



Memorandum

TO: CITY COUNCIL
FROM: Mayor Chuck Reed
SUBJECT: LAW ENFORCEMENT RECORDS AND STATISTICAL REPORTS
DATE: October 15, 2009

Approved

Date

RECOMMENDATION

Approve the Rules and Open Government Committee amended Sunshine Reform Task Force recommendations on Law Enforcement Records, Police Department Statistical Reports and Fire Department Statistical Reports.

BACKGROUND

Law Enforcement Records

The Sunshine Reform Task Force heard extensive testimony as did the Rules and Open Government Committee, (six public meetings total,) on the Sunshine Reform Task Force recommendations on law enforcement records. Among those raising concerns were victim's rights agencies, public safety organizations, and law enforcement officials. These organizations include:

Attorney General
California Police Chiefs Association
California Narcotics Officers
California Peace Officers Association
Santa Clara County Police Chiefs Association
Santa Clara County District Attorney
California Partnership to End Domestic Violence
Support Network for Battered Women
YWCA of Silicon Valley

To summarize the concerns that were voiced:

- The Sunshine Reform Task Force recommendations were overreaching and did much more harm than good
- Safeguarding privacy is necessary to protect against victim/witness retaliation and encourage skeptical victims and witnesses to come forward to the police
- The public should expect to feel safe and protected when working with the police.

- The amount of disclosure in the Sunshine Reform Task Force recommendations could jeopardize ongoing police investigations, as well as, the successful prosecution of criminals.
- Even properly redacted records have the potential to reveal clues to the identities of witnesses and victims.

The Rules and Open Government Committee asked Staff to come back with clarification on an overall approach that would ensure that the City complied with the factual circumstances provisions of the California Public Records Act (CPRA), in a manner that was agreeable to the Police Department, District Attorney, and a Sunshine Reform Task Force representative.

The resulting *Guidelines for Providing Information about the "Factual Circumstances" Surrounding the Crime or Incident and "Substance" of Complaint or Request for Assistance* were approved by the Rules and Open Government Committee and forwarded to City Council for approval.

These guidelines will clarify any inherent ambiguity in the CPRA and provide greater disclosure without harming public safety. The proposal successfully balances the competing interests of public access, personal privacy, and the need to protect information that must be kept confidential for the purpose of ongoing investigations.

Some advocates argue that all police records should be available to the press and the public. But victim of a crime or witnesses should have assurances that their personal information is kept confidential. We do not want to create a situation where gangsters, drug dealers, or stalkers have access to police reports about their cases so they can try to figure out the identities and locations of complainants and witnesses. I urge my colleagues to support the Rules and Open Government recommendations.