

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: April 10, 2013 Budget and Finance Committee Meeting

TABLE OF CONTENTS

Item	File	Page
1	13-0275 Appropriation – Surplus Revenues, Expenditures, and General Fund Reserve of \$4,393,505 Supporting Shortfalls – FY 2012-2013.....	1

Item 1 File 13-0275	Departments: Sheriff, Department of Human Resources (DHR)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed ordinance would appropriate a total of \$4,393,505 to the Sheriff's FY 2012-13 budget to resolve the Sheriff's budgetary shortfalls in overtime and workers compensation by: <ul style="list-style-type: none"> (a) re-appropriating \$1,182,551 of General Fund revenues in the Sheriff's FY 2012-13 budget from permanent salaries and materials and supplies not required this fiscal year; (b) de-appropriating \$538,690 in net State revenues in FY 2012-13 by de-appropriating \$1,094,307 of existing budgeted State revenues not anticipated to be received, partially offset by \$555,617 of new State revenues not previously included in the FY 2012-13 budget; and (c) appropriating \$3,458,970 of additional General Fund Reserve funds and \$290,674 of new State Disability Claim Reimbursement funds. • Approval of the requested \$3,195,726 for additional overtime funding requires two-thirds vote of the Board of Supervisors because the Mayor rejected appropriation of these expenditures in the Sheriff's FY 2012-13 budget. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The requested \$4,393,505 would fund (1) \$3,195,726 for additional overtime due largely to unfilled vacant Deputy Sheriff positions and the corresponding use of overtime, and State realignment which has increased the number of special population prisoners; and (2) \$1,197,779 for workers compensation due to several catastrophic and various unanticipated claims for the Sheriff's Department that are being paid in the current fiscal year. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • The General Fund Reserve balance is currently \$28,845,655, which would be reduced to \$21,636,878 if two pending supplemental appropriations are approved, and the proposed supplemental appropriation is approved, as requested. • The Sheriff's FY 2012-13 budget included \$3,544,040 for General Fund overtime, a decrease of \$1,570,108 or 30.7% less than the Sheriff's actual General Fund overtime expenditures of \$5,114,148 in FY 2011-12. Based on the Sheriff's projections through June 30, 2013, the Sheriff anticipates expending a total of \$6,739,766 in overtime, a projected shortfall of \$3,195,726 or 90.2% more than the \$3,544,040 budgeted for overtime salaries in FY 2012-13. • Based on a review of the Sheriff's expenditure projections through June 30, 2013, the Budget and Legislative Analyst recommends (a) increasing the sources of surplus funding from the Sheriff's existing FY 2012-13 budget by \$88,998 and (b) reducing the proposed supplemental appropriation for Overtime by \$92,067. 	
<p style="text-align: center;">Recommendations</p>	
<ul style="list-style-type: none"> • Amend the proposed ordinance to (a) increase the sources of funding from the Sheriff's Permanent Salaries by \$38,998 and Materials and Supplies by \$50,000, for a total increase of \$88,998 and (b) reduce the proposed supplemental appropriation for Overtime by \$83,556 and Workers Compensation by \$8,511, for a total reduction of \$92,067, with offsetting savings of \$181,065 (\$88,998 plus \$92,067) to the City's General Fund Reserve. • Approve the supplemental appropriation, as amended. 	

MANDATE STATEMENT AND BACKGROUND

Mandate Statement

Charter Section 9.105 requires that amendments to the Annual Appropriation Ordinance be approved by ordinance by the Board of Supervisors, subject to the Controller certifying the availability of funds.

Charter Section 9.113 specifies that if the Mayor or Board of Supervisors has previously rejected an appropriation in the Annual Appropriation Ordinance, then approval of a supplemental appropriation requires a two-thirds vote of the Board of Supervisors.

Administrative Code Section 3.17 requires that the Airport, Emergency Management, Fire, Police, Public Health, Public Utilities, Public Works, Recreation and Park and the Sheriff Departments must obtain approval of a supplemental appropriation ordinance to expend more on overtime than the amount originally appropriated as part of the Annual Appropriations Ordinance, prior to the expenditure of such additional overtime monies.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would de-appropriate existing budgeted funds and appropriate new funds totaling \$4,393,505 to resolve the Sheriff's projected FY 2012-13 budgetary shortfall in overtime and workers compensation. The sources of revenues for the proposed supplemental appropriation include:

- (a) re-appropriation of \$1,182,551 of General Fund revenues in the Sheriff's FY 2012-13 budget by de-appropriating permanent salaries that are not projected to be needed for the balance of FY 2012-13 and materials and supplies purchases that can be deferred until FY 2013-14;
- (b) de-appropriation of \$538,690 in net State revenues in FY 2012-13 by de-appropriating \$1,094,307 of existing budgeted State revenues that are not anticipated to be received by the City in FY 2012-13 and appropriating \$555,617 of new State revenues that are not included in the Sheriff's FY 2012-13 budget that are anticipated to be received by the City; and
- (c) appropriation of \$3,458,970 of additional General Fund Reserve funds and \$290,674 of new State Disability Claim Reimbursement funds.

The proposed \$4,393,505 would be used to fund requested increases of \$3,195,726 in Sheriff's overtime and \$1,197,779 in Sheriff's workers compensation. Approval of the requested \$3,195,726 for additional overtime funding requires two-thirds vote of the Board of Supervisors because the Board of Supervisors rejected appropriation of such overtime expenditures in the Sheriff's FY 2012-13 budget.

FISCAL IMPACTS

Table 1 below identifies the proposed sources of funding for the requested \$4,393,505 supplemental appropriation.

Table 1: Proposed Sources of Funding

Sources of Funding	Amount	Total
<u>Re-appropriations from Sheriff's Budget</u>		
Permanent Salaries	\$905,551	
Materials and Supplies	<u>277,000</u>	
De-appropriations from Sheriff's Budget		\$1,182,551
<u>De-appropriations of Existing Revenues</u>		
Re-entry Pod Boarding	(\$421,575)	
Prisoner Boarding Counties	<u>(672,732)</u>	
Reduced State Revenues to be De-appropriated	(\$1,094,307)	
<u>Appropriations of Projected Additional Revenues</u>		
State Criminal Alien Assistance Program (SCAAP)	472,808	
Board Room Working Prisoners	79,602	
Misc. Correction Service Revenue	<u>3,207</u>	
Subtotal Increased State Revenues to be Appropriated	\$555,617	
Net Revenues De-appropriated & Appropriated		(\$538,690)
<u>Additional Funding Sources</u>		
General Fund Reserve	\$3,458,970	
State Disability Claim Reimbursement	<u>290,674</u>	
Subtotal Sources of Additional Funding Required		\$3,749,644
Total Sources of Funding		\$4,393,505

As noted in Table 1 above, this General Fund Reserve request of \$3,458,970 is 78.7% of the total requested budgetary shortfall of \$4,393,505.

Table 2 below identifies the proposed uses of the requested \$4,393,505 of funding for overtime and workers compensation.

Table 2: Proposed Uses of Funding

Uses of Funding		
Sheriff's Overtime - Uniform Salaries	\$3,195,726	
Sheriff's Workers Compensation	<u>1,197,779</u>	
Total Uses of Funding		\$4,393,505

Sources of Funding

Permanent Salaries (\$905,551)

The Sheriff's FY 2012-13 budget included \$81,318,567 for permanent salaries for both uniform and miscellaneous staff, temporary salaries, premium pay and holiday pay funded with the City's General Fund. Based on the Sheriff's current projections through June 30, 2013, the Sheriff anticipates having a surplus in permanent salaries for both uniform and miscellaneous employees, but will incur shortfalls in temporary salaries, premium pay, one-time salary payouts and holiday pay expenditures as summarized in Table 3 below, for a total projected expenditure of \$80,413,016 in FY 2012-13. Overall, the Sheriff's Office is therefore projecting a net surplus of \$905,551 in salaries in FY 2012-13.

Table 3: Budgeted and Projected General Fund Salaries for the Sheriff in FY 2012-13

Salary Categories	FY 2012-13 Budget	FY 2012-13 Projected Expenditures	Difference
Permanent Salaries	\$74,677,933	\$72,257,430	\$2,420,503
Temporary Salaries, One-Time Payouts and Holiday Pay	1,307,060	2,125,367	(818,307)
Premium Pay	5,333,574	6,030,219	(696,645)
Total	\$81,318,567	\$80,413,016	\$905,551

Ms. Bree Mawhorter, Chief Financial Officer for the Sheriff's Department, advises that Premium Pay, One-Time Salary Payouts and Holiday Pay are required by the Memorandum of Understanding (MOUs) entered into by the employee organizations with the City, such that the Sheriff is required to pay the projected amounts. Regarding Temporary Salaries, while the Sheriff has discretion for hiring, Ms. Mawhorter advises that because the Sheriff had five 8108 Senior Legal Process Clerk vacancies, the Sheriff hired several temporary 8108 Senior Legal Process Clerks while the Sheriff filled the permanent positions. After the permanent positions were filled, the temporary positions were retained for training purposes, such that the temporary positions were not eliminated until March 1, 2013. In addition, the Sheriff hired several Proposition F retired Deputy Sheriffs using Temporary Salaries, which were only recently eliminated on March 22, 2013.

Materials and Supplies (\$277,000)

The Sheriff's existing FY 2012-13 General Fund budget includes \$5,938,435 for materials and supplies. Based on existing expenditure rates, the Sheriff projects materials and supplies expenditures totaling \$5,661,435, which is \$277,000 less than the budgeted FY 2012-13 amount. Ms. Mawhorter advises that the Department had planned to make year-end one-time purchases

with the remaining funds, such as replacing soiled and torn mattresses, replacing broken chairs and refreshing technology. However, these purchases will be deferred to FY 2013-14.

Re-Entry Pod Boarding (\$421,575)

The Re-Entry Pod Boarding program allows the State to send inmates back to their local jurisdiction to serve the last 60 days of inmates' sentences. This program is intended to place such inmates into local jurisdiction programs to smooth these inmates re-entry into the community and potentially reduce recidivism. Under this program, the State pays the City a negotiated rate per prisoner, per day. The City budgeted \$421,575 of revenues in FY 2012-13 for this program to commence January 1, 2013. However, the State has not yet sent any inmates and is not anticipated to send any inmates to San Francisco in FY 2012-13. The requested reduction of \$421,575 of State revenue reflects this unrealized budgeted revenue.

Prisoner Boarding Counties/State Criminal Alien Assistance Program (SCAAP) (\$672,732)

In FY 2012-13, the Sheriff budgeted \$700,000 of revenues for this Prisoner Boarding Counties account, which according to Ms. Mawhorter is actually the State Criminal Alien Assistance Program (SCAAP). Under SCAAP, the Federal government pays the City a negotiated rate per day for all illegal aliens housed in San Francisco jails. Due to a change in Controller accounting, the Sheriff received \$13,634 and is projected to receive a total of \$27,268, or a projected shortfall of \$672,732 for this account. However, as shown below, the balance of revenues will be credited under a separate SCAAP account.

State Criminal Alien Assistance Program (SCAAP) (\$472,808)

As noted above, under the State Criminal Alien Assistance Program (SCAAP), the Federal government pays the City a negotiated rate per day for all illegal aliens housed in San Francisco jails. The Sheriff did not budget any revenues under this Program account. Due to a change in Controller accounting, this Program account is now anticipated to receive a total of \$472,808 in revenues in FY 2012-13.

Board Room Working Prisoners (\$79,602)

The Board Room Working Prisoners Program allows individuals to perform community service work in lieu of jail time. Individuals must pay a fee to participate in this Program. The Sheriff budgeted \$70,000 for this Program in FY 2012-13 and is now projecting to receive a total of \$149,602, or an additional \$79,602 more than budgeted from this revenue source.

Miscellaneous Correction Service Revenue (\$3,207)

The Sheriff's Department is required to notify the Federal Social Security Administration when the Sheriff houses an inmate who receives Social Security. As an incentive for the Sheriff to comply with this requirement, the Social Security Administration pays the Sheriff a fixed fee per notification. The Department budgeted \$72,000 from these fees and is now projecting to receive a total of \$75,207, or an additional \$3,207 more than budgeted from this revenue source.

General Fund Reserve (\$3,458,970)

The proposed supplemental appropriation would appropriate \$3,458,970 from the City's General Fund Reserve. As of April 3, 2013, the General Fund Reserve balance was \$28,845,655, pending approval of supplemental appropriations for the Public Defender's Office and the Department of Public Health. If the requested Public Defender and Department of Public Health supplemental appropriations are approved and if the proposed Sheriff's Department supplemental appropriation request is approved, the City's General Fund Reserve balance would be reduced to \$21,636,878, as shown in Table 4 below.

Table 4: General Fund Reserve Balance

	General Fund Reserve
Available Balance as of April 3, 2013	\$28,845,655
Pending Supplemental Appropriations	
Public Defender's Office (File 13-0185)	(656,958)*
Department of Public Health (File 13-0283)	(3,092,849)*
Sheriff's Department-General Fund portion (File 13-0275)	(3,458,970)
Balance if Pending Supplemental Appropriations are Approved	\$21,636,878
*As recommended by the Budget and Finance Committee, subject to full Board of Supervisors approval.	

State Disability Claim Reimbursement (\$290,674)

According to Ms. Mawhorter, when a sworn staff member is off work due to a disability, in accordance with Section 4850 of the California Labor Code, the Sheriff's Department is required to pay the salary of this employee until the State makes a final determination of the employee's disability status. If the person is determined to be disabled, the State reimburses the Sheriff's Department for the salary of the employee while the person could not work, due to the disability. If the employee is determined by the State to be capable of returning to work, the employee's wages are garnished by the Sheriff's Department until the wages are fully repaid while the employee was not working. The \$290,674 included in the proposed supplemental appropriation is based on payments made by the Sheriff's Department to 13 Sheriff employees through March 13, 2013, which the Sheriff anticipates being repaid by the State, or the Sheriff will recapture the value by garnishing the wages of these employees.

Uses of FundingOvertime – Uniform Salaries (\$3,195,726)

The Sheriff's FY 2012-13 budget included \$3,544,040 for General Fund overtime, a decrease of \$1,570,108 or 30.7% less than the Sheriff's actual General Fund overtime expenditures of \$5,114,148 in FY 2011-12, due to reductions taken by the Mayor. Based on the Sheriff's projections through June 30, 2013, the Sheriff anticipates expending a total of \$6,739,766 in overtime, a projected shortfall of \$3,195,726 or 90.2% more than the amount of \$3,544,040 budgeted for overtime salaries in FY 2012-13. The proposed supplemental appropriation would fund the Sheriff's projected \$3,195,726 overtime shortfall.

According to Ms. Mawhorter, the Sheriff is projected to over-expend its FY 2012-13 overtime budget due to the requirement to fill Deputy Sheriff positions in the jails on a 24-hour basis with overtime assignments to existing staff because the: (a) Sheriff had 30-39 vacant sworn positions in FY 2012-13 due to retirements and attrition; (b) the Department has not held a new academy class of Deputy Sheriffs in three years; (c) without new classes, Sheriff can only fill permanent vacant Deputy Sheriff positions with lateral hires, which are limited and take approximately six months to fill plus two months of training; (d) State realignment has increased the number of “special population¹” prisoners, which require special housing and transportation needs, necessitating additional overtime assignments, such as transporting prisoners to San Francisco General Hospital for treatment; and (e) mutual aid for Occupy protests, Giants parade, Fleet Week and the Super Bowl resulted in higher than anticipated overtime.

Workers Compensation (\$1,197,779)

As shown in Table 5 below, the Sheriff’s FY 2012-13 budget included \$3,605,688 for workers compensation funded by the General Fund, an increase of \$120,773 or 3.5% from the Sheriff’s FY 2011-12 actual expenditures of \$3,484,915 for workers compensation funded by the General Fund.

Table 5: Workers Compensation General Fund Actual Expenditures for Sheriff from FY 2008-09 Through FY 2011-12 and Budgeted Expenditures for FY 2012-13

	FY 2008-09 (Actual)	FY 2009-10 (Actual)	FY 2010-11 (Actual)	FY 2011-12 (Actual)	FY 2012-13 (Budgeted)
Expenditures	\$2,736,544	\$3,244,596	\$3,656,416	\$3,484,915	\$3,605,688

However, based on the Department of Human Resources’ (DHR) projections through June 30, 2013, the Sheriff is anticipated to expend a total of \$4,794,956 for workers compensation, resulting in a projected shortfall of \$1,189,268 in workers compensation in FY 2012-13 over the \$3,605,688 budgeted in FY 2012-13. This projected shortfall of \$1,189,268 is \$8,511 less than the requested amount of \$1,197,779 for workers compensation.

According to Ms. Peggy Sugarman, DHR’s Workers Compensation Director, the projected shortfall in workers compensation is due to several catastrophic and various unanticipated claims for the Sheriff’s Department that are being paid in the current fiscal year, including one claim for \$530,623. DHR advises that the Sheriff is the only City department that is projected to significantly over-expend its workers compensation budget in the current fiscal year and that overall, the City’s General Fund worker compensation claims will be approximately \$4.0 million less than budgeted for FY 2012-13. Ms. Sugarman advises that DHR is providing a presentation to management staff in the Sheriff’s Department on April 16, 2013 to address and begin to reduce future workers compensation claims for the Sheriff’s Department.

¹ Special population prisoners include gang affiliated members, maximum security, mentally ill or sexual offenders.

Budget and Legislative Analyst Recommended Reductions

Based on a review of the Sheriff's expenditure projections through June 30, 2013, the Budget and Legislative Analyst recommends (a) increasing the sources of surplus funding from the Sheriff's existing FY 2012-13 budget from Permanent Salaries by \$38,998 and Materials and Supplies by \$50,000, for a total increase of \$88,998, and (b) reducing the proposed supplemental appropriation for Overtime by \$83,556 and Workers Compensation by \$8,511, for a total reduction of \$92,067, as shown in Table 6 below.

Table 6: Recommended Reductions

	Requested Supplemental Appropriation	Budget & Legislative Analyst Recommended Supplemental Appropriation	Budget & Legislative Analyst Recommended Reductions
<u>Sources of Funding from Sheriff's Budget</u>			
Permanent Salaries	\$905,551	\$944,549	\$38,998
Materials and Supplies	<u>277,000</u>	<u>327,000</u>	<u>50,000</u>
Sources of Funding from Sheriff's Budget	\$1,182,551	\$1,271,549	\$88,998
<u>Uses of Funding in Sheriff's Budget</u>			
Overtime - Uniform Salaries	\$3,195,726	\$3,112,170	\$83,556
Workers Compensation	<u>1,197,779</u>	<u>1,189,268</u>	<u>8,511</u>
Total Uses of Funding	\$4,393,505	\$4,301,438	\$92,067
Total Recommended Sources and Uses Funding			\$181,065

The Budget and Legislative Analyst's recommendation would reduce the General Fund Reserve appropriation by \$181,065, from \$3,458,970 under the proposed ordinance to \$3,277,905.

POLICY CONSIDERATIONS

On August 20, 2012, the then-Interim Sheriff submitted a letter to the Mayor, Clerk of the Board and Controller indicating that, in conformance with Charter Section 9.115 and Administrative Code Section 3.14, the Sheriff's budget for FY 2012-13 and FY 2013-14 as adopted by the Board of Supervisors, was adequate to meet service levels, with one exception. "That exception is a possible increase in the jail population, beyond projections, due to State Realignment as well as increased local bookings and other factors. If the population increases in size and/or incidences of violence caused by a more dangerous population or percentage of prisoners with increased mental health needs continues to rise, additional staffing, overtime and operating expenses may be incurred to open housing and/or put in additional measures to maintain the safety of all prisoners and staff."

Although jail population has not increased in FY 2012-13 due to State realignment, as discussed above, one of the reasons that the Sheriff is now requesting the subject supplemental

appropriation is due to the increasing special needs of the new jail population, which now requires additional special housing and transportation needs, necessitating additional overtime assignments, such as transporting prisoners to San Francisco General Hospital for treatment. However, the primary reason for the additional requested overtime is due to unfilled vacant positions and the corresponding use of overtime to fill these positions in order to provide the needed number of Deputy Sheriffs in the City's jails on a 24-hour basis.

Given the requested \$4,393,505 supplemental appropriation for additional overtime and workers compensation for the Sheriff's Department was requested to be funded by \$3,458,970 in City General Fund revenues, or 78.7% of this request, the Sheriff should commence implementing actions to address reducing overtime and workers compensation claims in the Department, to be included in the FY 2013-14 Sheriff's Department budget.

RECOMMENDATIONS

1. Amend the proposed ordinance to (a) increase the sources of funding from the Sheriff's Permanent Salaries by \$38,998 and Materials and Supplies by \$50,000, for a total increase of \$88,998 and (b) reduce the proposed supplemental appropriation for Overtime by \$83,556 and Workers Compensation by \$8,511, for a total reduction of \$92,067, with offsetting savings of \$181,065 (\$88,998 plus \$92,067) to the City's General Fund Reserve.
2. Approve the supplemental appropriation, as amended.