

City Attorney Doyle  
July 7, 2020  
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**VIA ELECTRONIC MAIL**

July 7, 2020

Richard Doyle  
San Jose City Attorney  
[REDACTED]  
200 E. Santa Clara St., 16th Fl.  
San Jose, CA 95113  
Ph: (408) 535-1900

**Re: No Further Prosecution of Curfew Violations**

Dear San Jose City Attorney Doyle:

During constitutionally protected protests reflecting shared outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.<sup>1</sup> Those curfew violations are subject to punishment under Title 8 of the Municipal Code, 8.08.260, meaning that violators could face fines of up to \$500 or time in jail.<sup>2</sup>

We write to request that you—in your capacity as the chief law enforcement officer of San Jose—publicly announce that you will drop any charges already filed for these violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken the position we urge here. Alameda County's DA O'Malley emailed us on June 23 that the office would not be prosecuting most of the curfew

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<sup>1</sup> See Declaration of the Director of Emergency Services of the City of San Jose Imposing a Curfew with Limited Exceptions and Superseding the May 31, 2020 Declaration Imposing a Curfew, <https://www.sanjoseca.gov/home/showdocument?id=59288> (June 2, 2020); Jodi Meacham, "San Jose, Santa Clara impose curfews at start of third night of police protests" (May 31, 2020), <https://www.bizjournals.com/sanjose/news/2020/05/31/san-jose-curfew-protests.html>; Maggie Angst, "San Jose to lift citywide curfew on Thursday morning," *Mercury News* (June 2, 2020), <https://www.mercurynews.com/2020/06/02/san-jose-to-lift-citywide-curfew-on-thursday-morning/>.

<sup>2</sup> Jennifer Wadsworth, "DA Won't Prosecute Curfew Violators—But San Jose Might," *San Jose Inside* (June 25, 2020), <https://www.sanjoseinside.com/news/santa-clara-county-da-wont-prosecute-curfew-violators-peaceful-protesters/>; San Jose Muni. Code 8.08.260.

violations. The Sacramento City Attorney has done the same,<sup>3</sup> as has the Los Angeles City Attorney and the Los Angeles County District Attorney.<sup>4</sup>

San Jose's curfew order was unconstitutional, much like the orders other jurisdictions that have decided not to pursue charges after our intervention, such as Sacramento.<sup>5</sup> The curfew imposed a sweeping general ban on the public assembly, free expression in all public forums, and movement. The curfew was not narrowly tailored. *McCullen v. Coakley*, 573 U.S. 464, 495 (2014). The curfew also provided insufficient notice. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). And the curfew was vague and ambiguous as to critical terms, rendering the entirety unconstitutional. *Kolender v. Lawson*, 461 U.S. 352, 358 (1983). Finally, fines imposed for violating the Order would have a disproportionate effect on low-income people, and people of color, which will be exacerbated by the economic effects of the COVID-19 pandemic.

San Jose's enforcement of the curfew order also improperly targeted unhoused people and legal observers, and subjected protesters to unnecessary force and exposed to an increased risk of COVID-19.<sup>6</sup> For example, Vera Sloan was arrested and cited for violating curfew while working as a legal observer on May 31, 2020. That night, at around 9:00 p.m., she was watching a group of officers arrest another person in downtown San Jose when an officer told her to leave the area. She told the officer that she was a legal observer observing arrests. Immediately, the officer yelled a code ("10-15") and numerous officers rushed Ms. Sloan and tackled her to the ground. She was then zip-tied, loaded into the back of a police van, and taken to the Milpitas Mall outside of San Jose with no way to get home. Scott Largent, an unhoused man, was arrested for violating curfew on May 31, 2020. After he informed the officers that he was both unhoused and working as a legal observer, officers again yelled the code and tackled him. Like Ms. Sloan's, his wrists were then zip-tied behind his back and he was driven to the Milpitas Mall, where the police officers dumped him and other arrestees. Mr. Largent emphasized that he was one of numerous legal observers and journalists arrested and then left at the Milpitas Mall. Other arrested protesters emphasized the use of unreasonable force.<sup>7</sup> For instance, San Jose police officers apprehended in an alley one person

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<sup>3</sup> See, e.g., "No Charges Filed Against Those who Broke Sacramento Curfew, Attorney Says", KCRA News (June 30, 2020), <https://www.kcra.com/article/no-charges-filed-against-those-who-broke-sacramento-curfew-attorney-says/33012481#>.

<sup>4</sup> See, e.g., News Release, "June 8, 2020: District Attorney Jackie Lacey Will Not File Charges for Curfew Violations, Failure to Disperse," <http://da.lacounty.gov/media/news/district-attorney-jackie-lacey-will-not-file-charges-curfew-violations-failure-disperse>. Jurisdictions around the country, from Cincinnati and Denver to Miami-Dade County and Manhattan, similarly declared that they will not pursue such charges.

<sup>5</sup> See, e.g., Letter Demands City of Sacramento Drop Charges Against 72 Protesters for Violating Curfew (June 15, 2020), <https://lccr.com/newsroom/news-press-releases/lawyers-committee-for-civil-rights-of-sf-and-aclu-northern-california-demand-the-city-of-sacramento-drop-charges-against-72-protesters-for-violating-curfew/>

<sup>6</sup> The following accounts were collected by ACLU of Northern California and Urban Peace Movement.

<sup>7</sup> Numerous news accounts have emphasized the sheer breadth of police violence against protesters in San Jose, leading to proposed reforms to the city's use of force policies. See, e.g.,

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who was fleeing the mass arrest of protesters in downtown San Jose. Although laying down on the ground, spread-eagled, the person was aggressively detained. One officer put his body weight on the protester's right wrist, causing a hairline fracture, as others struck the person in the back and drove their knees into the person's spine. The person asked several times for medical treatment, but the officers only laughed.

San Jose's rescission of the unlawful curfew on June 4 was a necessary first step. But those who were issued misdemeanor curfew violations continue to face jail time, fines, or both, an unconscionable burden on and retaliation against their exercise of basic rights. The City must take further action to prevent yet more harm.

San Jose adopted its curfew order in response to protests that represent a growing consensus on the need to end centuries-long police brutality against Black people. The protests are a physical representation of the widespread public outrage after police officer Derek Chauvin murdered George Floyd, a 46-year-old Black man, by pressing his knee into Mr. Floyd's neck, obstructing his breathing for almost nine minutes. Mr. Floyd's cruel and senseless murder was of course not the first, but instead followed thousands of previous police killings of Black people. And of course families who have lost loved ones to police in San Jose have been calling out for justice and an end to police violence for generations. And people continue to die at the hands of police nearly every day, including during the protests. We equally condemn and have long advocated against police brutality, racial profiling, and selective enforcement of laws against Black people that result in a disproportionate impact of the criminal justice system on Black lives.

We request a public statement that San Jose will drop all charges against anyone who purportedly violated the Order, including all fines and bail obligations associated with the alleged violations. Further, all records relevant to these arrests should be cleared.

We would be happy to work on the language of that announcement with you. We respectfully ask that you respond to the requests in this letter by Friday, July 10.

Sincerely,

Annie Decker, Staff Attorney  
ACLU of Northern California

Tifanei Ressler-Moyer, Attorney and Thurgood Marshall Civil Rights Fellow  
Lawyers' Committee for Civil Rights of the San Francisco Bay Area

Raj Jayadev & Cecilia Chavez  
Silicon Valley De-Bug

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“San Jose Mayor Proposes Wide-Ranging Police Reform in Light of Excessive Force Complaints” (June 25, 2020), <https://www.msn.com/en-us/news/us/san-jose-mayor-proposes-wide-ranging-police-reform-in-light-of-excessive-force-complaints/ar-BB15WoSw>.

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cc:

Sam Liccardo, Mayor

[REDACTED]

Charles Jones, Vice Mayor and District 1 Council Member

[REDACTED]

Sergio Jimenez, District 2 Council Member

[REDACTED]

Raul Peralez, District 3 Council Member

[REDACTED]

Lan Diep, District 4 Council Member

[REDACTED]

Magdalena Carrasco, District 5 Council Member

[REDACTED]

Devora Davis, District 6 Council Member

[REDACTED]

Maya Esparza, District 7 Council Member

[REDACTED]

Sylvia Arenas, District 8 Council Member

[REDACTED]

Pam Foley, District 9 Council Member

[REDACTED]

Johnny Khamis, District 10 Council Member

[REDACTED]

**From:** iq4rent sc <[REDACTED]>

**Sent:** Thursday, July 9, 2020 11:52 AM

**To:** [REDACTED] <[REDACTED]> The Office of Mayor Sam Liccardo  
<[REDACTED]> District1 <[REDACTED]> District2  
<[REDACTED]> District3 <[REDACTED]> District4 <[REDACTED]> District5  
<[REDACTED]> District 6 <[REDACTED]> District7 <[REDACTED]> District8  
<[REDACTED]> District9 <[REDACTED]> District 10 <[REDACTED]> Agendadesk  
<[REDACTED]>

**Subject:** Greetings from someone who was hit, repeatedly gassed, shot twice and arrested

[External Email]

I wholeheartedly support the enclosed letter and urge the City Attorney to drop all curfew charges. I also urge the council to investigate all SJPD claims that the curfew was even necessary. Lastly, I urge the council to work with the BOS to investigate Covid exposure on Sheriff transport vehicles and the processing center at SAP, and the leaving of arrestees at the Great Mall and Eastridge Mall in the middle of the night. This entire process was unnecessarily punitive, targeted POC, media and Legal Observers.

Regards,  
Shaunn Cartwright

**From:** Kenneth Rosales <[REDACTED]>  
**Sent:** Thursday, July 9, 2020 12:59:48 PM  
**To:** CAO Main <[REDACTED]>  
**Cc:** City Clerk <[REDACTED]> Liccardo, Sam <[REDACTED]> Jones, Chappie <[REDACTED]>  
<[REDACTED]> Jimenez, Sergio <[REDACTED]> Peralez, Raul <[REDACTED]>  
<[REDACTED]> Diep, Lan <[REDACTED]> Carrasco, Magdalena <[REDACTED]>  
<[REDACTED]> Davis, Dev <[REDACTED]> Esparza, Maya <[REDACTED]>  
<[REDACTED]> Arenas, Sylvia <[REDACTED]> Foley, Pam <[REDACTED]>  
<[REDACTED]> Khamis, Johnny <[REDACTED]>  
**Subject:** No Further Prosecution of Curfew Violations

[External Email]

Hi San Jose City Attorney Doyle,

I am a resident of San Jose, District 3 and I'm informing you that I stand in solidarity with the [demands](#) provided to you in the July 7 email by Annie Decker with the ACLU, Raj Jayadev/Cecilia Chavez with SV Debug, et. al. Please drop all charges against anyone who purportedly violated the curfew Order, including all fines and bail obligations associated with the alleged violations. Moreover, all records relevant to these arrests should be cleared.

Best,

Kenneth

**From:** kathryn hedges <[REDACTED]>

**Sent:** Thursday, July 9, 2020 8:53:23 PM

**To:** CAO Main <[REDACTED]>

**Cc:** The Office of Mayor Sam Liccardo <[REDACTED]> District3

<[REDACTED]> District1 <[REDACTED]> District2 <[REDACTED]> District4

<[REDACTED]> District5 <[REDACTED]> District 6 <[REDACTED]> District7

<[REDACTED]> District8 <[REDACTED]> District9 <[REDACTED]> District 10

<[REDACTED]> City Clerk <[REDACTED]>

**Subject:** Drop all curfew charges

[External Email]

Dear San Jose City Attorney Doyle:

I am a resident of Downtown San Jose and a member of PACT, PICO California, SOMOS Mayfair, and Bend the Arc. I witnessed much of the police intimidation by City Hall and my friends were victims of police brutality.

I support the attached letter by the ACLU, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, and Silicon Valley De-Bug. They have all the right citations and I agree with their conclusions.

The County of Santa Clara has already declined to prosecute curfew charges for substantially the same the reasons outlined in the letter. There is no reason why the City of San Jose should continue to pursue prosecution for any reason other than to avoid admitting responsibility for the ill-advised decision to impose the curfew. The curfew did nothing but escalate the justified indignation of the protesters and suppress the free speech of those, like myself, who were afraid of the consequences of staying out after curfew.

Please do the reasonable (and Constitutional) thing and drop all curfew violation charges. These charges are unlikely to be upheld in court and continuing prosecution merely harasses the victims further.

Regards,

Kathryn Hedges

July 10, 2020

Office of the City Attorney  
200 E. Santa Clara St.  
16th Floor  
San Jose, CA 95113

Dear Rick Doyle

A child that is not embraced by the Village will burn it down to feel its warmth" African Proverb

Our nation is at an important crossroads and your action and commitment to justice are more important now than ever before. The events of this past months have been a sobering reminder of the systemic issues that still plague our city and nation.

We have watched our city legislators slow to respond with thoughtful and substantive reforms. Even in the face of such injustice, young people across this city have been at the forefront of a reinvigorated fight. Young people have given new energy and life to the fight for justice and equality in our country.

During constitutionally protected protests reflecting shared outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020. I write to request that you—in your capacity as the chief law enforcement officer of San Jose—publicly announce that you will drop any charges already filed for these violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken the position I urge you to take. President John F. Kennedy, "Those who make peaceful revolution impossible will make violent revolution inevitable."

San Jose adopted its curfew order in response to protests that represent a growing consensus on the need to end centuries-long police brutality against Black people. The protests are a physical representation of the widespread public outrage after police officer Derek Chauvin murdered George Floyd, a 46-year-old Black man, by pressing his knee into Mr. Floyd's neck, obstructing his breathing for almost nine minutes. Mr. Floyd's cruel and senseless murder was of course not the first, but instead followed thousands of previous police killings of Black people.

And of course, families who have lost loved ones to police in San Jose have been calling out for justice and an end to police violence for generations. And people continue to die at the hands of police nearly every day, including during the protests. We equally condemn and have long advocated against police brutality, racial profiling, and selective enforcement of laws against Black people that result in a disproportionate impact of the criminal justice system on Black lives.

We request a public statement that San Jose will drop all charges against anyone who purportedly violated the Order, including all fines and bail obligations associated with the alleged violations. Further, all records relevant to these arrests should be cleared.

John F. Kennedy "Those who make peaceful revolution impossible will make violent revolution inevitable."

Peace n Power

Pastor Jethroe Moore II, President

## Curfew violations

SB

Stacy Brobst <[REDACTED]>  
Thu 7/9/2020 8:21 AM

[External Email]

Good morning,

I urge you not to prosecute curfew violations from during the protests. This is a waste of money and resources. This was just a way for the police to disrupt peaceful protests, which are allowed by the constitution. Please don't let them get away with this nonsense.

Thank you,  
Stacy Brobst

## Pls don't prosecute curfew violations

SL

Shannon Loucks <[REDACTED]>  
Thu 7/9/2020 8:07 AM  
To: CAO Main

[External Email]

Thank you for your time.

San Jose adopted a curfew order in response to protest representing a need to end centuries of police brutality. When a police officer held his knee on George Floyd's neck for over 8 minutes people poured into the street to demand change. Enough was enough. San Jose police and city council have admired to acting in haste and without proper notification to the general public. It only makes sense that the charges brought about from this decision be dropped. The potentially fines will be devastating to those who are already foregoing income due to the urgency of the fight for justice.

In gratitude  
Shannon

## Stop the Prosecution of San Jose Curfew Violations

NN

Nassim Nouri <[REDACTED]>  
Thu 7/9/2020 7:15 AM  
To: CAO Main

[External Email]

Dear San Jose City Attorney Doyle,  
During the constitutionally protected protests over outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.

I request that you, as the chief law enforcement officer of San Jose, publicly announce that you will drop all charges already filed for these individuals; not file any further charges; and clear all their records regarding these citations.

Many other California jurisdictions have already taken this position, including Alameda County's DA, the Sacramento City Attorney, the Los Angeles City Attorney and the Los Angeles County District Attorney.

San Jose's curfew order imposed an unconstitutional general ban on the public assembly and free expression in all public forums, and movement. The curfew order also targeted unhoused people and legal observers, and subjected protesters to unnecessary force and exposure to an increased risk of COVID-19.

Sincerely,

Nassim Nouri  
District 4 resident  
Council member, Green Party of Santa Clara County

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cc:  
Sam Liccardo, Mayor  
Charles Jones, Vice Mayor and District 1 Council Member  
Sergio Jimenez, District 2 Council Member  
Raul Peralez, District 3 Council Member  
Lan Diep, District 4 Council Member  
Magdalena Carrasco, District 5 Council Member  
Devora Davis, District 6 Council Member  
Maya Esparza, District 7 Council Member  
Sylvia Arenas, District 8 Council Member  
Pam Foley, District 9 Council Member  
Johnny Khamis, District 10 Council Member

## DROP ALL CHARGES FOR CURFEW

MM

M. Sachs Martin <[REDACTED]>  
Wed 7/8/2020 11:59 PM

To: CAO Main

[External Email]

This curfew was ridiculous and designed to target black and brown community leaders and youth. ALL charges associated with it must be dropped immediately. I've been a San Jose resident for almost fifty years, taught in its schools, worked in its parks, and I've never seen such a garbage excuse for injustice. Drop the charges now!

Thank you

Miriam

## Re: No Further Prosecution of Curfew Violations

MN

Melissa-Ann Nievera-Lozano <[REDACTED]>  
Wed 7/8/2020 11:23 PM

To: CAO Main

Cc: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; District 10

[External Email]

Dear San Jose City Attorney Doyle:

During constitutionally protected protests reflecting shared outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.<sup>1</sup> Those curfew violations are subject to punishment under Title 8 of the Municipal Code, 8.08.260, meaning that violators could face fines of up to \$500 or time in jail.<sup>2</sup>

We write to request that you—in your capacity as the chief law enforcement officer of San Jose—publicly announce that you will drop any charges already filed for these violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken the position we urge here. Alameda County's DA O'Malley emailed us on June 23 that the office would not be prosecuting most of the curfew

<sup>1</sup> See Declaration of the Director of Emergency Services of the City of San Jose Imposing a Curfew with Limited Exceptions and Superseding the May 31, 2020 Declaration Imposing a Curfew, <https://www.sanjoseca.gov/home/showdocument?id=59288> (June 2, 2020); Jodi Meacham, "San Jose, Santa Clara impose curfews at start of third night of police protests" (May 31, 2020), <https://www.bizjournals.com/sanjose/news/2020/05/31/san-jose-curfew-protests.html>; Maggie Angst, "San Jose to lift citywide curfew on Thursday morning," *Mercury News* (June 2, 2020), <https://www.mercurynews.com/2020/06/02/san-jose-to-lift-citywide-curfew-on-thursday-morning/>. <sup>2</sup> Jennifer Wadsworth, "DA Won't Prosecute Curfew Violators—But San Jose Might," *San Jose Inside* (June 25, 2020), <https://www.sanjoseinside.com/news/santa-clara-county-da-wont-prosecute-curfew-violators-peaceful-protesters/>; San Jose Muni. Code 8.08.260.violations. The Sacramento City Attorney has done the same,<sup>3</sup> as has the Los Angeles City Attorney and the Los Angeles County District Attorney.<sup>4</sup>

San Jose's curfew order was unconstitutional, much like the orders other jurisdictions that have decided not to pursue charges after our intervention, such as Sacramento.<sup>5</sup> The curfew imposed a sweeping general ban on the public assembly, free expression in all public forums, and movement. The curfew was not narrowly tailored. *McCullen v. Coakley*, 573 U.S. 464, 495 (2014). The curfew also provided insufficient notice. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). And the curfew was vague and ambiguous as to critical terms, rendering the entirety unconstitutional. *Kolender v. Lawson*, 461 U.S. 352, 358 (1983). Finally, fines imposed for violating the Order would have a disproportionate effect on low-income people, and people of color, which will be exacerbated by the economic effects of the COVID-19 pandemic.

San Jose's enforcement of the curfew order also improperly targeted unhoused people and legal observers, and subjected protesters to unnecessary force and exposed to an increased risk of COVID-19.<sup>6</sup> For example, Vera Sloan was arrested and cited for violating curfew while working as a legal observer on May 31, 2020. That night, at around 9:00 p.m., she was watching a group of officers arrest another person in downtown San Jose when an officer told her to leave the area. She told the officer that she was a legal observer observing arrests. Immediately, the officer yelled a code ("10-15") and numerous officers rushed Ms. Sloan and tackled her to the ground. She was then zip-tied, loaded into the back of a police van, and taken to the Milpitas Mall outside of San Jose with no way to get home. Scott Largent, an unhoused man,

was arrested for violating curfew on May 31, 2020. After he informed the officers that he was both unhoused and working as a legal observer, officers again yelled the code and tackled him. Like Ms. Sloan's, his wrists were then zip-tied behind his back and he was driven to the Milpitas Mall, where the police officers dumped him and other arrestees. Mr. Largent emphasized that he was one of numerous legal observers and journalists arrested and then left at the Milpitas Mall. Other arrested protesters emphasized the use of unreasonable force.<sup>7</sup> For instance, San Jose police officers apprehended in an alley one person

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We would be happy to work on the language of that announcement with you. We respectfully ask that you respond to the requests in this letter by Friday, July 10.

Sincerely,

Melissa-Ann Nievera-Lozano, Ph.D. | *she/they/siya*

Resident in District 3, San Jose

## Curfew to City Attorney

Y

yasir.Farooqui <[REDACTED]>  
Thu 7/9/2020 10:46 AM  
To: CAO Main

[External Email]

Dear San Jose City Attorney Doyle:

During constitutionally protected protests reflecting shared outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.<sup>1</sup> Those curfew violations are subject to punishment under Title 8 of the Municipal Code, 8.08.260, meaning that violators could face fines of up to \$500 or time in jail.<sup>2</sup>

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## Demands to no longer prosecute of curfew violations

Some content in this message has been blocked because the sender isn't in your Safe senders list. [Show blocked content](#)

JW

Julia White <[REDACTED]>  
Thu 7/9/2020 10:02 AM

To:

- CAO Main;
- The Office of Mayor Sam Liccardo

[External Email]

Dear San José City Attorney Richard Doyle,

My name is Julia White, and I am a concerned member of the San José community. Alongside prominent organizations, I'm writing to urge you to not prosecute individuals who were criminalized under the city's unconstitutional curfew from May 23 to June 4, 2020. I have read, included below, and wholeheartedly agree with the collective statement from folx at Silicon Valley De-Bug, the ACLU of Northern California, and civil rights lawyers in the Bay Area. As mentioned below, following through with these prosecutions will only serve to further marginalize community members and put them in deep economic, social, and political risk. We will not stand for this injustice.

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*During constitutionally protected protests reflecting shared outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.<sup>1</sup> Those curfew violations are subject to punishment under Title 8 of the Municipal Code, 8.08.260, meaning that violators could face fines of up to \$500 or time in jail.*

*We write to request that you—in your capacity as the chief law enforcement officer of San Jose—publicly announce that you will drop any charges already filed for these violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken the position we urge here. Alameda County's DA O'Malley stated on June 23 that the office would not be prosecuting most of the curfew. violations. The Sacramento City Attorney has done the same,<sup>3</sup> as has the Los Angeles City Attorney and the Los Angeles County District Attorney.<sup>4</sup> San Jose's curfew order was unconstitutional, much like the orders other jurisdictions that have decided not to pursue charges after our intervention, such as Sacramento.<sup>5</sup> The curfew imposed a sweeping general ban on the public assembly, free expression in all public forums, and movement. The curfew was not narrowly tailored. *McCullen v. Coakley*, 573 U.S. 464, 495 (2014). The curfew also provided insufficient notice. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). And the curfew was vague and ambiguous as to critical terms, rendering the entirety unconstitutional. *Kolender v. Lawson*, 461 U.S. 352, 358 (1983). Finally, fines imposed for violating the Order would have a disproportionate effect on low-income people, and people of color, which will be exacerbated by the economic effects of the COVID-19 pandemic. San Jose's enforcement of the curfew order also improperly targeted unhoused people and legal observers, and subjected protesters to unnecessary force and exposed to an increased risk of COVID-19.<sup>6</sup> For*

example, Vera Sloan was arrested and cited for violating curfew while working as a legal observer on May 31, 2020. That night, at around 9:00 p.m., she was watching a group of officers arrest another person in downtown San Jose when an officer told her to leave the area. She told the officer that she was a legal observer observing arrests. Immediately, the officer yelled a code (“10-15”) and numerous officers rushed Ms. Sloan and tackled her to the ground. She was then zip-tied, loaded into the back of a police van, and taken to the Milpitas Mall outside of San Jose with no way to get home. Scott Largent, an unhoused man, was arrested for violating curfew on May 31, 2020. After he informed the officers that he was both unhoused and working as a legal observer, officers again yelled the code and tackled him. Like Ms. Sloan’s, his wrists were then zip-tied behind his back and he was driven to the Milpitas Mall, where the police officers dumped him and other arrestees. Mr. Largent emphasized that he was one of numerous legal observers and journalists arrested and then left at the Milpitas Mall. Other arrested protesters emphasized the use of unreasonable force.<sup>7</sup> For instance, San Jose police officers apprehended in an alley one person who was fleeing the mass arrest of protesters in downtown San Jose. Although laying down on the ground, spread-eagled, the person was aggressively detained. One officer put his body weight on the protester’s right wrist, causing a hairline fracture, as others struck the person in the back and drove their knees into the person’s spine. The person asked several times for medical treatment, but the officers only laughed. San Jose’s rescission of the unlawful curfew on June 4 was a necessary first step. But those who were issued misdemeanor curfew violations continue to face jail time, fines, or both, an unconscionable burden on and retaliation against their exercise of basic rights. The City must take further action to prevent yet more harm. San Jose adopted its curfew order in response to protests that represent a growing consensus on the need to end centuries-long police brutality against Black people. The protests are a physical representation of the widespread public outrage after police officer Derek Chauvin murdered George Floyd, a 46-year-old Black man, by pressing his knee into Mr. Floyd’s neck, obstructing his breathing for almost nine minutes. Mr. Floyd’s cruel and senseless murder was of course not the first, but instead followed thousands of previous police killings of Black people. And of course families who have lost loved ones to police in San Jose have been calling out for justice and an end to police violence for generations. And people continue to die at the hands of police nearly every day, including during the protests. We equally condemn and have long advocated against police brutality, racial profiling, and selective enforcement of laws against Black people that result in a disproportionate impact of the criminal justice system on Black lives. We request a public statement that San Jose will drop all charges against anyone who purportedly violated the Order, including all fines and bail obligations associated with the alleged violations. Further, all records relevant to these arrests should be cleared. We would be happy to work on the language of that announcement with you. We respectfully ask that you respond to the requests in this letter by Friday, July 10.

<sup>1</sup> See Declaration of the Director of Emergency Services of the City of San Jose Imposing a Curfew with Limited Exceptions and Superseding the May 31, 2020 Declaration Imposing a Curfew, <https://www.sanjoseca.gov/home/showdocument?id=59288> (June 2, 2020); Jodi Meacham, “San Jose, Santa Clara impose curfews at start of third night of police protests” (May 31, 2020), <https://www.bizjournals.com/sanjose/news/2020/05/31/san-jose-curfew-protests.html>; Maggie Angst, “San Jose to lift citywide curfew on Thursday morning,” Mercury News (June 2, 2020), <https://www.mercurynews.com/2020/06/02/san-jose-to-lift-citywide-curfew-on-thursday-morning/>.

<sup>2</sup> Jennifer Wadsworth, “DA Won’t Prosecute Curfew Violators—But San Jose Might,” San Jose Inside (June 25, 2020), <https://www.sanjoseinside.com/news/santa-clara-county-da-wont-prosecute-curfew-violators-peaceful-protesters/>; San Jose Muni. Code 8.08.260.

<sup>3</sup> See, e.g., “No Charges Filed Against Those who Broke Sacramento Curfew, Attorney Says”, KCRA News (June 30, 2020), <https://www.kcra.com/article/no-charges-filed-against-those-who-broke-sacramento-curfew-attorney-says/33012481#>.

<sup>4</sup> See, e.g., News Release, “June 8, 2020: District Attorney Jackie Lacey Will Not File Charges for Curfew Violations, Failure to Disperse,” <http://da.lacounty.gov/media/news/district-attorney-jackie-lacey-will-not-file-charges-curfew-violations-failure-disperse>. Jurisdictions around the country, from Cincinnati and Denver to Miami-Dade County and Manhattan, similarly declared that they will not pursue such charges.

5 See, e.g., *Letter Demands City of Sacramento Drop Charges Against 72 Protesters for Violating Curfew* (June 15, 2020), <https://lccr.com/newsroom/news-press-releases/lawyers-committee-for-civil-rights-of-sf-and-aclu-northern-california-demand-the-city-of-sacramento-drop-charges-against-72-protesters-for-violating-curfew/>

6 The following accounts were collected by ACLU of Northern California and Urban Peace Movement.

7 Numerous news accounts have emphasized the sheer breadth of police violence against protesters in San Jose, leading to proposed reforms to the city's use of force policies. See, e.g.,

Sincerely,  
Julia White

--

**Julia White** (she/her/hers)

## Do not prosecute curfew violations

M

Thu 7/9/2020 9:53 AM

To: CAO Main

[External Email]

Hello,

I am writing to implore you not to prosecute curfew violation arrests made during the protests against the murder of George Floyd. Protests are constitutionally protected and these curfew violation arrests were made disproportionately against Black, Brown, and unhoused individuals, as well as legal observers. Please drop all of these charges and do not enforce any citations. Please make a public statement that you are doing so.

Thank you,

Melanie McManus

## Stop the Prosecution of San Jose Curfew Violations

CP

Christine Pepin <[REDACTED]>

Thu 7/9/2020 11:18 AM

To: CAO Main

Cc: The Office of Mayor Sam Liccardo; District1; District3; District4; District5; District 6; District7; District8; District9; District 10

[External Email]

Dear San Jose City Attorney Doyle,

During the constitutionally protected protests over outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.

I request that you, as the chief law enforcement officer of San Jose, publicly announce that you will drop all charges already filed for these individuals; not file any further charges; and clear all their records regarding these citations.

Many other California jurisdictions have already taken this position, including Alameda County's DA, the Sacramento City Attorney, the Los Angeles City Attorney and the Los Angeles County District Attorney.

San Jose's curfew order imposed an unconstitutional general ban on the public assembly and free expression in all public forums, and movement. The curfew order also targeted unhoused people and legal observers, and subjected protesters to unnecessary force and exposure to an increased risk of COVID-19.

Sincerely,

Christine Pepin

## No Further Prosecution of Curfew Violations

HN

Huong Nguyen <[REDACTED]>

Thu 7/9/2020 12:16 PM

To: CAO Main

Cc: District1; District2; District3; District4; District5; District 6; District7; District8; District9; District 10

[External Email]

Dear San Jose City Attorney Doyle:

During constitutionally protected protests reflecting shared outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.<sup>1</sup> Those curfew violations are subject to punishment under Title 8 of the Municipal Code, 8.08.260, meaning that violators could face fines of up to \$500 or time in jail.<sup>2</sup>

We write to request that you—in your capacity as the chief law enforcement officer of San Jose—publicly announce that you will drop any charges already filed for these violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken the position we urge here. Alameda County's DA O'Malley emailed us on June 23 that the office would not be prosecuting most of the curfew

<sup>1</sup> See Declaration of the Director of Emergency Services of the City of San Jose Imposing a Curfew with Limited Exceptions and Superseding the May 31, 2020 Declaration Imposing a Curfew, <https://www.sanjoseca.gov/home/showdocument?id=59288> (June 2, 2020); Jodi Meacham, "San Jose, Santa Clara impose curfews at start of third night of police protests" (May 31, 2020), <https://www.bizjournals.com/sanjose/news/2020/05/31/san-jose-curfew-protests.html>; Maggie Angst, "San Jose to lift citywide curfew on Thursday morning," Mercury News (June 2, 2020), <https://www.mercurynews.com/2020/06/02/san-jose-to-lift-citywide-curfew-on-thursday-morning/>.<sup>2</sup> Jennifer Wadsworth, "DA Won't Prosecute Curfew Violators—But San Jose Might," San Jose Inside (June 25, 2020), <https://www.sanjoseinside.com/news/santa-clara-county-da-wont-prosecute-curfew-violators-peaceful-protesters/>; San Jose Muni. Code 8.08.260.

City Attorney Doyle July 7, 2020 Page 2

violations. The Sacramento City Attorney has done the same,<sup>3</sup> as has the Los Angeles City Attorney and the Los Angeles County District Attorney.<sup>4</sup>

San Jose's curfew order was unconstitutional, much like the orders other jurisdictions that have decided not to pursue charges after our intervention, such as Sacramento.<sup>5</sup>

The curfew imposed a sweeping general ban on the public assembly, free expression in all public forums, and movement. The curfew was not narrowly tailored. *McCullen v. Coakley*, 573 U.S. 464, 495 (2014). The curfew also provided insufficient notice. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). And the curfew was vague and ambiguous as to critical terms, rendering the entirety unconstitutional. *Kolender v. Lawson*, 461 U.S. 352, 358 (1983). Finally, fines imposed for violating the Order would have a disproportionate effect on low-income people, and people of color, which will be exacerbated by the economic effects of the COVID-19 pandemic.

San Jose's enforcement of the curfew order also improperly targeted unhoused people and legal observers, and subjected protesters to unnecessary force and exposed to an increased risk of COVID-19.<sup>6</sup> For example, Vera Sloan was arrested and cited for violating curfew while working as a legal observer on May 31, 2020. That night, at around 9:00 p.m., she was watching a group of officers arrest another person in downtown San Jose when an officer told her to leave the area. She told the officer that she was a legal observer observing arrests. Immediately, the officer yelled a code ("10-15") and numerous officers rushed Ms. Sloan and tackled

her to the ground. She was then zip-tied, loaded into the back of a police van, and taken to the Milpitas Mall outside of San Jose with no way to get home.

Scott Largent, an unhoused man, was arrested for violating curfew on May 31, 2020. After he informed the officers that he was both unhoused and working as a legal observer, officers again yelled the code and tackled him. Like Ms. Sloan's, his wrists were then zip-tied behind his back and he was driven to the Milpitas Mall, where the police officers dumped him and other arrestees. Mr. Largent emphasized that he was one of numerous legal observers and journalists arrested and then left at the Milpitas Mall. Other arrested protesters emphasized the use of unreasonable force.<sup>7</sup>

For instance, San Jose police officers apprehended in an alley one person

<sup>3</sup> See, e.g., "No Charges Filed Against Those who Broke Sacramento Curfew, Attorney Says", KCRA News (June 30, 2020), <https://www.kcra.com/article/no-charges-filed-against-those-who-broke-sacramento-curfew-attorney-says/33012481#>. <sup>4</sup> See, e.g., News Release, "June 8, 2020: District Attorney Jackie Lacey Will Not File Charges for Curfew Violations, Failure to Disperse," <http://da.lacounty.gov/media/news/district-attorney-jackie-lacey-will-not-file-charges-curfew-violations-failure-disperse>. Jurisdictions around the country, from Cincinnati and Denver to Miami-Dade County and Manhattan, similarly declared that they will not pursue such charges. <sup>5</sup> See, e.g., Letter Demands City of Sacramento Drop Charges Against 72 Protesters for Violating Curfew (June 15, 2020), <https://lccr.com/newsroom/news-press-releases/lawyers-committee-for-civil-rights-of-sf-and-aclu-northern-california-demand-the-city-of-sacramento-drop-charges-against-72-protesters-for-violating-curfew/> <sup>6</sup>

The following accounts were collected by ACLU of Northern California and Urban Peace Movement. <sup>7</sup> Numerous news accounts have emphasized the sheer breadth of police violence against protesters in San Jose, leading to proposed reforms to the city's use of force policies. See, e.g. who was fleeing the mass arrest of protesters in downtown San Jose. Although laying down on the ground, spread-eagled, the person was aggressively detained. One officer put his body weight on the protester's right wrist, causing a hairline fracture, as others struck the person in the back and drove their knees into the person's spine. The person asked several times for medical treatment, but the officers only laughed.

San Jose's rescission of the unlawful curfew on June 4 was a necessary first step. But those who were issued misdemeanor curfew violations continue to face jail time, fines, or both, an unconscionable burden on and retaliation against their exercise of basic rights. The City must take further action to prevent yet more harm. San Jose adopted its curfew order in response to protests that represent a growing consensus on the need to end centuries-long police brutality against Black people. The protests are a physical representation of the widespread public outrage after police officer Derek Chauvin murdered George Floyd, a 46-year-old Black man, by pressing his knee into Mr. Floyd's neck, obstructing his breathing for almost nine minutes. Mr. Floyd's cruel and senseless murder was of course not the first, but instead followed thousands of previous police killings of Black people. And of course families who have lost loved ones to police in San Jose have been calling out for justice and an end to police violence for generations. And people continue to die at the hands of police nearly every day, including during the protests. We equally condemn and have long advocated against police brutality, racial profiling, and selective enforcement of laws against Black people that result in a disproportionate impact of the criminal justice system on Black lives.

We request a public statement that San Jose will drop all charges against anyone who purportedly violated the Order, including all fines and bail obligations associated with the alleged violations. Further, all records relevant to these arrests should be cleared.

We would be happy to work on the language of that announcement with you. We respectfully ask that you respond to the requests in this letter by Friday, July 10.

--

Thank you,

Huong Nguyen

## Curfew

RO

Rita O'Connell <[REDACTED]>  
Fri 7/10/2020 9:22 AM  
To: CAO Main

[External Email]

From a San Jose resident of 36 years: please do not prosecute curfew violations.

Rita O'CONNELL

## No curfew violation charges

ME

Mishi Ellingson <[REDACTED]>  
Fri 7/10/2020 10:48 AM  
To: CAO Main

[External Email]

Dear Richard Doyle,

Please do not charge any fines or fees or punish people in anyway for curfew violations. District Attorney Rosen has already committed to not prosecuting curfew violations.

Our Constitution protects our first amendment right to protest the government. Although it might feel uncomfortable at times, it is your job to protect our constitutional rights. Without them we have nothing. We might as well be a banana republic.

Protect the citizens of San Jose. Protect our constitutional rights. Let people have a voice. Police violence is destroying our community. We must be able to speak out against injustice and violence.

Thank you, sir

Mishi Ellingson

## Drop charges for curfew violators

KS

Karen Schuler <[REDACTED]>  
Fri 7/10/2020 3:01 PM  
To: CAO Main

[External Email]

Dear Mr. Doyle:

I join the ACLU of Northern California, Silicon Valley De-Bug, The Lawyers Committee on Civil Rights, and many others in requesting that you—in your capacity as the chief law enforcement officer of San Jose—publicly announce that you will drop any charges already filed for curfew violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken this position.

I know people who were peacefully protesting and attempting to comply with officers. The unconstitutional curfew and the police response to the protests are a stain on the image of San Jose in the eyes of the world. Please take steps to help erase that stain by dropping charges and expunging records.

Thank you,

Karen Schuler  
San Jose, CA

## Do not prosecute curfew violations

FG

Felicia Gershberg <[REDACTED]>

Thu 7/9/2020 3:43 PM

To: CAO Main

Cc: The Office of Mayor Sam Liccardo; District1; District2; District3; District4; District5; District 6; District7; District8; District9; District 10

[External Email]

City Attorney Doyle:

I join the ACLU of Northern California, Silicon Valley De-Bug, The Lawyers Committee on Civil Rights, and many others in requesting that you—in your capacity as the chief law enforcement officer of San Jose—publicly announce that you will drop any charges already filed for curfew violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken this position.

I personally know several people who were arrested, including Legal Observers, journalists, and people who were peacefully protesting and attempting to comply with officers. The unconstitutional curfew and the police response to the protests are a stain on the image of San Jose in the eyes of the world. Please take steps to help erase that stain by dropping charges and expunging records.

Thank you,

Felicia Gershberg, PhD

## Do not prosecute curfew violations

MA

Miriam Avery <[REDACTED]>  
Thu 7/9/2020 5:00 PM  
To: CAO Main

[External Email]

Dear San Jose City Attorney Doyle,

I'm writing in support of the letter you received from the ACLU, Lawyers' Committee on Civil Rights, and Silicon Valley Debug urging you not to prosecute curfew violations during the Black Live Matter protests in San Jose last month and moving forward.

The behavior of law enforcement is unacceptable, and you need to act to mitigate the life and health-damaging impacts and set us on a path of healing.

Sincerely,

Miriam Avery

## Stop the Prosecution of San Jose Curfew Violations

D

Thu 7/9/2020 5:30 PM

To: CAO Main

Cc: The Office of Mayor Sam Liccardo; District1; District3; District4; District5; District 6; District7; District8;District9; District 10

[External Email]

Dear San Jose City Attorney Doyle,

During the constitutionally protected protests over outrage about the murder of Black men and women, several dozen individuals were cited for violating the City of San Jose's curfew imposed from May 31 to June 4, 2020.

I request that you, as the chief law enforcement officer of San Jose, publicly announce that you will drop all charges already filed for these individuals; not file any further charges; and clear all their records regarding these citations.

Many other California jurisdictions have already taken this position, including Alameda County's DA, the Sacramento City Attorney, the Los Angeles City Attorney and the Los Angeles County District Attorney.

San Jose's curfew order imposed an unconstitutional general ban on the public assembly and free expression in all public forums, and movement. The curfew order also targeted un-housed people and legal observers, and subjected protesters to unnecessary force and exposure to an increased risk of COVID-19.

Sincerely,

Diane Harrison

## No further prosecution of curfew violation

LL

Lina Larionova <[REDACTED]>  
Thu 7/9/2020 9:08 PM  
To: CAO Main

[External Email]

City Attorney Doyle:

I join the ACLU of Northern California, Silicon Valley De-Bug, The Lawyers Committee on Civil Rights, and many others in requesting that you — in your capacity as the chief law enforcement officer of San Jose — publicly announce that you will drop any charges already filed for curfew violations; not file any further charges; and clear any and all records regarding those citations. Several other California jurisdictions already have taken this position.

Legal Observers, journalists, and people who were peacefully protesting and attempting to comply with officers were arrested. The unconstitutional curfew and the police response to the protests are a stain on the image of San Jose in the eyes of the world. Please take steps to help erase that stain by dropping charges and expunging records.

Thank you,  
Lina Larionova  
Resident of San Jose.

## Ask: Do not prosecute curfew violations

NL

Nicole Lynn <[REDACTED]>  
Thu 7/9/2020 9:17 PM  
To: CAO Main

[External Email]

City Attorney Doyle,

I urge you not to prosecute curfew violations that occurred during the constitutionally protected protests over the last couple of months. I stand with the letter sent by the ACLU, Lawyers' Committee on Civil Rights, and Silicon Valley Debug around these matters.

Thank you,  
Nicole Lynn

Fw: City Council Agenda Items 4.2, 4.3, 4.4, September 15, 2020

City Clerk

Tue 9/15/2020 11:51 AM

To: Agendadesk <[REDACTED]>

**Office of the City Clerk | City of San José**

200 E. Santa Clara St., Tower 14<sup>th</sup> Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

How is our service? [Please take our short survey.](#)

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**From:** Chester Peterson <[REDACTED]>

**Sent:** Tuesday, September 15, 2020 11:23 AM

**To:** City Clerk <[REDACTED]> District5 <[REDACTED]> Carrasco, Magdalena

<[REDACTED]>  
**Subject:** Re: City Council Agenda Items 4.2, 4.3, 4.4, September 15, 2020

[External Email]

**Dear Councilmember Carrasco,**

We the **Beloved Community Team of PACT** ask you to incorporate our responses to Agenda Items 4.2, 4.3, and 4.4 into your discussion at today's City Council meeting. After six years of researching, organizing, and building relationships for best practices in public safety in our city, we have serious concerns that impact trust and safety in the community:

**4.2: Release of Police Videos**

The release of the police videos of the named incidents has been delayed beyond all justification. The city needs to conduct a **thorough and impartial investigation into why the San Jose Police Department has failed to produce these videos** for months following the requests.

**4.3: Banning Use of Rubber Bullets**

We unequivocally support a **full ban on the use of rubber bullets** in all situations in our city. A "nonlethal weapon" that can cause life-changing harm to our citizens should not be used under any circumstances.

**4.4: Preliminary After-Action Report:**

The collective **impact of this report is to undermine community trust.** Here are a few examples of our concerns—the details matter:

**a. The SJPD's Lack of Preparedness:**

· **Section 2.3, page 26,** recommends “Formalize training to be delivered on a consistent basis during briefing” and “Develop a process by which off-duty officers can be electronically notified of large-scale events to help bolster staffing.” Such basic practices should have been established long ago here in Silicon Valley. Why weren't they?

· **Section 3, page 34,** describes the SJPD's attention to the national protests immediately following the murder of George Floyd. Regardless of the “intelligence received,” why was a thorough Operations Plan not put in place sooner, allowing for all contingencies? Once the Ops Plan was formulated, how was it communicated to the rest of staff and officers? Please see our concerns in item b below about racialized and incendiary language used to describe protesters.

· **In sum:** As soon as the SJPD saw the video of George Floyd being murdered, their first action should have been to reach out to impacted community groups in San José to build agreements and preparations for the inevitable and justifiable protests. What actions did the SJPD take along these lines? What percentage of SJPD energy went into connecting with the community groups they are called to protect and serve, and what percentage of energy went into preparing for a militarized response to protests?

**b. The SJPD's Militarized/Racialized Response**

· In **Section 2.5, page 28,** the SJPD describes the departmental practice of “deployment of armored vehicles, overwatch snipers, and tactical REACT teams to crowd control events.” These practices demonstrate the increasing militarization of the police, which creates unbearable fear and distrust in the community. These are not the tools of a democratic society.

· In **Section 2.5, page 30,** the report demonstrates that the SJPD values protecting property over protecting community members. Instead of establishing “zero tolerance for violence,” SFPD officers should be trained in the most advanced nonviolent de-escalation techniques and that training reinforced throughout their service.

· In **Section 3,** the report refers to protesters in other cities as “domestic terrorists” and elsewhere calls them “looters.” The latter is a racialized term, and both terms are incendiary, communicating to officers that they are going into battle, implicitly granting permission for violent actions. Indeed, such expectations may lead officers to consider any projectile, including a plastic water bottle, to be a dangerous assault. Instead, command staff should have communicated to the officers that their job was to provide safety for the citizens they are called to protect and to create space for the expression of the protesters' constitutional rights.

· In **Recommendation K,** the report speaks of “prisoner processing during large-scale events.” The SJPD calls the protesters whom they arrest “prisoners”? This is another highly racialized and incendiary term.

· **In sum:** The biased attitudes of the SJPD are clearly displayed through the language used here and the practices described. These attitudes and practices guarantee an armed response to protesters, escalating tensions and causing harm to peaceful citizens.

**c. The SJPD's Inconsistency in Reporting Accurately Some of the Protests**

· In **Section 6,** the report omits that projectiles were deployed at the May 31 protest. Eyewitnesses on our team saw the projectiles being shot, including live

stream documentation. Yet in **Section 16**, the report does list several types of projectiles deployed that day. The “hiding” of these actions to the very end erodes trust in the transparency and accountability of the report.

**d. The SJPD’s Failure to Follow Established Procedures**

· SJPD training requires that foam rounds be aimed at the ground and specifies the body areas to aim/avoid (see **Section 16**). Yet some officers on the scene shot directly at the protesters. Such a breach of procedure must not be tolerated.

These are just a **few of the examples we have found in the After-Action Report** that confirm our dismay not only with the actions of the SJPD during the George Floyd protests but with the underlying lack of accountability and transparency in the culture of the San Jose Police Department. **The work that we have put in to build relationships, grow trust, establish policies and procedures to increase transparency, and humanize all participants in our dialogues seems to have had only surface-level success.**

**Our Ongoing Demands:**

All of these issues represent just a fraction of what needs to happen if we are to accomplish a thorough and effective reimagining of public safety. We continue to call for these changes:

- Community engagement in the hiring of SJPD’s new chief: from the revision of the job description to match 2020 awareness; to a nationwide search for a new chief; to community representation on the hiring panels and more
- A commitment at all levels of SJPD and City governance to the condemnation and elimination of racist ideas, language, and behavior in our police department: City officials must commit to establishing criteria that define racist actions in police officers, to firing officers whose actions fit that criteria, and to inscribing these criteria into all upcoming contracts with the POA so that these officers cannot be rehired.
- The strengthening of the Independent Police Auditor’s role to allow for independent civilian investigation of police actions and misconduct

Thank you for your attention to our concerns. **We appreciate your support and your dedication to the well-being of all the citizens of this city.**

Sincerely,

Chester Peterson  


# Fw: PACT Beloved Community Team Response to Items 4.2-4.4 TODAY

City Clerk

Tue 9/15/2020 11:55 AM

To: Agendadesk <[REDACTED]>

## Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14<sup>th</sup> Floor  
San Jose, CA 95113  
Main: 408-535-1260  
Fax: 408-292-6207

How is our service? [Please take our short survey.](#)

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**From:** Harriet <[REDACTED]>  
**Sent:** Tuesday, September 15, 2020 11:52 AM  
**To:** District7 <[REDACTED]>, Esparza, Maya <[REDACTED]>  
**Cc:** City Clerk <[REDACTED]>  
**Subject:** PACT Beloved Community Team Response to Items 4.2-4.4 TODAY

[External Email]

## Re: City Council Agenda Items 4.2, 4.3, 4.4, September 15, 2020

Dear Councilmember Esparza,

We the **Beloved Community Team of PACT** ask you to incorporate our responses to Agenda Items 4.2, 4.3, and 4.4 into your discussion at today's City Council meeting. After six years of researching, organizing, and building relationships for best practices in public safety in our city, we have serious concerns that impact trust and safety in the community:

### **4.2: Release of Police Videos**

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### **4.3: Banning Use of Rubber Bullets**

We unequivocally support a **full ban on the use of rubber bullets** in all situations in our city. A "nonlethal weapon" that can cause life-changing harm to our citizens should not be used under any circumstances.

### **4.4: Preliminary After-Action Report:**

The collective **impact of this report is to undermine community trust**. Here are a few examples of our concerns—the details matter:

a. **The SJPD's Lack of Preparedness:**

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· **Section 3, page 34**, describes the SJPD's attention to the national protests immediately following the murder of George Floyd. Regardless of the “intelligence received,” why was a thorough Operations Plan not put in place sooner, allowing for all contingencies? Once the Ops Plan was formulated, how was it communicated to the rest of staff and officers? Please see our concerns in item b below about racialized and incendiary language used to describe protesters.

· **In sum:** As soon as the SJPD saw the video of George Floyd being murdered, their first action should have been to reach out to impacted community groups in San José to build agreements and preparations for the inevitable and justifiable protests. What actions did the SJPD take along these lines? What percentage of SJPD energy went into connecting with the community groups they are called to protect and serve, and what percentage of energy went into preparing for a militarized response to protests?

b. **The SJPD's Militarized/Racialized Response**

· In **Section 2.5, page 28**, the SJPD describes the departmental practice of “deployment of armored vehicles, overwatch snipers, and tactical REACT teams to crowd control events.” These practices demonstrate the increasing militarization of the police, which creates unbearable fear and distrust in the community. These are not the tools of a democratic society.

· In **Section 2.5, page 30**, the report demonstrates that the SJPD values protecting property over protecting community members. Instead of establishing “zero tolerance for violence,” SFPD officers should be trained in the most advanced nonviolent de-escalation techniques and that training reinforced throughout their service.

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· In **Section 6**, the report omits that projectiles were deployed at the May 31 protest. Eyewitnesses on our team saw the projectiles being shot, including live stream documentation. Yet in **Section 16**, the report does list several types of projectiles deployed that day. The “hiding” of these actions to the very end erodes trust in the transparency and accountability of the report.

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Thank you for your attention to our concerns. **We appreciate your support and your dedication to the well-being of all the citizens of this city.**

Sincerely,  
Harriet Wolf



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FW:

City Clerk

Tue 9/15/2020 11:54 AM

To: Agendadesk <[REDACTED]>

**Office of the City Clerk | City of San José**

200 E. Santa Clara St., Tower 14<sup>th</sup> Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

How is our service? [Please take our short survey.](#)

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**From:** Rowan Fairgrove <[REDACTED]>

**Sent:** Tuesday, September 15, 2020 11:50 AM

**To:** Liccardo, Sam <[REDACTED]> District3 <[REDACTED]> City Clerk

**Subject:**

[External Email]

**Dear Mayor Liccardo and Councilmember Peralez,**

We the **Beloved Community Team of PACT** ask you to incorporate our responses to Agenda Items 4.2, 4.3, and 4.4 into your discussion at today's City Council meeting. After six years of researching, organizing, and building relationships for best practices in public safety in our city, we have serious concerns that impact trust and safety in the community:

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The release of the police videos of the named incidents has been delayed beyond all justification. The city needs to conduct a **thorough and impartial investigation into why the San Jose Police Department has failed to produce these videos** for months following the requests.

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We unequivocally support a **full ban on the use of rubber bullets** in all situations in our city. A "nonlethal weapon" that can cause life-changing harm to our citizens should not be used under any circumstances.

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· In **Section 2.5, page 28,** the SJPD describes the departmental practice of "deployment of armored vehicles, overwatch snipers, and tactical REACT teams to crowd control events." These practices demonstrate the increasing militarization of the police, which creates unbearable fear and distrust in the community. These are not the tools of a democratic society.

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Thank you for your attention to our concerns. **We appreciate your support and your dedication to the well-being of all the citizens of this city.**

Sincerely,

Rev. Rowan Fairgrove

[Redacted signature]

[Redacted signature]

# Fw: Urgent: Beloved Community Team's Response to Items 4.2-4.4 on Today's City Council Agenda

City Clerk

Tue 9/15/2020 11:54 AM

To: Agendadesk <[REDACTED]>

## Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14<sup>th</sup> Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

How is our service? [Please take our short survey.](#)

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**From:** Nancy Palmer Jones <[REDACTED]>

**Sent:** Tuesday, September 15, 2020 11:46 AM

**To:** The Office of Mayor Sam Liccardo <[REDACTED]> Liccardo, Sam

<[REDACTED]> Nancy Palmer Jones <[REDACTED]> Pereira, Paul <[REDACTED]>

City Clerk <[REDACTED]> Jones, Chappie <[REDACTED]>

**Subject:** Urgent: Beloved Community Team's Response to Items 4.2-4.4 on Today's City Council Agenda

[External Email]

## Re: City Council Agenda Items 4.2, 4.3, 4.4, September 15, 2020

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Sincerely,

Rev. Nancy Palmer Jones

[Redacted signature]

[Redacted signature]

Co-author with Karin Lin of *Mistakes and Miracles: Congregations on the Road to Multiculturalism*

Available at:

<https://www.uuabookstore.org/Mistakes-and-Miracles-P18521.aspx>

*"Justice is what love looks like in public."*

-- Cornel West

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# Fw: TODAY'S City Council Agenda Items 4.2, 4.3, 4.4 Sept. 15, 2020

Pereira, Paul

Tue 9/15/2020 12:25 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>;

Paul Pereira  
Office of Mayor Sam Liccardo

*Please consider the environment before printing this email*

---

**From:** Lareen Jacobs <[REDACTED]>  
**Sent:** Tuesday, September 15, 2020 12:01 PM  
**To:** Liccardo, Sam <[REDACTED]>; The Office of Mayor Sam Liccardo <[REDACTED]>  
**Cc:** Pereira, Paul <[REDACTED]>; Taber, Toni <[REDACTED]>  
**Subject:** TODAY'S City Council Agenda Items 4.2, 4.3, 4.4 Sept. 15, 2020

[External Email]

Tuesday, September 15, 2020

**Re: City Council Agenda Items 4.2, 4.3, 4.4, September 15, 2020**

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The collective impact of this report is to undermine community trust. Here are a few examples of our concerns:

#### A - The SJPD's Lack of Preparedness:

- 
- **Section 2.3, page 26, "Recommendations"** in subsection b provides "Formalize training to be delivered on a consistent basis during briefing" and "develop a process by which off-duty officers can be electronically notified of large-scale events to help bolster staffing." Such basic practices should have been established long ago here in Silicon Valley. Why weren't they?
- **Section 3, "'Intelligence Before Protests Began" (p. 34)** In the last paragraph of this section (p. 36) "While the Dept. was aware of these events happening throughout the country, there was no specific intelligence the protest planned for May 29th would become a large scale incident". This describes the SJPD's attention to the national protests immediately following the murder of George Floyd. Why, then, was a thorough Operations Plan not put in place sooner, allowing for all contingencies?
- 
- **In sum:** As soon as the SJPD saw the video of George Floyd being murdered, their first action should have been to reach out to impacted community groups in San José to build agreements and preparations for the inevitable and justifiable protests. What actions did the SJPD take along these lines? What percentage of SJPD energy went into connecting with the community groups they are called to protect and serve, and what percentage of energy went into preparing for a militarized response to protests?

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#### C - The SJPD's Inconsistency in Reporting Accurately on Some of the Protests

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Sincerely,  
Lareen Jacobs



This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** kathryn hedges [REDACTED]  
**Sent:** Tuesday, September 15, 2020 6:55 PM  
**To:** CouncilMeeting <CouncilMeeting@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Cc:** Nancy Palmer Jones <[REDACTED]>; Ray Montgomery <[REDACTED]>  
**Subject:** Police Agenda items 4.2-4.4

Dear Mayor and City Council Members:

As a member of PACT's Beloved Community, I strongly urge the Council to adopt the strongest bans on crowd control projectiles and carotid holds or similar holds.

I witnessed parts of the protests over Memorial Day Weekend and I saw SJPD escalating conflict with the crowds instead of de-escalating situations. I know people that SJPD injured with crowd control projectiles. If those can make dents the size of vanilla wafers from 30-50' in the body panels of my car, that's enough force to seriously damage flesh, eyes, etc. I have photos of tear gas canisters that bounced off my car, and I saw flash-bang projectiles going off. After I left the protests, I heard the flash-bangs from my apartment up to a quarter mile away.

I think we need to go further than this agenda item proposes and demilitarize SJPD. Our police need to stop acting like soldiers facing an invading army. But we absolutely need to ban crowd control projectiles and carotid holds.

I am concerned that the police objectify people at the protests; this makes it easy for them to mistreat people. We need to change this attitude.

Kind regards,  
Kathryn Hedges