

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

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TO: Budget and Finance Committee
FROM: Budget and Legislative Analyst 
SUBJECT: February 6, 2013 Budget and Finance Committee Meeting

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Item 3 File 12-1124	Department: Health Service System (HSS)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objective</p> <p>The proposed ordinance would amend the San Francisco Administrative Code by adding Sections 16.704 and 16.29-7.6 to mandate payments to City employees to offset Federal income taxes on health insurance premiums paid by the City for their same-sex spouses or same-sex domestic partners, and to exclude such City payments from the computation of compensation under the San Francisco Employees' Retirement System.</p> <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • City employees who receive health insurance benefits (medical and dental insurance) for their same-sex married spouses or domestic partners are required to pay Federal income taxes on the fair market value of the spouse's or domestic partner's health insurance premiums paid by the City. This requirement can result in some City employees paying annual Federal income taxes of more than \$1,750 on their City-provided insurance benefits. • Nationwide, more than 30 private employers and at least 2 cities, Cambridge, Massachusetts and Hallandale Beach, Florida, have adopted policies of making additional payments to employees who are married or in a registered domestic partnership with a same-sex spouse or domestic partner, in order to offset the Federal income taxes levied against the fair market value of health insurance benefits. • The proposed ordinance would authorize the City to make annual payments, in an amount of 20% of the fair market value of health insurance premiums, to City employees affected by the aforementioned Federal income tax. The gross annual payment to most employees would be approximately \$1,400 to \$1,500, depending on the employee's medical and dental insurance providers. This annual payment would partially, but not completely, offset the Federal income tax paid by City employees on the fair market value of health insurance premiums. • The proposed ordinance would become effective on July 1, 2013. The ordinance would expire if and when the City Attorney certifies to the Board of Supervisors that "City employees are no longer subject to discriminatory Federal income taxation of health insurance premiums attributable to their same-sex spouses or same-sex domestic partners." <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The proposed ordinance would result in a total cost to the City of an estimated \$616,492 per year including (a) total payments to employees of \$572,682, and (b) mandatory employer FICA and Medicare contributions totaling \$43,810. The funding source for this \$616,492 would be General Fund and non-General Fund revenues, depending on the employee's applicable City Department. • The U.S. Supreme Court will be hearing arguments related to California's 2008 Proposition 8 and the Federal Defense of Marriage Act. The Supreme Court's decisions, expected prior to July 1, 2013, could potentially reduce or eliminate the fiscal impact of the proposed ordinance. <p style="text-align: center;">Recommendation</p> <p>Because the proposed ordinance might result in a new ongoing cost to the City of an estimated \$616,492 per year, approval of the proposed ordinance is a policy matter for the Board of Supervisors.</p>	

MANDATE STATEMENT & BACKGROUND

Mandate Statement

In accordance with Section 2.105 of the City's Charter, any amendments to the Administrative Code must be approved by ordinance of the Board of Supervisors.

Background

The State of California recognizes the marriages of same-sex couples who entered into civil marriage in California between June 17, 2008 and November 4, 2008, as well as same-sex couples who entered into civil marriage in other states and countries, where it was legal, during that time period.¹ Non-married same-sex couples can currently register as domestic partners with the State of California under California Family Code Section 297, by filing either a Declaration of Domestic Partnership or a Confidential Declaration of Domestic Partnership with the California Secretary of State.

When a City employee receives health (medical or dental) insurance for their opposite-sex spouse, the value of the spouse's health insurance is not considered income by the Internal Revenue Service (IRS). However, because the Federal government does not recognize the legal marriages or domestic partnerships of same-sex couples, City employees who receive health insurance for their same-sex married spouses are required, under the Federal Defense of Marriage Act of 1996 (DOMA), to pay income taxes on the fair market value of the portion of their health insurance attributable to their same-sex spouse or domestic partner.²

The fair market value of the health insurance premiums paid by the City, extended to same-sex spouses and domestic partners, is listed on City employees' Tax Form W-2 as "imputed income" which, for tax purposes, is treated the same as wages. The San Francisco Health Service System (HSS) has estimated that 386 City employees pay Federal income tax on the fair market value of the health insurance premium paid by the City. This fair market value ranges from \$7,000 to \$7,500 for most City employees annually, depending on the employee's medical and dental insurance providers. The additional Federal income tax owed by City employees can amount to more than \$1,750 per year. Therefore, while two City employees may otherwise receive identical health insurance benefits, the financial outcomes of those two employees are different if one employee is taxed on that benefit and the other is not.

¹ Per the California Supreme Court ruling, *Strauss v. Horton*, May 26, 2009. June 17, 2008 was the first date civil marriages were legally performed in California, following the May 2008 California Supreme Court decision *In re Marriage Cases*. California Proposition 8, which defines marriage as between a man and a woman, was passed on November 4, 2008.

² The Federal government makes an exception to the taxation of health benefits, as described above, for employees who declare their same-sex spouse or domestic partner as a Medical Dependent. In San Francisco, City employees may file a declaration with the Health Service System (HSS) declaring a Medical Dependent, in which case the City does not have imputed income included as their end-of-year taxable income. To qualify as a Medical Dependent, the City Employee's beneficiary must (1) live in the same principal abode, (2) be a U.S. citizen, U.S. national, or resident of Canada or Mexico, and (3) receive more than half of his or her support from the City employee during the year, as defined by the IRS.

In response to the differential Federal income tax treatment of employees, some employers are adjusting their fringe benefits so that all employees receive similar after-tax employment benefits. Nationwide, more than 30 private employers and at least 2 cities—Cambridge, Massachusetts and Hallandale Beach, Florida—have adopted a policy of making additional payments to employees who are married or in a registered domestic partnership with a same-sex spouse, in order to offset the Federal income taxes levied against the fair market value of health benefits.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the San Francisco Administrative Code by adding Sections 16.704 and 16.29-7.6 to mandate payments to City employees to offset Federal income taxes on health insurance premiums paid by the City for their same-sex spouses or same-sex domestic partners and to exclude such City payments from the computation of City employees' compensation under the San Francisco Employees' Retirement System.

The purpose of the legislation is to offset the Federal income tax on same-sex spouse and same-sex domestic partner health insurance premiums, as described in the Background section, above. The proposed ordinance would achieve this goal by making payments to City employee Health Service System members who are provided subsidies for, and/or who pay all or part of the premiums for, their same sex spouses' or same-sex domestic partners' health insurance premiums. The proposed ordinance would not apply to City employees who declare their same-sex spouses or domestic partners to be Medical Dependents, as described in Footnote 2 in the Background section above. In addition, the proposed ordinance would not apply to opposite-sex domestic partners.

Under the proposed ordinance, the City would make payments to City employees who are members of the Health Service System, including elected officials and department heads, in an amount equal to 20% of the portion of the employee's medical insurance premiums paid by the City attributable to the same-sex spouse, or same-sex partner. These payments would not be counted toward the employee's base pay, nor would the payments be included in overtime, premium pay, or retirement calculations. The Controller has proposed that the City would make these payments to City employees annually at the end of each calendar year. Federal tax law prohibits these payments from being considered pretax income.

The proposed ordinance includes an operative date of July 1, 2013. Under Section 16.704(d) of the proposed ordinance, the ordinance would expire if and when the City Attorney certifies to the Board of Supervisors that "City employees are no longer subject to discriminatory Federal income taxation of health insurance premiums attributable to their same-sex spouses or same-sex domestic partners."

FISCAL IMPACT

The proposed ordinance would authorize payments by the City to City employees in an amount equal to 20% of the portion of the qualifying employee's health insurance premiums paid by the City attributable to the same-sex spouse, or same-sex domestic partner, as determined by HSS. Under the proposed ordinance, these payments to City employees (a) would not be part of the

employee's base pay, (b) would not include or relate to overtime, and (c) would not apply toward premium pay or retirement calculations. The 20% calculation is an approximation of the marginal Federal income tax that would be paid on the fair market value of the spousal health insurance premiums.

As is noted above, HSS estimates that 386 City employees would be affected by this ordinance. Under the proposed ordinance, most employees would receive a payment of between \$1,400 and \$1,500, depending on their medical and dental insurance providers. The total cost to the City is estimated to be \$616,492 per year including (a) total payments to employees of \$572,682, and (b) mandatory employer FICA and Medicare contributions totaling \$43,810.

Table 1. Estimated Costs of Proposed Ordinance

Medical Insurance Plans	Total Employee Count	Total Fair Market Value (A)	Total Payment to Employees (A * 20% = B)	Employer FICA & Medicare (A * 7.65% = C)	Total Cost to City (B+C)
Kaiser	128	\$866,944	\$173,389	\$13,264	\$186,653
Blue Shield	214	1,593,658	318,732	24,383	343,115
City Plan	11	89,661	17,932	1,372	19,304
<i>Medical Insurance Subtotal</i>	353		\$510,053	\$39,019	\$549,072
Dental Insurance Plans	Total Employee Count	Total Fair Market Value (A)	Total Payment to Employees (A * 20% = B)	Employer FICA & Medicare (A * 7.65% = C)	Total Cost to City (B+C)
DeltaCare	6	\$1,463	\$293	\$22	\$315
Delta Dental	374	310,375	62,075	4,749	66,824
Pacific Union Dental	6	1,303	261	20	281
<i>Dental Subtotal</i>	386		\$62,629	\$4,791	\$67,420
Total			\$572,682	\$43,810	\$616,492

Sources: Medical Insurance subscription information provided by Department of Human Resources (DHR). Dental Insurance information provided by HSS. Cost estimates by Budget and Legislative Analyst.

The source of funds for the \$616,492 would be from General Fund and non-General Fund revenues, depending on the employee's applicable City department. Appropriation authority would be included in the FY 2013-14 and FY 2014-15 Annual Appropriation Ordinance, which will be subject to Board of Supervisors approval in June 2013. The exact breakdown of the General Fund and non-General Fund sources for the \$616,492 was not available at the time of this report.

According to Mr. Steven Ponder, Classification and Compensation Manager for DHR, the added administrative requirements for administering the proposed ordinance would be absorbed by existing City staff.

Two 2013 U.S. Supreme Court Cases Could Reduce or Eliminate the Fiscal Impact of the Proposed Ordinance

On December 7, 2012, the U.S. Supreme Court announced that it will hear arguments in two cases before the Court: (1) *United States v. Windsor*, which is likely to decide the constitutionality of the Federal Defense of Marriage Act (DOMA), which defined marriage as between a man and a woman in Federal considerations, including Federal income tax law; and (2) *Perry v. Brown*, which is likely to decide the constitutionality of California's 2008 Proposition 8, which defined marriage as between a man and a woman in California. The arguments for both cases will be heard in late March 2013, with Supreme Court decisions to be made by late June 2013.

The outcome of these cases could reduce or eliminate the fiscal impact of the proposed ordinance. According to Deputy City Attorney Therese Stewart, the four most likely Supreme Court outcomes and their impacts on the proposed ordinance are described below:

1. A Supreme Court decision results in both DOMA and Proposition 8 being declared unconstitutional: Couples could legally marry in California and same-sex married couples would no longer be responsible for paying Federal income tax on medical benefits, thereby eliminating the need for, and entire fiscal impact of, the proposed ordinance.
2. A Supreme Court decision results in DOMA being declared unconstitutional, but the Court does not overturn Proposition 8: Legally married same-sex spouses would no longer be responsible for paying income taxes on spousal medical benefits. However, couples would not be able to legally marry in California, and same-sex domestic partners would continue to be responsible for the income tax. As a result, the fiscal impact of the proposed ordinance would be somewhat reduced, to account for same-sex couples legally married in 2008. HSS is not able to determine the reduced fiscal impact at this time.
3. A Supreme Court decision results in Proposition 8 being declared unconstitutional, but the Court does not overturn DOMA: Legally married same-sex spouses and same-sex domestic partners would continue to be responsible for paying Federal income taxes on medical benefits for their partners, resulting in no change to the fiscal impact of the proposed ordinance, as described above.
4. A Supreme Court decision upholds both DOMA and Proposition 8: This scenario results in the status quo, and therefore there would be no change to the fiscal impact of the proposed ordinance, as described above.

The Supreme Court's decisions are expected prior to July 1, 2013, the effective date of the proposed ordinance. In the event that the Court's decisions result in Scenario 1 above, the proposed ordinance would expire, per the terms described in the "Details of Proposed Legislation" section above, and there would be no cost to the proposed ordinance.

POLICY CONSIDERATIONS**The Proposed Changes Would Only Apply to City Employees,
But Not Others that Qualify for the Health Service System**

Section 16.700 of the Administrative Code lists the various categories of individuals that may participate in the Health Service System. The proposed ordinance applies to City employees, and as revised, to department heads and elected officials as well. However, it would not apply to other individuals that are eligible to participate in the City's Health Service System, including members of select boards and commissions; officers and employees of the Board of Education of the San Francisco Unified School District; officers and employees of the Governing Board of the San Francisco Community College District; and retirees, among others.

**The Proposed Ordinance Would Not Entirely Offset the Federal Income Tax on
Most City Employees Spouse's or Domestic Partner's Health Insurance**

Under the proposed ordinance, City employees who pay Federal income taxes on the fair market value of their same-sex spouse's or domestic partner's health insurance premiums paid by the City would receive an annual payment from the City in an amount equal to 20% of the fair market value. That 20% fair market value payment, as noted above, would range from \$1,400 to \$1,500 for most City employees, and would still be subject to all regular state and Federal paycheck deductions. Therefore, the City employee would only keep a portion of the 20% fair market value payment.

Furthermore, according to information provided by the Controller's Office, approximately 96% of City employees pay a marginal Federal income tax rate of 25% or above (in 2010, 34% of City employees paid a marginal tax rate of 25%; 57% of City employees paid a marginal tax rate of 28%; and 5% of City employees paid a marginal tax rate of 33%). The Budget and Legislative Analyst estimates most participating City employees who receive the estimated \$1,400 payment under the proposed ordinance would owe the IRS at least \$1,750 in Federal income taxes on the value of the health insurance premium paid by the City – a difference of \$350, before considering the required paycheck deductions. Therefore, the payment of 20% of fair market value of the health insurance premium paid by the City will not completely offset the Federal income tax on fair market value paid by those employees who receive health insurance coverage for same-sex spouses and domestic partners.

RECOMMENDATION

Because the proposed ordinance might result in a new ongoing cost to the City of an estimated \$616,492 per year, approval of the proposed ordinance is a policy matter for the Board of Supervisors.

Items 4 & 5 Files 12-1166 & 12-1165	Departments: Department on the Status of Women District Attorney's Office
EXECUTIVE SUMMARY	
<p>Legislative Objective</p> <ul style="list-style-type: none"> • File 12-1166: Ordinance appropriating \$750,000, including (a) \$304,412 to the Department on the Status of Women, and (b) \$445,588 to the District Attorney's Office, for FY 2012-13. • File 12-1165: Ordinance amending the FY 2012-13 Annual Salary Ordinance to reflect the addition of (a) 1.0 position (0.5 FTE) in the Department of the Status of Women and (b) 11.0 positions (3.63 FTE) in the District Attorney's Office. <p>Key Points</p> <ul style="list-style-type: none"> • The proposed ordinances would fund (a) one new FTE 1824 Principal Administrative Analyst for the Department on the Status of Women to replace a previously eliminated lower-level position, to be responsible for domestic violence policy analysis, (b) \$50,000 of one-time funding for a domestic violence outreach and awareness campaign, and (c) \$178,096 for existing nonprofit organizations to provide (i) \$120,000 to increase domestic violence civil legal needs, (ii) \$30,000 for Spanish language legal services, (iii) \$20,000 for telephone hotline, and (d) \$8,096 for training 911 and 311 telephone operators in the City. • The proposed ordinances would create 11 FTE new permanent positions in the District Attorney's Office, including (a) four 8177 Attorneys, (b) three 8550 Investigators, (c) three 8129 Victim/Witness Investigators, and (d) one 8132 Investigative Assistant to specifically address domestic violence caseloads. The District Attorney currently has a total of 11.0 FTE positions assigned to their domestic violence unit, such that the proposed ordinances would increase this staff to 22 FTEs, a 100% increase. <p>Fiscal Impacts</p> <ul style="list-style-type: none"> • The requested FY 2012-13 General Fund costs of \$304,412 for the Status of Women would be annualized at \$508,824 General Fund cost in FY 2013-14. The requested FY 2012-13 General Fund cost of \$445,588 for the District Attorney would be annualized at \$1,238,290 General Fund costs in FY 2013-14 <p>Policy Considerations</p> <ul style="list-style-type: none"> • Domestic violence cases referred by the Police Department to the District Attorney's Office decreased 40% over the last five years and there was a reduction of 18.5% in domestic violence cases charged by the District Attorney's Office between 2010 and 2012. However, the District Attorney advises that their caseloads are increasing, primarily due to increased number of trials, particularly misdemeanor domestic violence trials. 	

Recommendations

- Amend the proposed Annual Salary Ordinance (File 12-1165) for FY 2012-13 to reflect (a) the one new permanent Department on the Status of Women 1824 Principal Administrative Analyst position at .33 FTE instead of .50 FTE, (b) identify all of the District Attorney positions as Limited Tenure (LT), and (c) the 5.0 FTE District Attorney positions as outlined in Table 12.
- Amend the proposed supplemental appropriation ordinance (File 12-1166) as summarized in Table 12 above, for a FY 2012-13 General Fund savings of \$258,933.
- Approval of the (a) balance of six requested District Attorney positions, with FY 2012-13 salary and fringe benefit costs of \$233,495, (b) \$50,000 one-time Status of Women outreach and awareness funding, and (c) \$178,000 (annualized at \$356,192) for the Status of Women professional services contracts in the proposed supplemental appropriation ordinance (File 12-1166), as amended, are policy decisions for the Board of Supervisors.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

Charter Section 9.105 requires that amendments to the Annual Appropriation Ordinance be approved by ordinance of the Board of Supervisors, subject to the Controller certifying the availability of funds. Charter Section 2.105 requires that all legislative acts by the Board of Supervisors be by ordinance, subject to approval by a majority vote of the members of the Board.

Background

Based on the 2011 Comprehensive Report on Family Violence in San Francisco¹, between FY 2009-10 and FY 2010-11, the number of domestic violence cases (a) received and assessed by the District Attorney increased 10%, (b) supervised by Adult Probation Department increased 17%, (c) shelter beds needed increased 29%, (d) crisis hotline calls increased 47%, and (e) child support services cases increased 202%.

Department on the Status of Women

The Department on the Status of Women's FY 2012-13 budget totals \$3,819,856, with the General Fund comprising \$3,609,856 or 95% of the budget and includes 4.7 full-time equivalent (FTE) staff, as shown in Table 1 below. According to Dr. Emily Murase, Executive Director of the Status of Women, most of the Department on the Status of Women programs and services are directed to domestic violence prevention and related programs and services.

As also shown in Table 1 below, City Grant Programs are receiving \$3,028,924 of funding in FY 2012-13, or 79% of the Department's budget. Attachment I provided by Dr. Murase, identifies the total \$3,028,924 City Grant Program funding, the specific nonprofit organizations and the amount of funding received by each nonprofit organization. According to Dr. Murase, these

¹ 2011 Comprehensive Report on Family Violence in San Francisco was issued by Department on the Status of Women's Family Violence Council in November 2012.

nonprofit organizations were selected to receive three years of City grant funds through a Request for Proposals (RFP) process conducted by the Department on the Status of Women in 2011. These current nonprofit organization's grants extend from July 1, 2011 through June 30, 2014.

Dr. Murase also advises that the Department had an additional 1.0 FTE 1823 Senior Administrative Analyst position, which was originally funded with a three-year Federal grant which commenced in 2002. After the grant funds expired in 2005, this position was continued with General Fund revenues from FY 2005-06 through FY 2008-09. However, Dr. Murase advises that this 1.0 FTE 1823 Senior Administrative Analyst position was eliminated in the Department on Status of Women's FY 2009-10 budget, due to General Fund reductions.

**Table 1: Department of the Status of Women
FY 2012-13 Budget and Staff**

Budget	FY 2012-13
Sources of Funds	
General Fund	\$3,609,856*
Marriage License Fees	210,000
Total Sources	\$3,819,856
Uses of Funds	
Salaries	\$450,740
Fringe Benefits	180,613
City Grant Programs	3,028,924*
Services of Other Departments	119,004
Non-personnel/Materials & Supplies	40,575
Total Uses	\$3,819,856
Existing Staff	
FTEs	
0961 Department Head I	1.0
1450 Executive Secretary I	1.0
1822 Administrative Analyst	.70
1824 Principal Administrative Analyst	.50
2998 Representatives	1.50
Total	4.70

*Includes \$17,259 to be transferred by the Controller's Office from the General City Responsibility (GEN) budget for cost of living increases for nonprofit organizations in FY 2012-13.

Source: Annual Appropriation Ordinance and Annual Salary Ordinance

District Attorney

The District Attorney's Office FY 2012-13 budget totals \$42,657,621, including 246 FTE positions, with the General Fund comprising \$38,516,212 or 90% of their budget. According to Mr. Eugene Clendinen, Chief Administrative and Financial Officer in the District Attorney's

Office, the District Attorney currently has 11 FTE positions at a FY 2012-13 General Fund cost of \$1,952,243 dedicated to domestic violence services, as shown in Table 2 below.

**Table 2: District Attorney's Office
FY 2012-13 Budget and Staff Assigned to Domestic Violence**

Classification and Title	FTE	Salary and Fringe Benefit Annual Cost
8182 Head Attorney	1.0	\$229,772
8177 Felony Trial Attorneys	3.0	600,032
8177 Misdemeanor Trial Attorneys	3.0	170,504
8177 Stalking Trial Attorney	1.0	205,346
8177 Elder Abuse Trial Attorney	1.0	432,170
8177 MTR* Calendar Attorney	1.0	224,465
8132 Assistant Investigator Paralegal	1.0	89,954
Total	11.0	\$1,952,243

*Motion to Revoke

Mr. Clendinen also advises that the Victim Services Division within the District Attorney's Office provides advocate services to victims of various crimes, including domestic violence, child abuse, murder, rape, robbery and burglary, which is comprised of 14 FTE Victim/Witness Investigator positions, 11 of which are 8129 Victim/Witness Investigator I positions. In addition, Mr. Clendinen advises that the District Attorney's Office provides follow-up investigations, with approximately 11 District Attorney Investigator positions specifically assigned to criminal cases, including domestic violence cases.

Based on data provided by Mr. Clendinen, Table 3 below identifies the number of domestic violence cases, number of attorneys assigned to these cases, the average caseloads per attorney, number of felony, misdemeanor and total jury trials over the past six years.

Table 3: District Attorney Domestic Violence Cases, Attorneys Assigned and Trials from 2007-2012

Years	2007	2008	2009	2010	2011	2012	Percent Change from 2007-2012
Average cases per month	155	154	139	143	228*	268	73%
Total attorneys assigned	8	8	6	8	8	9	13%
Average caseload per attorney	19	19	23	18	28.5*	30	58%
Felony Jury Trials per Year	11	5	3	9	10	13	18%
Misdemeanor Jury Trials per Year	16	9	8	21	19	36	125%
Total Jury Trials	27	14	11	30	29	49	81%

*Based on information provided by the District Attorney's Office from May - December, 2011.

As shown in Table 3 above, although the District Attorney could not provide complete data for 2011, the District Attorney's data indicate that the average number of cases per month, average caseload per attorney and total jury trials per year increased significantly in 2012, particularly for misdemeanor jury trials, compared to the prior five years.

According to Ms. Cristine DeBerry, Chief of Staff for the District Attorney, all misdemeanor domestic violence police cases are forwarded by the Police Department directly to the District Attorney's Office. Felony cases are first investigated by the Police Department's Special Victims Unit for review of the facts and evidence, and then reviewed by the District Attorney to determine whether each case can be charged. While the District Attorney has discretion in how each case is handled, Mr. Clendinen advises that supporting facts and evidence determine whether the District Attorney discharges the case or whether the District Attorney deems the case to be charged as a felony or misdemeanor. In all cases, whether charged or discharged, the victim is referred to a victim advocate (District Attorney's Victim Services Division or La Casa de las Madres, a nonprofit organization); if the case is charged, the victim is referred for support and assistance throughout the term of the case.

According to Mr. Clendinen, all follow-up investigations are handled by District Attorney Investigators (currently the District Attorney has 30 Investigators and supervisory staff, with approximately 11 Investigators assigned to criminal cases, including domestic violence cases). Mr. Clendinen advises that the District Attorney currently provides vertical prosecution, in which the referred case is immediately assigned to the domestic violence unit and the same attorney handles individual cases from origination to conclusion. According to Mr. Clendinen, vertical prosecution is ideal for domestic violence cases, because domestic violence victims often recant their claims, minimize the severity of the evidence and become uncooperative victims for a variety of reasons.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance (File 12-1165) would amend the FY 2012-13 Annual Salary Ordinance (Ordinance No. 165-12) to reflect the addition of (a) 1.0 new permanent position (0.5 FTE in FY 2012-13) in the Department on the Status of Women and (b) 11.0 new permanent positions (3.63 FTE in FY 2012-13) in the District Attorney's Office, or a total of 12.0 new permanent positions (4.13 FTE in FY 2012-13), as detailed below in Table 4.

Table 4: Proposed Annual Salary Ordinance Amendment

Department (Division)	Class	Title	FTEs in FY 2012- 13	FTEs in Future Years
Status of Women	1824	Principal Administrative Analyst	.50	1.0
District Attorney	8177	Attorney – Civil/Criminal	1.32	4.0
(Felony Prosecution)	8550	District Attorney Investigator	.99	3.0
(Family Violence)	8129	Victim/Witness Investigator	.99	3.0
(Support Services)	8132	DA Investigative Assistant	.33	1.0
District Attorney Subtotal			3.63	11.0
Total New Permanent Positions Requested			4.13	12.0

The requested 1.0 (0.5 FTE in FY 2012-13) new 1824 Principal Administrative Analyst position for the Department on the Status of Women would commence on January 1, 2013 (see discussion below). The requested 11.0 new positions (3.63 FTE in FY 2012-13) in the District Attorney's Office would commence March 1, 2013.

The proposed ordinance (File 12-1166) would appropriate \$750,000 of General Fund Reserve monies, including (a) \$304,412 to the Department on the Status of Women, and (b) \$445,588 to the District Attorney's Office, for FY 2012-13, as shown in Table 5 below.

Table 5: Supplemental Appropriation from the General Fund Reserve for the Department of the Status of Women and the District Attorney's Office

	FY 2012-13 Costs
Salaries	\$55,354
Fringe Benefits	20,962
City Grant Programs	178,096
Outreach & Awareness Campaign	50,000
Subtotal for Status of Women	\$304,412
Salaries	\$329,965
Fringe Benefits	115,623
Subtotal for District Attorney	\$445,588
Total	\$750,000

Description of Uses of Funds for the Department on the Status of Women (\$304,412)

According to Dr. Murase, the proposed ordinances would create and fund one new permanent FTE 1824 Principal Administrative Analyst position, which as discussed above, is a slightly higher-level analyst position than was previously eliminated from the Department's budget in FY 2009-10. Dr. Murase advises that this new higher-level position would be a Domestic Violence Policy Analyst specifically responsible for analytical work with the Family Violence Council², tracking of the City's progress on implementing the recommendations from the Justice and Courage Report and policy reforms³, and other tasks related to domestic violence policy analysis and coordination in San Francisco. As shown in Tables 4 and 5 above, this 1.0 FTE new position would be funded for 0.5 FTE, at a cost of \$55,354 in salary and \$20,962 in fringe benefits, or a total cost of \$76,316 in FY 2012-13.

In addition, as shown in Table 5 above and Table 6 below, the proposed request includes \$50,000 of one-time funding for a domestic violence outreach and awareness campaign to provide domestic violence hotline phone numbers, and the City's 311 resources and 911 emergency lines, including (a) \$29,108 to La Casa de las Madres, a nonprofit organization, to

² In accordance with San Francisco Administrative Code Article XIX, Section 5.190, the Family Violence Council is an advisory body to the Board of Supervisors to address the problems of family violence, including child abuse, domestic violence and elder/dependent adult abuse. The Family Violence Council includes the following representatives: (a) Presiding Superior Court Judge, (b) Mayor's Office, (c) Board of Supervisors, (d) District Attorney, (e) Police, (f) Sheriff, (g) Status of Women, (h) Adult Probation, (i) Emergency Management, (j) Human Services Agency, (k) Consortium for Elder Abuse Prevention, (l) San Francisco Child Abuse Council, (m) Department of Public Health, (n) Adult and Aging Services, (o) Children, Youth and their Families, (p) Consortium of Batterer's Intervention Programs, and (q) Child Support Services.

³ In 2002, the Commission on the Status of Women released a report entitled *Justice and Courage: A Blueprint for San Francisco's Response to Domestic Violence*. After the release of this report, the Commission on the Status of Women created the Justice and Courage Oversight Panel, to address the recommendations contained in the report and undertake new initiatives to address criminal justice's response to domestic violence in San Francisco.

provide discounted bus advertising services, (b) \$10,000 for the Department on the Status of Women to print “Peace at Home” postcards in three languages (English, Spanish and Chinese), which would be placed in City libraries, Health Centers, Recreation Centers, and public and private schools, and (c) \$10,892 to fund publicity, permits, staging and lighting for the One Billion Rising⁴ event to be held on February 14, 2013. The impact of the proposed one-time outreach and awareness program is not yet known.

Table 6: Domestic Violence Outreach & Awareness Campaign

La Casa de las Madres Advertising Services	\$29,108
Status of Women - Postcards	10,000
One Billion Women Rising Campaign	10,892
TOTAL	\$ 50,000

As shown in Table 7 below, the proposed supplemental appropriation (File 12-1166) also includes \$178,096 to provide funding for seven existing nonprofit organization’s programs to provide additional legal services, crisis telephone hotline services and training for City 911 and 311 telephone operators. Dr. Murase advises that these nonprofit organization’s programs were selected based on public comments expressed at three community meetings, working with the Mayor’s Office and the President of the Board of Supervisors (a) for additional domestic violence civil legal services, in cooperation with the District Attorney’s Office request for additional staff, (b) because the proposed outreach and awareness campaign (see Table 6 above) is likely to generate additional calls to domestic violence hotline telephone services, and (c) due to an identified need for domestic violence training for 311 and 911 City telephone operators.

Table 7: Requested Status of Women Funding in FY 2012-13

1-Bar Association of SF – CROC*	\$ 30,000
2-Bar Association of SF – VLSP**	30,000
3-Asian Pacific Islander Legal Outreach	30,000
4-Bay Area Legal Aid	30,000
5-Mujeres Unidas y Activas	30,000
6-La Casa de las Madres (hotline)	10,000
7-WOMAN, Inc. (hotline)	10,000
8-DOSW - training 911 and 311 staff	8,096
TOTAL	\$178,096

*Cooperative Restraining Order Clinic (CROC).

** Volunteer Legal Services Program (VLSP).

According to Dr. Murase, the requested \$178,096 would specifically provide (a) \$30,000 to each of four domestic violence legal programs, or a total of \$120,000, to address civil legal needs, including obtaining restraining orders, child custody and immigration issues, (b) \$30,000 to Mujeres Unidas y Activas to specifically provide community-based Spanish language domestic violence legal services, (c) \$10,000 to increase two telephone hotline services related to domestic

⁴The One Billion Rising event is a global social action campaign targeted for Valentine’s Day on February 14, 2013, and directed at one billion women and those who love them to rise up and demand an end to violence against women and girls.

violence, or a total of \$20,000, and (d) \$8,096 for the Department on Status of Women to hire a trainer to provide domestic violence education for 911 and 311 telephone operators in the City.

Description of Uses of Funds for the District Attorney (\$445,588)

According to Mr. Clendinen, the proposed amendment to the Annual Salary Ordinance, together with the proposed supplemental appropriation ordinance would create and fund 11 FTE new permanent positions for domestic violence prosecutions in the District Attorney's Office, as detailed above in Table 4, including their associated salaries and related fringe benefits for a General Fund cost of \$445,588 in FY 2012-13, as detailed in Table 5 above. As shown in Table 2 above, the domestic violence unit in the District Attorney's Office currently has 11 FTE positions, including 10 Attorneys. In addition, as discussed above, 11 Investigators in the District Attorney's Office provide follow-up investigative services for various criminal cases, including domestic violence cases, and 14 Victim/Witness Investigators in the District Attorney's Office provide advocate services to victims of various crimes, including domestic violence cases.

According to Ms. DeBerry, because Santa Clara County is the only Bay Area county that conducts vertical felony and misdemeanor prosecutions, the District Attorney's Office conducted a survey of the Santa Clara County District Attorney's Office, as shown in Attachment II, in order to determine the need for the requested 11 new positions. Ms. DeBerry advises that the requested 11 new dedicated domestic violence positions in the District Attorney's Office would be used to address the increased domestic violence caseloads, while improving the quality of domestic violence work provided by the District Attorney's Office.

FISCAL IMPACTS

Department on the Status of Women

Table 8 below identifies the Department on the Status of Women's FY 2012-13 General Fund costs of \$304,412 for the subject domestic violence supplemental appropriation as well as the anticipated annualized General Fund costs of \$508,824 that would be incurred in future years, based on current costs.

Table 8: Requested Supplemental Appropriation Funding and Annualized Projections

Department on Status of Women	FY2012-13	Annualized Projections
<i>1824 Principal Administrative Analyst</i>		
Salaries	\$ 55,354	\$ 110,708
Benefits	20,962	41,924
TOTAL	\$ 76,316	\$ 152,632
<i>City Grant Programs</i>		
Bar Association of SF - CROC	\$ 30,000	\$ 60,000
Bar Association of SF - VLSP	30,000	60,000
Asian Pacific Islander Legal Outreach	30,000	60,000
Bay Area Legal Aid	30,000	60,000
Mujeres Unidas y Activas	30,000	60,000
La Casa de las Madres (hotline)	10,000	20,000
WOMAN, Inc. (hotline)	10,000	20,000
DOSW - training 311 and 911 staff	8,096	16,192
TOTAL	\$ 178,096	\$ 356,192
<i>Outreach & Awareness Campaign (One-Time)</i>		
La Casa de las Madres	\$ 29,108	
DOSW postcard printing	10,000	
Billion Women Rising Campaign	10,892	
TOTAL	\$ 50,000	
Total for Status of Women	\$ 304,412	\$ 508,824

As noted above, the proposed 1.0 (0.5 FTE in FY 2012-13) new 1824 Principal Administrative Analyst position for the Department of the Status of Women would commence on January 1, 2013. However, the earliest that this new position could be employed would be March 1, 2013. Therefore, the proposed Annual Salary Ordinance (File 12-1165) should be amended to reflect .33 FTE instead of .50 FTE. Similarly, the proposed supplemental appropriation ordinance (File 12-1166) should be amended to reduce the one 1824 Principal Administrative Analyst (a) requested salary funding from \$55,354 to \$36,903, a savings of \$18,451, and (b) the requested related fringe benefit funding from \$20,962 to \$13,975, a savings of \$6,987, for a total General Fund savings of \$25,438.

District Attorney's Office

Table 9 below identifies (a) the District Attorney's FY 2012-13 costs of \$445,588 for the subject General Fund supplemental appropriation for 3.63 FTE positions, (b) the anticipated annualized General Fund costs of \$1,238,390 for 11 FTE positions that would be incurred in FY 2013-14, based on current costs, and (c) the annualized General Fund costs of \$1,651,001 for 11 FTE positions at the top step based on current costs.

Table 9: Annual Salary and Fringe Benefit Costs of the Proposed Domestic Violence Positions in FY 2012-13 and in Future Years

Classifications and Titles	FTEs in FY 2012-13	Salary Cost in FY 2012-13	FTEs in Future Fiscal Years	Annualized Costs for Requested Positions	Annualized Costs for Requested Positions at Top Step
8177 Attorney Civil/Criminal*	1.33	\$131,352	4.0	\$394,056	\$690,352
Fringe Benefits		43,357		130,078	227,885
8550 District Attorney Investigator**	.99	111,296	3.0	333,888	333,888
Fringe Benefits		32,794			
8129 Victim/Witness Investigator**	.99	67,496	3.0	202,488	202,488
Fringe Benefits		30,615		91,845	91,845
8132 DA Investigative Assistant***	.33	19,821	1.0	59,462	72,254
Fringe Benefits		8,857		26,573	32,289
Total Salary and Fringe Benefits	3.63	\$445,588	11.0	\$1,238,390	\$1,651,001
<p>*Budgeted at step one for FY 2012-13 or \$98,514 for one position, although this 8177 Attorney classification has 16 salary steps up to a current top step annual salary of \$172,588 for one position. ** Budgeted at top step for FY 2012-13. 8550 District Attorney Investigator salaries also include 6% Peace Officer Standards and Training (POST) premium. *** Budgeted at step 2 for FY 2012-13.</p>					

As shown in Table 2 above, the District Attorney currently has a total of 11.0 FTE positions assigned to their domestic violence unit. Based on the requested 11.0 FTE new permanent positions detailed in Table 9 above, if approved, the proposed ordinances would increase the number of staff in the District Attorney's Office to 22 FTEs, a 100% increase in staff.

In addition, Mr. Clendinen advises that each of the 3 FTE (.99 FTE in FY 2012-13) new 8550 District Attorney Investigator positions would require the purchase of a new automobile such that, if the proposed ordinances are approved, the District Attorney will be requesting three new automobiles be added to the District Attorney's FY 2013-14 budget, at an additional General Fund cost of approximately \$75,000 (\$25,000 per vehicle x 3 automobiles).

According to Ms. Risa Sandler, Citywide Budget Manager for the Controller's Office, the City's General Fund Reserve will be \$29,595,855⁵. Therefore if the requested \$750,000 General Fund Reserve supplemental appropriation is approved, the General Fund Reserve would be reduced to \$28,845,855.

POLICY CONSIDERATIONS

Public Defender's Office

Mr. Jeff Adachi, the Public Defender, advises that prior to August 2012, the Public Defender's Office assigned two attorneys to exclusively handle misdemeanor domestic violence cases. However, beginning in August 2012, the Public Defender changed this approach and assigned all misdemeanor domestic violence cases to the 12 Public Defender attorneys who handle all types of misdemeanor cases for the Public Defender's Office, which has contributed to the increase in the number of misdemeanor domestic violence trials. Felony domestic violence cases are assigned to the 36 Public Defenders who handle all types of felony cases for the Public Defender's Office. Therefore, the Public Defender does not currently have specific staff dedicated to domestic violence cases.

Mr. Adachi advises that if the District Attorney receives the requested additional attorney positions and support staff, the number of domestic violence prosecutions and resulting trials will likely increase. Based on data provided by Mr. Adachi for 2012, the Public Defender's Office handles approximately 61% of the domestic violence prosecutions, with the remainder assigned to conflict attorneys or handled by private attorneys. Therefore, an increase in District Attorney staffing to prosecute domestic violence cases could result in a request for increased Public Defender staffing to defend these cases. In addition, Mr. Adachi notes that if more domestic violence prosecutions occur, it could result in additional staffing pressures on other City departments, such as the Adult Probation Department, which would need to supervise additional domestic violence probationers.

Domestic Violence Cases Referred by the Police Department

As previously discussed and shown in Table 3 above, the District Attorney's data indicate that the average number of cases per month, average caseload per attorney and total jury trials increased significantly in 2012, as compared to the prior five years.

However, based on six years of data between 2007 and 2012 obtained by the Budget and Legislative Analyst's Office from the Police Department, the number of domestic violence misdemeanor and felony cases referred by the Police Department to the District Attorney's Office in San Francisco has actually declined by 870 cases (2,187 cases in 2007 less 1,317 cases in 2012) or 40%. As detailed in Table 10 below, based on this Police Department data, from 2011 to 2012, the number of misdemeanor and felony cases referred to the District Attorney's Office specifically declined by 32.1%.

⁵ Current General Fund Reserve balance is \$32,162,000 less pending Treasurer's Office supplemental appropriation of \$2,566,145 currently pending, for net projected balance of \$29,595,855.

Table 10: Police Department Data on Domestic Violence Cases from 2007-2012

Year	Total Annual Police Cases	Police Follow-up with Victims	Misdemeanor Cases Directly Referred to District Attorney	Felony Cases Investigated by SFPD Before Referral to District Attorney	Total Misdemeanor and Felony Cases Referred to District Attorney	Annual Percent Change Misdemeanor and Felony Cases Referred to District Attorney
2012	2,705	1,370	361	956	1,317	(32.1)
2011	3,515	1,522	468	1,470	1,938	(5.5)
2010	4,115	1,973	512	1,538	2,050	2.3
2009	3,973	1,868	492	1,512	2,004	(4.3)
2008	4,450	2,114	516	1,577	2,093	(4.3)
2007	4,615	2,258	571	1,616	2,187	na

Source: Police Department Domestic Violence Monthly Statistics.

District Attorney's Response

In response, the District Attorney's Office provided Attachment III, which is summarized in Table 11 below, such that the District Attorney reports that from 2010 to 2012, there was (a) a total reduction of 13.7% domestic violence cases referred by the Police Department to the District Attorney's Office and (b) a total reduction of 18.5% in domestic violence cases charged by the District Attorney's Office.

Table 11: District Attorney Data on Domestic Violence Cases from 2010-2012

Year	Total Police Cases Referred to the District Attorney	Annual Percent Change in the Cases Referred to the District Attorney	Total Cases Charged by the District Attorney	Annual Percent Change in Cases Charged by the District Attorney
2012	1,693	(11.2)	705	(17.4)
2011	1,906	(2.9)	854	(1.3)
2010	1,962	na	865	na

As shown in Tables 10 and 11 above, both the Police Department and District Attorney data reflect reductions in domestic violence caseload referrals and cases charged in 2012. In addition, not only have domestic violence cases declined, but based on data provided by the District Attorney's Office during the FY 2012-13 budget review, the Budget and Legislative Analyst found that the total number of District Attorney criminal cases has declined by over 20% from 2008 through 2011.

However, the District Attorney's Office states in Attachment III, that the most compelling data is not the number of cases referred by the Police Department or the total number of cases charged, but rather is the number of cases resolved through settlements, which has declined significantly, while there has been a corresponding significant increase in the number of trials, particularly

misdemeanor trials, such that each District Attorney must now carry more cases and provide increased amounts of work per case, as summarized in Table 3 above.

Budget and Legislative Analyst Recommendations

To address these additional caseload concerns, as shown in Table 12 below, the Budget and Legislative Analyst recommends:

- Two Limited Tenure 8177 Attorney positions. The addition of these two positions would reduce the (a) average caseload per attorney per month from 30 to 24, a 20% reduction, and (b) average number of trials (both felony and misdemeanor) per attorney per year from approximately five trials to four trials per year, a 20% reduction.
- Two Limited Tenure 8550 District Attorney Investigator positions. These positions would be the first District Attorney Investigator positions dedicated to the District Attorney's Office Domestic Violence Unit and would provide support to the attorneys in processing domestic violence cases, offsetting attorney workload.
- One Limited Tenure 8132 Investigative Assistant, increasing the number of Investigative Assistants dedicated to the Domestic Violence Unit to two. This position would provide paraprofessional investigative and legal support to the attorneys.

Limiting the tenure for the proposed two Attorneys, two District Attorney Investigators and one Investigative Assistant positions to two years, consistent with the City's two-year budget process, would allow the District Attorney to track Police Department domestic violence referrals and evaluate domestic violence caseloads to determine longer-term staffing needs.

The Budget and Legislative Analyst does not recommend additional 8129 Victim/Witness Investigator positions, given that the District Attorney's Office received an additional \$294,000 of General Fund revenues in the FY 2012-13 budget to fund three previously grant-funded 8129 Victim/Witness Investigator I positions. Therefore, the District Attorney could designate these additional General Fund Victim/Witness Investigator positions to the Domestic Violence unit, if necessary.

Table 12 below summarizes the Budget and Legislative Analyst staffing and position recommendations for the Department on the Status of Women and District Attorney's Office. As shown in Table 12 below, these recommendations would result in a General Fund savings of \$258,933 in FY 2012-13 and an estimated FY 2013-14 annualized savings of approximately \$449,466 (\$1,238,390 less \$788,924).

Table 12: Budget Analyst Recommendations for Status of Women and District Attorney

Classifications and Titles	FTEs in FY 2012-13	Salary and Fringe Benefit Costs in FY 2012-13	FTEs in Future Fiscal Years	Estimated FY 2013-14 Salary and Fringe Benefits Costs	General Fund Savings in Proposed Appropriation Ordinance
<u>Status of Women</u>					
1824 Principal Administrative Analyst	.33	\$36,903	1.0	\$110,708	\$18,451
Fringe Benefits		13,975		41,924	6,987
Status of Women Subtotal	.33	\$50,878	1.0	\$152,632	\$25,438
<u>District Attorney</u>					
8177 Attorney Civil/Criminal LT	.66	\$65,676	2.0	\$197,028	\$65,676
Fringe Benefits		21,679		65,039	21,678
8550 District Attorney Investigator LT	.66	74,197	2.0	222,592	37,099
Fringe Benefits		21,863		65,598	10,931
8129 Victim/Witness Investigator LT	0	0	0	0	67,496
Fringe Benefits		0		0	30,615
8132 DA Investigative Assistant LT	.33	19,821	1.0	59,462	0
Fringe Benefits		8,857		26,573	0
District Attorney Subtotal	1.65	\$212,093	5.0	\$636,292	\$233,495
Total	1.98	\$262,971	6.0	\$788,924	\$258,933

Overall, the Budget and Legislative Analyst is recommending approval of six of the requested 12 new positions, with FY 2012-13 salary and fringe benefit costs of \$262,971. Approval of the balance of six requested District Attorney positions, with FY 2012-13 salary and fringe benefit costs of \$233,495 and a total of \$228,096 to fund the Department on the Status of Women's professional services contracts (\$178,000) and one-time outreach and awareness funding (\$50,000) are policy decisions for the Board of Supervisors.

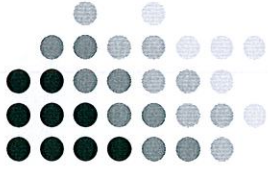
RECOMMENDATIONS

1. Amend the proposed Annual Salary Ordinance (File 12-1165) for FY 2012-13 to reflect (a) the one new permanent Department on the Status of Women 1824 Principal Administrative Analyst position at .33 FTE instead of .50 FTE, (b) identify all of the District Attorney positions as Limited Tenure (LT), and (c) the 5.0 FTE District Attorney positions as outlined in Table 12 above.
2. Amend the proposed supplemental appropriation ordinance (File 12-1166) as summarized in Table 12 above, for a FY 2012-13 General Fund savings of \$258,933.
3. Approval of the (a) balance of six requested District Attorney positions, with FY 2012-13 salary and fringe benefit costs of \$233,495, (b) \$50,000 one-time Status of Women outreach and awareness funding, and (c) \$178,000 (annualized at \$356,192) for the Status of Women professional services contracts in the proposed supplemental appropriation ordinance (File 12-1166), as amended, are policy decisions for the Board of Supervisors.

San Francisco Department on the Status of Women
VAW Partner Agency funding for Fiscal Year 2012-2013

Agency by Service Category	Programs	Marriage License Fees	General Fund	BOS New Initiative, \$250K = 9.9%	FY12-13 w/ BOS 9.9%	Mayor CODB, 1% + BOS 0.92% increase = 1.92%**	TOTAL FY12-13 Allocation	Total increase for FY12-13
Domestic Violence Shelter Programs								
Asian Women's Shelter	Domestic Violence Shelter Program	64,667	94,381	9,344	168,391	1,812	170,204	11,156
La Casa de las Madres	Domestic Violence Shelter Services	64,667	271,304	26,859	362,829	5,209	968,038	32,068
St. Vincent de Paul (Riley Ctr)	Rosalie House	64,667	125,156	12,390	202,213	2,403	204,616	14,793
	Subtotal for DV Shelters	194,000	490,840	48,593	733,433	9,424	742,858	58,017
Crisis Line Services								
S.F. Women Against Rape	Sexual Assault Crisis Line		92,729	9,180	101,909	1,780	103,690	10,961
W.O.M.A.N., Inc.	Domestic Violence Crisis Line		224,477	22,223	246,700	4,310	251,010	26,533
	Subtotal for Crisis Line Services	-	317,206	31,403	348,609	6,090	354,700	37,494
Legal Services								
Asian Pacific Islander Legal Outreach	Asian/Pacific Domestic Violence Project		130,229	12,893	143,122	2,500	145,622	15,393
Bay Area Legal Aid	Domestic Violence Legal Services		71,791	7,107	78,898	1,378	80,277	8,486
S.F. Bar Volunteer Legal Services	Cooperative Restraining Order Clinic (CROC)		74,837	7,409	82,246	1,437	83,683	8,646
S.F. Bar Volunteer Legal Services	Domestic Violence Project (VSLP)		77,358	7,658	85,016	1,485	86,502	9,144
	Subtotal for Legal Services	-	354,215	35,067	389,282	6,801	396,083	41,668
Transitional Housing								
Gum Moon Women's Residence	Transitional Housing for Immigrant Domestic Violence Women		57,433	5,686	63,119	1,103	64,222	6,789
Jewish Family and Children's Services	Dream House		46,950	4,648	51,598	901	52,499	5,549
Mary Elizabeth Inn	INNroads		85,978	8,512	94,490	1,651	96,141	10,163
St. Vincent de Paul (Riley Ctr)	Brennan House		95,064	9,411	104,475	1,825	106,301	11,237
	Subtotal for Transitional Housing	-	285,425	28,257	313,682	5,480	319,162	33,737
Intervention & Advocacy Programs								
APA Family Support Services	Home Visitation		71,363	7,065	78,428	1,370	79,798	8,435
Donaldina Cameron House	Asian Domestic Violence Advocacy		121,907	12,069	133,975	2,341	136,316	14,409
Mujeres Unidas v Activas	Sanando el Alma		42,255	4,183	46,438	811	47,250	4,995
S.F. Women Against Rape	Sexual Assault Advocacy		125,722	12,446	138,168	2,414	140,582	14,860
W.O.M.A.N., Inc.	Therapy and Latina Case Management Program		46,950	4,648	51,598	901	52,499	5,549
	Subtotal for Intervention & Advocacy Programs	-	408,197	40,411	448,608	7,837	456,445	48,249
Prevention, Education & Training								
Arab Cultural & Community Center	Arab Women's Program		65,879	6,522	72,401	1,265	73,666	7,787
Asian Pacific Islander Legal Outreach	Asian Anti-Trafficking Collaborative		25,000	2,475	27,475	480	27,955	2,955
Community United Against Violence	LBT Prevention and Education Services		50,000	4,950	54,950	960	55,910	5,910
Community Youth Center - S.F.	Young Asian Women Against Violence		110,031	10,893	120,924	2,113	123,036	13,006
Filipino Community Center	Babae Domestic Violence Program		42,255	4,183	46,438	811	47,250	4,995
Glide Foundation	Glide Women's Center		42,255	4,183	46,438	811	47,250	4,995
Horizons Unlimited of San Francisco, Inc.	Females Against Violence Peer Leadership and Education Program		28,170	2,789	30,958	541	31,499	3,330
Institute on Aging	Preventing Domestic Violence Late in Life		25,000	2,475	27,475	480	27,955	2,955
Lavender Youth Recreation & Information Center	Queer Young Women's Health & Safety Project		51,753	5,124	56,877	994	57,870	6,117
Mission Neighborhood Centers, Inc.	Real Arising Issues Creating Empowered Students (RAICES)		114,866	11,372	126,237	2,205	128,443	13,577
S.F. Women Against Rape	SA Education		29,625	2,933	32,558	569	33,127	3,502
S.F. Women Against Rape	Students Talking About Non-Violent Dating (S.T.A.N.D.)		69,542	6,885	76,426	1,335	77,761	8,220
Women in Dialogue	In Defense of Prostitute Women's Safety		25,000	2,475	27,475	480	27,955	2,955
	Subtotal for Prevention, Education, & Training	-	679,375	67,258	746,633	13,044	759,677	80,302
	TOTALS	194,000	2,535,257	250,990	2,980,247	48,677	3,028,924	299,667

** The 0.92% from the BOS is for August 1, 2012 - June 30, 2013. FY13-14 will be a combined total of 2%.



Domestic Violence Units: San Francisco & Santa Clara Counties

	San Francisco	Santa Clara	Comparison
Dedicated DV Trial Attorneys	Felony: 3 <u>Misdemeanor: 3</u> Total: 6	Felony: 7 <u>Misdemeanor: 4</u> Total: 11	Santa Clara has 83% more attorneys
Dedicated Support Staff	Manager: 1 Charging: 0 Calendar: 1 Paralegal: 1 Advocate: 0 Support Staff: 0 <u>DAI: 0</u> Total: 3	Manager: 1 Charging: 1 Calendar: 0 Paralegal: 2 Advocate: 1 Support Staff: 5 <u>DAI: 4</u> Total: 14	Santa Clara has 367% more support staff
DV Trials (2012, Jan-October)	Felony: 12 <u>Misdemeanor: 28</u> Total: 40	Felony: 14 <u>Misdemeanor: 25</u> Total: 39	Santa Clara has 2.5% fewer trials

Challenges facing San Francisco District Attorney’s Domestic Violence Unit

Domestic violence is a notoriously difficult crime to prosecute. By definition the victim is in a relationship with the offender and it creates a whole range of complications for prosecutors. Over the last ten years, San Francisco has prided itself on taking a hard line to end violence in the home. After the death of Claire Joyce Temponkgo at the hands of her boyfriend, the City renewed its commitment to combatting the violence and protecting the lives of domestic violence victims. We have seen great success in these efforts through better collaborations and better communication.

This is not to say we cannot do more. We still have an unacceptably high rate of violence between intimate partners. According to the Family Violence Report for 2011, domestic violence crisis lines fielded 47% more calls and domestic violence shelters provided 29% more bed nights to survivors. There was also a 10% increase in the number of cases prosecuted by the District Attorney’s Office, a 17% increase in Adult Probation matters and a 16% increase in victims of domestic violence victims served since 2010. There is more work in domestic violence than ever and we are understaffed to respond appropriately to it.

Cases referred has remained constant

The San Francisco District Attorney’s (SFDA) Domestic Violence Unit reviews all domestic violence reports brought to the office to determine whether charges should be filed. According to our data, the number of cases referred has remained relatively constant over the last three years. In 2010, SFPD brought 1,962 cases to the District Attorney for consideration. In 2011, they brought 1,906 and in 2012 they brought 1,693 cases for District Attorney review.

The SFPD data included in the Budget Analyst’s report suggests a 32% drop in the number of cases referred in 2012. Our numbers do not show a similar drop. While it is best to explore this discrepancy with the SFPD, there are two plausible explanations. First, in 2012, the SFPD reorganized. Rather than having a stand-alone Domestic Violence Unit, they collapsed this into what is now called a Special Victims Unit which handles domestic violence as well as many other crimes. This shift in priorities may have led to a temporary drop in the number of cases investigated and referred. Second, in 2012, the SFPD started using a new data collection system, the Crime Warehouse. As with any switch in data collection systems, there are often changes in the data that are attributable to data collection and analysis rather than workload.

What SFDA data and workload show is that the number of cases being reviewed and charged has stayed relatively constant. We saw an 11% decline in the referrals from 2011 to 2012. This decline seems reasonable given the possible explanations of the changes within SFPD mentioned above.

Table 1. Cases presented by SFPD for charging consideration

Calendar Year	2010	2011	2012
Number of cases	1962	1906	1693

Either way, it is a one year anomaly and does not appear to be a multi-year trend from which one could determine a decline in work for the police department. Moreover, with a referral and charging rate that have stayed relatively constant and a settlement rate that has plummeted, our work is accumulating and creating extremely high caseloads.

Cases charged has remained constant

Consistent with the drop in referrals, there was slight decline in our charging. In 2010 and 2011 we charged 865 and 854 cases respectively. In 2012 we charged 705 cases. This is a 17% drop in cases charged since 2011 but only represents a 3% decrease in our charging rate. We do not believe it is a trend, as we are seeing increases to our workload on other metrics. For example, the number of victims seeking our assistance and the actual caseloads of our attorneys are both going up. The workload in the DA’s office is really determined by the number of cases that are filed combined with the number of pending cases, not the number of cases we review.

Table 2. Cases charged by the District Attorney’s Office			
Calendar Year	2010	2011	2012
# of cases charged	865	854	705

Case settlement has dropped

In our opinion, the most compelling number and the most relevant for the evaluation of our supplemental request is our caseload information. While the number of cases referred and charged has remained relatively constant with a slight decline in 2012, the number of cases resolved through settlements has dramatically declined. This has caused our caseloads to shoot up to numbers our attorneys simply cannot handle.

From 2010 to 2012, 83 felony pleas dropped to only 48 felony pleas. This is a 42% reduction in felony cases resolving through pleas since 2010. Similarly, from 2010 to 2012 misdemeanor pleas dropped 9% from 133 to 121. In addition, probation pleas dropped by 25%, from 230 to 173. If cases do not resolve they remain open cases and quickly start to compound as new cases come in. A manageable case filing rate is eviscerated when the cases do not settle and cases build up from month to month and year to year.

Unlike other units of the Department, the cases in the Domestic Violence Unit are not settling as they have in the past. In 2010, we had 1,583 total open cases. In 2012, this number shot up to 2,950, an 86% increase. As discussed above, this is not being driven by higher filing rates. The cases simply are not settling, leading to an explosion in our caseloads. We have not made any changes to how we charge or settle cases. It appears the change is being driven by changes within the Public Defender’s Office.

Table 3. Pleas taken by year (includes all Felony, Misdemeanor and Probation cases)			
Calendar Year	2010	2011	2012
Misdemeanor cases	133	162	121
Felony cases	83	97	48
Probation cases	230	247	173
Total cases settled	446	506	342

Caseloads have spiked

Manageable caseloads are dependent on prompt settlement of cases. Without being able to close out cases through pleas, the file cabinets overflow and the attorneys quickly get buried in work. In 2010, the SFDA’s Domestic Violence Unit handled an average of 143 cases per month. This worked out to a per attorney caseload of 18. In 2012, the Unit averaged 270 cases per month. This is a caseload of 30 per attorney which is a 66% increase in caseload per attorney.

With caseloads that have nearly doubled, our attorneys simply cannot keep up with the work. As a result, cases are not receiving the amount of attention they need and victims are not receiving the assistance they deserve. In 2010 when the average caseload was 18, our attorneys were working at full capacity. With double the work, there is no doubt the quality of the Unit's work is suffering.

In addition to the pressure on the attorneys the support staff is drowning. The unit currently has only one paralegal supporting the ten attorneys in the unit. The paralegal is simply unable to keep up with the needs of all the attorneys and their cases. See Appendix A which contains a list of some of the most typical activities performed by the paralegal and attorney on a case once it has been filed.

Trials have spiked

Concomitant with a reduction in settlements, there has been a dramatic increase in the number of trials. Between 2009 and 2012, the percent of DV trials, both felony and misdemeanor, increased by 345%. Of all the work we do, the most time consuming is trial work. Once an attorney is sent out to trial it is incredibly difficult to keep up with other work. The average length of time for a misdemeanor domestic violence trial is between 7 - 8 days. The average length of time for a felony domestic violence trial is 10 - 15 days.

Table 4. Increase in Trial work

Year	2009	2010	2011	2012	4 year % Change
Felony	3	9	10	13	333%
Misd	8	21	19	36	350%
Total	11	30	29	49	345%

Since last year we have felt the biggest impact in our misdemeanor trials. The Public Defender's Office shifted away from a stand-alone misdemeanor domestic violence unit to spreading the cases among all their misdemeanor attorneys. This raised their available attorneys from 2 to 12. Because of the nature of domestic violence prosecutions, we believe it is inappropriate to eliminate our vertical unit. As a result, we have 3 misdemeanor attorneys versus 12 Public Defenders plus all of the conflict attorneys and private attorneys. It has resulted in our attorneys being in back to back trials the entire year. For example, it is not uncommon for a prosecutor to finish closing arguments in a case, and while the jury is deliberating they will bring in a new panel of jurors to be sworn in for the next trial. The prosecutor has no time to prepare for the trial and has very limited contact with the victim and witnesses because of the time pressures. This crunch is not experienced by the defense because it is very likely a different defense attorney is on the second case. Not having the same time crunch, defense attorneys are preparing for their trials during the time the prosecutor was completing the first trial. The 89% increase in our misdemeanor trial workload in the last year has caused great stress on the unit's staff and is not a sustainable situation.

Quality of our work is compromised

Unfortunately, in the vast majority of domestic violence cases we have no additional witnesses or evidence beyond the victim. When a victim decides s/he does not want his/her loved one to suffer any consequences for the violence, we are often left without a prosecutable case. If the victim is unwilling to testify, often we are unable to put forward a case. For this reason, it is critically important that we have early and sustained contact with the victims in our cases. They need to understand that we will assist them through the process and get the support they need to make the difficult to decision to follow through with a prosecution. This engagement is critical to our success or failure in these cases.

Advocates typically perform the following duties on a daily basis for a multitude of victims:

- Prep witnesses/victims for prelims, trial or sentencing hearings
- Escort witness/victims to Court on day of hearing
- Contacting victims to follow-up on case status
- Prepping a newly assigned case
- Covering on duty schedule (11-13 days in a month)
- Documenting every interaction & services in DAMION whether advocates met client in person or by phone
- Make calls to community agencies and social service agencies on behalf of client
- Meet with Assistant District Attorneys regarding case status
- File victim compensation claims
- Appeal denied claims
- Preparing CR-110 for restitution

There are 12 Victim/Witness Advocates providing support services to victims of crime. Each Advocate assists approximately 444 victims a year. Domestic Violence victims make up 23% of all victims served by our office.

Table 5. Increase in Advocates Caseload:			
	2010	2011	2012
Cases Handled per Year per Advocate:	392	436	444
Avg. Caseload per Month:	33	36	37
Percentage Increase in Caseload:	12%		

The Department’s Victim Services Unit has been understaffed for several years. This has only gotten worse as the State made further and further reductions in the funding available for this critical work. In the 2012-13 City & County of San Francisco annual budget process, we sought to increase our staffing in Victim Services. We submitted a budget proposal to increase victim services staffing by 3 new victim advocates. At the same time as we made this request to increase our staffing, reductions at the State and Federal level forced us to change our request to maintain the staffing we had. The City and County provided funding for the advocates that would have otherwise been lost, leaving the Department with the same staffing to deal with the increases in the workload.

Table 6. Unduplicated Victims Served			
Types of Crimes	Victim Served 2010	Victim Served 2011	Victim Served 2012
Assault	1,188	1,219	1,199
Domestic Violence	1,042	1,210	1,236
Child Abuse	357	358	300
Vehicular	147	206	193
Elder Abuse	238	224	209
Property	297	179	239
Sexual Assault	160	178	147
Robbery	793	934	1,184
Survivors of Homicide	442	486	499
Threats	100	92	104
All Other	105	111	100
Totals	4,869	5,197	5,410

Over the last two years, we have seen an increase in the number of victims receiving assistance from our office. The overall work of the unit has increased by 11% in the last two years. Within that same period, we have seen a 19% increase in the number of domestic violence victims seeking our assistance.

This increased workload has forced us to evaluate whether or not we should have dedicated Victim Advocates for domestic violence cases. After review, we believe more meaningful support to victims is possible if we have staff dedicated to the Domestic Violence Unit. Santa Clara County is organized this way and experiences great benefit from it. Just as we want attorneys to have a particular specialization and focus while in the DV unit, our victim advocates would benefit from a similar narrowing of their caseload.

Domestic violence victims need more support and assistance than many of our victims. They are in a precarious situation and need heavy support to follow through with a prosecution and accessing services. The advocates assigned to this unit would be able to work closely with the attorney and investigator to assure the victim is kept apprised of the case and is comfortable with our approach while making sure that their well-being is provided for. Specialization increases the chances that victims will stay on board with a prosecution and it will allow us to offer them support from a specialized and consistent advocate.

When we looked to simply dedicate existing advocates to this work, it left the unit too understaffed to complete the work on all of the other cases we have. The Domestic Violence work would require 3 advocates, leaving the unit with just 9 advocates to handle the rest of the offices cases, increasing their existing overwhelming caseloads in the process.

Similar to the Victim Advocates, our Investigators provide important support to our trial attorneys. The misdemeanor domestic violence cases receive no additional investigation by the SFPD. All of that work is done by our office. In addition, any extensive follow up investigation on felonies is generally handled by our investigators. On domestic violence cases there is a great need to secure additional witnesses and evidence because we are often dealing with a victim that is reluctant to testify. In these situations, we are seeking out witnesses, reviewing 911 calls, interviewing friends and family, looking for other reports of abuse and a whole range of other efforts to bolster the case.

Within our criminal division we have 10 investigators. They are charged with handling all investigations for the entire criminal division. This work resulted in 2,987 service requests in 2012. Many of these service requests include up to three or four separate tasks to be completed. These requests cover everything from subpoena service on witnesses to interviewing witnesses and ordering documents needed for court proceedings. This works out to at a minimum, 25 requests per month per investigator. It would be too detrimental to our homicide, sexual assault and other units to dedicate 3 investigators to solely cover domestic violence cases.

Comparable County has dramatically more staff

In trying to understand our workload and improve our operation on multiple fronts, we reached out to the surrounding counties to understand how they handle domestic violence cases. We learned there are a wide range of differences. It was difficult to compare ourselves to most of the counties because many do not have a vertical misdemeanor and felony unit. Many counties only handle felony domestic violence in a separate vertical unit. In our survey, we determined we were most akin to Santa Clara County.

Santa Clara handled roughly the same number of cases as our office. They file more cases initially, but end up dismissing the majority of them. This results in a similar volume of work for their domestic violence unit as our unit. However, with the same volume of work, they are staffed at a significantly higher ratio. This results in much lower caseloads for their attorneys and therefore the opportunity for higher quality work on the cases.

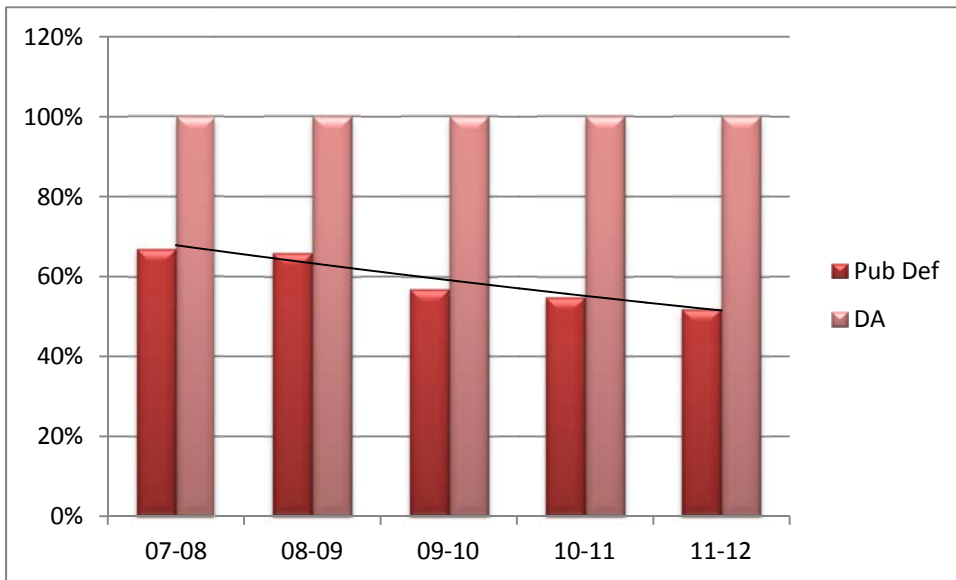
In addition to having 5 more attorneys than San Francisco, they have designated support staff assigned to the unit.

Table 7. Bay Area County Comparison		
County	San Francisco	Santa Clara
Dedicated DV Trial Attorneys	Felony: 3 <u>Misdemeanor: 3</u> Total: 6	Felony: 7 <u>Misdemeanor: 3</u> Total: 10
Caseload per DV Attorney	M/F Cases: 30 <u>MTRs: 20</u> Total: 50	M/F Cases: 30 <u>MTRs: 0</u> Total: 20
DV Trials	Felony: 13 <u>Misdemeanor: 36</u> Total: 49	Felony: 13 <u>Misdemeanor: 26</u> Total: 39
Dedicated Support Staff	Paralegal: 1 Advocate: 0 <u>DAI: 0</u> Total: 1	Paralegal: 1 Advocate: 1 <u>DAI: 4</u> Total: 6

Public Defender overstaffed in all areas

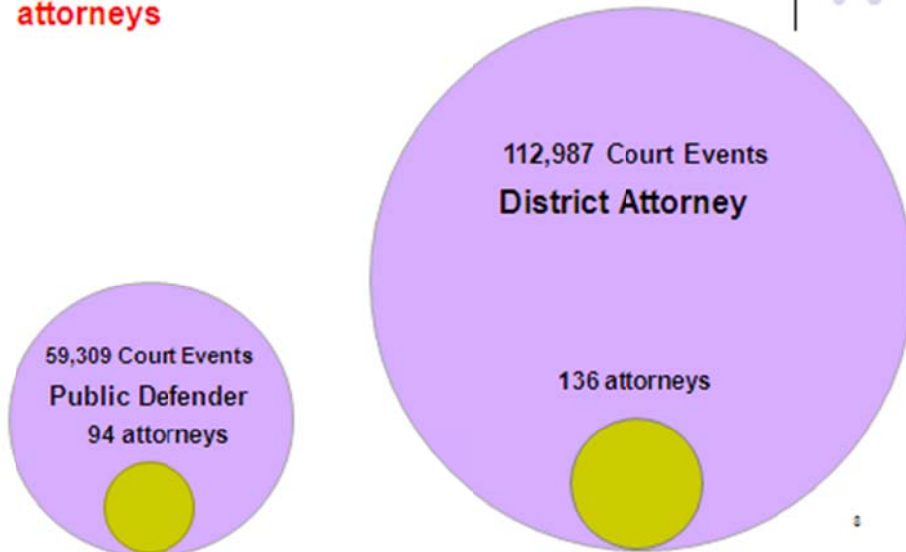
It is predictable that the Public Defender will request similar funding should our budget supplemental be granted. However, a comparison of our two offices shows that the Public Defender has a disproportionately large staff for the percentage of work handled. Any criminal case in San Francisco is by definition handled by the District Attorney’s Office. No other agency has the authority to file a criminal case in our state courts. However, this is not so for the Public Defender’s Office. They are appointed to represent people that are unable to pay for private representation. The remainder of the cases are handled by private attorneys and attorneys from the conflict panel. An evaluation of the court appearances made by both the District Attorney’s Office and the Office of the Public Defender confirms that their caseload is approximately half of what is handled by the District Attorney.

Chart 1. FY 07-12 Total Court Events with Proportional Workload by Department



If the District Attorney and Public Defender were staffed equally according to the percentage of the work we handle, the District Attorney’s Office would be funded for an additional 43 attorneys. Alternately, the Public Defender’s Office would be reduced by 43 attorneys if staffing were determined based on workload. In addition to the attorney inequity, the District Attorney’s Office is understaffed on support staff positions as well. If both offices were staffed based on workload there would be at least 13 additional support staff. Arguably, this number should be even higher since we handle a broad range of functions that are not part of the Public Defender’s responsibilities or workload.

The work load disparity is greater when comparing attorneys: The DA’s Office handles 91% more court events, with just 45% more attorneys

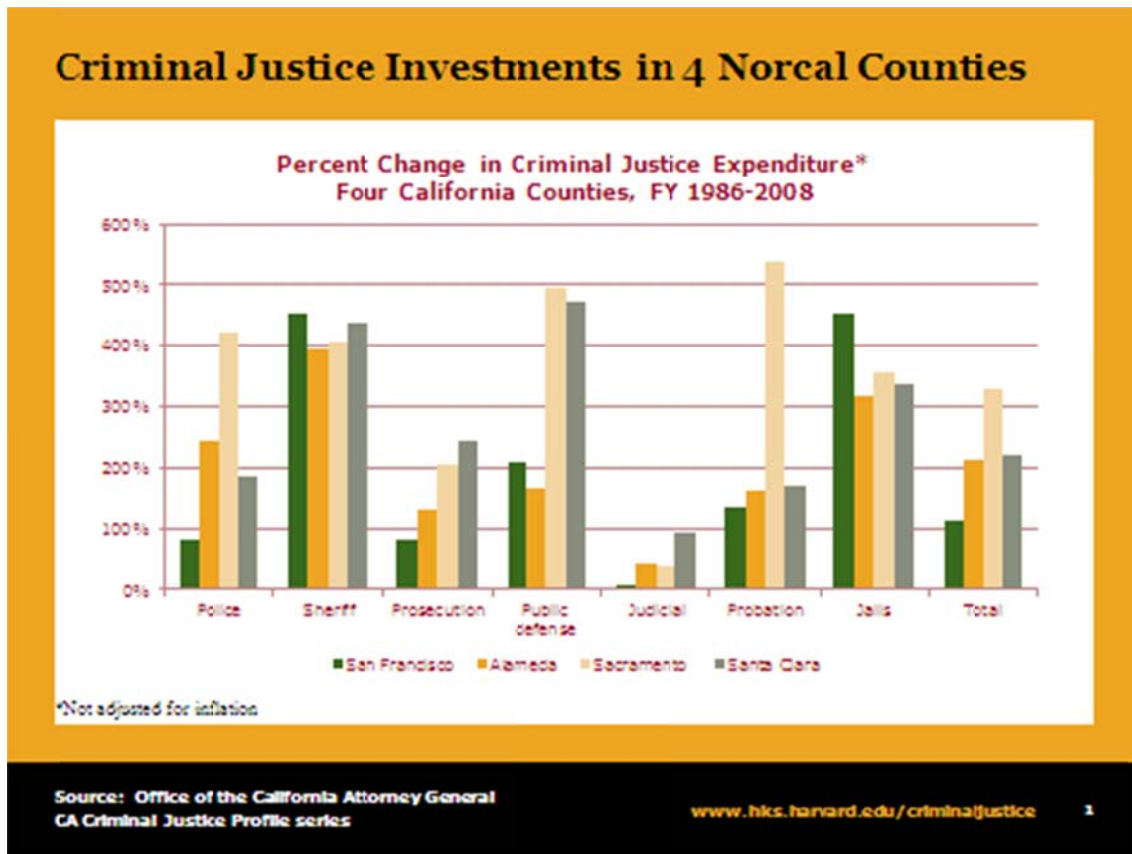


Based on the Court Management System data presented in the chart above, each Assistant District Attorney is appearing in court 200 more times a year than each Public Defender. This disproportionate workload compromises the quality of our work and exhausts our staff unfairly.

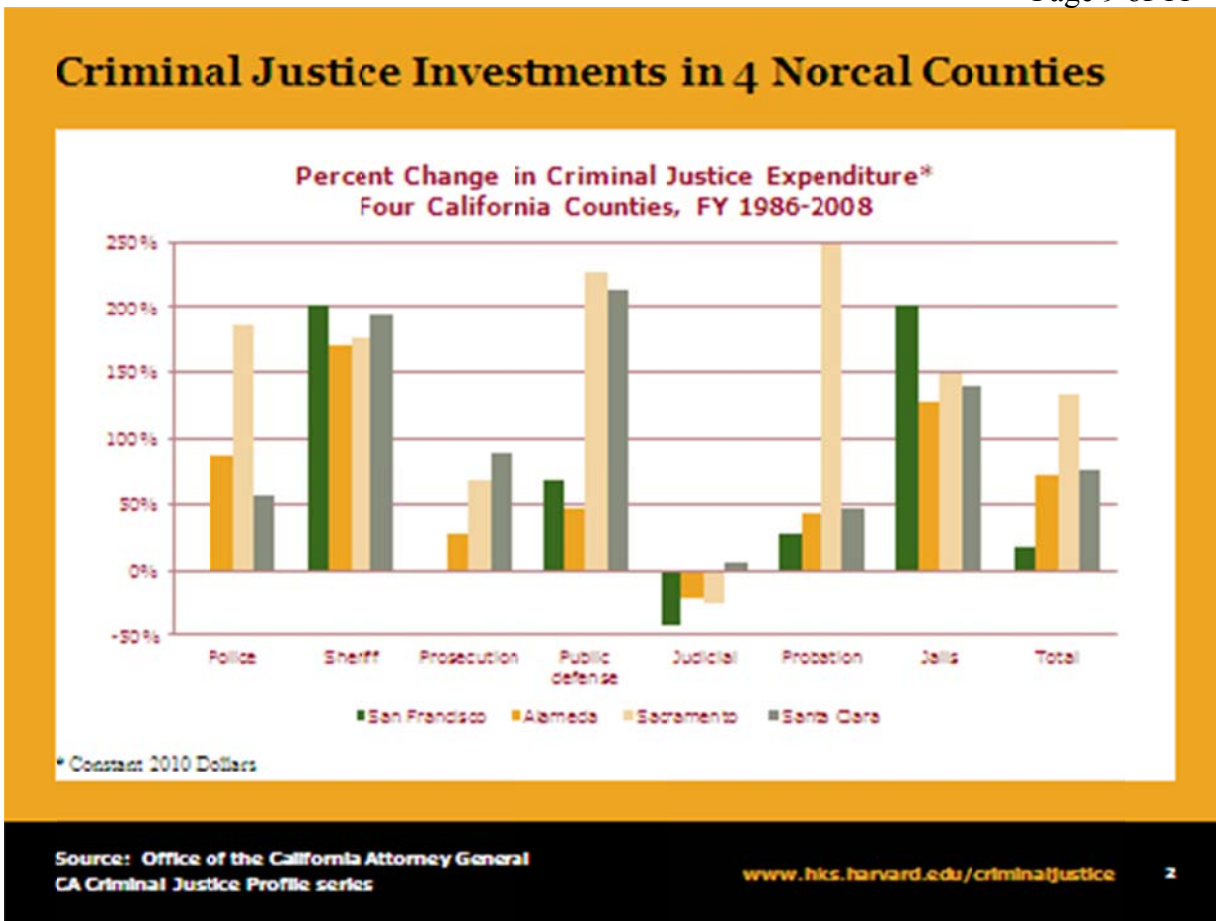
In addition to only handling only about half of all cases in the system, the District Attorney is charged with many other responsibilities that are not shared by the Public Defender. The District Attorney’s Office is responsible for administering the Victim and Witness Assistance program which provides critical supports to victims of crime, including escorting them to court, connecting them with services, and helping them secure reimbursement from the state for their loses. The District Attorney is also responsible for the relocation of witnesses. This is an intensive program that requires relocating witnesses and their families and providing security when necessary. The District Attorney also conducts criminal investigations. While SFPD conducts many of the investigations, we have an entire universe of cases that are independently investigated by our own investigators. In addition to these independent investigations, our office also conducts a vast majority of follow up investigations, particularly on any misdemeanor case. The SFPD is not staffed to complete additional investigation and therefore, the responsibility falls to our office to gather the additional evidence needed to prove our cases. All of this work is being handled with a proportionately smaller staff than the Public Defender’s Office staff when accounting for total workload.

District Attorney’s Office has been historically underfunded

When compared with surround counties and when compared against City funding, the San Francisco District Attorney’s Office has been underfunded for the core functions it is mandated to perform. The San Francisco District Attorney’s Office has the slowest growth of the Bay Area counties.

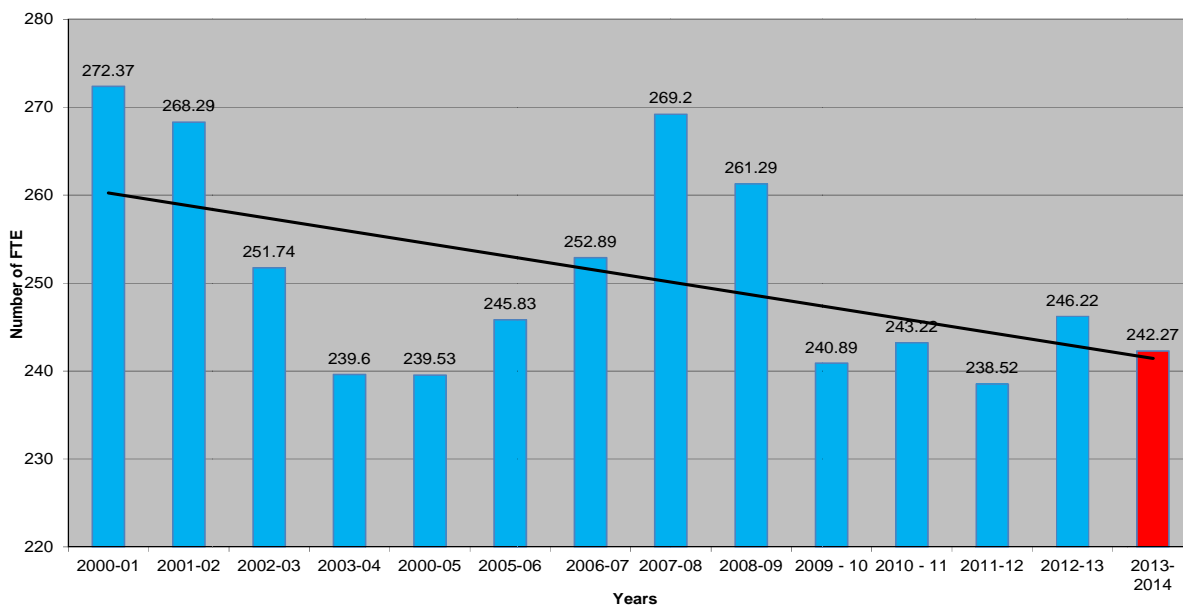


The DA’s Office is also the least funded of the city’s criminal justice agencies. When compared to the Sheriff, the Public Defender and the Police, the District Attorney’s Office has been consistently underfunded.



Over 90% of the budget for the DA's Office is staff. The underfunding of the department has led to significant decline in our staff over the past fourteen years. We are operating with 30 fewer staff than we were in 2000. This 11% reduction in our staff comes at a time when our Domestic Violence unit is experiencing a 345% increase in its caseloads.

District Attorney Budgeted FTE 2001 - 2014 Proposed



Appendix A

Work performed by Domestic Violence Unit once a case has been charged

- Case is assigned
- Advocate referral made
- Initial discovery is put together for defense with a discovery receipt
- Case file is reviewed
- Criminal protective Order is completed for filing
- ADA goes to court for arraignment
- Criminal Protective Order is filed and served
- MTR Motions are filed and served, if applicable
- Attempts made to contact Victim (within 24hrs of arraignment)
- CPO is mailed to Victim
- Generate Brady Letter to law enforcement
- Order 911 CD and certified CAD printout
- Order certified prior convictions, if applicable
- Order certified Restraining Order, If applicable
- Contact CROC for Civil RO narratives
- Research and print out any prior DV reports in this jurisdiction
- If DV prior arrests outside jurisdiction, make request to DAI to retrieve the reports
- Research CAD history for any other calls of DV to address
- Order Jail Calls
- SDT Fire & Paramedic, Hospital
- On felonies, request search warrants for emails, texts, phone
- Review search warrants
- Do Engstrom/Wheeler for all witnesses
- Discover EW to defense
- Get recorded interviews from Inspectors
- Listen to interviews
- Request interviews to be transcribed
- Listen to 911 CD
- Request 911 CD transcribed
- Listen to jail calls
- Transcribe jail calls
- Request video footage if any
- Review video footage
- For felony, subpoena case for Px hx
- Victims and witnesses are personally served by DAI
- Bring in victim to discuss case
- Call witnesses on phone and discuss testimony
- Review any brady disclosures
- File Motions regarding brady issues
- If prior DV incidents
 - Get report
 - Talk to prior victims
 - Locate and talk to witnesses
 - Check to see if evidence still in property
 - Retrieve evidence from property through DAI
 - Order 911 CD and CAD

- Bring in prior victims to establish relationship
 - Get advocate assigned if needed
 - Talk to witnesses to refresh on prior incident
- Maintain frequent contact with victim
- Jury Trial preparation
 - Bring in victim and witnesses to prep for trial
 - Organize documents for trials; exhibits
 - Prepare powerpoints
 - Reserve media equipment
 - Draft Motions in Limine
 - Draft Witness list
 - Draft any special motions for the court
 - Brief trial issues as they come up in court
 - Work with inspectors and DAI to rebut defense
 - Work with advocates to schedule victim and witness testimony
 - Work with victim services to arrange meals and transportation
 - Draft Jury Instructions
 - Draft Verdict Forms
- Monitor Defendant on Probation
 - Review progress reports
 - File MTRs when needed
 - Workup MTR cases (requires same amount of work as all of above)
 - Conduct MTR hearings
 - Negotiate settlements

Item 6
File 13-0057

Department:
San Francisco Municipal Transportation Agency

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the termination of the lease agreement between the City and County of San Francisco and the Ellis-O'Farrell Parking Corporation, a non-profit corporation, for the management of the Ellis-O'Farrell Parking Garage, and would authorize the Director of Transportation to execute a Lease Termination Agreement effective January 31, 2013.

Key Points

- The Ellis-O'Farrell Parking Corporation is a non-profit corporation, formed in 1963 for the sole purpose of assisting the City by financing the costs of the Ellis-O'Farrell Garage through the sale of bonds. In July 2012, the bonds were fully paid off from the proceeds of the issuance of Revenue Bonds issued by the San Francisco Metropolitan Transportation Agency (SFMTA). Since the bonds issued by the Ellis-O'Farrell Parking Corporation have been fully redeemed, the Corporation's Board of Directors wants to terminate the lease with the City, which was previously entered into between the City and the Ellis-O'Farrell Parking Corporation, to enable the Corporation to manage the day-to-day operations of the Garage.
- According to Mr. Michael Robertson, SFMTA's Deputy Director of Off-Street Parking, the SFMTA will assume agreements that the Ellis-O'Farrell Parking Corporation has previously entered into with ten vendors and two subtenants.
- The Ellis-O'Farrell Parking Corporation will transfer the title and control of all monies, deposits, and accounts of the Corporation to the SFMTA within five business days of January 31, 2013 and will provide an audit report and full accounting of all revenues, accounts, equipment, outstanding debts, and assets within 45 days of January 31, 2013. The SFMTA will review the audit and accounting and will provide comments to the Ellis-O'Farrell Parking Corporation within 30 days. Subsequent to any corrective actions which the SFMTA states that the Ellis-O'Farrell Parking Corporation must make, the SFMTA will hold the Ellis-O'Farrell Parking Corporation, its Board of Directors, and officers harmless.

Fiscal Impact

- According to Mr. Robertson, the termination of the lease with the Ellis-O'Farrell Parking Corporation will save the City an estimated \$174,174 annually by discontinuing redundant corporate oversight services, including the costs for a corporate manager, trustee fees, and attorney fees, as shown in Table 2 below. The Corporate Manager, Ms. Daphne Handelin, will be retained temporarily to perform administrative services including finalizing the audit and accounting reports, transferring accounts, books and records from the Corporation to the SFMTA and will be compensated on an hourly basis. Mr. Robertson noted that Ms. Handelin's services will be retained on an as-needed basis for no longer than 90 days following the effective termination date of January 31, 2013.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118(c), any amendment to or termination of a lease, which when entered into was for a period of ten or more years, and/or had anticipated revenue of \$1,000,000 or greater, is subject to the Board of Supervisors approval.

Background

The Ellis-O'Farrell Garage (Garage) is a City-owned parking garage under the jurisdiction of the San Francisco Municipal Transportation Agency (SFMTA), located at 123 O'Farrell Street. The Garage has approximately 950 parking spaces and provides over approximately 11,000 square feet of retail/commercial space, currently leased to two tenants and generates approximately \$6,764,129 in annual gross revenue (see Table 2 below).

The Ellis-O'Farrell Parking Corporation is a non-profit 501(c) 2 entity, formed in 1963 for the sole purpose of assisting the City with the acquisition of, and improvements to, the Garage through the sale of Ellis-O'Farrell Parking Corporation bonds. In 1965, the City leased the Garage to the Corporation through a lease agreement which was subsequently replaced with a new lease agreement in 1991. Under the existing lease, the Corporation manages the day-to-day operations of the Garage with oversight and policy direction from the SFMTA.

In June 2012, the Corporation's Board of Directors executed a Lease Amendment with the SFMTA to modify and continue the term of the lease on a month-to-month basis until an agreement to terminate the lease was in place. After this Lease Amendment, the parties agreed to terminate the existing lease and set up an unofficial, voluntary Advisory Committee to provide input on parking policies and rates on behalf of the community.

In July 2012, the Ellis-O'Farrell Parking Corporation bonds were fully paid off through the issuance of a revenue bond by the SFMTA. Since the bonds issued by the Corporation have been fully redeemed, the Corporation's Board of Directors wants to terminate the lease. In anticipation of the lease termination, the SFMTA assumed the daily operation of the Garage beginning January 1, 2013 through its existing agreement for garage operations with LAZ Parking. On January 15, 2013, the SFMTA Board of Directors approved a resolution authorizing the Director of Transportation to execute the proposed Lease Termination Agreement.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the termination of the lease agreement between the SFMTA and the Ellis-O'Farrell Parking Corporation for the management of the Ellis-O'Farrell Garage and would authorize the Director of Transportation to execute a Lease Termination Agreement effective January 31, 2013.

According to Mr. Michael Robertson, SFMTA's Deputy Director of Off-Street Parking, SFMTA will assume two leases with subtenants and ten agreements with vendors that the Ellis-O'Farrell Parking Corporation has entered into.

The Ellis-O'Farrell Parking Corporation will transfer the title and control of all monies, deposits, and accounts of the Corporation to the SFMTA within five business days of January 31, 2013, and will provide an audit report and full accounting of all revenues, accounts, equipment, outstanding debts, and assets within 45 days of January 31, 2013. SFMTA will review the audit and accounting reports and will provide comments and corrections within 30 days. Subsequent to any corrective actions which the SFMTA states that the Ellis-O'Farrell Parking Corporation must make, SFMTA will hold the Ellis-O'Farrell Parking Corporation, its Board Members, and officers harmless.

FISCAL IMPACT

According to Mr. Robertson, the termination of this lease will save the SFMTA an estimated \$174,174 annually by discontinuing redundant corporate oversight services, including costs for a corporate manager, attorney and trustee fees, and vendor services that are no longer needed as shown in Table 1 below.

Table 1: Annual Savings from the Proposed Lease Termination

Corporation Expenditures	Savings
Corporate Manager *	\$104,854
Attorney Fees	55,029
Trustee Fees	1,091
Vendor Services	13,200
TOTAL Estimated Savings	\$174,174

*Includes salary & benefits

The proposed termination of the Ellis-O'Farrell Parking Corporation Lease Agreement is consistent with the analysis and findings of the Controller's June 2011 audit that questioned the need for continuing to have such leases with non-profit corporations when SFMTA could provide these services on an in-house basis. The Controller's Office found that "leasing garages to non-profit corporations is unnecessarily costly to the City."

Under the proposed lease termination agreement, the City will have no obligation to any employee of the Ellis-O'Farrell Parking Corporation, with the exception of the Corporate Manager, Ms. Daphne Handelin, who will be temporarily retained to perform administrative services including correcting the audit and accounting reports, and transferring accounts, books and records from the Corporation to the SFMTA. According to Mr. Robertson, Ms. Handelin will be retained on an as-needed basis for no longer than 90 days following the effective termination date of January 31, 2013. After the Effective Termination Date, the City will pay Ms. Handelin on an hourly basis for her services at \$40.86 per hour.

Under the current lease agreement between the City and the Ellis-O'Farrell Parking Corporation, the revenue from parking and other sources totaling \$6,764,129 for FY 2011-12, as shown in Table 2 below, is collected by the Corporation which, in turn, pays for the Ellis-O'Farrell Garage operating expenses upon SFMTA's approval; any balance that is left over is paid to the SFMTA.

As shown in Table 2 below, for FY 2011-12, net revenues of \$1,183,713 were paid to the SFMTA.

Table 2: The Garages' Expenditures & Revenues for FY 2011-12

Expenditures	
Operating Expenses*	\$4,432,136
Parking Tax	<u>1,148,280</u>
Subtotal Expenditures	5,580,416
Revenue	
Parking Revenue**	\$5,741,400
Non-Parking Revenue	<u>1,022,729</u>
Subtotal Revenues	6,764,129
Total Balance Paid to SFMTA	\$1,183,713

*Includes personnel costs, utilities, services, supplies, and garage management as well as expenditures related to the Ellis-O'Farrell Parking Corporation including corporate management personnel costs, corporate legal fees, trustee fees, and repayment for bonds.

**Includes transient and monthly parking.

RECOMMENDATION

Approve the proposed resolution.

Item 7 File 12-1191	Department: San Francisco International Airport (Airport)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objective</p> <ul style="list-style-type: none"> • The proposed resolution approves a new seven-year lease between the Airport and the Avila Retail Development and Management, LLC (Avila) for a 947 square-foot specialty retail store in Boarding Area F, Terminal 3 (Space F.2.055A) for sale of travel products, retroactive from January 1, 2013 through December 31, 2019. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The Airport awarded the lease to Avila based on a competitive Request for Proposal (RFP) process. Space F.2.055A has been occupied by Avila since September 10, 2012, and rent collection commenced on December 28, 2012. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • Under the proposed new seven-year lease between the Airport and Avila, the rent for the space would be the higher of (a) the Minimum Annual Guarantee (MAG), currently set at \$162,000 per year, or (b) percentage rent, as set by the Airport. The MAG would be adjusted annually based on the Consumer Price Index (CPI) formula used by the Airport. • Avila's projected annual gross revenues from the space in Terminal 3 are estimated at \$1,584,000 per year. This would result in percentage rent being paid by Avila to the Airport of \$223,440 per year, which is \$61,440 more than the MAG of \$162,000 per year. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> • Amend the proposed resolution for retroactive approval. • Approve the proposed resolution as amended. 	

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118(c), leases exceeding ten years and/or having anticipated revenue of \$1,000,000 or greater are subject to the Board of Supervisors approval.

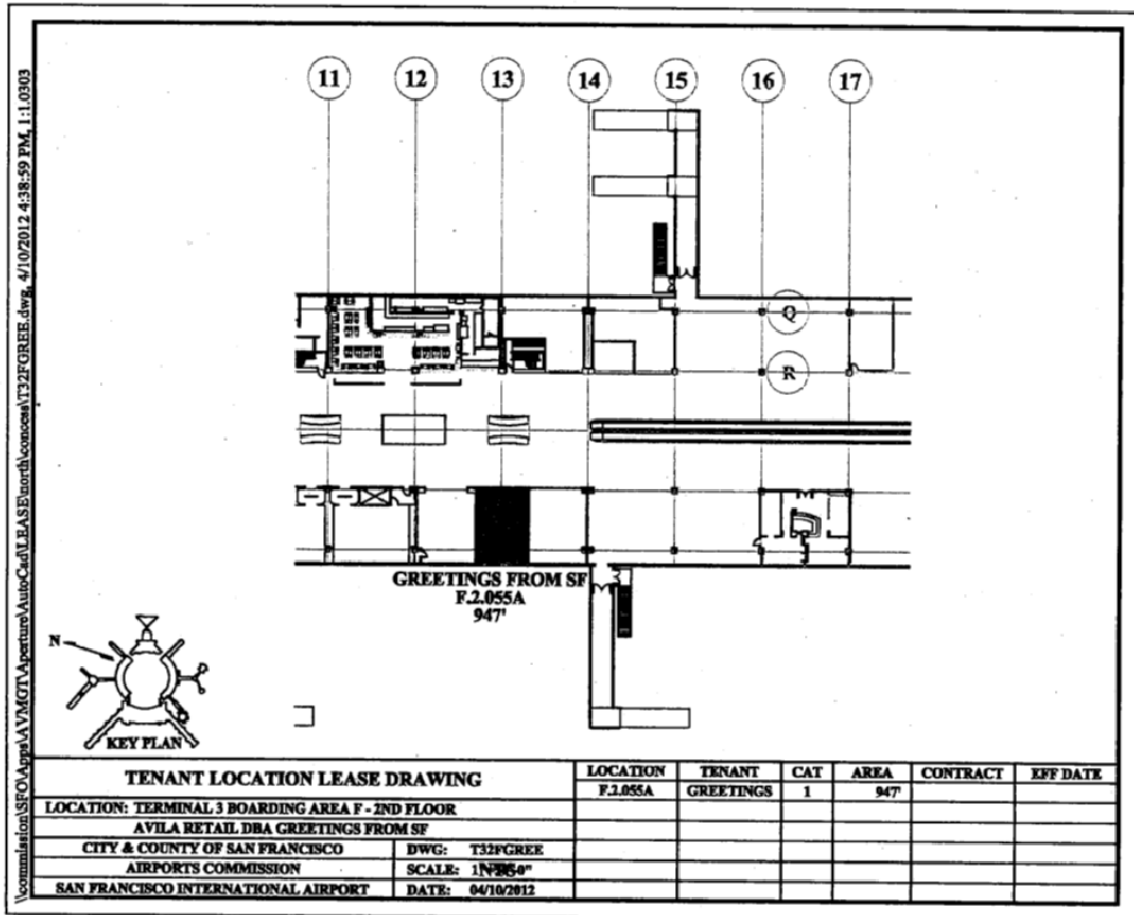
Background

The proposed new lease between the Airport and Avila Retail Development and Management, LLC (Avila) is for 947 square feet of retail space in Terminal 3, Boarding Area F, identified as Space F.2.055A. The space was previously occupied by a PGA Tour Shop operated by The Paradies Shops.

In October 2011, the Airport issued a new Request for Proposal (RFP) for Space F.2.055A in Terminal 3. The Airport Commission approved the award of the proposed lease for Space

F.2.055A to Avila in April 2012 (see Details of Proposed Legislation below). Figure 1 below, provided by the Airport, shows the location of Space F.2.055A in Terminal 3, Boarding Area F.

Figure 1: Space F.2.055A



According to Mr. John Reeb, Airport Senior Property Manager for Retail, three companies responded to the RFP for Space F.2.055A. The Airport selected Avila as the highest ranking, responsive, and responsible proposer to provide the outlined services at the four locations, based on criteria that included: (a) the proposed concept and site visit, (b) design intent and capital investment, (c) the business plan, (d) customer service and quality control, and (e) the proposed Minimum Annual Guarantee (MAG) amount, as shown in Table 1.

Table 1: RFP Results

Criteria	Possible Points	Proposer		
		Avila	Brookstone	Marilla
Proposed Concept & Site Visit	30	24.90	18.65	23.50
Design Intent & Capital Investments	20	16.20	13.90	16.25
Business Plan	20	16.50	16.35	16.50
Customer Service & Quality Control	20	15.05	14.45	12.70
MAG/Proposal Amount	<u>10</u>	<u>9.26</u>	<u>10.00</u>	<u>7.14</u>
Total	100	81.91	73.35	76.09

The RFP required a minimum MAG proposal of \$125,000. The three MAG proposals were: (1) \$162,000 (Avila); (2) \$175,000 (Brookstone); and (3) \$125,000 (Marilla). According to Mr. Reeb, the Airport selected Avila, although Avila's proposed MAG of \$162,000 was less than Brookstone's proposed MAG of \$175,000 because Avila's overall proposal, including capital investments in the leased space, ranked higher.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new seven-year lease between the Airport and the Avila Retail Development and Management, LLC for one location, Space F.2.055A, of 947 square feet in Terminal 3, Boarding Area F. The lease and proposed retail space is for the sale of apparel, gifts/home décor, souvenir items, regional foods, fashion jewelry, regional books/calendars/cards, kids toys, among other items.

The lease term is retroactive for seven years, from January 1, 2013 through December 31, 2019. Space F.2.055A has been occupied by Avila since September 10, 2012, and rent collection commenced on December 28, 2012. The proposed lease does not have the option to renew.

According to Mr. Reeb, the Airport did not submit the lease to the Board of Supervisors for approval prior to the lease commencement date because the Airport delayed processing the four lease agreements that were awarded through the Airport's October 2011 RFP for retail locations in the International Terminal and Terminal 3 due to delays in construction for one of the four locations. According to Mr. Reeb, the Airport wanted all four lease agreements awarded through the October 2011 RFP to follow the same schedule.

FISCAL IMPACTS

Under the proposed lease, the rent payable by Avila to the Airport is the higher of (a) the MAG of \$162,000 per year or \$13,500 per month,¹ or (b) percentage rent, which was set by the Airport, at:

- 12 percent of gross revenues up to and including \$500,000, plus
- 14 percent of gross revenues of \$500,000.01 up to and including \$1,000,000, plus

¹ The MAG would be adjusted annually based on the standard Consumer Price Index (CPI) formula used by the Airport.

- 16 percent of gross revenues over \$1,000,000.

The proposed lease also requires:

- One-time tenant improvements by Avila of \$350 per square foot, or \$331,450 for the 947 square feet; and
- A Promotional Charge of \$1 per square foot per year, or \$947 per year, payable by Avila to the Airport to reimburse the Airport for marketing and advertising costs.

The Airport commenced collecting rents on the space on December 28, 2012, and based on the lease provision that the rent commencement date is the first day of the first calendar month following the date on which initial tenant improvements are completed, the formal rent commencement date is January 1, 2013. Thus the lease term is from January 1, 2013 through December 31, 2019.

Under the proposed lease, Avila would be responsible for the cost of utilities, janitorial, and any other operating expenses.

According to Mr. Reeb, Avila's projected annual gross revenues from the proposed lease are \$1,584,000 per year. Based on these estimated annual gross revenues, Avila would pay the Airport annual percentage rent of \$223,440, as shown in Table 2 below, which exceeds the MAG of \$162,000 by \$61,440.

Table 2: Calculation of Percentage Rent for Avila

Revenue Brackets	Percent Added to Percentage Rent	Anticipated Revenues for Avila	Total Percentage Rent
Up to and including \$500,000	12%	\$500,000	\$60,000
\$500,001 to and including \$1,000,000	14%	500,000	70,000
Over \$1,000,000	16%	584,000	93,440
	Total	\$1,584,000	\$223,440

The estimated revenues to be generated from the proposed concessions lease are considered in the Airport's residual rate setting methodology (breakeven policy), which sets the schedule of all rental rates, landing fees, and related fees to a level which ensures that Airport revenues received from the airlines, plus the non-airline concession and other revenues received by the Airport, are equal to the Airport's total annual costs, including debt service and operating expenditures. Thus the Airport's budget will remain fully balanced by the revenues paid by the airlines to the Airport, after considering the Airport's budgeted expenditures and all non-airline revenues.

RECOMMENDATIONS

1. Amend the proposed resolution to provide for retroactive approval.
2. Approve the proposed resolution as amended.

Item 8
File 12-1212

Department:
Department of Public Health (DPH)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a second amendment to an existing Agreement between the Department of Public Health and Tides Center, a nonprofit organization, to provide property management services at six Direct Access Housing (DAH) sites and the Housing and Urban Health (HUH) Clinic to (a) increase the not-to-exceed amount by \$23,485,002, from \$17,371,813 to \$40,856,815, (b) and extend the term by five years, from July 1, 2013 through June 30, 2018.

Key Points

- Subsequent to a Request For Proposal (RFP) process in which Tides Center, a nonprofit organization, was selected as the most qualified of three responses, DPH initially entered into an Agreement with Tides Center to provide property management services for six master-lease DAH sites and the HUH Clinic for a term of two years, from July 1, 2008 through June 30, 2010 for a not-to-exceed amount of \$7,101,716.
- In July 2010, the Board of Supervisors retroactively approved an amendment to the initial Agreement to (a) increase the not-to-exceed amount by \$10,270,097, from \$7,101,716 to \$17,371,813, (b) extend the term by three years, from July 1, 2010 through June 30, 2013 (FY 2010-11 through FY 2012-13), and (c) include five one-year options to extend the Agreement through June 30, 2018.
- According to DPH, the RFP stated that the Agreement could be up to a ten-year term but the initial Agreement did not include options to extend the Agreement beyond the initial two-year term, due to administrative oversight. Under the existing amended Agreement, DPH extended the original two-year Agreement by three years, through June 30, 2013, and has the option of five one-year extensions, for a term up to ten years. DPH is now requesting to exercise the five one-year options to extend the existing five-year amended Agreement by five years, for a total term of ten years.

Fiscal Impact

- DPH anticipates expending an additional estimated \$23,485,002, which includes \$1,422,312 for the remainder of FY 2012-13 and \$22,062,690 for the proposed five year extension from FY 2013-14 through FY 2017-18. The not-to-exceed amount of \$23,485,002 includes a base budget of \$20,961,751 plus a 12% contingency of 2,523,251.
- DPH will have an unexpended balance through FY 2012-13 of \$348,498. Therefore, the Budget and Legislative Analyst recommends reducing the contract not-to-exceed amount under the proposed second amendment by \$348,498, from \$40,856,815 to \$40,508,317.

Recommendations

- Amend the proposed resolution to reduce the Agreement not-to-exceed amount by \$348,498, from \$40,856,815 to \$40,508,317.
- Approve the proposed resolution, as amended.

MANDATE STATEMENT AND BACKGROUND

Mandate Statement

Charter Section 9.118(b) requires that any contracts with (a) a term of ten years or more or (b) anticipated expenditures of \$10,000,000 or more or amendments to such contracts with anticipated expenditures of more than \$500,000 be subject to approval of the Board of Supervisors.

Background

The Department of Public Health administers the Direct Access to Housing (DAH) Program, which provides housing for chronically homeless residents of the City who are disabled due to mental health, substance abuse, and other chronic health issues. The DAH Program includes six master-lease housing sites¹ and the Housing and Urban Health Clinic located on 234 Eddy Street.

On November 30, 2007, DPH issued a Request for Proposal (RFP) for an organization to provide property management services at the six master-lease DAH sites and the Housing and Urban Health Clinic. The property management services which are provided include rent collection, lease management, tenant move-in/move-out services, repairs, maintenance, 24-hour front desk coverage and janitorial services in all public, storage and office areas. Based on the three responses received under the RFP process from two for profit agencies and one nonprofit agency, DPH selected the Tides Center, a nonprofit organization, based in San Francisco, as the most qualified respondent.

The original Agreement between DPH and Tides Center was for a two-year period from July 1, 2008 through June 30, 2010, for a not-to-exceed amount of \$7,101,716, including a 12 percent contingency of \$760,898. This Agreement did not require approval by the Board of Supervisors because the original term was less than ten years and estimated expenditures were less than \$10,000,000.

The original Agreement did not include any options to extend. According to Ms. Jacqueline Hale, Director, DPH Office of Contract Management and Compliance, although options to extend for up to ten years were clearly stated in the RFP itself, options were not included in the initial Agreement due to administrative oversight. Subsequently, in July 2010, the Board of Supervisors retroactively approved an amendment to the initial Agreement to (a) increase the not-to-exceed amount by \$10,270,097, from \$7,101,716 to \$17,371,813, (b) extend the term by three years, from July 1, 2010 through June 30, 2013 (FY 2010-11 through FY 2012-13), and (c) include five one-year options to extend the Agreement through June 30, 2018.

¹ The six master-lease housing sites are (1) Pacific Bay Inn, located on 520 Jones Street; (2) The Empress Hotel, located on 144 Eddy Street; (3) Windsor Hotel, located on 238 Eddy Street; (4) Camelot Hotel, located on 124 Turk Street; (5) LeNain Hotel, located on 730 Eddy Street; and (6) Star Hotel, located on 2176 Mission Street.

According to Ms. Hale, the existing amended Agreement, as approved by the Board of Supervisors, contained five one-year options to extend in keeping with Health Commission direction to restrict Community Programs contracts with non-profit organizations to five years, as such, each one-year option would be exercised annually. However, Ms. Hale states that the proposed second amendment approves all of the five one-year options with the Board of Supervisors approval of the proposed resolution to provide stability for this supportive housing contract covering multiple sites throughout the City.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a second amendment to the existing Agreement between DPH and Tides Center to continue to provide property management services at the six master-lease DAH sites and the Housing and Urban Health Clinic by (a) increasing the Agreement's not-to-exceed amount by \$23,485,002, from \$17,371,813 to \$40,856,815, (b) extending the term by five years, through June 30, 2018.

FISCAL IMPACTS

Table 1 below identifies the sources and uses of funds, for additional funding in the current FY 2012-13 and over the next five fiscal years through FY 2017-18.

Table 1: Summary of Sources and Uses of Funding for Proposed Amendment for Tides Center Agreement

Sources	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Total
Prop. 63/Mental Health Services Act	\$143,750	\$376,502	\$376,502	\$376,502	\$376,502	\$376,502	\$2,026,260
Housing and Urban Development Grant	-4,408	194,799	194,799	194,799	194,799	194,799	969,587
General Fund (GF)	1,130,579	3,313,420	3,313,420	3,313,420	3,313,420	3,313,420	17,697,679
Federally Qualified Health Center	0	55,045	55,045	55,045	55,045	55,045	275,225
Sources Subtotal	\$1,269,921	\$3,939,766	\$3,939,766	\$3,939,766	\$3,939,766	\$3,939,766	\$20,968,751
Contingency (12%)	152,391	472,772	472,772	472,772	472,772	472,772	2,516,251
Sources Total	1,422,312	4,412,538	4,412,538	4,412,538	4,412,538	4,412,538	\$23,485,002
Uses	FY 2012-12	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Total
Salaries and Benefits	\$804,043	\$2,481,483	\$2,481,483	\$2,481,483	\$2,481,483	\$2,481,483	\$13,211,458
Operating Expenses	465,878	1,458,283	1,458,283	1,458,283	1,458,283	1,458,283	7,757,293
Uses Subtotal	\$1,269,921	\$3,939,766	\$3,939,766	\$3,939,766	\$3,939,766	\$3,939,766	\$20,968,751
Contingency (12%)	152,391	472,772	472,772	472,772	472,772	472,772	2,516,251
Uses Total	1,422,312	4,412,538	4,412,538	4,412,538	4,412,538	4,412,538	\$23,485,002

Source: DPH

Under the existing agreement, the FY 2012-13 budget is \$3,146,083, which will increase by \$1,269,921 under the proposed second amendment, for a total FY 2012-13 budget of \$4,416,004. Ms. Hale states that the additional \$1,269,921 was previously appropriated by the Board of Supervisors in the DPH budget.

Under the existing agreement, the budget for the five-year period from FY 2008-09 through FY 2012-13 is \$17,371,813 or an average annual cost of \$3,474,363. Under the proposed amended Agreement, the budget for the five-year period from FY 2013-14 through FY 2017-18 is for \$22,062,690² or an average annual cost of \$4,412,538, an increase of \$938,175 or 27% compared to the prior five years. According to Ms. Hale, the increase in average annual costs from FY 2013-14 through FY 2017-18 is due to increases in utilities and staff salary cost of living adjustments (COLA), as well unit renovation and repair costs due to tenant turnover.

Ms. Hale advises that Tides Center also receives rental income from tenants at the DAH sites, which pay for a portion of the property management services. According to Ms. Hale, from FY 2008-09 through FY 2012-13, Tides Center received \$7,786,345 in rental income. The rental revenue, combined with projected expenditures of \$18,293,236 funded by DPH under the existing Agreement, totaling \$26,079,671, covered Tides Center's cost to provide property management services in FY 2008-09 through FY 2012-13. As shown in the table below, DPH will have an unexpended balance through FY 2012-13 of \$348,498. Therefore, the Budget and Legislative Analyst recommends reducing the contract not-to-exceed amount under the proposed second amendment by \$348,498, from \$40,856,815 to \$40,508,317.

Table 2: Estimated Contract Expenditures through FY 2012-13

DPH Funding	Agreement Amount	Expenditures Provided by DPH	Remaining Contract Balance as of June 30, 2013
Existing Contract	\$17,371,813		
Amendment FY 2012-13	<u>1,269,921</u>		
	\$18,641,734	\$18,293,236	\$348,498

According to Ms. Hale, if the proposed Amendment to the existing Agreement is approved, DPH will issue a new RFP prior to the termination of the amended Agreement on June 30, 2018.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the Agreement not-to-exceed amount by \$348,498, from \$40,856,815 to \$40,508,317.
2. Approve the proposed resolution, as amended.

² The second amendment amount for FY 2013-14 through FY 2017-18 of \$22,062,690 is the total second amendment amount of \$23,485,001 less \$1,422,312 for FY 2012-13.