



City Council Meeting Agenda

Tuesday, October 5, 2021

1:30 PM

**Hybrid Meeting - Council Chambers and Virtually -
<https://sanjoseca.zoom.us/j/93052835954>**

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, DISTRICT 10



The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- o When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.

- o Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <https://www.sanjoselegistar.com/Calendar.aspx>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

American Disability Act: To request an alternative format agenda under the Americans with Disabilities Act for City-sponsored meetings, events or printer materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

Accommodations: Any member of the public who needs accommodations should email the ADA Coordinator at ADA@sanjoseca.gov or by calling (408) 535-8430. The ADA Coordinator will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

On occasion the City Council may consider agenda items out of order.

How to observe the Meeting (no public comment):

- 1) Cable Channel 26,
- 2) <https://www.sanjoseca.gov/news-stories/watch-a-meeting>, or
- 3) <https://www.youtube.com/CityofSanJoseCalifornia>

How to submit written Public Comment before the City Council Meeting:

- 1) Use the eComment tab located on the City Council Agenda page. eComments are also directly sent to the ilegislata application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 10:00 a.m. the day of the meeting. Those emails will be attached to the Council Item under “Letters from the Public.” Please identify the Agenda Item Number in the subject line of your email.

How to submit written Public Comment during the City Council Meeting:

- 1) Email during the meeting to councilmeeting@sanjoseca.gov, identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

How to provide spoken Public Comment during the City Council Meeting:

- 1) By Phone: (888) 475 4499. Webinar ID is 930 5283 5954. Click *9 to raise a hand to speak. Click *6 to unmute when called.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
- 2) Online at: <https://sanjoseca.zoom.us/j/93052835954>
 - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Mayor calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.

For Closed Captions, please visit the City’s YouTube channel:

<https://www.youtube.com/CityofSanJoseCalifornia>, or website livestream
<https://www.sanjoseca.gov/news-stories/watch-a-meeting>.

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session

21-2127 Closed Session Agenda

1:30 p.m. - Regular Session

- **Pledge of Allegiance**
- **Invocation (District 9)**

- **Orders of the Day**

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

1.1 Presentation of a Proclamation Recognizing National Disability Employment Awareness Month. (Foley)

1.2 Presentation of a Proclamation Recognizing Domestic Violence Awareness. (Carrasco)

1.3 Presentation of a Commendation for the West Evergreen Neighborhood Association and O.B. Whaley Elementary School for their joint effort in providing rent relief and vaccinations in the West Evergreen Neighborhood. (Esparza)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 21-2152 Approving Updated Campaign Contribution Limits.

Recommendation: Adopt the resolution approving the updated campaign contribution limits in accordance with San José Municipal Code Section 12.06.210.C.

CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Clerk)

2.8 21-2131 San José Clean Energy Elect to Administer Energy Efficiency Programs Implementation.

Recommendation: (a) Adopt a resolution authorizing the Director of the Community Energy Department to negotiate and execute Agreement(s) between the City of San José and third-party implementer(s) to implement the Elect to Administer (ETA) energy efficiency programs approved by the California Public Utilities Commission and City Council.

(b) Adopt the following 2021-2022 Funding Sources Resolution and Appropriation Ordinance Amendments in the San José Clean Energy Fund:

(1) Increase the estimate for Revenue from State of California in the amount of \$1,700,000; and

(2) Establish the Energy Efficiency Programs appropriation to the Community Energy Department in the amount of \$1,700,000.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Community Energy/City Manager)

2.9 21-2132 Amendment to Master Agreement with Ten Over Studio, Inc. for Architectural Services for Various Essential City Facility Projects.

Recommendation: Approve the Second Amendment to the Master Agreement with Ten Over Studio, Inc. for Architectural Services to (1) increase the total compensation by \$1,900,000, for a total Agreement amount not to exceed \$5,900,000, and (2) extend the term of the Agreement from December 31, 2024 to December 31, 2025 for the exclusive purpose of allowing the Consultant to complete work on the new Fire Training Center and Emergency Operations Center Relocation project, and the Police Department-Air Support Unit Hangar project.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

2.10 21-2133 Amendment to Chapter 4.10 of the San José Municipal Code Related to the Debarment of Contractors.

Recommendation: (a) Approve an ordinance amending Chapter 4.10 of the San José Municipal Code to consolidate, streamline, update and clarify the manner in which the City will conduct contractor debarments.
(b) Adopt a resolution repealing Resolution No. 70592, which established procedures for administrative debarment hearings that have been incorporated into Chapter 4.10, as amended, and are therefore no longer needed.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Public Works/Finance)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, Jennifer Maguire (Verbal Report)

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.
TO BE HEARD AT 9:30 A.M.

3.3 21-2134 Code Enforcement Management Controls Audit Report.

Recommendation: As recommended by the Neighborhood Services and Education Committee on September 9, 2021, accept a report on the Code Enforcement Management Controls Audit.
CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Auditor)
[Neighborhood Services and Education Committee referral 9/9/2021 - Item (d)1]
[Deferred from 9/28/2021 - Item 3.3 (21-2104)]

3.4 21-2135 Actions Related to Pension Obligation Bonds Issuance and Court Validation Proceedings.

Recommendation: Adopt a resolution authorizing the issuance of bonds to refund and repay certain pension obligations of the City of San José, approving the form and authorizing the execution of a Trust Agreement and Bond Purchase Agreement; authorizing judicial validation proceedings relating to the issuance of such bonds and approving additional actions related thereto.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager/City Attorney)
[Deferred from 9/21/2021 - Item 3.4 (21-2053)]

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-2136 Measure E Real Property Transfer Tax Refund Pilot Program for Qualifying Nonprofit Real Property Transfer.

Recommendation: Approve an ordinance adding a new Section 4.59.230 to Chapter 4.59 of Title 4 of the San José Municipal Code to provide a refund under certain circumstances to:

- (a) Charitable organizations that use the proceeds from the conveyance of real property subject to the real property transfer tax for a charitable community purpose, focused on education, health, housing, or human services, that targets extremely low-income persons, a majority of which are San José residents; or
- (b) Charitable organizations, or limited partnerships with a general partner charitable organization, who purchase a qualifying affordable housing site and satisfy certain other requirements.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Housing)

8.2 21-2150 Application for the California Department of Housing and Community Development Notice of Funding Availability for the Homekey Program.

Recommendation: Adopt a resolution authorizing the City Manager, or designee, to apply and submit all required documentation for California Department of Housing and Community Development's Homekey Program to fund acquisition, construction and operations in order to address housing needs of individuals and families experiencing homelessness or at risk of experiencing homelessness, and who are, thereby, inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic for sites including the Pacific Motor Inn, Arena Hotel, Pavilion Inn, Residence Inn, and city-owned property located at the intersection of Branham Lane and Monterey Road.
CEQA: Exempt from CEQA subject to Public Health and Safety Code Section 50675.1.2(a), Applicability of the California Environmental Quality Act, File No. ER21-159. (Housing)

8.3 21-2151 City’s COVID-19 Response and Recovery: Emergency Rental Assistance Program.

Recommendation:

- (a) Adopt a resolution to:
 - (1) Authorize the City of San José’s participation in the State of California’s Emergency Rental Assistance Program Round Two (“ERA2”) using U.S. Treasury Emergency Rental Assistance funds, including making any necessary arrangements to effectuate the Department of Housing and Community Development (the “Department”) receipt of the City’s ERA2 allocation for the purpose of administering it for and on behalf of the City; and
 - (2) Authorize the City Manager to negotiate and execute a Standard Agreement with the State for the City’s participation in the State ERA2 Program, including any amendments and revisions to said agreements and any necessary documents to effectuate the agreement, whether under State or Federal law, to govern the administration of the City’s ERA2 allocation for and on behalf of the City, and
 - (3) Authorize the City Manager to accept a grant from the Department in the amount of \$1,088,336 of ERA2 Funds (not to exceed 3% of City’s ERA2 award) from the State to fund the City’s administrative and program outreach costs; and
 - (4) Authorize the City Manager to submit an application to Local Initiatives Support Corporation (“LISC”), the State’s ERA program contracted implementer, to become a local partner network for the State’s ERA Program in order to receive funding to continue local outreach and assistance.
 - (b) Adopt the following Funding Sources Resolution and Appropriation Ordinance amendment in the Emergency Reserve Fund:
 - (1) Decrease the estimate for Revenue from Federal Government by \$13,422,819; and
 - (2) Decrease the Resident Relief - Housing Stabilization appropriation by \$13,422,819.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Housing/City Manager)

8.4 21-2137 Construction of the Emergency Interim Housing at the Police Administration Building Parking Lot E.

Recommendation: (a) Adopt a resolution that does the following:

(1) Determines the City can award a construction contract to Devcon Construction, Inc. for the emergency interim housing at the Police Administration Building Parking Lot E without a competitive procurement under the “idle act” exception in Section 1217(i)(6) of the City of San José Charter;

(2) Authorizes the Director of Public Works to negotiate and execute a construction agreement not exceeding \$6,000,000 with Devcon Construction, Inc. and a construction contingency not exceeding \$300,000 to construct emergency interim housing at the Police Administration Building Parking Lot E site consistent with the requirements of this memorandum and Chapter 5.09 of the San José Municipal Code;

(3) Authorizes the City Manager to negotiate and execute an agreement with Destination: HOME to accept a \$1,000,000 grant to be used for the construction of the emergency interim housing at the Police administration Building Parking Lot E site; and

(4) Reaffirms its April 7, 2020 emergency order and declaration of a continued shelter crisis in the City of San José, pursuant to. and in accordance with the provisions of California Government Code Sections 8634 and 8698 et seq.

(b) Adopt the following 2021- 2022 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund:

(1) Increase the estimate for Other Revenue in the amount of \$1,000,000;

(2) Establish an Emergency Shelters appropriation to the Housing Department in the amount of \$3,000,000;

(3) Increase the Bridge Housing Communities appropriation to the Housing Department in the amount of \$1,000,00; and

(4) Decrease the City Housing Authority Reserve in the amount of \$3,000,000.

CEQA: Addendum to the Bridge Housing Communities Project Negative Declaration (Resolution No. 78926), File No. PP18-081, for the Lot E Site, File No. ER21-088. Council District 3. (Public Works/Housing/City Manager)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**

JOINT CITY OF SAN JOSE CITY COUNCIL / FINANCING AUTHORITY AGENDA

1:30 p.m.

October 5, 2021

Hybrid Meeting

• Call to Order and Roll Call

- 1. **21-2056 Approval of the Sale and Issuance of Bonds and Related Bond Documents for City of San José Financing Authority Lease Revenue Bonds, Series 2021A (Fire Department Training Center and Central Service Yard Projects). - TO BE HEARD IMMEDIATELY AFTER ITEM 3.4**

Recommendation:

(a) City Council take the following actions:

(1) Conduct a Public Hearing for the approval of the issuance by the City of San José Financing Authority Lease Revenue Bonds, Series 2021A (Fire Department Training Center and Central Service Yard Projects) (the “2021A Bonds”), to finance the acquisition and construction of the public improvements of the City of San José consisting of the Fire Department Training Center and Central Service Yard Projects and consider a finding of significant public benefit accruing from such financing.

(2) Adopt a resolution approving and authorizing the execution of documents and approving related actions in connection with the issuance by the City of San José Financing Authority Lease Revenue Bonds, Series 2021A (Fire Department Training Center and Central Service Yard Projects), in the principal amount not to exceed \$30,000,000 and amending Resolution No. 80125 relating to the City of San José Financing Authority Lease Revenue Commercial Paper Notes.

(b) City of San José Financing Authority Board adopt a resolution authorizing the issuance by the City of San José Financing Authority of the 2021A Bonds in the principal amount not to exceed \$30,000,000, and approving and authorizing the execution of documents and approving related actions in connection with the issuance, and amending Resolution No. 152 relating to the City of San José Financing Authority Lease Revenue Commercial Paper Notes.

UNDER BOTH THE DEBT MANAGEMENT POLICY AND SAN JOSE MUNICIPAL CODE SECTION 4.34.200, APPROVAL OF THE ISSUANCE OF THE LEASE REVENUE BONDS REQUIRES AFFIRMATIVE VOTES OF EIGHT MEMBERS (2/3) OF THE CITY COUNCIL

CEQA: Mitigated Negative Declaration for Fire Training Station and Emergency Operations Relocation Project, File No. ER20 180 (City Council Resolution No. 79804). (Finance/Public Works)

TO BE HEARD IMMEDIATELY AFTER ITEM 3.4

- Open Forum
- Adjournment

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting.
This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.