



**SAN JOSE DOWNTOWN  
ASSOCIATION**

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June 23, 2008

Debra Figone  
City Manager  
City of San Jose  
200 E. Santa Clara St.  
San Jose, CA 95113

Re: Need for review of San Jose Police role with regard to Music in the Other Park

Dear Debra,

The San Jose Downtown Association (SJDA) has appreciated your leadership and direction the past few difficult days. We have needed the time to absorb the gravity of this issue and severe financial and public relations punishment SJDA has faced the past week. After careful consideration of the circumstances surrounding the revocation of our beer and wine license for the June 19, 2008 Music in the Other Park concert, we believe a full review of the San Jose Police role in this matter is essential.

On June 17 at 3:30 p.m., the State Alcoholic Beverage Control (ABC) local administrator informed SJDA that our one-day beer and wine licenses for the June 19 and June 24 shows were being revoked for alleged violations that occurred at our June 12 concert. We realize beer and wine licenses are the domain of the ABC and we immediately appealed the decision to the ABC Sacramento office. At that time, ABC officials indicated that San Jose Police generated all reports pertaining to the June 12 incidents that triggered the license revocation.

SJDA maintains that each of the alleged incidents, including the citations to minors, could have been taken care of at the park on June 12 with a little communication between event staff and San Jose Police. Certainly, revoking licenses is an extreme punishment and is an enforcement measure for out-of-control events and inept/uncooperative producers with past records of violations. None of this is the case with SJDA and Music in the Other Park. The role of the San Jose Police in helping to bring about this heavy-handed action warrants an immediate and thorough review.

SJDA has several goals in requesting this review:

- a) **How and why did San Jose Police initiate this action?** Difficult questions persist about the lack of communication from San Jose Police and whether a new problem had been identified, and if so, why it wasn't communicated to the event in advance? Why did San Jose Police choose not to communicate with SJDA during the concert about any of the alleged violations, despite SJDA hiring eight off-duty police officers and San Jose Police having three on-duty sergeants and other on-duty plainclothes officers in the park together with SJDA personnel on June 12? After the June 12 show, why did San Jose Police take its reports directly to ABC? Why has San Jose Police not provided SJDA copies of those reports?
- b) **Policy review** Perhaps the most serious question to address is whether any San Jose Police/city policies were violated or need revision. SJDA's June 19 temporary liquor license was revoked on

unreasonable notice (less than 48 hours); without a hearing; without SJDA receiving so much as a prior warning or citation in 20 years of producing similar events downtown; and with the facts in a couple of the alleged violations on June 12 in dispute. While SJDA understands the ABC is solely responsible for granting and revoking liquor licenses, based on the limited information we have it seems to us that San Jose Police initiated the action with the ABC. Policies are needed to better define roles of San Jose Police and what public behaviors are the reasonable responsibility of the customer at an event, and what are those of the event producer. The requirements in San Jose should be comparable to other Bay Area events and we should bear in mind the impacts of forcing possible closure of San Jose events and moving local attendance (and sales tax) to other cities.

**c) Repair the reputation of the Music in the Other Park event, SJDA and San Jose Police Dept.**

There is a credibility disconnect when San Jose Police say they want “to work together” and then fail to communicate like they did at the June 12 event. It is necessary that words match actions for trust to be established and maintained. There is also an unsettling perception that SJDA was singled out by San Jose Police personnel for this action. It is important that any hint of selective enforcement or retaliation by San Jose Police toward SJDA be addressed in this review. Key questions must be answered: was this license revocation unprecedented or has San Jose Police initiated this type of action against other events in the city? Is this action a response to SJDA’s recent efforts to change police procedures during late night hours? How were the San Jose Police actions initiated against SJDA on June 12 managed by the San Jose Police command staff?

**d) The review is most critical for the future of all events in the City of San Jose.** SJDA believes that groups who may not have the financial resources need to be protected against similar San Jose Police tactics. If San Jose Police can initiate this type of action against an event producer like SJDA that has a 20-year demonstrated track record of close cooperation with the city, how might other events be treated? Not many organizations in the city could have absorbed the financial beating SJDA took by having to produce its June 19 Music in the Other Park concert without beer and wine sales on less than 48 hours notice. It is likely most groups would have cancelled their events, or risked possible bankruptcy, under similar circumstances. The result of cancellation or possible bankruptcy is embarrassing to all parties involved, including the city.

**e) Festivals and special events are often mentioned as an integral part of the type of city we want to live, work and play in,** especially for San Jose with its beautiful weather and public spaces. By fully reviewing this unfortunate matter, we can use it to better define our civic expectations for public events and the reasonable policies and approaches to keep them successful, accountable and enjoyable.

SJDA is cognizant that such a review requires valuable city staff and San Jose Police resources, especially given the very pressing concerns of police criminal investigations throughout the city. However, given the important implications of this incident, it is essential that it be fully reviewed and that the review be completed in a timely manner.

SJDA looks forward to cooperating fully with the city’s review.

Sincerely



Art Bernstein  
President

CC: Mayor Chuck Reed and San Jose City Council members  
Rob Davis, Chief of Police  
Rick Doyle, City Attorney  
SJDA Board of Directors