



PUBLIC INTOXICATION TASK FORCE MEETING – SYNOPSIS

MEETING DATE: 5/7/09

MEMBERS: DOLORES CARR, KATHY CORDOVA, EDWARD FLORES, MARY GREENWOOD, ROSE LEE, SHIVAUN NURRE, OTIS WATSON, JORGE WONG,
ABSENT: PETE CARILLO, RAUL COLUNGA, RAJ JAYADEV, SHEILA E. MITCHELL, JEFF MOORE II, ALFREDO MORALES, SKYLER PORRAS, VICTOR RODRIGUEZ, ROD SCHISLER, WALTER WILSON

CHAIR: DEBRA FIGONE, CITY MANAGER

STAFF: ROB DAVIS, CHIEF OF POLICE, NORBERTO DUEÑAS, DEPUTY CITY MANAGER, STEVE DIPPEL, SENIOR DEPUTY CITY ATTORNEY

FACILITATOR: SHAWN SPANO

Welcome/Introductions

- Debra Figone called meeting to order at 6:10 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.
- Shawn Spano, facilitator reviewed the summaries of some of the Task Force members' analysis of the reports to ensure accuracy of information and also to allow them to add any additional information.
- Ms. Figone stated that the options that will be brought forward to Council will be discussed at this meeting, following will be an integration of the comments into the report and then it will be circulated to the task force members for their review.

Comments

- Jorge Wong recaps his findings from the review of the 647f incident reports. (ATTACHED)

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- Hispanic males had significantly more arrests for PC 647(f) without good justification for the arrests besides listing the objective symptoms of alcohol intoxication. This finding goes against the use of discretion by SJPD Officer- lacks justification for arrests.
- Better training to improve documentation for rationale for PC 647(f) arrests. This will decrease arrests based on "attitude adjustment and abuse of power" if well documented
- Eliminate use of boilerplate language. Need better operational definition for statements such as "unable to care for him/herself or others."
- Task Force member requested the use of the word Latino instead of Hispanic.
- The reports did not state clearly if the coordination tests were even given or if the individual was unable to complete the tests.
- The Independent Police Auditor's Office found that for those individuals that were arrested in 2008-2009 had a PAS test reading of .09 -.21. Also, in the 2008 reports, half of the individuals refused or declined the PAS test.
- The Independent Police Auditor's Office did not screen for attitude arrests when analyzing the incident reports.
- Based on the idea that those individuals who didn't exhibit violent behavior or carried a weapon would be allowed access to a sobering station, more than half showed that the use of a sobering station was feasible.
- District Attorney's Office pointed out that in the 2008-2009, 74% of the arrests were initiated by a call for service as opposed to 26% that were "viewed". This is also consistent with the previous years.
- The SJPD needs to address the use of redundant/duplicate forms. For clarification purposes the Police Chief stated that Exhibit B in the District Attorney's Office analysis (Handout) is not unique to SJPD, it's the back of a County form, however Chief does think that form does seem redundant and should be evaluated for elimination.

Analysis of Potential Options (SEE "Analysis of Options" Handout)

1.) Objective Criteria:

- Offer PAS Device Testing

Comments/Questions

- Why are some people not able to take it? Some people too intoxicated to even take the test.

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- Is there a gender difference in terms of lung capacity or other traits that make it more difficult for women to use? No, device designed to be gender neutral.
- Need to have the newer devices that would print out a reading. Preliminary cost is approximately \$4000 a unit.
- There may be some issues with the District Attorney's office regarding the use of the PAS testing results. The results may not be admissible in court because there is no legal limit for public intoxication, as there is with a DUI arrest. What is the value in the reading?
- Does the PAS register high level alcohol if you have just finished an alcoholic beverage? No, it measures the blood alcohol content.
- Task Force member disagrees that this option is a current SJPD practice. There is no consistent indication of whether or not they were given.
- Offer blood or urine chemical testing: (Taken off the list of options)
- Establish PAS Threshold: (Taken off list of options)
- Field Coordination Tests: There should be more of a definitive answer of whether or not these tests were given and if not, the reasoning behind that decision.

Comments/Questions

- Some officers write "unable to complete" in the field coordination area; need more description/details as to why the officer was unable to conduct the tests.
- This option is less helpful than a PAS test. Task Force member is concerned about what the coordination tests are really proving because a person who has drunk alcohol will obviously have hindered motor skills; not sure if these qualifies for an arrest.
- Police Training
 - Increase in recognition of symptoms that are documented in the report.
 - How is the officer utilizing alternatives to arrests such as: working with business owners and utilizing companions or seeking a designated driver.
 - Increased documentation in report writing.
 - Have increased training from one hour to three hours in the police academy.
 - Have officers show the reading to the individual to ensure accurate documentation of the PAS reading.
 - Cultural diversity:
 - Every 3 years the State requires updated training on cultural diversity.

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- Chief has also provided training videos for the SJPD. They seek community members to provide the information for the training, not done by SJPD officers.

Questions/Comments:

- o Every police officer should go through 647f refresher course and do it every 3 years as they do in cultural diversity. This is important because not all officers patrol the downtown area.
- o Training should emphasize the importance to an Officer that they don't always have to arrest if there is no good reason or evidence. They shouldn't approach an individual who is drunk and then look for probable cause.
- o Is there a training video for the Hispanic community? No. The SJPD prioritized based training video production based on which group they felt their officers had the least amount of information/knowledge.
- o Task Force member agrees with Captain Kirby that one-on-one relationships with people from diverse groups are the best way to avoid bias.
- o There is a lack of diversity in command staff.
- o Train officers so they understand image management and that they are creating an image to the community based on their actions.

2.) Alternatives to Arrest:

- Sobering stations:

Comments/Questions:

- o Problematic because there is limited resources to implement this option.
 - o Based on data that arrests for 647f have declined, Task Force member feels that the sobering station would be under-utilized.
 - o This is an attractive option because it is a very humane way to deal with first time offenders, but it is definitely a fiscal challenge.
 - o Captain Kirby of the SJPD mentioned that local hospitals felt extremely alarmed at the number of intoxicated individuals who are being dropped off at emergency rooms by law enforcement which is taking up much needed space and resources.
- Muni code provisions for non-criminal sanctions (Taken off list)
 - Muni code provisions for business accountability (Taken off list)
 - Not prosecuting 647(f) until 6th offense.

Questions/Comments:

- o SJPD would like to explore the number of offenses. Need to see the impacts on other cities/counties such as San Mateo County.

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- Some Task Force members felt that the number 6 is too high.
- Task Force member acknowledges that the viability of this option depends on jurisdiction. Need to coordinate with the courts, warns that if number is too low many may not want to participate. Idea is to target habitual inebriants.
- If number is too low, it would create workload issue for courts but more importantly 647f was created for chronic inebriates.
- SJPD will reach out to the presiding judges for their input.
- This only addresses half the problem, because it will still be considered an arrest and appears on an individual's record.
- However, if there is a sobering station and the individual is released under penal code 849b there is a subsection that allows the "arrest" to be converted to "detention only" and therefore does not show on their records.
- What is the value of this option if the sobering stations are not used? It is helpful because person being arrested are not being prosecuted, however it still is an arrest.
- Research needs to be done soon so that Council can be fully informed when making decisions.
- The definition of criminalization should be stated, may be different from what the public deems "criminalization".
- What are the questions on job, college applications as it relates to criminal history?

Alternative Ideas/Additional Information:

- Communication/medium to let public know that City Council wants San Jose residents to enjoy themselves in San Jose but need to be responsible.
- Promote open dialogue between the residents and the City to allow individuals to voice their opinions which will help regain community's confidence.
- The community and the arrestees need to feel empowered. SJPD needs to take accountability for what the SJPD has done wrong. Need increased, ongoing community involvement.
- Good and bad needs to be heard. The SOFA district policing has improved.
- Individual owners need to manage their clubs responsibly and train their employees appropriately regarding serving alcoholic beverages.

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- SJPD should have monthly meetings with the community. There are many misconceptions between community and SJPD that need to be resolved.
- Public needs to be educated about police culture.
- Club owners have recently started meeting with the SJPD on a monthly basis.

In closing, City Manager Figone thanked the task force members for their participation despite the challenges they faced. She also emphasized that Phase 1 has ended but a new phase has just started because of the input of the community and the task force.

Public Comment:

Even if community will not be able to see 4000 + reports, it would have been helpful to see if there were a few cops who had a problem. The police department should conduct an internal audit to see where training is lacking and how police force could be more effective.

Not happy with the conclusions of this task force because the community stakeholders were not in attendance.

Meeting was adjourned at 8:45 pm

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.

PRELIMINARY FINDINGS

Total cases reviewed to date: 200
 Total arrested: 209

Ethnic breakdown x arrests

San Jose Pop	Ethnicity	Frequency	(%)	Justified	(%)	Not Justified	(%)
	Hisp Males	111	53%	77	69%	34	31%
	Hisp Females	9	4%	5	66%	3	33%
	White Males	43	21%	32	76%	10	23%
	White Females	11	5%	6	55%	5	45%
	Black Males	14	7%	11	79%	3	21%
	Black Females	2	1%	1	50%	1	50%
	Asian Males	18	9%	13	72%	5	28%
	Asian Females	1	.005%	1	100%	0	0%
	Total	209	100%				

Observations:

1. Hispanic males had significantly more arrests for PC647(f) without good justification for the arrests besides stating the objective symptoms of alcohol intoxication. This finding goes against the use of discretion by SJPD Officer—lacks justification for arrests.
2. Other ethnicities had significantly more justified reasons for PC 647(f) arrests including:
 - i. fighting,
 - ii. urinating in public,
 - iii. arguing and instigating fights,
 - iv. walking in and out of on-coming traffic,
 - v. disturbing customers & residents while intoxicated,
 - vi. drinking in public with open containers,
 - vii. DUI,
 - viii. walking in the middle of road and hitting on-coming cars,
 - ix. needing assistance as observed passed out on public property,
 - x. etc.
3. Some reasons for arrests need further explanations:
 - a. Drunk and assisted by companion walking home → arrested

- b. Buying EtOH while wearing a hospital gown → store clerk refuse to sell
 - c. "...threw a sign at the a parking cashier..."
4. All reports recorded objective symptoms of intoxication

RECOMMENDATIONS:

1. Typed reports are more legible than handwritten ones.
2. Provide justification for SJPD Officer's reasoning for PC 647(f) arrest. Write down their thinking and logical conclusion to arrest vs. just listing symptoms.
 - a. E.g.: "...due to observed symptoms (after listing them) V1 would be unable to escape S1 if physical fight ensued after Officer left scene..."
3. Better trained at standardizing the categorization of ethnicity on reports:
 - a. O = Orientals vs. A = Asians
4. Clarify what type of disturbance they are responding to so reader(s) and evaluators can understand better the reasons for their responding.
5. Having a 'Sobering Station' would be extremely useful.
6. Whenever come across a mentally ill individual arguing with an alcohol intoxicated individual, or someone requiring a 5150 → call C.I.T. trained officer(s).

Cases reviewed: 82 **Total arrested:** 93
Period: Dec. 02, 2008 through Feb. 28, 2009

Changes: PAS and supervisory oversight implemented

FINDINGS

Ethnic breakdown x arrests

San Jose Pop	Ethnicity	Frequency	(%)	Justified	(%)	Not Justified	(%)
	Hisp Males	42	40%	37		5	5%
	Hisp Females	6	6%	6		0	0%
	White Males	23	25%	22		1	1%
	White Females	4	4%	4		0	0%
	Black Males	6	6%	6		0	0%
	Black Females	0	0%	0		0	0%
	Asian Males	7	7%	5		2	2%
	Asian Females	3	3%	3		0	0%
	Unk Males	2	2%	2		0	0%
	Unk Females	0	0%	0		0	0%
	Total	93	100%				

Observations:

1. Hispanic males were the largest group of arrestees 45% of total.
 - a. 10% of total Hispanic males arrested did not have a good rationale
2. Most reports had more than (1) officer present during arrest
3. 18% of reports did not have a PAS reading
 - a. 29 (31%) arrestees refused PAS
 - b. A few of were unable to provide PAS even after several reported attempts
4. Typed reports are much superior in legibility than handwritten reports
5. 8 (9%) of total reports did not have a reasonable rationale for PC 647(f) arrests
6. 85 (91%) of total reports had a reasonable rationale for PC 647(f) arrests
 - a. Used canned statements such as 'based on my training and experience...'
7. Some reporters would benefit from standardizing the recording of 'Race'
 - a. M = ? Mexican instead of H for Hispanic
 - b. V = Vietnamese? O = Oriental? I = Indian? vs. A = Asian
 - c. Z = ????

8. Arrest locations of these reports during this period did not occur mostly in the EZ district
9. Should 5150 cases be referred to CIT?
10. Reasons for arrests were similar to those from 2007
11. All female arrests during this period were a result from some degree of violent behavior (physical assaults, fights, threats of violence) as compared to male arrests.
12. All reports reported objective symptoms of intoxication.

RECOMMENDATIONS:

1. Type all reports
2. Continue to improve on giving reasonable rationale for arrests
3. Reason for responding to a call should better describe what 'disturbance' is being referred to:
 - a. Actual fighting vs. threatening to start a fight
 - b. Verbal harassment and intimidation
 - c. Domestic dispute
 - d. Unconscious body on site
 - e. Etc.
4. 5150 cases referral to CIT trained officers?
5. Better training to improve documentation for rationale for PC 647(f) arrests
 - a. Provide officer's reasoning to decide on arrests
 - b. Decrease arrests based on 'attitude adjustment and abuse of power' if well documented
 - c. Not use canned phrases such as, "...based on my training and experience... unable to care him/herself or others..."
 - i. Needs better operationalization to these statements as they are general and not specific to the conclusion to arrest
6. Better training at standardizing the recording of race on reports.
7. Report #38, by Officer Beiderman (#2758), Case # 09-013-0647 is an excellent written report that can be used as a training model:
 - a. It was typed written
 - b. It contained a detailed account of the incident, thorough account of the interventions done on the field, and a rationale for the decision to arrest for PC 647(f)
 - i. *I wonder how long did it take the officer to type it up?*
8. Continue to have paired officers on patrol to avoid single officer biases on arrests