

Break-Out Group Template

City of San José Public Intoxication Task Force February 26, 2009

Overview

The purpose of the break-out groups is to begin scoping the nature of the potential recommendations that have been identified, elicit any new potential recommendations task force members might have, and identify what additional information is needed to select the final recommendations on arrest alternatives and objective evidence that will be conveyed to Council.

Each group will be staffed with a person from the City Manager's Office and Police Department. CMO staff will help facilitate as needed and will take notes on flip charts. The PD member will serve as a resource only; they will be prepared to report and answer questions on the solutions that have already been identified (i.e. sobering stations, PAS device, etc.).

Note that there will be a brief, 5 – 7 minute report from each small group to the full Task Force at the end of the break-out session.

Four Items to Address in Break-Out Groups

1. Review the list of solutions that have already been identified (these are itemized on the Recommendations Matrix).
2. Add any additional recommendations to the list.
3. Determine what additional information is needed to make an informed decision for each recommendation.
4. Do a preliminary assessment to determine what recommendations the group would like to go forward.

**Public Intoxication Task Force
Potential Recommendations Tracking Sheet**

Public Intoxication Task Force Purpose: To develop recommendations for non-criminal sanctions and alternatives to "arrests" under Penal Code Section 647(f), and additional procedures that an officer should satisfy to obtain objective evidence to support findings to arrest under Penal Code Section 647(f).

Potential Recommendations (recommended by)	Preliminary Staff Considerations	What additional information is needed?
ALTERNATIVES TO ARRESTS		
1	Sobering Station for Intoxicated Persons (Council Referral)	Funding, staffing and operations of a sobering station would need to be considered. Does the City have the legal authority to operate? Are there medical issues to be resolved? What are the conditions of its use? How do we operationalize Countywide use of a station?
2a	Do not prosecute 647(f) arrests until an individual is arrested for the 5 th offense (Task Force Member Greenwood)	This is the practice in North County and South County. SJPD could attempt a similar program, however, as San Jose is a large City and SJPD a large agency, a system to track the cases would need to be established. Requires review and consideration by the District Attorney's Office.
2b	Release individual after they sober up, such as a release under a 849(b)(2) (release in lieu of prosecution)	This option would release individuals arrested under 647(f) without forwarding the case to the District Attorney's Office for prosecution.
3	Police officers should issue a fine when arresting under 647(f). The value of the fine/citation could be high to deter the behavior. (Task Force Member Schisel)	If an individual is unable to care for oneself, a fine and release would not be a viable option.

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3	Officer to call a taxi cab for the individual, and then bill him/her for the taxi ride (Task Force Member Schisel)	A taxi cab driver is a service provider and complies to the service requested by the patron. If an Officer places an intoxicated individual in a cab, the officer does not know if individual will go directly home. Additionally, a taxi cab driver has the right to refuse service to anyone.	Outreach to the taxi cab driver community should be conducted.
4	Los Angeles Police Department has a municipal code ordinance which permits the City to fine 647(f) arrests. This option results in a fine and the case does not get forwarded for prosecution.	City Attorney's Office is researching the nature of Los Angeles' municipal code ordinance and how it relates to the State penal code.	

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OBJECTIVE EVIDENCE		
1 Requiring officers to offer PAS testing to arrestees, but ensuring that a suspect's refusals could be documented in the officer's report (Council Referral)	Current SJPD practice.	Confer with the District Attorney's Office to gain perspective on how this practice is working.
2 Requiring officers to offer blood or urine chemical testing at the option of the arrestee, but with the expense of such test incurred by the arrestee (Council Referral)	SJPD has outlined the following preliminary process: 1) An Officer would need to transport the individual to a designated facility 2) A medical technician would respond to the location and obtain a sample. 3) The sample would then be forwarded to the Santa Clara County Crime Lab for analysis. 4) Urine sample procedure requires the collection of two separate urine samples.	Explore implementation challenges related to a cost recovery model. How would County recover costs? County's standard evidentiary process is to screen for all drugs; this recommendation may result in further criminal ramifications for individuals. If an individual is intoxicated, is their consent viable? Facility to conduct tests needs to be identified.
3 Conducting coordination tests, such as line walking and standing balance tests, in all § 674(f) arrests in which a person appears to have sufficient control over their motor skills (Council Referral)	If feasible, coordination tests are administered. If conducted, the booking sheet allows for documentation of Officer's observations.	
4 Establish a PAS Standard - .25 threshold (Task Force Member Pete Carrillo)	Results in establishing a threshold that is more than three times the legal limit of the State's Driving Under the Influence (DUI) threshold.	Requires an extensive education and outreach work plan that includes broad input from medical and legal stakeholders. Does the City have the ability to establish our own threshold?
5 Refine and consistently apply criteria used by a Police Officer when arresting for 647(f) (Task Force Member)	SJPD Training Unit is currently refreshing the training provided to officers pertaining to 647(f) arrest, such as report writing, and documenting probable cause. Additionally, 647(f) reports now require supervisor review and signature.	SJPD will review the effectiveness of this refreshment training in six months.

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6 Clarifying the standard of "unable to care for one's safety" to provide further objective criteria to SJPD when arresting under 647(f)	<p>The Superior Court instructions to a jury for deliberating and finding a 'guilty' 647(f) case are the following:</p> <ol style="list-style-type: none"> 1. A person was [found] in a public place; 2. Person was willfully under the influence of intoxicating liquor, any drug or any combination of thereof, or person was in a condition that he/she was unable to exercise care for his/her own safety or the safety of others 3. Person, by reason of being under the influence, interfered with or obstructed or prevented the free use of any street, sidewalk, or other public way. <p>-The narrative section of SJPD 647(f) reports addresses each of these four points.</p>	
7 Encourage businesses that sell alcohol to offer PAS testing	<p>Educational program for the business community would need to be developed and conducted. Outreach to the business community to probe willingness to this recommendation should be conducted.</p>	