



PUBLIC INTOXICATION TASK FORCE MEETING – SYNOPSIS

MEETING DATE: 4/23/09

MEMBERS: PETE CARILLO, DOLORES CARR, RAUL COLUNGA, KATHY CORDOVA, EDWARD FLORES, MARY GREENWOOD, RAJ JAYADEV, ROSE LEE, Karen Fletcher on behalf of SHEILA E. MITCHELL, SHIVAUN NURRE, SKYLER PORRAS, VICTOR RODRIGUEZ, ROD SCHISLER, JORGE WONG, WALTER WILSON

ABSENT: JEFF MOORE II, ALFREDO MORALES, OTIS WATSON

CHAIR: DEBRA FIGONE, CITY MANAGER

STAFF: ROB DAVIS, CHIEF OF POLICE, NORBERTO DUEÑAS, DEPUTY CITY MANAGER, GEORGE RIOS, ASSISTANT CITY ATTORNEY

FACILITATOR: SHAWN SPANO

Welcome/Introductions

- Debra Figone called meeting to order at 6:09 p.m.
- Task Force members and staff introduce themselves (name and group affiliation); including their background. (Organization Roster is posted at www.sanjoseca.gov/publicintox.asp)
- Remind Task Force that the report that will be submitted to Council in May will be divided into three potential categories: (1) Recommendations for alternatives to arrest, (2) recommendations for procedures regarding objective evidence, and (3) members' ideas including long-term proposals for Council consideration.
- City Manager Debra Figone discusses issue with the way that CPLE was brought to San Jose. She was unaware of the importance of seeking the approval of the community as well as the San Jose Police Department and for that reason apologized not involving the Task Force in the decision to bring the CPLE to San Jose.
- City Manager Figone also urged the Task Force to work together to bring the Task Force to a successful close and respond to Council's charge.

Incident Report Presentations

- Shawn Spano, facilitator, asked those Task Force members that were prepared, to present their findings and written summaries were also distributed.

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- The American Civil Liberties Union provided their analysis of the 282 police reports. (ATTACHED)
- The ACLU as well as other members of the Task Force felt that 4% of the total amount of reports is an insufficient amount to make a conclusive analysis and therefore requested 50% of the reports that were made during the months with the most 647f arrests. While the City determines if and how to fulfill their information request, the NAACP, Raza Roundtable, Latino Democratic Forum, Silicon Valley DeBug, the African-American Center, La Raza Lawyers Association and ACLU stakeholders are unable to provide additional feedback, although they are not resigning from the Task Force. At this time, representatives from the aforementioned groups left the meeting.
- **Asian Americans for Community Involvement** - Dr Jorge Wong's analysis found a recurring use of boilerplate language in reports. In addition, the reason for the arrest was not always clearly stated. Officers were also failing to use a standardized system to describe the ethnicity of the individual. The narrative section of the report needs to be more specific in describing the disturbance. Dr. Wong recommended the use of the Crisis Intervention Team (CIT) when arresting mentally-ill patients. 2008-09 reports were better written, and he recommends the continued use of paired officer teams in the field.
- **Business Owner-Hunter's Video Bar** - Rod Schisler reviewed the 82 reports from 2008-2009. He feels that a sobering station would be a vast improvement. Also a ticket or fine should be imposed for individuals who are drunk which would fund the sobering stations.
- **Latina Coalition of Silicon Valley** - Kathy Cordova was not able to do a full analysis but saw trends of boiler-plate language. She also has severe concerns about the number of Latino arrests and a broken system within law enforcement. The issue is what is left out of individual reports.
- **Independent Police Auditor's Office** - Shivaun Nurre looked over some not all of the reports but saw a vast improvement in the recent arrest reports, all but 9 showed the use of the PAS device. However, most reports did not show whether performance tests were given and the reports need more description as to why a person is belligerent or unable to care for themselves.

PITF Recommendations and Report to Council

Review of recommendations to-date regarding 1.) objective evidence and 2.) alternatives to arrest.

Discussion of Alternatives to Arrest: (SEE: May 7th "Analysis of Options Handout")

1.) Do not prosecute until the sixth offense:

- County Public Defenders Office review of 647(f) CJIC data showed that recidivism rates are low, therefore, this is a good option since it decriminalizes the offense for first offenders which is the vast majority of cases.

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- This recommendation however does not address the issue of lack of probable cause in police officer's incident reports.

- An 849(b)(2) citation is a criminal detention.

2.) Encourage businesses that serve alcohol to offer PAS testing:

- Business owner does not feel that patrons will be willing to take the PAS testing due to his own experiences.

- Task Force member wants to know what the goal of this particular recommendation is. The ideal goal would be that the individual would take more responsibility; it would be more of a self-screening tool.

- Concern over issue of liability for the business owner. If a person has over the .08 limit and lets individual leave premises what liability does the business owner incur?

- City is currently working with downtown venues to help the SJPD in handling the problem of public intoxication.

3.) Municipal Code Ordinances:

- Problem with this recommendation is that violations of ordinances are criminal; some are infractions and some are misdemeanors so it does not solve the problem of decriminalization.

- Also does not help the individual if they are let go especially if they are unable to care for themselves.

- Not feasible because if the individual does not pay the fine it would lead to a criminal case.

- Task Force as a group felt that this was not a productive recommendation.

4.) Sobering Stations:

- It is a voluntary facility and there are no law enforcement officers present so individuals can leave at their own will.

- Task Force member feels that this is not useful because it is voluntary. It should be mandatory for intoxicated individuals to stay until they are sober.

- There are drawbacks but many positives such as: takes away stigma that comes with having a criminal record, safety, allows individual to sober up.

- There is a possibility of using a fine to fund a sobering station in San Jose.

- What about the option of a mobile unit instead of a facility? Space would be an issue however; SJPD will research other agencies to see if they are utilizing this option.

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- Problem with sobering stations is that they would decline some individuals if they had been there too many times or if they were combative.
- Task Force member assures Task Force that the previous sobering station that was under-utilized was not just SJPD it was County-wide.

Requests for Information:

How many people during a given month are taken to the sobering stations in San Mateo County for 647f arrest?

How much does it cost to maintain the sobering stations?

Is there health care staff onsite?

What is the funding source? A: Cost from DUI

Which non-profit runs the San Mateo County Sobering Station? A: First Chance Program which has been operating since 1981.

Discussion of Objective Evidence: (SEE: May 7th "Analysis of Options Handout")

1.) Conducting coordination tests

- Officers need to expand on narratives and conduct all performance tests.

2.) Requiring blood/urine test:

- Not feasible. The PAS gives info you need. (Taken off list)

3.) Offer PAS Testing: new devices print out a report which is admissible in court.

4.) Establishing a PAS threshold:

- TF member feels that it is dangerous to create a threshold because someone may not be belligerent/combative but have a blood alcohol level that is over that prescribed limit. (Taken off list)

5.) Police Training

Questions/Comments:

- Problem with boiler-plate language is that officer is probably not going to be able to recall that particular incident especially if there were many arrests in that area such as downtown.
- Arrest citations can be altered to prompt officers to describe how an individual is being belligerent, maybe ask how?

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Public Comment:

- The Task Force lost its legitimacy when the community members walked out. The City is ignoring the problem which is the lack of trust and confidence in the City. Feels that the City has hijacked the process.

Closing: Next and final meeting will take place on May 7, 6:00 – 9:00 pm, at City Hall in Wing Rooms 118-120.

Concerns and/or questions can be emailed to Norberto.Duenas@sanjoseca.gov, please type "Public Intoxication Task Force" in the subject line. He can also be contacted at (408) 535-8180.

Meeting was adjourned at 8:45 pm