



Memorandum

TO: CITY COUNCIL

FROM: Mayor Sam Liccardo

SUBJECT: VTA RFP FOR SUPPLEMENTAL
LAW ENFORCEMENT SERVICES

DATE: April 8, 2019

Approved:

Date:

4/8/19

RECOMMENDATION

Adopt a resolution expressing the view of the San José City Council that local city police departments provide the most effective and accountable means of policing BART stations, parking lots, and surrounding areas. For that reason, the San José Police Department should have primary jurisdiction for the policing of the Berryessa/ North San José BART station, rather than any private security company, County Sheriff, or other public agency.

DISCUSSION

With the opening of Berryessa/ North San José BART station, San Jose residents and police can expect many of the challenges that come with the operation of an end-of-line BART station, as residents near Warm Springs currently experience. A temporary increase in burglaries, or an influx of homeless into surrounding neighborhoods will be the responsibility of the City of San José. Regardless of whether a private security company, the County Sheriff, or any other agency is nominally in charge of patrolling the BART station, residents will hold the Mayor, Council, and Police Chief accountable for addressing those problems. If an emergency arises, or one or more individuals present a serious risk of violence for the patrolling agency, reinforcement or “fill” officers will likely come from SJPD officers in the vicinity, rather than having on-scene officers wait for support from County deputies patrolling in the East Foothills, Saratoga, or Burbank.

If an agency other than SJPD is selected, we face the confusing prospect of having three different agencies patrolling the area—BART police (nominally) patrolling trains and platforms, SJPD patrolling the City road through Berryessa Station and any area outside the station campus, and a third agency having responsibility for patrolling the station and its parking lot under the VTA’s contract. This prospect represents a bureaucratic, Balkanized approach to policing that lends itself to multiple “Keystone Cops” scenarios that undermines both accountability and effectiveness. Agency-to-agency hand-offs of investigations or cases are not always smooth. Communication of priorities for enforcement among different personnel outside of each other’s chain of command is not always clear. A high-priority suspect who takes BART to Berryessa to commit a string of burglaries or sexual

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assaults in East San Jose may not be the priority of focus for VTA-hired officers who prioritize fare evasion.

If VTA selects an agency other than SJPD to patrol the Berryessa/ North San José station and parking areas, as County District Attorney Jeff Rosen can attest, prosecution of a single robbery or sexual assault case that originates at the Berryessa BART station could involve three agencies that must sort out who conducts interviews of witnesses, collection of evidence, and follow-up investigation. As a former prosecutor, I know such multi-agency-handoffs often do not end well. When every agency is “responsible,” all too often, no one is responsible. The easiest way to ensure effective patrolling and investigations to protect our community is to create a single, simple line of accountability, and to align authority accordingly.

Finally, granting SJPD patrolling responsibilities puts an agency committed to transparent and accountable policing at the helm. SJPD mandates that their officers wear body-worn cameras, for example, and has a well-established, professional office of an Independent Police Auditor with a long tradition of ensuring accountability in the review of complaints. SJPD also requires all patrol officers to undergo mandatory violence de-escalation training, implicit bias training, and critical incident/mental health training in addition to their standard POST requirements. It also publishes their use-of-force data for public review and has partnered with outside experts to analyze that data to identify any problematic trends with regard to racially-biased policing. San Jose residents will be subjected to informal questioning, stop-and-frisks, and arrests at the Berryessa/ North San José Station, and the officers conducting those actions should be subjected to the highest standards.

In short, regardless of who patrols the Berryessa/ North San José BART station, we know that our residents will hold SJPD accountable for whatever happens. SJPD should have the authority that aligns with that accountability.