



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Mayor Chuck Reed

SUBJECT: Police Conduct Investigation

DATE: October 26, 2009

APPROVED: *Chuck Reed*

DATE: 10/26/09

RECOMMENDATION

That following the completion of the investigations by the San José Police Department and the District Attorney's Office, the Rules and Open Government Committee shall consider the release to the public of police records in the Phuong Ho case. Such records may include the police report, 911 tapes, additional audio and video tapes, force response reports related to the arrest of Phuong Ho.

BACKGROUND

The content of the video of Phuong Ho's arrest obtained by the Mercury News is troubling. The Police Department's decision to immediately investigate this matter is an important first step.

Allegations of improper conduct by police officers must be taken seriously. We expect the San Jose Police Department to be the best and most professional department in the country.

This case will be thoroughly investigated and the results turned over to the District Attorney's office to determine if criminal prosecution is appropriate. In addition, the SJPD Internal Affairs Division will investigate to determine if administrative actions are appropriate.

Both investigations must respect the constitutionally guaranteed right of due process, which belongs to all parties to an investigation.

There is great public interest in ensuring that this case is conducted with maximum transparency. At the conclusion of the investigations the public should have an opportunity to review the facts and understand what actions are being taken.

By holding a hearing before the Rules and Open Government Committee to consider the release of records in the case, such decisions will be made in an open forum that both allows individuals with privacy or other concerns to raise those concerns with the committee before release is approved.