakers at the SJCity College (SJCC) (sec. II) and at the Eastside Union School District (EUSD) (sec. III) meetings, as designated. These topics were the San Jose' Police Department's alleged racial profiling (RP) and its use of the TASER (T). The HRC made no supplemental recommendations on the latter, but made supplemental recommendation #3 on the former

II. The San Jose' City College session (11/30/06)

SJCC #4(RP) ... SJ, workers in SJ buildings are regularly asked for their immigration cards; they are stopped because of their brown skin ...

SJCC # 6(RP) _____: ... When former Secty of State Colin Powel was on campus, only Muslims or blacks were arrested. Young Muslims had stood up for the first time since 9-11. The p.d. punished them for expressing their 1st Amendment rights.

SJCC #11(T) As a spokesman from the Coalition for Justice & Accountability, we think that the use of the taser should be banned. In 2006 tasers were used in deaths in which the coroner found the taser was a factor contributing to the fatality. The result of using the taser is an acceleration of force, not a reduction of force.

SJCC #13(RP) The Muslim community is the subject of harassment; the police don't know the trust and come to conclusions that are wrong (as, for example in the DeAnza College incident). The Muslim community is being pressured so badly that it has to bring in the Freedom Chapter from Washington, DC, to investigate. ...

SJCC #18(T) ... Tasers should be banned. One quarter of the deaths involving officers in SJ also involve tasers.

SJCC #25(T) I supported a moratorium on tasers, when I was on the HRC, and I still do. As a public defender, I saw many things that were wrong (like the comments regarding Alviso made earlier).

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SJCC #26(RP) There's no change here. We have had Rob Davis as Chief of Police for 4 years now. The SJPD protects downtown businesses. The grand jury investigation interviewed 13 people. It proved that there was racial profiling in SJ. As long as the SJPD has been here, since 1850, it has been doing the same thing. On Cinco de Mayo, they hold what we in the Latino community call "police riot days." There were 56 arrests that day, although none of them were reported

SJCC #27(RP) Police are shepherds of our rights. They treat Latinos, Chinese and Afro-Americans unfairly. I'm tired of having our rights violated. . . .

SJCC #28(T) . . . The Committee calls for a ban on the taser.

SJCC #29(RP) We should have a racial profiling survey to show Chief Davis. Before we hire more police, we should have it documented how the police treat people in the barrio. I've been pepper-sprayed in the health clinic. I want videotape to prove how people are treated by the police.

SJCC #30(RP) I'm a Sikh. I wear a turban. I want to be treated with respect and not profiled.

SJCC #32(RP) Police officers demand respect. 3 mos. ago I was pulled over for a broken taillight. I was asked "Where's the meth?" and handcuffed. They searched my whole car. They didn't find anything, because there wasn't anything like that in the car.

SJCC #33(RP) At Story & King, Cinco de Mayo just means police beatings. They come in riot gear. The situation immediately escalates. They have no respect for East-siders. . . .

SJCC #34(T) . . . My son died because of a taser, with his asthma.

SJCC #37(RP) There are problems with language. When people don't speak English, they need interpreters. The PD in that area should be Spanish- or Vietnamese-speaking. A woman and I were on I-280 and cars were being pulled over to see if they had licenses and insurance. This was happening only near Story & King. They towed one car just because its owner was Spanish-speaking and she didn't have insurance, even though she was a woman with a child.

SJCC #39(RP) I've lived in SJ for 6 yrs. I've seen racial profiling. I'm a criminal justice major. They keep fear in our eyes.

SJCC #40(RP) I'm concerned about immigrant rights. I once had an SJPD officer yell at me about being in a part of town. He asked, "What house do you live in?" He was angry. I

asked, "Is there a problem?" The officer drove down the street. The only reason he treated me this way, was that I have brown skin. I thought about it afterwards. I was shaken. When it came time to pick up my son, I had my wife go get him, because I was afraid to go back there. There have been 3 other incidents like this.

SJCC #42(RP) I was at 11th & Santa Clara Streets when 3 Mexican-Americans with me were harassed because of their color. I was not bothered, although I was the driver of the car. I'm a white female. The officer accused 2 of the Mexican-Americans of being in a gang, because they were wearing red shirts.

SJCC #45(RP) I have lived in SJ all my life. I'm always scared when I see a cop. When I'm pulled over in my neighborhood, they always go after the black male in the passenger seat. ...

III. The Eastside Union School District session (1/18/07)

EUSD #1(RP) He was the only white guy arrested at a demonstration when former Secty of State Colin Powell came to San Jose. The others arrested were either black or Muslim. Most of the crowd had been white and rowdy.

EUSD #2(RP) There is racial profiling and police harassment in San Jose. It has been over 2 years since he put in a complaint about having been harassed on Christmas Day at the airport (in front of his 13-year-old daughter). He filed a complaint, but hasn't heard anything about it since.

EUSD #3(RP) It has been 13 years since the police shot (someone) and nothing has changed. They still go by color (looking for the blacks and the Mexicans). They are stopped because they "look suspicious." Her 19-year-old was wearing a red band to notify the police and the people of his mediator status. The police thought it was a gang emblem, and knocked him down. ...

EUSD #4(RP) A police officer moved into his neighborhood. The officer's house was broken into. He told Holtz about it. Holtz said nothing to him. 10 minutes later, the police came by for a "knock & talk." Holtz agreed to it. The police asked for permission to come in. The officer insisted and claimed that he smelled dope in the air. They handcuffed him and asked where the dope was. There wasn't any dope in that house. This situation just gets

worse

EUSD #5(**RP**) He was arrested for sitting on a golf cart. He was taken to the police office, and was asked about his "gang affiliation." The officer insisted that he was a member of a gang, and offended him verbally and physically. He tried to get Castro to fight, and he made him sign a paper. Now he's facing multiple charges in court. ... the officer is the one who insulted or offended him.

EUSD #11(**RP**) When Chief Davis was a commander or lieutenant, he knew about the survey about police conducting racial profiling. I have been pepper sprayed in a health clinic. "East Side" is a Hispanic community. I've known this for years. They put them into handcuffs and still beat them when they can't fight back. The blacks at bars are the only ones they stop or harass. Rob Davis is a racist. We pay them to deal with us like that? They sent the SWAT team in. You could work with Richard Konda.

EUSD #14(**RP**) Chief Davis is to be commended for his outreach to Muslim neighbors. He does a good job. However, he has a friend who was stopped just because he looked "suspicious." The officer should have just said that he was being treated this way because he "looked Muslim-ish." There are hard facts sustaining the civil grand jury's report that African-Americans and Latinos are subjected to the same type of treatment by the SJPd. It's not enough just to speak Spanish; they have to talk and do public relations.

EUSD #15(**RP & T**): SJPd stood out in the media as discriminating against youth, Latinos, Asians and blacks. Police look into cars with flashlights, trying to find drugs. They sometimes look up the pants-legs to try to find drugs or other things they can use to justify a stop of a vehicle or a person. Tasers are used on unarmed people, even after they have been linked to physical harm that makes them dangerous.

EUSD #18(**RP**) He's here not as a spokesman for the Paciano Foundation, but to talk about the Cinco de Mayo celebration. There was a melee between the police and the crowd attending the celebration. In the '50's he used to come to San Jose' to celebrate: those gatherings weren't as violent. Kids from out of town came here because San Jose' was the place to be on 5/5. Now problems continue. In Elmwood, by Milpitas, most of the population is Latinos. It's too bad they're the ones who end up in jail. The SJPd shouldn't discriminate. In the late '50's Chief McNamara brought big changes to SJPd, he ended the killing of

Latino youth. We need now to get an out-of-town police chief, in order to get any changes. EUSD #19(RP) I live near King & Story. The small turn-out at this event doesn't represent the community's deep sentiment of resentment. Most of them feel, "Why even come (to a forum like that)?" SJPD violates peoples' rights every day. Nothing ever happens to them. They aren't even forced to apologize. They use police intimidation, police beatings. There are no "complaints" filed because they just put it in the file as an inquiry, rather than as a complaint.

EUSD #23 (RP) "What's working and what's not?" If you go to Santana Row, there isn't as much police presence as there is on the East-side. For blacks, Latins and Asians, if you're brown or colored, you will draw attention from the police. The police in full riot gear showed up at Cinco de Mayo. The SJPD chief hasn't been a victim of racial profiling himself, so he doesn't understand. The first question they always ask when they stop us is "Do you speak English?" They don't ask that in white communities. We need action, not from the panel, but from the streets. The police should listen to the community, to bring the discussion to a place where the community wants to go.

EUSD #25 (T) I married into a police family in "Burlingame. I can't accept excessive force. I worked at Kaiser Hospital for 21 years and at Peninsula for 14 years. The CDC twisted my arm, and I still feel the result. Next April, the public is getting the right to use Tasers. We need a crisis intervention team that will treat everyone with respect.

EUSD #27 (RP) My family was the victim of racial profiling dating back to _____. It offends me to hear people say that there's no racial profiling in the SJPD. I'm living proof. After the Cinco de Mayo parade, I tried to take out my wife and kid. After all the detours and the police intervention, I just wanted to cut through and get back to the East side. The officer first ignored me. I tried to show him my ID. I honked my horn. The officer started cussing at me in front of my family I get pulled over and they assume that I'm either on probation or on parole. I work with kids and they're damaged; they have ill-feelings toward the police (in SJ and all over the world). They once pulled my grandma out of the car.

EUSD #29 (T) We should ban tasers in San Jose' tonight. An article in the Mt. View Voice points out the inconsistency between prohibiting its use against police and the police's use against citizens.

EUSD #31 (**RP**) I was raised at Story & King (in a low-income project). I have been the victim of racial profiling. I have twice been a victim of police brutality. One of these times, I was at Story & King for an open mike & block party. As I left the apartment, I was stopped by 2 officers who claimed that I must know something about a robbery. One of them accused me of being under the influence of meth. I had not taken any such substance. He told me, "You have no rights." Eventually he let me go, without a citation or anything. I took the light rail and bummed enough change to take a bus back to my place. People shouldn't get stopped just because they are wearing baggy pants, a do-rag, they're bald, they're Chicano, or whatever.

EUSD #32 (**RP**) ... An officer stands on the corner near where I live. He doesn't stand there to direct traffic. He wants to harass people with color, even women with children.

EUSD #36 (**RP**) My cousin has brown skin and he gets pulled over. I have light skin and I never get pulled over. It isn't fair.

EUSD #37 (**RP**) All the Mexican-Americans are treated like gangsters and low-lives. I once wore a grey sweater and was using a pencil in school. The teacher told me twice to take the sweater off. She called the police. The police told me to give them the pencil. I offered to put it away. Next thing, the officer was choking me and had me by the neck. I said, "Let me go." The teacher said, "Let him go!" Finally he let me go, but he put handcuffs on me and took me to the office for a half-hour. He asked, "What were you going to do with the pencil? Were you going to stab us? I could have pepper-sprayed you!" The report said that I resisted arrest and that I tried to stab him with a pencil. Now people think that I'm a delinquent...

EUSD #38 (**RP**) I have a bruise behind my back. My son was stopped for a traffic violation; the police immediately started asking him, "What kind of drugs are you on?" They said, "Don't lie to me. I know you're on drugs." Then they went about committing vandalism on his car. They ripped up the seats, tore out the speakers. I can't believe all the things they did. They called him a "liar." They vandalized his car, and had it towed away. They continued questioning him, and used the "good cop-bad cop" technique. This went on for about 2 hours. They did \$6,000 in damage to the car. Who's going to reimburse him for that? What happens to compensate people who only make minimum wage?

EUSD #40 (RP) I am the translator who was hear for the Vietnamese-speaking people, but there weren't any requests for that, so I do have some things of my own I'd like to say. Let everyone know that we all try our best. That includes the SJP. I grew up in East SJ. I'm Asian, "so I'm not racially profiled" (sic), but I work in a school district and parents constantly ask for advice. We need to go over and over the same message. The HRC makes inquiries. Meanwhile we should continue going to churches and to the Communities Acting Together meetings, to keep the message going.

EUSD #41 (RP) I have a friend with the Coalition of Concerned Citizens. There has been a practice over in the Evergreen School District, of taking African Americans out of class and interrogating them without allowing them contact with a lawyer or with their parents. This is outrageous and should be stopped.

EUSD #42 (RP) My son Michael choked someone in mutual combat. I was at work at the time. I have to get home by public transit. I was told that, "If you're not home within 10 minutes, we're going to break down the door." I used a SJ car, and when I got home, my wife was being interrogated. She had been in the shower. They interrogated her, while she was only wrapped in a towel. This began 5 years of mistreatment at the hands of the SJP. Later, 10 officers broke in and said that they heard Michael would be there. I hadn't heard from Michael since 2 days before the incident. They broke down the door. I complained to IPA and went through the claim process for 9 months, before I was told, "If you drop your claim against the officer, the door will be fixed." I went to new councilmember Madison Nguyen, and finally got a check for \$280. The SJP consistently lied about this. My wife is Chinese-Philippine. She gets confused when people talk fast to her. The SJP officer interrogating her called her "stupid." She's not stupid and she doesn't deserve to be treated this way.

Respectfully Submitted,

SAN JOSE' HUMAN RIGHTS COMMISSION

By



Lawrence M. Boesch
Chairman