



**FOR IMMEDIATE RELEASE**

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## **Supervisors Express Concern over High Number of Public Drunkenness Arrests**

### ***County to Continue Monitoring and Addressing Issue with the City of San Jose***

**SAN JOSE, CALIF—** In response to a request from Supervisor Blanca Alvarado, Chair Pro Tem and Chair of the Public Safety and Justice Committee, Tuesday, the County of Santa Clara Board of Supervisors unanimously accepted an extensive report on the impact of San Jose's public drunkenness arrests (Penal Code 647(f)) on the criminal justice system. The Board plans to continue monitoring this increasingly controversial issue, because although it occurs in the city boundaries of San José, it has ramifications for the County.

San Jose City Council is forming a task force to address this matter. The Board approved sending a letter to the San Jose City Council expressing concern about the high number of arrests for public drunkenness, and offering the task force its support and services to help address this matter.

"My office has received tons of complaints and inquiries questioning the assumptions in the high number of arrests coming out of San Jose Police Department for public drunkenness," said Alvarado. "We need to offer our services not only because we recognize that there are impacts for all law enforcement agencies connected to this action, but because public tax dollars are at stake given the limited resources local governments now have."

The County's Criminal Justice Information Center (CJIC) provided specific data on charges and misdemeanor arrests related to public drunkenness. Alvarado indicated that as a major provider of substance abuse and mental health services, public drunkenness arrests could have service impacts for the County.

As requested by the referral, the report on public drunkenness arrests in Santa Clara County included narratives from the offices of the District Attorney, Public Defender, Chief of Correction, and Superior Court on the resources needed in their respective departments to handle PC 647 (f) cases.

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Penal Code 647(f) charges are issued by police citation. This means that they are filed directly with the courts and are not reviewed or issued by the District Attorney. Deputy District Attorneys address only those cases which are not resolved by the courts at arraignment.

County of Santa Clara Public Defender Mary Greenwood indicated that public intoxication arrests impact the legal system in multiple ways. On an annual basis her office represents an average of 450 individuals on these offenses alone. The offices of the District Attorney, the Public Defender, and the Department of Correction expend time and resources as a result of the arrests. The impact would be even greater if the Public Defender and District Attorney appeared at misdemeanor arraignment calendars where these citations are first reviewed by the Superior Court.

Greenwood maintains that in many of the cases there is no probable cause to support these arrests for public intoxication. The arrests, which take place because of a negative interaction between an individual and the police, are often called "attitude arrests." The vast majority (51%) of these citation cases, which are not reviewed or issued by the District Attorney, are dismissed in court. In some instances, the defendant attends 10 Alcoholic Anonymous meetings to obtain the dismissal. However, Greenwood says the cases often have no objective evidence to support them.

"The courts are unnecessarily impacted by this," said Greenwood. "The integrity of the justice system is placed at issue when groundless charges are brought to the court."

A brief historical account of the former Sobering Station program and the affect of state reimbursement of booking fees was provided. The sobering station was implemented in 1995 as part of mutual agreement between the City of San Jose and the County of Santa Clara, as an alternative to booking individuals arrested for public inebriation PC 647(f). The Sobering Station was intended to relieve the burden on the court system, the District Attorney's Office and the Public Defender's Office. The program ended in 2003 after the State started reimbursing cities for their arrests booking fees. Detained individuals taken to the Sobering Station are not booked, therefore there is no reimbursement of fees from the state.

Several issues are of concern to the Board, including the fact that the charges are based on the report of the arresting officer, not evidence of breathalyzer reports. At issue is whether the person is able to take care of self.

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According to the Department of Correction (DOC), while the 70,117 was the total number of persons arrested and booked into the Department of Corrections in 2007, the number of persons booked solely for Drunk in Public PC 647 (f) during this time frame was 5,907, or 8 percent of the total bookings. The San Jose Police Department made 3,781 (64 percent) of these arrests, followed by the Santa Clara County Sheriff's Office, with 459 (7 percent) of these arrests. The remaining 1,667 Drunk in Public arrests in 2007 were made by other law enforcement agencies providing enforcement services through the county.

Whenever arrestees are brought to the DOC for PC 647 (f), they are processed through standard procedures, booking processes, medical screening, CJIC entry, fingerprinting and photographed. Once placed in a holding cell, staff is required to visually check them four times per hour. If no complications are reported and the arrestee is considered sober and able to take care of self, he is cited and released from custody.

The Department of Corrections reports that even though the actual number of persons arrested for Drunk in Public charges is relatively low compared to the total number of bookings, processing individuals, particularly during medical screening and fingerprinting takes longer. The report added that PC 647 (f) arrestees especially impact the Department of Correction during peak activity times, on Friday and Saturday, as they dilute staff's ability to handle and process other more serious arrestees.

Presiding Superior Court Judge Honorable Catherine A. Gallagher had indicated in her report that the majority of PC 647 (f) cases in San Jose come to the court by way of direct citation from San Jose Police Department and rarely have the benefit of a police report, or a District Attorney review. Individuals who are not repeat offenders are generally released on a plea of guilty and sentenced to credit for the amount of time spent in jail. Because often times there are no measurements and charges are discretionary within the police officers, 51% of Drunk in Public cases are dismissed.

The Office of the Public Defender and the District Attorney's Office do not appear in misdemeanors arraignment calendars, where charged defendants appear without counsel and the vast majority of public intoxication cases are resolved. However, public intoxications cases that end up in the Public Defenders Office are mixed into the caseload of each lawyer and represent four percent of the total misdemeanor cases handled by the office. In the even of a jury trial these cases do require more of the offices resources.

**About Violation of Penal Code 647 (f)**

Violation of Penal Code 647 (f) is committed by a person “who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of intoxicating liquor, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way”. This criminal offense is deemed as disorderly conduct and classified as a misdemeanor.

**Background on Santa Clara County Sobering Station**

On December 1995, a Sobering Station was implemented via de DOC as part of mutual agreement between the City of San Jose and the County of Santa Clara, and as an alternative to booking individuals arrested for public inebriation, PC 647(f). The Sobering Station was intended to relieve the burden on the Court System, the District Attorney’s Office and the Public Defender’s Office.

The City of San Jose paid for the program until the contract expired in June, 1997, when it decided not to continue supporting the program because they deemed it ineffective. The County opted to assume financial responsibility and oversight of the program. The sobering station assisted those individuals picked up for PC 647 (f) by providing them with counseling and referral services. In order to participate in the Sobering Station, the arrests were required to meet certain qualifications such as volunteering for the station, minimal prior PC 647(f) arrests and non-hostile behavior.

The Sobering Station was eliminated during the Fiscal Year 2003 as a result of a budget reduction, due to low participation rates. A memorandum from the Department of Corrections to the County Executive indicates that the utilization of the Sobering Station declined over the years due to what seemed an overall lack of interest by local agencies. In Fiscal Year 2002 the sobering station served 1,952 individuals, an average of 5 per day. It was estimated at that time that only 25% of all PC 647 (f) arrestees were delivered to the Sobering Station.

The Department of Corrections reports that the costs of the Sobering Station Program in Fiscal Year 2002 was \$507,520, not including overhead absorbed by the County. The cost of this program did not include additional overheads that the Department of Correction absorbed, including facility cost for hosting the Sobering Station, maintenance and repair, assisted listening devices and interpreters a necessary. In addition, the Main Jail provided staff to conduct three welfare checks per shift and emergency response when called to detain individuals whose actions or unwillingness to cooperate posed a threat or increases risk to Sobering Station Staff.

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