
Observations of Some PITF Members After Review of Incident Reports

At the PITF meeting on April 23, an opportunity was provided for any member who had reviewed the Incident Reports produced to present their observations to the PITF. Tab 7 contains the written descriptions of the observations that were submitted by PITF members, and a summary of all the observations presented on April 23, both written and verbal, is provided below.

ACLU Review

The ACLU concluded that there was evidence of "attitude arrests" and that these arrests seemed to be almost half comprised of Latinos. Concern was also expressed about a finding that suggests that almost half of the 200 reports from 2007 and a quarter of the reports in 2008 primarily contain only "boiler plate" language. Additional concerns included the lack of specific or individualized information, with particular emphasis on the definition/criteria for establishing that an individual was unable to care for his/her own safety or that of others. The ACLU analysis also suggested that of the public Intoxication Incident Reports for arrests that occurred before the Police Department began to use new procedures to complete Reports, about 58 percent were made with Latino suspects. After new procedures were implemented (i.e. offering Portable Alcohol Screening (PAS) sobriety tests and requiring supervisor approval of report), the number of Latino arrestees went down by 10 percent.

Asian Americans for Community Involvement (AACI) Review

Dr. Jorge Wong presented a verbal report and noted frequent use of "boilerplate" language in the reports, unclear statements for the arrests, and inconsistent marking or documentation of an individual's ethnicity. The phrase "responding to a disturbance" was noted by Dr. Wong as an example of an ambiguous statement that would not be helpful to a police officer, Judge or arrestee in recalling the events involved in the arrest. It was also observed that the reports included a variety of ethnicity markers such as Mexican vs. Hispanic, Oriental vs. Asian, and/or Indian vs. East Asian.

His review also found that 2008-09 reports were better written and arrests involving females usually involved more violent circumstances. In addition to encouraging the Police Department to implement training procedures to address the above findings, Dr. Wong also recommended the use of the Crisis Intervention Team (CIT) to assist with arrests involving mentally-ill individuals, continued use of paired police officer teams in the field, and encouraging police officers to type their incident reports.

The Latina Coalition Review

The Latina Coalition reported the frequent use of "boilerplate" language in Incident Reports and noted concern that the majority of the arrests involved Hispanic individuals. It was noted that the standardized language in the reports is problematic because it leaves out details such as the probable cause used by the police officer in making the arrest.

The Independent Police Auditor's (IPA) Office Review

The Office of the IPA found improvements in the narratives provided in the Incident Reports after new procedures were implemented in late 2008. The majority of those reports cited use of a PAS device and coordination tests (Note: A Coordination Test is a type of Field Performance Test). However, most Incident Reports did not show whether Field Performance Tests were given. Lastly, the Office of the IPA recommended that the reports contain a better description of why a person is considered "belligerent" or "unable to care for oneself."

ANALYSIS

This section provides analysis and information on the options identified that address the City Council's referral to identify:

- Non-criminal sanctions and alternatives to arrests under Penal Code Section 647(f), and
- Procedures that an officer should satisfy to obtain objective evidence to support findings to arrest under Penal Code Section 647(f).

Additionally, contained in this section of the report is a summary of the 'Long-Term Options' or 'Areas for Further Evaluation' raised by some PITF members that surfaced during the course of the PITF meetings. Some of the PITF members have expressed concern regarding the narrow scope of City Council's direction. In order to capture the suggestions raised by the PITF, staff created a third category to document other ideas and long-term options that surfaced during the discussions that PITF members felt needed additional review to go beyond the technical work of the PITF.

ANALYSIS OF POTENTIAL OPTIONS FOR ALTERNATIVES TO ARREST & OBJECTIVE EVIDENCE

This section of the reports describes the various options considered or identified by the PITF. At the November 2008 City Council meeting, the Council identified several options for the PITF to evaluate or discuss, which are included below. This section is divided into two categories that correspond to the Council's two objectives for the Task Force:

Category 1: Alternatives to Arrest

The following four options were identified either by the City Council or for evaluation and submission to the City Council for consideration.

1. Sobering Station
2. Enforcement of Municipal Code provisions that would result in entail non-criminal sanctions, such as drinking in public, disturbing the peace, sitting or lying down on downtown sidewalks
3. Enforcement of any new Municipal Code provisions that impose fines or other non-criminal penalties, e.g., business accountability measures

4. Not prosecuting Public Intoxication (PC Section 647(f)) arrests until an individual is arrested for a sixth offense in a twelve month period

These alternatives are discussed further below.

OPTION 1: Sobering Station

A sobering station is a temporary facility where intoxicated individuals are held for a certain length of time to provide him/her the opportunity to sober. In 1995, the County and City jointly opened a sobering station to create an alternative to booking individuals arrested for public intoxication.

The Santa Clara County operated the Sobering Station from 1995 - 2003. From 1995 through 1997, the City provided fiscal and staffing support for the Sobering Station. In 1997, the County assumed funding responsibility and contracted with the Center for Training and Careers (CTC) for its operation. In 2002, at the County's request, CTC issued a report regarding the Sober Station's use, funding, and general statistics associated with the operation. This report revealed declining use, which resulted in increasing cost per person. In FY 2003, the Sobering Station was closed due to low participation rates. According to County estimates, at that time, the Sobering Station's annual contractual operating costs were \$507,520.

A recent report issued by the County Executive's Office, dated December 9, 2008, states in regards to the prior Sobering Station:

The Sobering Station was meant to provide a safe haven for first-time offenders. However, the high recidivism rate indicated it had not been a successful deterrent. CTC's statistics indicated that more than 55% of their clients were frequent repeat offenders and 35% were homeless. At the time, the DOC (Department of Corrections) felt these statistics suggested a high ratio of clients would be better served by time in jail where they would have access to medical treatment, mental health services, and rehabilitation services.

The CTC reported having served a combined total of more than 7,500 clients during fiscal years 1998 and 1999. The County and CTC were optimistic that usage would continue to increase. However, despite consistent efforts by the CTC, statistics showed that usage continued to decline each year. Usage during fiscal year 2002 was 1,952, which equated to 5 people per day at a cost of \$260 per intake at the Sobering Station. The DOC felt the actual number of DOC intakes were fewer than 1,952 because 1,078 were repeat offenders. CTC's statistics indicated that 75% of all eligible clients picked up for PC 647(f) were delivered to the DOC by participating law enforcement agencies. The remaining 25% were delivered to the Sobering Station. (County Executive Report, December 9, 2008, Pages 15-16)

The County's Sobering Station was located at the County's Main Jail facility in Downtown San Jose. As a matter of practice, an individual arrested for a public intoxication offense was taken to the sobering station provided s/he was not combative, passed a medical screening and was not charged with other offenses. A police officer would write an Incident Report and the individual was held at the sobering station to sober up. An individual's detention at a sobering station was voluntary, meaning that the individual was able to leave at any time during their stay whether completely sober or not.

As part of the City's research, staff evaluated two sobering stations. The first is in the City of San Diego and operated by Volunteers for America. The second sobering station is in San Mateo County and is operated by First Chance Program.

San Diego Model: Information regarding San Diego's program is in development...

San Mateo County Model: The First Chance Program was opened in May 1992, as a collaborative between local law enforcement agencies in the cities of San Mateo County, the Director of Health Services, and a social services non-profit agency. The program was developed as a drop-off, detoxification center for adults arrested for public intoxication and driving under the influence of alcohol. Throughout the years it expanded to serve North and South San Mateo County, San Francisco International Airport, and is currently accepting clients referred from San Mateo County Medical Center and other area hospitals.

Individuals charged with a violation of Driving Under the Influence (DUI), Section 647(f) PC public intoxication, and 11550 H Under the Influence of Drugs, who qualify to receive a citation in lieu of jail detention (a Section 849(b)(2) PC release) are transported to the First Chance facilities by law enforcement officers. The officer handling the arrest conducts a breath and/or urine tests as needed upon arrival. A phlebotomist, under contract with American Medical Response (AMR), is available to conduct necessary blood draws. First Chance staff complete a medical and behavioral screening on each client accepted. Arrestees remain at the facility between 15-18 hours, until they are sober enough to be released.

According to the First Chance Program 2007-2008 Annual Report, on average, 250 people per month were admitted to the San Mateo Sobering Station. The majority of those admissions (60%) were for DUI charges. Public Intoxication arrestees were 27% of admissions, followed by 12% Under the Influence of Drugs charges, and 1% were referred by a Hospital. The average client length of stay is seven hours. Although there is not an on-site health care provider, there are 12 counselors and 10 on-call relief counselors to staff the Sobering Station, additionally all staff are trained in first aid and CPR. Funding and cost information is forthcoming...

Based on the above analysis, listed below is additional information related to this option.

Table 2: Sobering Station Policy Detail

Review	Notes
Fiscal Impact	<p>As noted earlier, in FY 2002, the annual contractual costs for operating the Sobering Station was \$507,520, not including overhead absorbed by the County. The current cost for operating a Sobering Station would need to be assessed based on the final programmatic elements. Based on an estimated 5% annual escalation industry standard, it is anticipated that the ongoing operating costs would be approximately \$680,000.</p> <p>If the City Council would like staff to explore the cost of constructing a new facility, staff would have to conduct additional research associated with the one-time costs needed to locate and/or acquire a facility, which would also need a separate one-time/capital appropriation for facility remodel or construction. These costs would need to be further developed based on the final location and/or facility designated for such use. Based on standard engineering estimates, reflective of the current economic construction climate, construction and design costs are estimated at \$400 square-foot (cost fluctuations may result from changes in bidding).</p>
Possible Alternatives	<p>No alternatives were discussed, except some discussion did take place about the different sobering station approaches that could be utilized. In this case, the programmatic elements would need to be defined to determine how the sobering station should function.</p>
Policy Considerations	<ol style="list-style-type: none"> 1. Sobering Stations, as previously operated in Santa Clara County and currently operated in San Mateo County and San Diego are voluntary programs. PITF members noted that a Sobering Station staffed by law enforcement officers would be desirable, but would require additional staff. 2. If an individual is unable to care for oneself, but decides to leave a voluntary sobering station, the public safety issue is not addressed. However, this option is desirable because it provides an individual the opportunity to safely sober-up away from the public right-of-way and does not result in an arrest or criminal record. 3. If the Council would like to pursue the establishment of a sobering station, the facility must be designated by the County and approved by the State.

OPTION 2: Enforce Existing Municipal Code (Non-Criminal Sanctions)

At the November 18, 2008 City Council meeting, the City Manager was directed to work with the PITF to explore:

Enforcement of Municipal Code provisions that entail non-criminal sanctions, such as drinking in public, disturbing the peace, sitting or lying down on downtown sidewalks.

Similarly, a PITF member raised the idea of:

Establishing a "fine" associated with drunk in public arrests as means of deterring the behavior and generating revenue for the City.

The City of San Jose has a Municipal Code provision (Section 10.12.010: Drinking on Street) prohibiting drinking at certain specified public locations, but it does not expressly address public intoxication. Specifically, the Municipal Code states:

Except as otherwise permitted under this municipal code, no person shall drink any alcoholic or other intoxicating beverage in the City of San José:

1. On any public street, sidewalk, alley or highway; or
2. In a parking facility or off-street parking establishment as defined in Chapter 20.200 of this Code including the adjacent walkways or landscaped areas. (Prior code § 4287; Ords. 25101, 25884.)

Efforts to explore this option revolved largely on whether a fine should be imposed for the above or similar municipal code violations. City staff shared with the PITF that a violation of a municipal code ordinance is also a criminal offense. Therefore, this option would not de-criminalize public intoxication. It was pointed out that an administrative citation could be issued instead of an arrest for a violation of a municipal code provision. However, it was also pointed out that if only an administrative citation was issued to an individual that could not care for himself or herself without securing the individual, the public safety concerns associated with leaving the intoxicated individual in a public area would not be met. Additionally, there was concern expressed by some PITF members that this option may also disproportionately affect low-income individuals if they are unable to pay fines associated with the above violation.

Upon the above conversation, at the April 23, 2009 meeting, the PITF members in attendance determined that they did not believe this is a productive recommendation and did not recommend advancing it for further consideration.

OPTION 3: New Municipal Code Provisions or Business Accountability Measures

At the November 18, 2008 City Council meeting, the City Council directed that the City Manager to work with the PITF to explore options that support business accountability for those that serve alcohol. The PITF raised some alternatives that could result in increased business accountability for those businesses that serve alcohol.

Specifically, the PITF explored whether businesses that serve alcohol could offer PAS testing to their patrons. With this option, it was envisioned that certain businesses would purchase PAS devices and administer testing for patrons concerned about the amount of alcohol consumed. The PAS test would give patrons information they would hopefully use in deciding whether to arrange for alternative transportation prior to.

leaving the business venue, e.g., the business calling a taxi, calling to be picked up by someone, etc.

At the April 23, 2009 meeting, the PITF members in attendance decided against pursuing this potential recommendation further. Please see the table below for additional information.

Table 3: New Municipal Code Provisions Policy Detail

Review	Notes
Fiscal Impact	The cost to purchase a PAS device is approximately \$1,000, which would be incurred by business owners. Additionally, an owner may incur costs associated with the development and display of signage informing patrons of the option to take a PAS device test.
Possible Alternatives	A variation of this option could be put into place without the need for a PAS device test: <ol style="list-style-type: none"> 1. Some downtown bar owners call a taxi cab service on behalf of a visibly intoxicated patron. This informal practice could be promoted within the business community as a voluntary option. 2. Businesses could provide service that allows for patrons to call to be picked up if the patron believes that s/he has consumed too much alcohol.
Policy Considerations	The PITF noted several concerns related to this option. <ol style="list-style-type: none"> 1. If an individual registers a high blood alcohol level, there is no requirement, nor authority, for a business owner to prevent the patron from leaving the establishment. 2. The District Attorney noted there may be potential liability implications for businesses that would result from implementation of this strategy. 3. A business owner on the Task Force noted that although he offers the device few patrons use the device. 4. PITF members did not believe this option addressed the core purpose of the PITF's work.

At the April 23, 2009 meeting, the PITF members in attendance determined that they did not recommend advancing this option for further consideration.

OPTION 4: Establish Threshold for Prosecuting Public Intoxication Arrests

This option allows for an individual to be arrested up to five times in a "rolling" year for violating Penal Code Section 647(f), Public Intoxication, without prosecution. In this option, a "rolling" one year period would be used, which would begin on the date of the first public intoxication arrest. For example, if an individual is arrested for public intoxication on April 1, 2009, then the period for which public intoxication arrests would be tracked for that individual would be from April 1, 2009 through March 31, 2010. Driving the "rolling" one year period is based on the one year statute of limitations for

the District Attorney to file charges against someone arrested for a violation of Section 647(f).

An individual that violates Penal Code Section 647(f) five times or less within a "rolling" one year period would not be criminally prosecuted for those violations. However, once an individual is arrested for a sixth offense in that "rolling" one year period, the District Attorney's Office could initiate prosecution on all prior public intoxication arrests that took place within the one year statute of limitations. The District Attorney's Office will retain the discretion to prosecute only the arrests that it determines is sufficiently supported by the evidence. For example, if the District Attorney's Office determines that 2 of the 6 cases are not adequately supported by the evidence, the District Attorney's Office will prosecute only the other four cases. As part of this option, once prosecution is sought, the Police Department would also work with the District Attorney's Office to seek longer jail time and restrictions on the person's conduct as a condition of any probation.

This option would result in an individual arrested for a public intoxication violation being booked into the County Jail, just as they are now. Once the individual is sober and can care for him/herself, the person would be released pursuant to California Penal Code Section §849(b) (2), which states:

- (b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:
 - (2) The person arrested was arrested for intoxication only, and no further proceedings are desirable.

This option is currently being used successfully by several Santa Clara County cities, such as: Mountain View, Palo Alto, Los Altos, Morgan Hill and Gilroy. The City of Mountain View has used this approach for approximately 10 years. Below is additional information related to the implementation of this Option.

Table 4: Threshold for Prosecuting Public Intoxication Arrests Policy Detail

Review	Notes
Fiscal Impact	During a pilot period, the San Jose Police Department Court Liaison Unit could oversee the logistical function of tracking individual "rolling" one-year periods. This would be a collateral duty assignment for the Unit and the Police Department would pilot this approach without the addition of additional resources. Under this pilot program, the City would need to assess the amount of time needed to support this Option, evaluate how it impacts other service priorities, and would calculate the cost associated with supporting this approach.
Possible Alternatives	The City could set the number of public intoxication violations permissible within the "rolling" one year before prosecution activity is initiated. It could determine that a lower or higher threshold for initiating prosecutions.
Policy Considerations	The following considerations were identified:

	<ol style="list-style-type: none">1. The Public Defender's Office stated that according to their review of County public intoxication data (Penal Code Section 647(f)), there was a very low rate of 647(f) recidivism, therefore making this recommendation a highly desirable and viable option that would address public safety concerns and decriminalize the majority of public intoxication arrests. In addition, it is projected that County Superior Court caseload may likely decrease.2. The County Chief of the Department of Corrections added that the Department would not likely have concerns since its intake traffic would remain the same.3. During the April 23, 2009 PITF meeting, some concerns that were expressed were related to the tracking of individual offenses. A process that would work for San Jose would need to be developed given that this approach within the County has only been administered in smaller cities with smaller arrest activity.4. The District Attorney stated that her Office does not typically argue Public Intoxication (Penal Code Section 647(f)) cases and will not likely be able to attend hearings and argue for stricter sentencing for an individual on his/her sixth offense.5. Coordination with the County Superior Court is necessary to understand the implications to the court system. Another consideration is that due to reduced funding for drug and alcohol programs, social service support for frequent intoxicants may not be available.6. If this option is implemented, SJPD recommends that it be implemented as a one-year pilot, with an evaluation and review every six months.
--	--

This option will require significant coordination between the Police Department, the District Attorney's Office, the Superior Court and the Department of Corrections. In addition to the logistical issues arising from tracking the "rolling" one year period for each individual arrested for 647(f) in a city as large as San Jose, several other considerations associated with this option were identified and are described below.

Putting the logistical issues aside regarding implementation of tracking various individual's "rolling" one year period in a city as large as San Jose, this option presents many benefits, such as:

- Achieves the goal of the City Council with developing an alternative to arrest.
- It would also come at a considerably lower cost since it largely represents an operational change, which other Santa Clara County cities have adopted.
- Initial assessment of the Police Department regarding this approach shows that it would have little impact on the Court Liaison Unit since the current paperwork regarding an individual would need to be completed, but coded differently for tracking purposes.

Additional information regarding total resource impacts is needed and could be obtained if implemented as a pilot program.

Category 2: Objective Evidence

The following five options were identified either by the City Council, PITF, or staff for evaluation by the PITF:

1. Offer PAS device testing to those suspected of violating Section 647(f);
2. Offer blood or urine chemical testing as an option for the arrestee, with the expense incurred by the arrestee;
3. Conduct field coordination tests, such as line walking and standing balance tests, for all potential public intoxication arrests for those with sufficient control over their motor skills to safely participate;
4. Establish a "Drunk in Public" PAS test threshold; and
5. Improve Police Officer training regarding recognizing someone who is subject to arrest for violating Section 647(f).

Each of these options is analyzed below.

OPTION 1: Offer PAS Device Testing

This option would require police officers to offer PAS tests to individuals suspected of public intoxication. It should be noted that there is no blood-alcohol (BA) threshold, as there is for "driving under the influence" (DUI) -- .08%, for determining whether an individual is "drunk in public." A PAS device test would provide a BA for the individual tested, but the results would not be admissible in court. Further, it is important to note that a PAS device offers no information about whether an individual is under the influence of drugs, such as LSD, marijuana, or toluene, which alone or in combination with alcohol could cause the person to be "drunk in public."

In December 2008, the San Jose Police Department began offering PAS tests to those suspected of violating Section 647(f). Listed below are some facts and observations regarding this pilot program:

- The Police Department began this pilot with existing equipment originally purchased for DUI enforcement.
- The Police Department has limited PAS devices, and establishing this option would require the purchase of additional PAS devices. Currently, SJPD has 75 functioning PAS devices—and 70 of these are over 10 years old.
- Due to the limited number of PAS devices available, police officers are sometimes required to wait until a PAS device can be summoned to the scene of an arrest.
- PAS devices are readily available in the downtown area, but a police officer working in other areas of the City may have to wait a considerable amount of time for a PAS test device to reach the scene of an arrest.

- Police Officers are documenting the BA levels determined by the PAS tests in their Incident Reports. The “unofficial” average of the BA results so far is approximately .17.
- For those individuals that took a PAS test, no one has been arrested for public Intoxication with a BA level under .08 (not an official statistic). In each instance a PAS test has been administered to someone arrested for a violation of Section 647(f) since this pilot program was initiated the test has revealed the presence of alcohol.
- Some individuals have refused the PAS device test.

For comparison, for a Driving Under the Influence (DUI) arrest, the legal threshold for determining whether an individual is intoxicated is set at a .08 blood/alcohol level. However, a .08 blood/alcohol level alone does not determine whether an individual is intoxicated or not. For example, if the an individual takes a PAS test and the result is between .05-.07 blood/alcohol level, it is the responsibility of the police officer to prove that the individual was under the influence of alcohol. This can be done by the police officer’s observation of the individual driving recklessly, running a red light, speeding, etc. Additionally, based on driving conditions and for an individual that takes a PAS test that has a result of a .06 blood/alcohol level, that individual could be arrested and charged with a DUI. While a DUI arrest has a set blood/alcohol level, there are variable that can be applied outside of this standard to arrest for DUI. Below is additional detail:

Table 5: Offer PAS Testing Policy Detail

Review	Notes
Fiscal Impact	The cost of a PAS device is approximately \$1,000. To provide a PAS test device to cover each of SJPD’s three shifts, the City would need to purchase over 300 devices at an estimated cost of \$300,000. A phased purchase could be implemented to spread the cost over time.
Possible Alternatives	None discussed.
Policy Considerations	Listed below are the policy considerations discussed by the PITF: 1. There is no legal threshold BA level established to declare an individual “drunk in public.” 2. The PAS reading will only show that the individual arrested had a certain blood BA but does not prove intoxication. 3. An individual arrested for public intoxication cannot be required to take a PAS test. 4. This PAS test is only for alcohol and does not reveal whether the individual is under the influence of any other substance.

OPTION 2: Offer Blood or Urine Chemical Testing

On November 18, 2008, the City Council directed the City Manager to explore whether the City could offer blood or urine chemical testing as a measure to develop objective evidence for public intoxication arrests. A preliminary analysis of this option raised many potential barriers to the implementation of this option, such as:

- Identifying a sanitary facility to conduct such tests;
- Hiring medical technicians;
- Workload impacts to the Santa Clara County Crime Lab, where the samples would be analyzed;
- Unintended consequences of having blood or urine tests that reveal other illegal substances for which other criminal charges would be initiated that could result in longer jail terms
- Increased cost to the City of San Jose or the County for this testing to be conducted

A blood/urine test would require a police officer to transport an arrestee to a facility where the officer could supervise obtaining a urine sample or a blood technician could obtain a blood sample to test. Once the sample is obtained, the officer would transport the arrestee to County Jail, and then would have to transport the sample to another facility, such as the County Crime Lab, for analysis and storage.

A person arrested for a misdemeanor such as a violation of Section 647(f) cannot be forced to provide a blood or urine sample, so the arrestee's permission would have to be obtained. However, if a person is intoxicated to the point of being unable to care for him/herself, the legal validity of the person's consent to participate in such a test may be subject to subsequent challenge. Furthermore, the laboratory testing available would screen for all substances within an individual's blood or urine, which could reveal the presence of prohibited substances and lead to additional charges.

Implementation of this option would have a negative impact on resources for both the San Jose Police Department and the County of Santa Clara. Because of this impact, the fact that this option has the potential of unintended consequences inconsistent with the City Council's goals, and the questions regarding the validity of consent given by those who are unable to care for themselves, the PITF decided not to pursue this option further.

Table 6: Blood or Urine Chemical Testing Policy Detail

Review	Notes
Fiscal Impact	It is estimated that the County Crime Lab would have to hire an additional 4-5 full time employees to handle the increased workload. Additionally, the Police Department would need a one-time appropriation to purchase additional freezer storage space to properly store biological evidence. A thorough cost analysis was not conducted because the PITF determined that it did not want to evaluate this Option further.
Possible Alternatives	None discussed.
Policy Considerations	Listed below are the policy considerations: <ol style="list-style-type: none"> 1. Absence of a legal BA threshold level established to declare an individual "drunk in public." 2. A blood/urine test could also reveal other illegal substances in an individual's bloodstream, potentially resulting in charges for other criminal offenses. This option may result in further criminalization associated with 647(f) arrests thereby having the opposite effect of Council's direction to find alternatives or non-

	criminal sanctions to 647(f) arrests. 3. It should also be noted that an individual arrested for 647(f) can not be required to take a blood/urine test.
--	--

The above process for offering chemical testing presents resource impacts for both the San Jose Police Department and County of Santa Clara that may not be feasible at this time. Due to the logistical impacts and that this Option did not satisfactorily fulfill the City Council's goals, the PITF determined that this option should not be evaluated or advanced further.

OPTION 3: Conduct Field Coordination Tests

This option entails a uniform practice of conducting field coordination tests for individuals that are suspected of being intoxicated. Coordination tests, such as line walking and standing balance tests indicate an individual's control over his/her motor skills.

These simple and no-cost tests offer initial information to assist a police officer in determining whether an individual is under the influence of a substance. This option assumes that an individual is able to follow the instructions for the tests, has agreed to participate, and the officer believes the person can do so safely.

This option is a current practice of the SJP. Additionally, in December 2008, officers received refresher training in emphasizing documentation of the results of such coordination tests in Incident Reports. This Option will continue to be implemented.

OPTION 4: Establish a "Drunk in Public" PAS Test Threshold

California State Law does not establish a BA level to determine if an individual is "drunk in public." This is unlike the DUI laws which say that a person with a BA of .08 or higher is presumed to be under the influence for the purpose of operating a motor vehicle. State law does not provide a similar numerical threshold above which all persons are presumed to be unable to care for their own safety or the safety of others and, like the threshold set for DUI, any such minimum for "drunk in public" is probably an issue for the State Legislature to determine.

Thus, to pursue this option, the City would need to establish an Intergovernmental legislative strategy to advance through the state legislative process. This effort would require time to work with other agencies state-wide to gain interest in it as a legislative priority. At the April 23rd PITF meeting, the members present discussed the merits of this proposal and decided not to pursue it further.

OPTION 5: Police Officer Training

This option pertains to improved training of police officers in how to recognize someone who is subject to arrest for a violation of 647(f), identify and pursue alternatives to arrest, and document the evidence supporting the charge(s) against those who are arrested.

The SJPD Training Unit has already incorporated several improvements to the Department's training program, such as refresher training to police officers regarding public intoxication arrests, report writing, and documenting probable cause. Furthermore, as of November 2008, the Police Department began requiring that a supervisor review and approve each 647(f) arrest report.

As part of this discussion, the Police Department shared that as a matter of practice, it provides training guidelines to police officers for public intoxication arrests. Most recently, the SJPD Training Unit incorporated several training improvements, such as refresher training to police officers regarding public intoxication arrests, strengthening report writing, and documenting probable cause. Furthermore, in November 2008, the Police Department began requiring that a police officer obtain a review and approval, with a required signature, from a supervisor for public intoxication arrests (Tab 8).

The PITF's review of a sampling of the Department's recent Incident Reports regarding Section 647(f) arrests revealed that these improvements have already resulted in better quality reports. In addition, at the April 23 PITF meeting, the following areas for further improvement of the Incident Reports were identified:

- More detailed description on reports to avoid "boilerplate" language;
- Establish criteria for "Unable to Exercise Care for His/Her Safety" and build into training;
- Ensure PAS test reading is recorded
- Ensure standard for identifying ethnicity is being followed
- Evaluate how the Pre-Booking and Affidavit of Probable Cause and Bail Setting forms are used to eliminate unnecessary and duplicative information; and,
- Review how officers are trained in cultural diversity.

The PITF acknowledged that the above improvements initiated by the Police Department have resulted in improved Incident Reports that support a police officer's decision to arrest an individual under for public intoxication. The training, combined with a higher standard required to complete these Incident Reports, has already proven to address the concerns expressed by some PITF members in their discussion or review of Incident Reports. Included in Tab 9 is a sample of a completed Incident Report that meets the Police Department's updated standards.