



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edgardo Garcia

SUBJECT: SEE BELOW

DATE: July 23, 2020

Approved

Date

7/24/2020

SUBJECT: RELEASE OF POLICE DEPARTMENT VIDEO CLIPS RELATED TO RECENT PROTESTS

RECOMMENDATION

Accept a report detailing the public release of video clips from the recent protests that are in the possession of or readily available to the Police Department.

OUTCOME

The City Council and public will know what video clips from the recent protests have been released to the public and what video clips are being withheld due to ongoing investigations.

BACKGROUND

On May 25, 2020 George Floyd died while in police custody in Minneapolis. On May 29, 2020, protests across the nation began including in San Jose. The City Council met several times to publicly discuss the police use of force and crowd control measures. On June 5, 2020, Mayor Liccardo, Vice Mayor Jones and Council Members Peralez, Diep, and Carrasco issued a memorandum making recommendations for actions related to the police use of force and crowd control measures. Item 5a from that memorandum was approved by the City Council on June 12, 2020 as follows:

To provide greater transparency to the public and accountability:

- a. For the approximately half-dozen video clips that have raised substantial public concern on social media regarding potential SJPD misconduct or possible unlawful use of force, release to the public any videos in possession or readily available to SJPD that provide a fuller picture of the incident, such as longer duration (particularly the period prior to the video clip in question), alternative view angles, etc., within two weeks, so long as consistent with what is allowable under California state law.
 - i. Those videos should include, at a minimum,

- the incident involving the collision between the police motorcycle and the running pedestrian, and
- the incident involving a physical altercation between police and a male who is pulled back behind the police line by multiple officers, and subjected to repeated blows by police, and
- the incident involving an officer responding to a protester with expletives

ANALYSIS

In response to this directive from the City Council, the Police Department first took stock of what video we had in our possession. The video footage fell into two general categories: public domain video and Department generated video. We have come into possession of public domain video through two sources: first is video footage that the Department has collected from public internet sources in the course of our Internal Affairs investigations and second is video footage collected from publicly available platforms by the Department team that is currently preparing our After-Action Report. The two sources for Department generated video footage are from Body Worn Cameras (BWC) and video recorded by the Department helicopter. We did not use the Department's Unmanned Aircraft System (UAS) during these incidents and therefore there is no UAS footage.

For ease of consumption, the public domain videos were combined into separate video compilations. A link to these compilations was posted on the Department's public webpage at SJPd.org and can be found at the following link:

http://www.sjpd.org/records/protest_videos.html

- The collision between a police motorcycle and a pedestrian.
- The arrest and force incident against a man who was first pulled behind the police line.
- The incident involving an officer responding to a protester with expletives.
- Footage from highway 101.
- Footage from other incidents.

The Department generated videos have not been released at this time. The Department is conducting over 20 Internal Affairs investigations generated by hundreds of complaints from the community relating to the protests. Additionally, the Department is aware that a claim has been filed with the City relating to the protests, but additional claims are possible since they can be filed up to six months after the incident occurred. The Department's Internal Affairs division is reviewing BWC footage and police helicopter video footage relating to the protests in the course of its investigations of the complaints.

At this time, BWC footage and police helicopter video footage have been withheld in order not to compromise the Department's Internal Affairs investigations. Such footage may also be related to impending litigation, which may require continued withholding. We will continue to consult with the City Attorney's Office on the status of these matters.

CONCLUSION

The Police Department recognizes the strong public interest in releasing this footage. However, we must also strike the balance served by not disclosing Department generated video to ensure that the internal investigations are complete, thorough, objective, and fair. As stated earlier, the released videos are available for public review and can be accessed at SJPD.ORG by following this link: http://www.sjpd.org/records/protest_videos.html

EVALUATION AND FOLLOW-UP

Directive 5b. from the June 5, 2020 memorandum is related to this topic. It directs the Administration to present findings relating to investigations and reviews of each of those clips to the Council and public. To the extent possible at this early point in our misconduct investigations, this directive will be included as a topic in the Police Department's after action report and the independent after-action report that is being coordinated through the Independent Police Auditor.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the August 4, 2020 Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the Independent Police Auditor's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

July 23, 2020

Subject: Release of Police Department Video Clips Related to Recent Protests

Page 4

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form the name 'Edgardo Garcia'.

EDGARDO GARCIA
Chief of Police

EG:PC

For questions, please contact Paul Cook, Police Lieutenant, at 408-277-5200.