

File No. 180105

Committee Item No. 7

Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date February 15, 2018

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
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Completed by: Linda Wong Date February 9, 2018

Completed by: Linda Wong Date \_\_\_\_\_



GEORGE GASCÓN  
District Attorney

January 26, 2018

Honorable Supervisor Malia Cohen  
Budget and Finance Committee Chair  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Linda Wong, Clerk  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

RE: Release of Budget and Finance Committee Reserve

In accordance with the provisions of the Adopted Annual Appropriation Ordinance number 156-17 for Fiscal Year ending June 30, 2018 and FY ending June 30, 2019, I am hereby requesting the release of the Budget and Finance Committee Reserve in the amount of \$266,645 appropriated for the Independent Investigations Bureau (IIB).

As you know, my Office is in the second year of operating the IIB and has significantly improved how Officer Involved Shootings, Excessive Use of Force and In Custody Deaths are responded to and handled by my Office. As we continue to address the backlog of cases and triage the new cases that have come in, the Department is poised to begin addressing the conviction review cases still yet to be addressed. The release of reserve will allow us to get to full staffing in the unit in order to address the needs of the anticipated workload.

If you need any additional information to allow for the release of these reserves, please contact Eugene Clendinen of my Office at (415) 553-1895 or [Eugene.Clendinen@sfgov.org](mailto:Eugene.Clendinen@sfgov.org). I thank you in advance for your review and release of this reserve.

Sincerely,



George Gascón  
District Attorney

											FY17-18	
Position	Job	Step	Number of positions	FY16-17 Salary Rate	Start Date	End Date	# days	FTE	Salary	Fringe Rate	TOTAL	
Attorney	8177	16	1	\$ 201,084	3/12/2018	6/30/2018	80	0.31	\$ 61,635	36.87%	\$ 84,360	
Brannan St. Rent Allocation (6 months)											\$ 99,769	
Litigation Expenses (Experts, transcripts, translation, etc. )											\$ 50,000	
Training											\$ 15,000	
Misc. Costs (copiers, online legal subscription, publications, M&S, etc)											\$ 17,516	

**Total Estimated Cost:** \$ 266,645  
**Budget & Finance Committee Reserve:** \$ 266,645

APPROPRIATION RESERVES

Department Reserve Description & Follow-Up Action Required	FY 2017-18	FY 2018-19	Releasing Authority	Reserve Reason
FIRE - FF&E/MOVING FSJ ESER BOND	500,000	500,000	MAYOR	Pending detailed scope of work and budget details
POLICE - PUBLIC SAFETY BUILDING FF&E		6,500,000	MAYOR & BUDGET AND FINANCE COMMITTEE	Pending detailed scope of work and budget details
CITY ADMINISTRATOR- ANIMAL SHELTER FACILITY PLAN		200,000	MAYOR	Pending detailed scope of work and budget details
ELECTION - VOTERS WITH DISABILITIES ACCESSIBLE VOTE-BY-MAIL (AB 2252)	50,000	50,000	MAYOR	Pending State Approval of Remote Accessible Vote-by-Mail System
CITY ADMINISTRATOR- IPIC -COMMUNITY OPPORTUNITIES GRANT	200,000	200,000	CONTROLLER	Pending Receipt of Revenue
CITY ADMINISTRATOR- IPIC -COMMUNITY CHALLENGE PROGRAM	1,000,000	500,000	CONTROLLER	Pending Receipt of Revenue
ART COMMISSION - IPIC -PATRICIA'S GREEN ROTATING ART COMMISSION PROJECT	50,000	50,000	CONTROLLER	Pending Receipt of Revenue
ART COMMISSION - IPIC -MARKET/OCTAVIA PLAZAS ROTATING ART COMMISSION PROJ	50,000	-	CONTROLLER	Pending Receipt of Revenue
CITY PLANNING - IPIC -TRANSIT CTR DIST-RAILYARD ALIGNMNT (RAB)	3,800,000	-	CONTROLLER	Pending Receipt of Revenue
CITY PLANNING - IPIC -TRANSIT CTR DIST-STREETScape DESIGN	100,000	100,000	CONTROLLER	Pending Receipt of Revenue
CITY PLANNING - IPIC -IPIC-STREET TREE PLANTINGS PROGRAM-MO	50,000	50,000	CONTROLLER	Pending Receipt of Revenue
CITY PLANNING - IPIC -NEIGHBORHOOD HERITAGE PROGRAM	50,000	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -IPIC-PED; BIKE; STREETScape (BP)-REVENUE	157,000	187,000	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -2949J-RESERVE	1,450,000	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -2ND STREET STREETScape REVENUE	4,062,000	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -IPIC-PED; BIKE; STREETScape (EN)	1,639,000	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -TSIP-PED & BIKE SAFETY IMPROV BUDGET	1,138,157	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -REVENUE	500,000	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -IPIC-STREETScape GREENING ENHANCEMENT FUND	2,000,000	1,988,000	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -RINCON HILL BUDGET-REVENUE	8,478,000	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -IPIC-STREETScape DESIGN CONST-REVENUE	11,000,000	-	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -NEW STREET TREE PLANTING REVENUE	100,000	100,000	CONTROLLER	Pending Receipt of Revenue
PUBLIC WORKS - IPIC -IPIC-PED; BIKE; STREETScape (VV)-REVENUE	3,249,000	1,551,000	CONTROLLER	Pending Receipt of Revenue
HUMAN SERVICES - IPIC -CHILD CARE CAPITAL FUND	75,000	74,000	CONTROLLER	Pending Receipt of Revenue
HUMAN SERVICES - IPIC -CHILD CARE CAPITAL FUND	1,584,000	527,000	CONTROLLER	Pending Receipt of Revenue
HUMAN SERVICES - IPIC -CHILD CARE CAPITAL FUND		-	CONTROLLER	Pending Receipt of Revenue
HUMAN SERVICES - IPIC -CHILD CARE CAPITAL FUND	1,020,000	758,000	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -TSF-TRANSIT CAPITAL MAINT(REPLACES TDF)	1,347,516	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -TSF-PROGRAM ADMINISTRATION	44,181	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -IPIC-EASTERN NEIGHBORHOOD	1,258,000	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -IPIC-MARKET OCTAVIA	1,500,000	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -TSF-COMplete STREETS (BIKE& PED) IMPRVMT	66,271	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -IPIC-EASTERN NEIGHBORHOOD	5,584,910	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -IPIC-MARKET OCTAVIA TRANSIT-(MUNI)	6,750,000	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -IPIC-BALBOA PARK (MUNI)	48,000	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -TSF-TRANSIT SVC & RELIABILITY-REGIONAL	44,181	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - IPIC -TSF-TRANSIT SRVC EXP & RELIABILITY IMPRV	706,893	-	CONTROLLER	Pending Receipt of Revenue
MUNICIPAL TRANSPORTATION AGENCY - VISION ZERO-DISTRICT 7-ADDBACK	400,000	-	CONTROLLER	Pending Outcome of Participatory Budgeting
RECREATION AND PARK - IPIC -BALBOA PARK RECREATION AND PARK AND OPEN SPACE - BUDGET	120,000	143,000	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -CENTRAL WATERFRONT	1,203,000	238,000	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -GENE FRIEND SOMA RECREATION AND PARK CENTER - BUDGET	1,350,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -GARFIELD SQUARE AQUATIC CENTER - BUDGET	4,313,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -JURI COMMONS - BUDGET	500,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -JOSE CORONADO PLAYGROUND - BUDGET		1,719,000	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -JACKSON PLAYGROUND - BUDGET	1,000,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -MISSION RECREATION AND PARK CENTER - BUDGET	2,740,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -MARGARET HAYWARD PLAYGROUND BUDGET	4,100,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -TRANSIT CENTER -PORTSMOUTH SQUARE BUDGET	1,352,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -TRANSIT CENTER -GLY PLACE BUDGET	850,000	-	CONTROLLER	Pending Receipt of Revenue
RECREATION AND PARK - IPIC -VIS VALLEY RECREATION AND PARK PARK BUDGET	1,336,000	1,137,000	CONTROLLER	Pending Receipt of Revenue
POLICE - BODY CAMERA INITIATIVE	500,000	500,000	BUDGET AND FINANCE COMMITTEE	Pending Alignment of Actual Expenditures with Program Budget
DISTRICT ATTORNEY - OIS OVERSIGHT	266,645	276,180	BUDGET AND FINANCE COMMITTEE	Pending Start Date of Conviction Review by the Independent Investigation Bureau
HOMELESSNESS AND SUPPORTIVE HOUSING - 440 TURK BUILDING	1,700,000		BUDGET AND FINANCE COMMITTEE	Pending Detailed Plan for Purchase and Renovation of 440 Turk St. and Budget Details
ECONOMIC AND WORKFORCE DEVELOPMENT - INVEST IN NEIGHBORHOODS	225,000		BUDGET AND FINANCE COMMITTEE	Pending for Programmatic Needs
FINE ARTS MUSEUM - FACILITIES MAINTENANCE	192,166		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - DE YOUNG - ADD BIKE PARKING	50,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - LEGION OF HONOR - BIKE LOCKERS	30,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - LEGION OF HONOR - COLONNADE ROOF	60,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - LEGION OF HONOR - COOLING TOWER	250,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - LEGION OF HONOR - MASONRY	600,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - LEGION OF HONOR - ROOF REPLACEMENT	280,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - DE YOUNG - ROOF REPAIRS	100,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - LEGION OF HONOR - TECH SHOP EXHAUST SYSTEM	75,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
FINE ARTS MUSEUM - DE YOUNG - TOWER EXTERIOR REPAIRS	600,000		BUDGET AND FINANCE COMMITTEE	Pending for more information
	\$ 83,844,920	\$ 17,346,180		

<b>Item 7</b> <b>File 18-0105</b>	<b>Department:</b> District Attorney's Office (District Attorney)
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The requested hearing is for the release of \$266,645 on Budget and Finance Committee reserve to fund one 8177 Attorney position and other operating expenses in the District Attorney's Office's Independent Investigations Bureau in FY 2017-18.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• In 2016, the District Attorney's (DA) Office created the Independent Investigations Bureau to investigate officer involved shootings, excessive use of force, and in-custody deaths.</li> <li>• The DA's Office's FY 2017-18 budget included \$2,618,840 for the Independent Investigations Bureau, of which the Budget and Finance Committee placed \$266,645 on Budget and Finance Committee reserve pending notification that the Bureau would begin conducting conviction review cases. The Bureau began the process of establishing its conviction review function by Spring 2017 and began performing some of this work in June 2017, but prioritized its work in 2017 on the backlog of officer-involved shooting and in-custody death investigations that had accumulated over the past two to three years.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The DA's Office expects to fully spend the \$2,352,195 available in the Independent Investigation Bureau's FY 2017-18 budget. According to the DA's Office, the balance of \$266,645 on Budget and Finance Committee reserve is needed to fund one additional 8177 Attorney position to conduct conviction review and pay other costs.</li> <li>• The FY 2017-18 salary and benefit costs for the additional Attorney for approximately 3 ½ months are \$84,360. The DA's Office is requesting that the balance of \$182,285 be allocated to operating expenses. However, the DA's Office has not shown that the Office will have insufficient funds in the FY 2017-18 budget to pay for operating expenses. Therefore, the Budget and Legislative Analyst recommends releasing \$84,360 to pay for the salary and benefits of one Attorney position, with a hire date of March 13, 2018, and retaining \$182,285 on Budget and Finance Committee reserve.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approve the release of \$84,360 to fund one Attorney position from March 12, 2018 through June 30, 2018, and retain \$182,285 on Budget and Finance Committee reserve pending justification for other Independent Investigations Bureau operating expenses.</li> </ul>	

**MANDATE STATEMENT**

City Administrative Code Section 3.3(e) states that the Budget and Finance Committee of the Board of Supervisors has jurisdiction over the City's budget and may reserve proposed expenditures to be released at a later date subject to Board of Supervisors approval. The practice of the Board of Supervisors is for the Budget and Finance Committee to approve release of funds placed on reserve by the Committee, without further Board of Supervisors approval.

**BACKGROUND**

In 2016, the District Attorney's (DA) Office created the Independent Investigations Bureau to investigate police officer involved shootings, excessive use of force, and in-custody deaths. These cases had previously been investigated by the Police Department, but following recommendations from former President Obama's Task Force on 21<sup>st</sup> Century Policing in 2015, the City moved the investigations to the DA's Office.

**DETAILS OF PROPOSED LEGISLATION**

The DA's Office's FY 2017-18 budget included \$2,618,840 for the Independent Investigations Bureau, of which the Budget and Finance Committee placed \$266,645 on Budget and Finance Committee reserve pending notification that the Independent Investigations Bureau would begin conducting conviction review cases. The DA's conviction review function is to determine whether a defendant was wrongly convicted due to officer or prosecutor misconduct. The requested hearing is for the release of \$266,645 on Budget and Finance Committee reserve to fund one 8177 Attorney position and other operating expenses in FY 2017-18.

According to Mr. Eugene Clendinen, DA's Office Chief Administrative and Financial Officer, the Independent Investigations Bureau began the process of establishing its conviction review function by Spring 2017 and began performing some of this work in June 2017. However, The Independent Investigations Bureau prioritized its work in 2017 on the backlog of officer-involved shooting and in-custody death investigations that had accumulated over the past two to three years.

The Independent Investigations Bureau currently has 13 positions, including one Head Attorney, four Attorneys, one Assistant Chief District Attorney's Investigator, five District Attorney Investigators, and two District Attorney's Investigative Assistants. The DA's Office is requesting a fifth Attorney for the Independent Investigations Bureau with an anticipated start date of March 12, 2018. According to Mr. Clendinen, each Attorney has an average caseload of approximately five excessive use of force cases, 100 Brady review cases<sup>1</sup>, 415 cases identified for conviction review, and one conviction review case for evaluation of actual innocence or wrongful conviction claim. Attorneys are also on call 24 hours a day for one week per month to

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<sup>1</sup> Brady review cases are requests from other prosecutors in the DA's Office for the Independent Investigations Bureau to review its files for potential exculpatory impeachment evidence concerning officers who are witnesses in other cases.

respond to officer involved shooting incidents. According to Mr. Clendinen, the additional attorney position is necessary to fully staff the Independent Investigations Bureau in order to fulfill its conviction review function; while conviction review matters have been accepted into the unit for investigation and review, one additional attorney is required to actually conduct the review.

## FISCAL IMPACT

The Independent Investigations Bureau budget in FY 2017-18 is \$2,618,840, of which \$2,352,195 was previously approved by the Board of Supervisors and \$266,645 is on Budget and Finance Committee reserve. According to Mr. Clendinen, the DA's Office expects to fully spend the \$2,352,195 in FY 2017-18, and the balance of \$266,645 on Budget and Finance Committee reserve is needed to fund one additional 8177 Attorney position and other Bureau operating expenses, as shown in Table 1 below.

**Table 1: Cost Breakdown of DA's Office Release of Reserves**

Item	Cost
<b>8177 Attorney (0.31 FTE, Step 16)</b>	
Salary (from March 12, 2018 through June 30, 2018)	\$61,635
Fringe Benefits (36.87%)	22,725
<b>8177 Attorney Total</b>	<b>\$84,360</b>
<b>Other Operating Costs</b>	
732 Brannan Street Rent (6 months)	\$99,769
Litigation Expenses (Experts, transcripts, translations, etc.)	50,000
Training	15,000
Misc. Costs (Copiers, online legal subscription, publications, materials, supplies)	17,516
<b>Operating Costs Total</b>	<b>\$182,285</b>
<b>Total</b>	<b>\$266,645</b>

The FY 2017-18 salary and benefit costs for the additional attorney for approximately 3 ½ months, from March 12, 2018 through June 30, 2018, are \$84,360, as shown in Table 1 above.

The DA's Office is requesting that the balance of \$182,285 be allocated to operating expenses, including rent for the office space at 732 Brannan Street, litigation expenses, training, and miscellaneous costs, as shown in Table 1 above. However, the DA's Office has not shown that the Office will have insufficient funds in the FY 2017-18 budget to pay for rent and other operating expenses. Therefore, the Budget and Legislative Analyst recommends releasing \$84,360 to pay for the salary and benefits of one Attorney position, from March 12, 2018 through June 30, 2018, and retaining \$182,285 on Budget and Finance Committee reserve, pending justification for other Independent Investigations Bureau operating expenses.

## RECOMMENDATION

Approve the release of \$84,360 to fund one Attorney position from March 12, 2018 through June 30, 2018, and retain \$182,285 on Budget and Finance Committee reserve pending justification for other Independent Investigations Bureau operating expenses.

