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by City Manager's Office



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Debra Figone

**SUBJECT: RELEASE OF PUBLIC
INTOXICATION
INCIDENT REPORTS**

DATE: February 26, 2009

INFORMATION

As the City Council is well aware, there has been a great deal of attention on the Police Department's handling of public intoxication (647f) arrests. At Council direction on November 18, 2008, a Public Intoxication Task Force has been formed to assist in developing: 1) recommendations for non-criminal sanctions and alternatives to public intoxication arrests; and, 2) recommendations for what additional procedures an officer should use to obtain objective evidence to support a 647(f) arrest. The Task Force has been charged with completing its work in 90 days. The targeted date for the Task Force to complete this work is March 26, with recommendations scheduled for the City Council's consideration by April 28.

Separate from the work of the Task Force, the American Civil Liberties Union requested the release of "...incident reports relating to all arrests for public intoxication made in 2007, redacted to remove the names and contact information of the persons arrested." The Police Department denied the request in November. Earlier this month, Councilmember Campos distributed a memo requesting that all of these records be released.

I have been meeting with the Police Department over the last several weeks to see how we might provide additional information to the Task Force. As part of these discussions, we have taken into account the work underway at the Rules and Open Government Committee and the City Council's pending decisions on the matter of police records, as well as the drain on Police Department resources that would be required to redact all of the requested incident reports. It is clear that some of the Task Force members believe the release of these records is important. I want to be sensitive to these concerns. I also want to make sure that this issue does not become a distraction from the direction the Mayor and City Council gave the Task Force so that its work can continue to move forward.

In discussing how the Department might provide a meaningful response, I established some key principles. These are that any release of records should:

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- not preempt the Rules & Open Government Committee or the City Council in their review of the Sunshine Reform Task Force proposals about police records.
- not jeopardize any legitimate privacy concerns.
- take into consideration the resource constraints of the Police Department.
- be a representative sample that accurately reflects the larger universe of all 2007 647(f) pre-booking sheet records.

Keeping these principles in mind, I believe that we are in a position to provide 647(f) records.

The Police Department has developed a plan to release a completely random sampling of 647(f) Incident Reports for 2007. During that year, there were 4,661 arrests for public intoxication. It would take two people working full time for ten weeks to pull, redact, and review this number of records. As an alternative, staff has consulted with experts in research methodology to determine how best to ensure that a randomly selected set of reports is representative of the larger group. According to Generally Accepted Government Auditing Standards, a sampling of 94 randomly selected reports would be sufficient to ensure a 95% accuracy rate and an error rate of 4% that the released records are representative of the larger group of Incident Reports. However, in an effort to make sure we are going beyond the bare minimum, the Department will release 200 randomly selected reports. To avoid sampling bias, the reports will be selected through the use of a computer program that automatically generates a random selection of records from all of the 2007 Incident Reports. To ensure that privacy interests are protected and other confidential information redacted, each report will be reviewed and redacted by one officer, after which a second officer will review the same report to make sure any personal and confidential information has been properly redacted.

Under the California Public Records Act, release of these records is not required but is at the discretion of the City. Redacting all 4,661 of the requested Incident Reports would place a significant strain on Police Department resources that I do not believe can be justified when random sampling can provide significant transparency on this issue. Nevertheless, the Police Chief and I believe that releasing a properly redacted sampling of 647(f) Incident Reports is a good faith effort to attempt to meet the interests of those taskforce members who would like to review 647(f) records from 2007. It is our sincere hope that the release of these records will prevent this issue from becoming a distraction to the work of the Public Intoxication Task Force in the important work it is doing.

As the City Council is aware, the Police Department instituted changes in how it manages public intoxication arrests in October, 2008. While no one has requested the release of Incident Reports from this most recent period, the Department will also provide a random sampling from the three months since the changes were instituted to see what changes may have resulted from the new procedures. If it desires, the taskforce will thus be able to discuss what additional changes could be made to improve the way the City handles 647(f) arrests.

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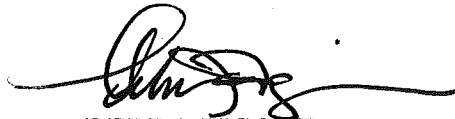
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The Police Department has begun the work of collecting the reports. Once all reports have been gathered, the Department expects to complete the work of reviewing and redacting the records within two weeks.

If you have any questions about this decision please contact me.



DEBRA FIGONE
City Manager

