



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Debra Figone

SUBJECT: TIER 2 POLICE SWORN
CONTINGENCY PLAN

DATE: May 19, 2011

RECOMMENDATION

If a 10% ongoing total compensation reduction is not achieved with the San Jose Police Officers' Association (SJPOA), it is recommended that the City Council approve the following 2011-2012 Proposed Operating Budget rebalancing actions:

1. Approve the following amendments to the 2011-2012 Proposed Budget in the General Fund:
 - a. Increase the revenue estimate for Transfers and Reimbursements in the amount of \$375,000;
 - b. Increase the City-Wide Expenses Sick Leave Payments Upon Retirement appropriation in the amount of \$350,000;
 - c. Establish a Transfer to the Unemployment Insurance Fund in the amount of \$2,650,000;
 - d. Decrease the Police Department's Personal Services appropriation in the amount of \$2,020,000; and,
 - e. Decrease the Police Department's Non-Personal/Equipment appropriation in the amount of \$605,000.
2. Approve the following amendments to the 2011-2012 Proposed Budget in the Airport Maintenance and Operation Fund:
 - a. Increase the Transfer to the General Fund for Police Services appropriation in the amount of \$375,000; and,
 - b. Decrease the Contingency Reserve in the amount of \$375,000.
3. Approve the following amendments to the 2011-2012 Proposed Budget in the Unemployment Insurance Fund:
 - a. Increase the revenue estimate for Transfers in the amount of \$2,650,000; and,
 - b. Increase the Payment of Claims appropriation in the amount of \$2,650,000.
4. Eliminate the following positions in the Police Department: 134 Police Officer positions; 21 Police Sergeant positions; and 1 Police Lieutenant position.

BACKGROUND

At the November 18, 2010, 2011-2012 Organizational and Budget Planning Special Council Meeting, the City Council approved direction for labor negotiations to achieve a 10% ongoing total employee compensation reduction for all bargaining groups and to roll back any general wage increases received in 2010-2011. Direction was also included to pursue City Auditor's recommendations for healthcare cost containment including increased cost sharing, increased co-pays, reduced health and dental in-lieu costs, and elimination of dual coverage. Per the Mayor's 2011 March Budget Message, as approved by the City Council on March 22, 2011, the 2011-2012 Proposed Operating Budget was balanced assuming that the City Council's direction to achieve these total compensation reductions from all employee groups would be realized.

Agreements to achieve these compensation reductions were approved by the City Council on March 22, 2011, for the San Jose Fire Fighters Local 230 and on April 19, 2011, for the Association of Engineers and Architects, Association of Maintenance Supervisory Personnel, and the City Association of Management Personnel. Approval for compensation changes for unrepresented management and non-management (Unit 99 and Units 81/82) also occurred on April 19, 2011. The Association of Building, Mechanical, and Electrical Inspectors has signed a tentative agreement subject to City Council approval. A tentative agreement has also been reached with the International Union of Operating Engineers (Local No. 3), which is subject to ratification by the union members and City Council approval. Ongoing total compensation reductions for the remaining bargaining groups (Association of Legal Professionals, Confidential Employees' Organization, International Brotherhood of Electrical Workers (Local 332), Municipal Employees' Federation, and the San Jose Police Officers Association) are still outstanding. Last, Best, and Final Offers have been presented to the non-sworn bargaining groups and terms of the one year Last, Best, and Final Offer are on the agenda for City Council consideration on May 31, 2011. Due to binding interest arbitration for the SJPOA, the City Council has no option to impose the 10% ongoing total compensation reduction without a voluntary settlement, but may impose other items in accordance with the revised Charter Section 1111, pursuant to Measure V. As a result, it is necessary to proceed with a Tier 2 Contingency Plan to balance the budget in the event that a voluntary agreement is not reached.

Per the Mayor's March Budget Message, staff was further directed to bring forward Tier 2 contingency plans that identified additional budget reductions that could be implemented in the event concessions were not achieved from the City's employee groups. The Administration was directed to focus Tier 2 reductions caused by the lack of sworn Police concessions in the public safety services area, and similarly, the lack of non-public safety concessions towards non-public safety services. This memorandum presents the Police Tier 2 Contingency Plan that outlines the additional reductions necessary if concessions are not achieved from the SJPOA before City Council approval of the 2011-2012 Operating Budget. This Plan does not include sworn Fire personnel because the San Jose Fire Fighters Local 230 agreed to ongoing concessions.

ANALYSIS

The 2011-2012 Proposed Budget assumed total ongoing compensation reductions of 10% for the employees represented by the SJPOA. If these concessions are not achieved, the elimination of

an additional 156 sworn positions will be necessary to balance the 2011-2012 Budget. This level of reduction is necessary to cover the direct loss of savings from employee concessions (\$13.0 million) as well as the additional costs associated with laying off employees and not implementing the compensation reductions (\$6.1 million). The additional costs associated with laying off employees include those related to Unemployment Claims payments and compensatory time and vacation pay-outs (\$4.6 million). Additionally, savings linked to presumed reduction in the hourly rate of sworn personnel (i.e.: overtime/special pays and Sick-Leave Payments Upon Retirement) will no longer be realized (\$1.5 million). Therefore, the funding shortfall resulting from not achieving the value of 10% total compensation reduction amounts to \$19.1 million. To generate these savings, the elimination of 156 positions and the associated expenditure and revenue budget actions are needed as reflected in the following table.

**Tier 2 Police Sworn Contingency Plan
 Budget Balancing Actions**

Description	Amount
Tier 2 Shortfall	
Not Achieving POA Concessions	\$ 12,975,000
Unemployment Claims	2,650,000
Compensatory Time Payout	1,360,000
Overtime/Special Pays	1,180,000
Vacation Payouts	630,000
Sick-Leave Payment Upon Retirement	350,000
Total Tier 2 Shortfall	\$ 19,145,000
Tier 2 Solutions	
Position Eliminations	
- POA Sworn Positions (156 positions)	(\$ 27,800,000)
- Annual Retirement Contribution	9,535,000
- Unemployment Contribution	100,000
Sub-Total Position Eliminations	(18,165,000)
Airport Fund Reimbursement	(375,000)
Police Department Non-Personal/Equipment	(605,000)
Total Tier 2 Solutions	(\$ 19,145,000)

As shown in the chart above, the elimination of 156 positions would generate savings of \$27.8 million. However, because a fixed annual payment to the Police Retirement Plan is required and the Unemployment Insurance Fund must maintain its funding level, the savings generated from these two components totaling \$9.6 million must be restored, resulting in net position savings of \$18.2 million. Without the 10% concessions, the reimbursement to the General Fund from the Airport Operations and Maintenance Fund for Police services provided at the Airport will be increased by \$375,000 to account for the reversal of the presumed reduction in the hourly rate of sworn personnel. The Tier 2 Police Sworn Contingency Plan also includes the reduction in the non-personal/equipment budget of \$605,000 based on the reduced staffing level.

Service Delivery Impacts

The elimination of an additional 156 sworn Police positions will have significant service delivery impacts. These reductions are in addition to the 195 sworn position eliminations (194 positions in the Police Department and 1 position in the City Attorney’s Office) incorporated into the 2011-2012 Proposed Operating Budget, resulting in a total reduction of 351 sworn Police positions, or 28% of the sworn Police staffing. The Tier 2 staffing reductions will impact patrol (122 positions), investigative services (32 positions), and Crime Prevention and Community Education (2 positions) and will necessitate a further restructuring of Special Operations and the Bureau of Investigations. The elimination of 122 sworn positions in Patrol in addition to the 69 positions scheduled for elimination in July (23 positions in 2011-2012 Proposed Budget, 62 positions eliminated as part of the 2010-2011 Adopted Budget, offset by 16 grant-funded positions) will result in a total reduction of 191 positions in Patrol resources, an overall 26% reduction from current patrol staffing levels. The elimination of 32 additional sworn positions in the Bureau of Investigations (BOI) on top of the 28 position eliminations incorporated into the 2011-2012 Proposed Operating Budget will result in a total reduction of 60 positions in investigative resources; an overall reduction of 25% from the current BOI staffing level. The elimination of two Officer positions from the Truancy Abatement and Burglary Suppression (TABS) Program in Crime Prevention and Community Education will eliminate all remaining sworn positions in that core service. The specific impacts to Patrol, BOI, and TABS, and the recommended restructuring within these and other units is discussed further below.

Contingency Plan Changes	Positions	General Fund \$
1. Police Field Patrol	(122)	(\$21.9 million)

This action eliminates 105 Officers, 16 Sergeants, and one Lieutenant in Field Patrol. Reductions in Patrol will be implemented throughout the beat structure based on geographic, calls for service, and peak times. With an additional reduction in Patrol, the Police Department expects to see an increase in response times and does not anticipate meeting current target levels. However, it is important to note that alternative deployment of Special Operations resources will somewhat mitigate the impact on Patrol. Staff assigned to the Traffic Enforcement Unit and other Special Operations Units (Metro, MERGE, Covert Response Unit) will be deployed within the Patrol structure to be available to respond to calls for service and assist as needed throughout the City.

The Traffic Enforcement Unit (TEU) will shift its focus from the highest crash zones and the School and Neighborhood Traffic Enforcement (SNE) responsibilities to being deployed geographically within the Patrol structure based on calls for service and other needs throughout the City. TEU will continue to address traffic issues in those areas through enforcement; however, TEU will work with beat units, handle calls for service in their assigned area when necessary, and be a visible deterrent in the community. TEU will continue to provide traffic enforcement for special events such as Cinco de Mayo, Mardi Gras, Tour of California, and dignitary motorcades.

Contingency Plan Changes	Positions	General Fund \$
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1. Police Field Patrol (Cont'd.)

The Metro Unit will continue efforts to minimize gang activity; however, enforcement efforts will be directed toward issues having the greatest impact on Patrol. The four teams within Metro will be deployed in each of the four Patrol Divisions based on calls for service and other crime issues and will maintain flexibility to assist Patrol and respond to calls for service as needed. Each Metro team will address issues (burglaries, gangs, assaults, drug dealing, etc.) affecting their assigned division.

As part of the creation of the Covert Response Unit (CRU) as recommended in the 2011-2012 Proposed Operating Budget, the Mobile Emergency Response Group and Equipment (MERGE) Unit will no longer be part of the surveillance/apprehension mission effective July 1, 2011. As part of the changes necessary in this Tier 2 Contingency Plan, MERGE will deploy to Patrol Divisions, when possible, to assist with priority calls. Their assistance with Special Operations, Metro, and Patrol training will allow Patrol to more efficiently handle lower level tactical situations themselves.

2. Bureau of Investigations	(32)	(\$6.1 million)
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This action eliminates 27 Officers and five Sergeants in the Bureau of Investigations. While Tier 2 reductions would affect all units, the more drastic cuts will be implemented in property crimes units. It is anticipated that while the number of investigators decreases, a higher number of certain types of cases will not be assigned due to reduced staffing levels. All homicides and sexual assaults will be assigned for investigation; however, almost all other types of crimes will be evaluated to determine whether they will be assigned for follow-up investigation or closed due to a lack of staffing resources. It is also anticipated that the training that investigative staff provides to patrol and outside agencies will be reduced. Overtime may also increase primarily in the form of compensatory time as the number of detectives decreases, because there will be fewer resources to investigate cases, cover the "on-call" rotation, and be called back to investigate ongoing serious crimes. The following units will be impacted:

- **Assaults/Juvenile Unit (9 positions):** Eliminates two Sergeant and seven Officer positions of 22 positions assigned to the Assaults/Juvenile Unit. This unit is comprised of the following details: Assaults, Juvenile, Missing Persons, and Anti-Graffiti. With this reduction, Assaults, Juvenile and Missing Persons Details will be merged and supervised by one Sergeant and all Details will reduce staffing levels. All cases will be evaluated to determine case solvability and level of investigative intensity needed; however, cases will continue to be triaged and assigned accordingly. The two staff assigned to Anti-Graffiti will be eliminated. The community will continue to have access to the graffiti program and be able to upload pictures as needed; however, the program will not be monitored on a regular basis.

Contingency Plan Changes	Positions	General Fund \$
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2. **Bureau of Investigations (Cont'd.)**

- ***Gang Investigations Unit (GIU) (6 positions):*** Eliminates one Sergeant and five Officer positions of 17 positions assigned to the GIU. All cases will be evaluated to determine case solvability and level of investigative intensity needed; however, cases will continue to be triaged and assigned accordingly. Most misdemeanor cases will not be investigated unless an arrest is made by field units and conclusive investigative action has been completed at that level. Victims of gang crimes frequently refuse to cooperate in the associated investigations and as such, most of these types of cases will not be investigated.
- ***Sexual Assaults Investigations (SAIU)/High Tech Unit (7 positions):*** Eliminates five Officer positions of the 32 positions assigned to the SAIU and the two remaining Officer positions assigned to the High Tech Unit that is proposed to be combined with SAIU as part of the 2011-2012 Proposed Budget actions. This unit is a high priority persons crime unit and has been protected from reductions to the extent possible; however, given the level of reductions needed, this unit can no longer be spared. All sexual assaults will be assigned to an investigator but there will be increases to caseloads which are already at maximum investigative levels.
- ***Financial Crimes/Burglary/Fraud Unit (4 positions):*** Eliminates one Sergeant and three Officer positions of the nine positions remaining assigned to the Burglary/Fraud Unit. The further reductions in this unit will not change the process by which cases are assigned; however, this reduction will further reduce the number of cases assigned as these property crimes are given a lower priority than person crimes.
- ***Family Violence Unit (FVU) (3 positions):*** Eliminates three Officer positions of the 16 positions assigned to the FVU. This unit is comprised of the following details: Family Violence, Domestic Violence, Threat Management, and Child/Elder Abuse. All cases will be evaluated to determine case solvability and level of investigative intensity needed; however, cases will continue to be triaged and assigned accordingly. Many of these cases involve stalking and terrorist threats usually involving one person's word against another's. These cases are time consuming involving extensive follow-up, threat assessments, locating independent witness or corroboration and often times do not result in a criminal filing by the District Attorney's Office. As such, fewer of these cases will be investigated.
- ***Robbery Unit (2 positions):*** Eliminates one Sergeant and one Officer position of the 13 positions assigned to the Robbery Unit. All cases will be evaluated to determine case solvability and level of investigative intensity needed; however, cases will continue to be triaged and assigned accordingly. These property crimes have been given a lower priority than person crimes.

Contingency Plan Changes	Positions	General Fund \$
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2. Bureau of Investigations (Cont'd.)

- *Special Investigations Unit (1 position):* Eliminates the one remaining Officer position assigned to the Special Investigations Unit after the proposed Tier 1 reductions. The Police Department will continue to provide security in conjunction with City Hall security staff for all Council meetings and City Hall. Based on the threat assessment, security services may be limited for the Council and the Mayor when meeting throughout the community or traveling on business.

3. Truancy Abatement and Burglary Suppression Program (TABS) (2) (\$0.4 million)

The action will eliminate two Officer positions from the Truancy Abatement and Burglary Suppression (TABS) Program in Crime Prevention and Community Education, resulting in the elimination of all remaining sworn positions in that core service. The elimination of the TABS Unit will eliminate any proactive and preventive activity focused on curtailing truancy throughout the City. Patrol will address issues related to truancy and burglary within each patrol district.

Contingency Plan Total	(156)	(\$28.4 million)
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The service reductions outlined in the Tier 2 Police Sworn Contingency Plan would significantly impact the Police Department's ability to provide public safety services to our community. The elimination of 156 positions in this Plan would be effective July 2011. Because there are insufficient vacancies for employee placement purposes, this Plan would result in the layoff of an additional 156 sworn Police staff. These service reductions will not be needed if there is a voluntary settlement with the POA for a 10% ongoing compensation reduction, as has occurred to date with many of the City's employee groups, including the San Jose Fire Fighters.


DEBRA FIGONE
City Manager