

File No. 191071

Committee Item No. 8

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date November 6, 2019

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
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- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong

Date November 1, 2019

Completed by: Linda Wong

Date _____

1 [Public Employment - Amendment to the Salary Ordinance for the District Attorney and the
2 Sheriff's Department - FY2019-2020]

3 **Ordinance amending Ordinance No. 170-19 (Salary Ordinance FYs 2019-2020 and 2020-**
4 **2021) to reflect the addition of five new positions (2.5 FTEs) in FY2019-2020 at the**
5 **District Attorney's Office and the Sheriff's Department to implement the terms of the**
6 **stipulated final judgment in the action entitled Riana Buffin and Crystal Patterson, on**
7 **behalf of themselves and others similarly situated v. Vicki Hennessy in her official**
8 **capacity as the San Francisco Sheriff, et al. (Board File No. 190994).**

9 Note: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The hereinafter designated section and item of Ordinance No.170-19 (Salary
18 Ordinance Fiscal Years 2019-20 and 2020-21) in Fiscal Year 2019-2020 FTE is hereby
19 amended as follows:

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1 District Attorney

2 Department ID: 229313 (DAT District Attorney)
3 Fund ID: 10000 (GF Annual Account Ctrl Fund)
4 Project/Activity ID: 10001774/0001 (DA Prosecution)
5 Authority ID: 10000 (Operating)

6 <u>Amendment</u>	<u># of FTE</u>	<u>Class and Item No</u>	<u>Compensation Schedule</u>		
7 <u>Add</u>	<u>0.5</u>	<u>8177 Attorney (Civil/Criminal)</u>	<u>\$4,548</u>	<u>B</u>	<u>\$7,966</u>
8 <u>Add</u>	<u>0.5</u>	<u>8177 Attorney (Civil/Criminal)</u>	<u>\$4,548</u>	<u>B</u>	<u>\$7,966</u>
9 <u>Add</u>	<u>0.5</u>	<u>8133 Victim/Witness Investigator III</u>	<u>\$3,348</u>	<u>B</u>	<u>\$4,070</u>
10 <u>Add</u>	<u>0.5</u>	<u>8133 Victim/Witness Investigator III</u>	<u>\$3,348</u>	<u>B</u>	<u>\$4,070</u>
11 <u>Subtotal</u>	<u>2.0 FTEs</u>				

12
13 Sheriff's Department


14 Department ID: 232331 (SHF Sheriff)
15 Fund ID: 10000 (GF Annual Account Ctrl Fund)
16 Project/Activity ID: 10001929/0002 (SH Jail #1)
17 Authority ID: 10000 (Operating)

18 <u>Amendment</u>	<u># of FTE</u>	<u>Class and Item No</u>	<u>Compensation Schedule</u>		
19 <u>Add</u>	<u>0.5</u>	<u>1823 Senior Administrative Analyst</u>	<u>\$3,627</u>	<u>B</u>	<u>\$4,408</u>
20 <u>Subtotal</u>	<u>0.5 FTEs</u>				

22 <u>Amendment</u>	<u># of FTE</u>	<u>Class and Item No</u>	<u>Compensation Schedule</u>		
23 <u>Total</u>	<u>2.5 FTEs</u>				


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APPROVED AS TO CLASSIFICATION
DEPARTMENT OF HUMAN RESOURCES



MICKI CALLAHAN
Human Resources Director

APPROVED AS TO FORM
DENNIS HERRERA, City Attorney

By: 

for BUCK DELVENTHAL
Deputy City Attorney

<p>Items 7 and 8 Files 19-1070 and 19-1071</p>	<p>Departments: Police, Sheriff, District Attorney</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • File 19-1070 is an ordinance appropriating \$2,938,842 from the General Reserve in FY 2019-20 to provide funding for the Sheriff’s Department, Police Department, and the District Attorney to implement the terms of the Buffin settlement agreement. File 19-1071 is an ordinance amending the Annual Salary Ordinance to add four new positions to the District Attorney’s Office (2.0 FTE in FY 2019-20), and one new position to the Sheriff’s Department (0.5 FTE in FY 2019-20). 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • Plaintiffs Riana Buffin and Crystal Patterson recently reached a settlement agreement with the Sheriff’s Department in the case of Buffin et al. versus Sheriff Vicki Hennessy in her official capacity as Sheriff. The ordinance approving the settlement agreement is pending before the Board of Supervisors. The settlement agreement (1) restricts use of the existing bail schedule for arrested individuals in determining the length of pre-arraignment detention; (2) requires release of certain detainees within 18 hours from the time of booking; and (3) requires additional funding to the San Francisco Pretrial Diversion Project for its work related to own recognizance releases known as Own Recognizance Project. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • In order to implement the Buffin settlement agreement from January 2020 through June 2020: (1) the Sheriff’s Department has requested increased overtime for additional staffing in County Jail #1, an administrative position to manage data requirements, and increased funding to the San Francisco Pretrial Diversion Project; (2) the District Attorney’s Office has requested four new positions to provide evening and weekend coverage; and (3) the Police Department has requested overtime to provide police sergeant coverage at seven of the busiest police stations. • The Controller’s Office will evaluate the impact of the Buffin settlement agreement on workload for these departments. 	
<p style="text-align: center;">Recommendations</p>	
<ul style="list-style-type: none"> • Amend the proposed ordinance (File 19-1070) to reduce the appropriation by \$746,973 from \$2,938,842 to \$2,191,869, as shown in Table 4 below. • Amend the proposed ordinance (File 19-1071) to approve the five new positions (2.5 FTE in FY 2019-20) as limited tenure for 18 months from January 1, 2020 through June 30, 2021, including (a) one 1823 Senior Administrative Analyst (0.5 FTE in FY 2019-20) at the Sheriff’s Department; and (b) two 8177 Attorney positions (1.0 FTE in FY 2019-20) and two 8133 Victim/Witness Investigator III positions (1.0 FTE in FY 2019-20) at the District Attorney’s Office. • Approve the proposed ordinances as amended. 	

MANDATE STATEMENT

City Charter Section 9.105 states that amendments to the Annual Appropriation Ordinance are subject to Board of Supervisors approval by ordinance after the Controller certifies the availability of funds.

City Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

Administrative Code Section 2.1-1 states that the Board of Supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the City and County, and shall fix rates and schedules of compensation.

BACKGROUND

Plaintiffs Riana Buffin and Crystal Patterson recently reached a settlement agreement with the Sheriff's Department in the case of Buffin et al. versus Sheriff Vicki Hennessy in her official capacity as Sheriff. The ordinance approving the settlement agreement is pending before the Board of Supervisors. The settlement has three main terms: (1) prohibiting the Sheriff from using the existing bail schedule for arrested individuals and from using any similar policy that determines the existence or length of pre-arraignment detention based on an arrestee's ability to pay; (2) requiring the Sheriff to release certain arrestees within 18 hours from the time of booking under certain circumstances; and (3) conditioning the settlement on the City providing additional funding to the community-based organization San Francisco Pretrial Diversion Project for its work related to own recognizance releases known as Own Recognizance Project.

As part of the 18-hour time limit for holding an arrested individual, the settlement puts in place additional time-limited processes and workload requirements for entities involved in the criminal justice system in order to determine when an own recognizance release is appropriate, as explained below.

- The Own Recognizance Project of the San Francisco Pretrial Diversion Project would be required to do an own recognizance workup for all *eligible* arrested individuals; that is, all arrestees booked on offenses not enumerated in California Penal Code Section 1270.1(a), which lists "serious or violent felonies". This workup would include completion of a Public Safety Assessment—a standardized assessment tool that produces risk scores for the likelihood to commit a new crime, likelihood to commit a new violent crime, and likelihood of failure to appear in court—along with all other portions of the own recognizance workup reasonably available. The Own Recognizance Project would be required to submit its release recommendation to the San Francisco Superior Court within eight hours from the time of booking. The new eight-hour timeframe for preparing an own recognizance workup would require the Police Department to prepare and submit its incident report to the Own Recognizance Project within eight hours—down from the current timeframe of 48 hours. The District Attorney's Office would also need to review release recommendations prepared by the Own Recognizance Project within eight hours.

- If the Superior Court does not render a timely release decision and the Public Safety Assessment court report does not indicate that a release is not recommended, then the Sheriff would be required to release the arrested individual at 18 hours from the time of booking.
- Two parties—a law enforcement officer and representatives of the arrested individual—may each seek adjustments to the 18-hour time limit for rendering an own recognizance release determination. Working in coordination with the District Attorney’s Office, a sheriff’s deputy or police officer who (1) has reasonable cause to believe that an arrestee may not appear at arraignment or poses a threat to public safety, or (2) expects that specific information not yet provided will be delivered within the next 12 hours and will probably provide a reasonable cause to believe that an arrestee may not appear at arraignment or poses a threat to public safety may file a declaration under penalty of perjury within the 18-hour period that would—without further judicial action—extend the 18-hour period by an additional 12 hours. Alternatively, the arrested individual, their attorney, a friend, or family member would have the right to submit an application seeking a faster judicial decision than the 18-hour timeline. Further, the arrested individual, their attorney, a friend, or family member would also have the right to submit an application seeking an own recognizance release prior to arraignment for offenses enumerated in California Penal Code Section 1270.1(a), including a serious felony (as defined in California Penal Code Section 1192.7(c)), a violent felony (as defined in California Penal Code Section 667.5(c)), and other specified offenses. The District Attorney’s Office would need to review and respond to these own recognizance release applications submitted by arrested individuals or their representatives, either for faster judicial action or for consideration for an own recognizance release for offenses enumerated in California Penal Code Section 1270.1(a).

Finally, the settlement terms provide for 18 months of court monitoring in order to ensure Sheriff’s Department compliance with the new requirements. As part of this monitoring, the Sheriff’s Department would be required to gather data regarding time of arraignment for all arrestees and to submit comprehensive data reports every three months for the duration of the 18-month period.

DETAILS OF PROPOSED LEGISLATION

File 19-1070: Supplemental Appropriation Ordinance

The proposed ordinance would appropriate \$2,938,842 General Fund from the General Reserve¹ in FY 2019-20 to provide funding for the Police Department, Sheriff’s Department, and the District Attorney to implement the terms of the Buffin settlement agreement, as shown in Table 1 below.

¹ The current balance of the General Reserve is \$156.7 million, of which \$28.9 million is the minimum reserve amount set by Administrative Code Section 10.60(b).

Table 1: Sources and Uses of Funds

Source of Funds	Amount
General Reserve	\$2,938,842
Total Sources	\$2,938,842
Uses of Funds	
<i>Sheriff's Department</i>	
Overtime	\$456,460
Permanent Salaries	59,318
Fringe Benefits	24,892
Community-Based Organization Services	<u>836,838</u>
Subtotal, Sheriff's Department	\$1,377,508
<i>Police Department</i>	
Overtime	\$1,234,868
IT Software & Professional Services	<u>2,000</u>
Subtotal, Police Department	\$1,236,868
<i>District Attorney</i>	
Permanent Salaries	239,584
Fringe Benefits	<u>84,882</u>
Subtotal, District Attorney	\$324,466
Total Uses	\$2,938,842

Existing Workload Related to Own Recognizance Releases for the Sheriff's Department, Police Department and District Attorney

Sheriff's Department. The Sheriff's Department contracts with the community-based organization San Francisco Pretrial Diversion Project in order to assist eligible arrested individuals to obtain own recognizance releases through its Own Recognizance Project. The contract provides for a timeline and procedure for Own Recognizance Project staff to submit own recognizance workups to the San Francisco Superior Court. Staff from the Own Recognizance Project are to complete their own recognizance workup within 48 hours from the time of a person's booking, including completion of the Public Safety Assessment within 24 hours from the time of booking and submission of a Public Safety Assessment court report providing a release recommendation among four options: no active supervision, minimum supervision, assertive case management, or release not recommended. In FY 2019-20, the contract budget for the San Francisco Pretrial Diversion Project is \$4,471,357, which funds the completion of 2,250 Public Safety Assessment reports quarterly and provides assertive case management to 390 cases and minimum supervision to 720 cases.

Police Department. Police officers currently prepare an incident report—with sign off by a sergeant and a lieutenant within 48 hours of the time of booking and submittal of the report to the Own Recognizance Project. The incident reports are shared via a secure centralized electronic content management system known as Laserfiche, fax, e-mail, or in-person delivery, depending on the availability of transmission methods from police stations.

District Attorney. The District Attorney’s Office currently reviews the own recognizance workups prepared by the Own Recognizance Project to ensure all relevant materials have been made available.

File 19-1071: Annual Salary Ordinance Amendment

The proposed ordinance would amend the Annual Salary Ordinance to add five new positions, equal to 2.5 FTEs for the remainder of FY 2019-20 at the District Attorney and Sheriff’s Department in order to implement the terms of the Buffin settlement, as shown in Table 2 below.

Table 2: Proposed New Positions for the District Attorney and Sheriff’s Department

	Number of Positions	FY 2019-20 FTEs
<i>District Attorney</i>		
8177 Attorney	2	1.00
8133 Victim/Witness Investigator III	2	1.00
<i>Sheriff’s Department</i>		
1823 Senior Administrative Analyst	1	0.50
Total	5	2.50

FISCAL IMPACT

A total of \$2,938,842 General Fund from the General Reserve is requested to implement the terms of the settlement reached between plaintiffs Riana Buffin and Crystal Patterson (and others similarly situated) and the Sheriff’s Department in FY 2019-20.

Sheriff’s Department

The supplemental appropriation ordinance proposes to augment the San Francisco Pretrial Diversion Project community-based organization contract by \$836,838 in FY 2019-20 due to increased workload and faster timelines for preparing own recognizance workups and submitting them to the San Francisco Superior Court. Our review of the Own Recognizance Project proposed budget provided by the Sheriff’s Department indicates that the amount of \$836,838 reflects hiring assumptions for August, September, and October that have not materialized. We therefore recommend reducing the augmentation to \$709,733 in FY 2019-20 to accurately reflect hiring to date, as shown in Table 3 below.

Table 3: FY 2019-20 Proposed Budget and Recommended Modification for San Francisco Pretrial Diversion Project Community-Based Organization Services

	Proposed	Recommended
Salaries & Fringe Benefits	\$570,162	\$463,664
Operating Expenses	59,750	59,750
Sub-Contract Services	79,900	79,900
Equipment	16,700	16,700
Administrative Costs	110,326	89,719
Total	\$836,838	\$709,733
Reduction		(\$127,105)

The proposed 1823 Senior Administrative Analyst position and accompanying salary and fringe benefit funds of \$84,210 appear reasonable to comply with the terms of the Buffin settlement, which require preparation of comprehensive data reports by the Sheriff's Department for the 18-month period of court monitoring. Because of the time-limited nature of this work, we recommend that the 1823 position be approved as a limited-tenure position from January 1, 2020 through June 30, 2021 to correspond with the court monitoring period of 18 months.

The proposed overtime amount of \$456,460 appear reasonable to provide 24 hour/7 day per week sheriff's deputy staffing at County Jail #1 to (a) ensure compliance with court-imposed timelines requiring release of the detainee within 18 hours if certain conditions are met, and (2) file declarations seeking an additional 12 hours' detention under certain circumstances (noted above).

Police Department

The supplemental appropriation ordinance proposes to augment Police Department overtime by \$1,234,868 to provide additional police sergeant staffing at the seven busiest police stations to sign off on incident reports. While we agree that enhanced police sergeant staffing will be needed to meet the court-imposed eight-hour timeline for preparing and submitting incident reports to the Own Recognizance Project and for filing declarations seeking an additional 12 hours under the 18-hour release timeline, we question the amount proposed.

In a 2018 performance audit of the Police Department, our office found that the Department did not sufficiently control the use of overtime; according to the Police Department, the Department has implemented procedures to better manage overtime and is continuing to monitor overtime. The Police Department's overtime budget in FY 2019-20 is \$19,392,195, of which \$5,246,035 has been spent to date. Based on actual overtime spending in FY 2019-20, we recommend a reduction in Police Department overtime under the proposed ordinance from \$1,234,868 to \$615,000.

District Attorney

The supplemental appropriation ordinance proposes two 8177 Attorney positions and two 8133 Victim/Witness Investigator III positions (senior paralegals) to address the workload associated with: (1) reviewing Public Safety Assessment court reports; (2) coordinating with the Sheriff's Department and Police Department in filing declarations seeking an additional 12 hours under the 18-hour release timeline in certain circumstances; and (3) reviewing and responding to own recognizance release applications submitted by arrested individuals or their representatives, either for faster judicial action or for consideration for an own recognizance release for offenses enumerated in California Penal Code Section 1270.1(a). Because the workload associated with tasks 2 and 3 are unknown and difficult to predict, we recommend the four positions be approved as limited tenure for 18 months from January 1, 2020 through June 30, 2021.

SUMMARY

The Board of Supervisors should amend the proposed ordinance (File 19-0994) to reduce the appropriation by \$746,983, from \$2,938,842 to \$2,191,869, as discussed above and shown in Table 4 below.

Table 4: Summary Table of Appropriation Recommendations (File 19-0994)

	Proposed	Recommended	Reduction
<i>Sheriff's Department</i>			
Overtime	\$456,460	\$456,460	\$0
Permanent Salaries	59,318	59,318	0
Fringe Benefits	24,892	24,892	0
Community-Based Organization Services	<u>836,838</u>	<u>709,733</u>	<u>(127,105)</u>
Subtotal, Sheriff's Department	\$1,377,508	\$1,250,403	(\$127,105)
<i>Police Department</i>			
Overtime	1,234,868	615,000	(619,868)
IT Software & Professional Services	<u>\$2,000</u>	<u>2,000</u>	<u>0</u>
Subtotal, Police Department	\$1,236,868	\$617,000	(\$619,868)
<i>District Attorney</i>			
Permanent Salaries	239,584	239,584	\$0
Fringe Benefits	84,882	84,882	0
Temporary Salaries	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal, District Attorney	\$324,466	\$324,466	\$0
Total	\$2,938,842	\$2,191,869	(\$746,973)

Buffin Settlement Workload Analysis

Further, the Mayor's Office has requested that the City Services Auditor in the Controller's Office evaluate the ongoing workload and accompanying staffing needs associated with implementation of the Buffin settlement for the Sheriff's Department, Police Department, and

District Attorney. Therefore, in order to ensure the appropriateness of staffing levels, the Board of Supervisors should amend the proposed ordinance to approve the five requested positions, shown in Table 2 above, as limited tenure positions for 18 months pending the City Services Auditor evaluation.

RECOMMENDATIONS

1. Amend the proposed ordinance (File 19-1070) to reduce the appropriation by \$746,973 from \$2,938,842 to \$2,191,869, as shown in Table 4 above.
2. Amend the proposed ordinance (File 19-1071) to approve the five new positions (2.5 FTE in FY 2019-20) as limited tenure for 18 months from January 1, 2020 through June 30, 2021, including (a) one 1823 Senior Administrative Analyst (0.5 FTE in FY 2019-20) at the Sheriff's Department; and (b) two 8177 Attorney positions (1.0 FTE in FY 2019-20) and two 8133 Victim/Witness Investigator III positions (1.0 FTE in FY 2019-20) at the District Attorney's Office.
3. Approve the proposed ordinances as amended.



slc

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sophia Kittler
RE: Public Employment – Amendment to the Salary Ordinance for the District Attorney and the Sheriff’s Department – Fiscal Year 2019-2020
DATE: Tuesday, October 22, 2019

Ordinance amending Ordinance No 170-19 (Salary Ordinance Fiscal Years 2019-20 and 2020-21) to reflect the addition of 5 new positions (2.5 FTEs) in Fiscal Year 2019-20 at the District Attorney and the Sheriff’s Department to implement the terms of the stipulated final judgment in the action entitled Riana Buffin and Crystal Patterson, on behalf of themselves and others similarly situated v. Vicki Hennessy in her official capacity as the San Francisco Sheriff, et al. (Board File No. 190994).

Should you have any questions, please contact Sophia Kittler at 415-554-6153.

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