



COUNCIL AGENDA: 10-20-09
ITEM: 3.8

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Tom Manheim

SUBJECT: See Below

DATE: 10-16-09

Approved

Date

10/16/09

SUPPLEMENTAL

SUBJECT: SUNSHINE REFORM TASK FORCE RECOMMENDATIONS ON LAW ENFORCEMENT RECORDS, POLICE DEPARTMENT STATISTICAL REPORTS, AND FIRE DEPARTMENT STATISTICAL REPORTS.

The staff report for *Item 3.8, Sunshine Reform Task Force recommendations on Law Enforcement Records, Police Department Statistical Reports and Fire Department Statistical Reports* contained a detailed summary of the original Sunshine Reform Task Force recommendations, however the actual language was not included. The actual proposed SRTF language is attached.

TOM MANHEIM
Communications Director

Supplemental Attachment

SUPPLEMENTAL ATTACHMENT

6.1.1 Law Enforcement Information

6.1.1.010 Reports Prepared By Law Enforcement

All reports prepared by Law Enforcement, including "Police Report," "Domestic Violence Supplemental," "Property Report," "Force Response Report," "Traffic Collision Report" and "Juvenile Contact Report" (collectively referred to as "Police Reports") are public records subject to disclosure, unless a general or specific exemption listed herein applies.

6.1.1.020 General Exemptions

- A. Information may be redacted from any Police Report if necessary to:
1. Protect the safety of any person;
 2. Ensure the successful completion of the investigation or a related investigation;
 3. Prevent the disclosure of legitimate law enforcement techniques that require confidentiality in order to be effective; or,
 4. Prevent an unwarranted invasion of personal privacy.
- B. Information in a Police Report may not be redacted under the privacy exemption of 6.1.1.020(A)(4) if:
1. That information was given to the police by the person who is making the request; or
 2. The information pertains to the actions of a police officer in the official conduct of his or her duties; or
 3. The information is required to be made public pursuant to Government Code Section 6254(f) or any other provision of State or federal law.
- C. Redactions pursuant to this section must
1. Be limited to that information necessary to further the purpose of the exemption;
 2. Use numerical or alphabetic designations as substitutes for names omitted, to the extent practical; and
 3. Be justified in writing by reference to the pertinent exemption(s).

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6.1.1.030 Specific Exemptions

- A. Unless otherwise authorized by state or federal law, the following Police Reports are exempt in their entirety from disclosure:
1. A "Juvenile Contact Report."
 2. A "Domestic Violence Supplemental" unless and until such report is filed with the Superior Court, in which case it should be obtained through the Court.
 3. Police Reports where a person is charged with Section 220, 261, 261.5, 262, 264, 264.1, 273.5, 286, 288, 288.5, 288a or 289 of the Penal Code or an attempt to violate any of these code sections, unless disclosure would further the investigation or protect public safety.
 4. Accident Reports and supplements as defined by Vehicle Code Sections 20012 and 20014.
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- B. ~~Unless a report prepared by Law Enforcement is requested by a person entitled to the information under state or federal law, the following information must be redacted from any Police Report:~~
1. ~~The name of any victim of any crime defined by Sections 422.6, 422.7 (hate crimes), 422.75, or 646.9 (stalking) of the Penal Code, as well as by Penal Code sections listed in 6.1.1.030(A)(3).~~
 2. ~~The name of any witness, juvenile or adult, unless the witness consents.~~
 3. ~~For any person other than an arrestee, residence address, residence telephone number or electronic email address, driver's license number, California Identification Card number, social security number, date of birth, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings or checking account number, or credit card number.~~
 4. ~~For an arrestee, residence address, residence telephone number or electronic email address, driver's license number, California Identification Card number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings or checking account number, or credit card number.~~

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5. The name of a juvenile arrestee or suspect, unless and until the juvenile is charged and prosecuted as an adult, provided that the first name and initial letter of the last name must be substituted in the Police Report.
 6. The name of any person who has been accused of a crime if that person has not been arrested or charged in connection with that crime, unless the information furthers the investigation or protects public safety.
 7. Any other information that is prohibited from disclosure by state or federal law.
- C. Beginning 60 days after the date of an initial Police Report, the Police Report must not be disclosed in response to a request based on a specific member of the public, specific address or other information that could be used to identify a specific member of the public or specific address. In the event the Police Report is disclosed, the appropriate information should be redacted according to the general and specific exemptions described above.

6.1.1.040 Statistical Reports Prepared by the San Jose Police Department

The San Jose Police Department must produce:

- A. A quarterly report on all stops conducted by San Jose police officers, including all traffic stops and pedestrian stops in which a person was questioned, photographed, frisked, patted down, detained, issued a citation or arrested.

For each stop, the report will include the race and ethnicity of the person stopped, some geographic designation of the location of the stop, the reason for the stop, whether a citation was issued, whether a vehicle was searched and whether consent was granted for the search, and whether an arrest occurred.
- B. A quarterly report on the San Jose Department's use of force in arrests, including the race and ethnicity of the person arrested, some geographic designation of the location of the arrest, the reason for use of force by category (for example, refusal to comply with police orders, threatening behavior or language, engaged in use of force against another person, etc.) whether a warning was given prior to use of force, the type of force used by category (for example, firearms, tasers, batons, pepper spray, hands and feet, etc), and the injuries sustained by the arrested party and officer, if any.

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- C. The type and frequency of police statistical reports must be reviewed annually. The first annual review will take place 12 months after adoption of the public records section of the Open Government Ordinance. The review will be implemented by the Open Government Commission. In the event the Open Government Commission has not been operating for at least 6 months, the review will be implemented by the City Council.

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6.1.1.060 Statistical Reports Prepared by the San Jose Fire Department

- A. The San Jose Fire Department must produce and post on its web site a quarterly report on the following performance measures:
1. Citywide, the number of:
 - a. Fires;
 - b. Fire injuries;
 - c. Fire fatalities; and
 - d. Emergency medical responses.
 2. Citywide, and by Fire Station, the percentage of time the initial responding unit arrives within 8 minutes after a 9-1-1 call is received;
 3. By Fire Station, the number of:
 - a. Fire emergency responses;
 - b. Medical responses;
 - c. Hazardous Materials Incident Team responses;
 - d. Other emergency responses; and
 - e. Non-emergency service calls;
 4. Citywide, the percentage of fires contained in
 - a. The room of origin; and
 - b. The structure of origin;

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5. Citywide, the percentage of fires where the cause was determined (and broken out by causal factors);
 6. Citywide, the percentage of arson cases referred for prosecution;
 7. Citywide, the percentage of:
 - a. State-mandated fire inspections;
 - b. Permitted (non-mandated) fire inspections; and
 - c. Hazardous materials inspections.
 8. Citywide, the average cost of calls per service.
- B. The type and frequency of fire statistical reports must be reviewed annually. The first annual review will take place 12 months after adoption of the Public Records section of the Open Government Ordinance. The review will be implemented by the Open Government Commission, unless the Commission has not been operating for at least 6 months, in which case the review will be implemented by the City Council.