



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edgardo Garcia
John Ristow
Kim Walesh

SUBJECT: SEE BELOW

DATE: April 11, 2019

Approved

Date

4-12-19

INFORMATION

SUBJECT: SECONDARY EMPLOYMENT UNIT AND TRAFFIC CONTROL COSTS FOR OUTDOOR SPECIAL EVENTS

The purpose of this informational memorandum is to respond to the Council's directive that the Administration should explore ways to safely reduce the City's police staffing requirements at major events and report back to City Council via an informational memorandum.

BACKGROUND

As part of the Mayor's June Budget Message for FY 17-18 (section 6.a.), the following direction was provided:

Cultural Events: San Jose is home to a broad array of festivals and cultural events such as the San Jose Jazz Festival, San Jose Dia de los Muertos, Pride Parade, and Christmas in the Park. As the City continues to attract more people to these events, these non-profit organizations are often unable to afford the increased costs of policing the events through secondary employment. Those "fully loaded" costs include, for example, the rising burden of paying for the City's unfunded pension and retiree healthcare liability. Given the economic and fiscal impacts of these events, I recommend that the City Manager (a) work with key stakeholders, OCA, and SJPD to explore ways to safely reduce the City's police staffing requirements at major events, and (b) transfer \$150,000 in one-time funding from the General Purpose Parking Fund to the General Fund to alleviate some of the increased overtime costs of secondary employment for cultural events and festivals.

Per the Council direction, the Administration is to report back to Council via an informational memorandum. This memorandum aims to clarify City police staffing services and associated costs associated with outdoor special events. The memorandum will also provide an update on the funding and recommended actions to further alleviate secondary employment overtime costs.

ANALYSIS

The City of San José recognizes the value of outdoor special events, which contribute to the City's goals of cultural vibrancy, community development, and economic development. As outdoor special events are an important part of the San José community, the City supports events through grant support, special event coordination and authorization, provision of public space such as parks, paseos, and streets, and City services to facilitate events. Traffic control for outdoor events is a key service. As an authorizing agency for events in the public realm, the City strikes a balance between facilitating vibrancy, public safety, and regulatory compliance.

The City recognizes that events are largely produced by nonprofits, who rely on both contributed and earned revenue for their events, and seeks to control the escalation of City service costs for outdoors events without compromising safety and regulatory compliance. As some local event organizers occasionally raise concerns about such costs, City departments continuously seek progressive approaches to the provision of services to manage costs impacting events. This memorandum provides clarification regarding the following: City traffic control services for outdoor events and their associated costs (and benchmark those services against other agencies); context for the challenges associated with City services; greater awareness for the iterative cost controls implemented over time; and additional solutions to control costs going forward.

This topic will be discussed at the Community and Economic Development Committee meeting on April 22, 2019.

A. Secondary Employment Unit and Event Staffing

The San José Police Department (SJPD), Department of Transportation (DOT), Office of Cultural Affairs (OCA) division of the Office of Economic Development (OED), and other City departments work collaboratively on events in the City. As each City department oversees their respective responsibility for various events, the SJPD is responsible for police staffing. The goal of the SJPD is to staff each event in a manner that should reasonably ensure the safety of persons attending the event and vehicular traffic surrounding the event. SJPD contacted multiple police agencies to gather data on their Secondary Employment Unit (SEU) costs (see comparison below).

Currently, the SEU is staffed by one Police Lieutenant, one Police Sergeant, and one Office Specialist II. SEU coordination is required for temporary outdoor special events having: (1) street closures, (2) alcohol sales on a public property, and/or (3) one-day beer and wine permits. Outside businesses also hire SEU Officers for "pay jobs" which include: schools, Avaya Stadium, SAP Center, San José Municipal Stadium, Santana Row, etc. SEU oversees approximately 450 events per year, not including events held at the SAP Center, the Convention Center, and Avaya Stadium. To staff events, SEU utilizes off-duty SJPD Police Officers, Police Reserves, Community Service Officers (CSOs), and DOT Parking & Traffic Control Officers (PTCOs). The referral noted the following:

“Those “fully loaded” costs include, for example, the rising burden of paying for the City's unfunded pension and retiree healthcare liability.”

SEU’s hourly rate does not factor in pensions or healthcare costs. Off-duty officers working SEU are not paid by the City; they are paid directly by the event organizer (private contractors). Officers provide special event organizers a 10-99 tax form, consistent with IRS rules, and pay taxes as a private contractor on the money made while working a SEU job.

SJPD CSOs and DOT PTCOs work special events on an overtime basis. Contributions toward their retirement and healthcare are paid from their individual 40-hour work week schedule; the costs of retirement or healthcare are not passed on to special event organizers.

OCA, DOT, and SEU all have staff dedicated to the planning and coordination of special events. This staff assists special event organizers in planning events in the City. OCA, DOT, and SEU do not charge the event organizers staff time for the coordination and staffing of their events.

B. Hourly Rate of SEU

The current SEU rate was established by the Chief of Police on December 14, 2014. The Chief of Police has the authority to increase the SEU rate. While the rate is monitored, the rate has not increased since 2014. The SEU rate will be examined at some point in the future and may be adjusted.

The following are the current hourly rates for personnel working SEU and the hourly rates for top step officers.

Current SEU Hourly Rate (“SEU rate”):

Police Officers:	\$55.00
Police Sergeant:	\$63.25
Police Lieutenant:	\$72.75

Current Top Step Hourly Rate* (“Hourly rate;” as of 2/10/19):

Police Officers:	\$61.30
Police Sergeant:	\$70.95
Police Lieutenant:	\$82.18

* This rate does not include any ongoing non-pensionable pays employees in these classifications also receive.

SEU has a pool of officers who consistently work SEU jobs at the current SEU rate. When given advanced notice for smaller events requiring no more than two officers, SEU is usually able to staff most events. However, when more than two officers are required, or the unit receives a job request at the last minute, SEU is often unable to staff jobs at the current pay rate. Officers are hesitant to work for less than their hourly rate when they are able to work other patrol overtime assignments at time-and-a-half of their hourly rate. In these instances, SEU must raise the

current SEU rate to time-and-a-half to fill the assignments. Another factor requiring SEU to raise the current SEU rate to time-and-a-half is competition amongst simultaneously occurring events, including events at other venues (Avaya, SAP Center, etc.). Competition ultimately reduces an already small pool of officers willing to work at the current SEU rate. To better attract officers to work events when officer interest is low, the SEU (in conjunction with organizer input) must authorize a time-and-a-half of the SEU rate. Once the time-and-a-half SEU rate is authorized, SEU is often able to staff the events. Most, if not all, jobs also require an active SEU sergeant to send out mass emails, as well as make telephone calls, to fill last minute jobs.

The following are SEU time-and-a-half rates:

Police Officers:	\$82.50
Police Sergeant:	\$94.88
Police Lieutenant:	\$109.13

SJPD contacted the following California Police Departments to determine their SEU rates:

- San Diego
- Oakland
- Sacramento
- Long Beach
- Fresno
- Clovis
- Los Angeles
- Anaheim
- San Francisco
- Campbell
- Fremont
- Santa Clara

With the exception of the Sacramento Police Department, the SJPD's time-and-a-half SEU rate was lower than all agencies contacted; the Sacramento Police Department was the only agency paying less than \$82.50 an hour. All other agencies pay their officers an overtime rate relative to the officer's base salary, which is typically \$95.00 an hour or more. The San Diego Police Department invoices non-profit organizations for a reduced price, but still pays the individual officers an overtime rate greater than the SJPD's time-and-a-half SEU rate.

- (i) Sacramento Police: The Sacramento Police Department operates very similar to SEU. Their hourly SEU pay rate is adjusted frequently and adjusts with each current MOU contract. Their SEU rate is typically midway from the officers' top step hourly rate and the time-and-a-half overtime rate of a top step officer.

Hourly SEU Pay Rate:

- Officer: \$73.00
- Sergeant: \$85.00

- (ii) San Diego Police: The San Diego Police Department pays their officers an overtime rate at their base pay, which equates to approximately \$94.00 an hour. However, the City of San Diego subsidizes that rate for non-profit organizers. The City of San Diego pays

the cost of everything over \$55.00 an hour to encourage and assist organizers at a subsidized rate.

C. Community Service Officers and Parking Traffic Control Officers

To reduce the cost of events, SEU collaborates with SJPD CSOs and DOT PTCOs. When SEU is unable to staff an event at the standard SEU rate, and a time-and-a-half SEU rate needs to be utilized, SJPD attempts to offset a portion of the cost by offering some of the traffic control spots to CSOs. This reduces the costs for event producers, but still allows quality service to be provided to the community. PTCOs are also used at a majority of the events for traffic control; however, due to their small volunteer pool, only a small number of the traffic control spots on an event are filled by PTCOs. Using PTCOs provides a cost savings for the special event organizer. Per their respective bargaining unit Memorandum of Agreement, CSOs and PTCOs must be compensated at an overtime rate of time-and-a-half when working more than 40 hours a week. PTCOs and CSOs sign up to work special events after their normal work shift or on days off, which is generally in addition to their 40-hour work week.

Current CSO Top Step overtime rate:	\$58.83 an hour*
Current PTCO Top Step overtime rate:	\$40.01 an hour

* *This does not include any ongoing non-pensionable pays employees in these classifications also receive.*

(i) Community Service Officers (CSOs)

SJPD CSOs are able to work SEU assignments as overtime shifts. While CSOs are able to perform traffic control, they cannot replace officers at alcohol-related security events. CSOs volunteer for SEU special events and work the assignments before or after their normal work shift, or on their day off. Currently, approximately 46 CSOs are eligible to work SEU assignments.

(ii) Parking Traffic Control Officer (PTCOs)

Since June 2010, DOT PTCOs have been integrated into the staffing model for outdoor special events to assist with street closures. Currently, the availability of PTCO staff is limited. While there are 39 full-time PTCOs within the Parking Compliance Unit (PCU), only seven to eight PTCOs may be available at any given time to assist SJPD. PTCOs volunteer for SEU special events and work these overtime assignments before or after their normal work shift, or on their days off. Hiring more PTCOs may enable the SEU to utilize a greater number of PTCOs to fill traffic control positions, thus lowering costs for event organizers. However, annual impacts to the General Fund to cover the salary and equipment costs for each additional PTCO would be significant (approximately \$80,000 - \$117,000).

D. Staffing of SEU

SEU looks at each event as a separate entity and determines the need for personnel. DOT and SEU examine all road closures associated with special events. Planning is conducted before an event to prevent an accidental or intentional vehicle incursion into a crowd of people attending an event. DOT provides their expertise on traffic conditions and identifies proper placement of equipment for road closures. SEU and DOT meet to discuss road closures and the police staffing necessary to supplement the closure. The goal is to seek the balance of appropriate staffing and adequate equipment to provide a clear, reasonable, and effective traffic control plan.

Events with alcohol served (e.g., *Music in the Park*, *Dancin' on the Avenue*, and *San Jose Jazz SummerFest*) are staffed in accordance to Alcohol Beverage Control (ABC) policies, as well as SEU staffing needs, to ensure a safe event for the community. ABC requires police to be on-scene if an organizer is granted a "One Day Beer and Wine Permit." SEU, with the assistance of OCA, works with the organizers to understand the requirement. To determine staffing, SJPD obtains information about projected crowd size, number of beer/wine booths, types of activities at the event, prior year issues with an event, location of the event, traffic, and personnel. Based upon these factors, SEU then provides a staffing plan for the organizers.

The location of an event typically is one of the biggest cost factors for an event. To better demonstrate the relationship between location and staffing/cost, a comparison of 5K runs occurring in the City has been done. At the following three events, organizers chose locations requiring minimal street closures and, therefore, fewer personnel to staff the events.

- Hellyer Half Marathon/ 5k/10k Run: 2 SEU positions
- Willow Glen 5k Run: 17 SEU positions
- Zombie 5K Run: 7 SEU positions

If organizers select a location that requires shutting down a heavily travelled roadway/ intersection, the event requires more staffing to ensure a safe road closure. The following 5k runs required more extensive street closure and, therefore, a greater number of personnel to work the event:

- The San Jose Giant Race 5 mile/ 5k Run: 25 SEU positions
- The San Jose 408K: 50 plus SEU positions
- The Color Run 5k Fun Run: 28 SEU positions

In order to ensure the safety of persons attending events in San José, the SJPD often provides event organizers with personnel and services for which event organizers do not pay. The SJPD budget covers the cost of bomb sweeps, bomb dogs, and small groups of specially trained officers to respond to active threats, etc.

E. Equipment and Staffing

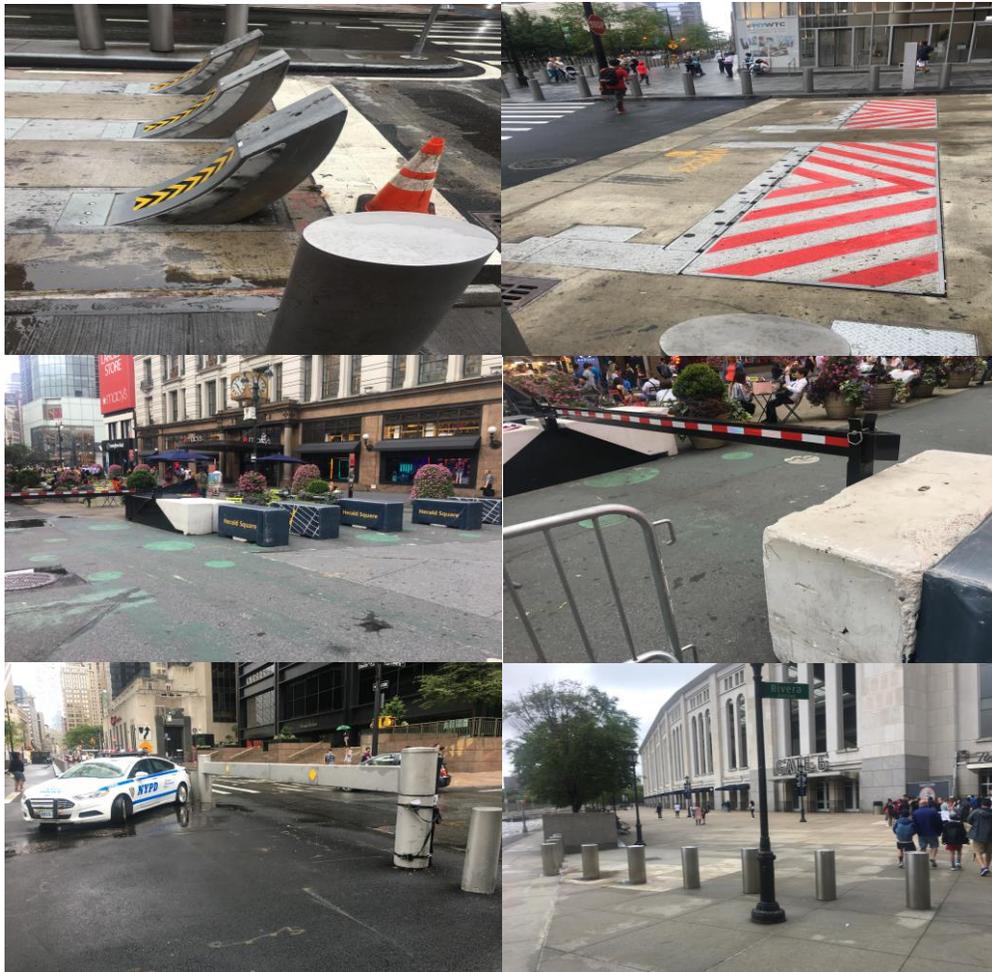
By investing in additional types of equipment, police staffing at some events may be reduced. Portable vehicle incursion barriers or permanent built-in street closure equipment could be used to shut down portions of impacted streets. Other cities have invested in permanent built-in street closure equipment, as they utilize the same locations within the city for multiple events. Permanently affixed bollards or retractable barricades are built into the streets that are shutdown frequently. However, given that San Jose has no singular event location and event organizers customize event footprints, permanent street closure equipment is not recommended at this time. Portable equipment that can be placed at different locations can offer an alternative safe solution to traffic control.

SJPD was recently approved for a County/Federal grant to purchase portable incursion barriers as a security measure (see pictures below). If feasible, staff will pilot test these barriers for use during outdoor special events, enabling the City to ascertain their effectiveness for safe traffic control and in reducing or controlling event costs.



There are smaller barriers that are more mobile that could also be examined, but they require more safety space behind the barriers. If impacted with a moving vehicle, mobile barriers need a clear zone as they travel for a distance prior to stopping a vehicle. Typically, the larger barriers will require less space and the smaller barriers require more space. Depending on the location, barriers that are smaller and more mobile may be more advantageous for certain events. Preliminarily, barriers may help reduce costs for events needing the closure of large or busy streets, multiple day events, or all-day events. Conversely, barriers may increase costs for events that are short in duration; the cost of setting up and removing the portable barriers may not offset the cost of reduction of staffing on events that are short in duration.

Permanent built-in road closure barriers could be set up in areas that host numerous outside special events. Examples would be San Pedro Street and the SOFA District. Built-in barriers could facilitate closing the road with minimal police staffing. The use of the portable equipment can be used to evaluate whether permanent barriers should be further explored for select locations. (see photos below)



F. One-Time Funding to Alleviate Increased Overtime Secondary Employment Costs for Cultural Events and Festivals

As part of the FY 17-18 Operating Budget, Council appropriated \$150,000 from the General Purpose Parking Fund to offset some overtime SEU costs incurred by event organizers. To meet this direction, funds were re-budgeted into FY 18-19, allowing SEU and OCA staff to review all events in FY 17-18 that utilized SEU staff. Based on this analysis, 13 non-profit organizations that paid overtime rates for off-duty police services to conduct an outdoor special event during the period of July 1, 2017 to June 30, 2018 were provided a special grant opportunity.

Criteria to evaluate this funding allocation included:

- Actual costs billed by Secondary Employment Unit at an overtime hourly pay rate.
- Event required services of five or more off-duty police officers.
- Event producer represented a non-profit organization.
- Event was not conducted on a holiday on which overtime rates regularly apply (Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve, or New Year's Day).
- Funding reimbursement was based on final billing from the Secondary Employment Unit (SEU) for the difference between standard SEU rates and overtime rates.
- Organizations must be in good financial standing with the City of San Jose.

Of this funding, it is estimated that a total of \$43,039 in special grants will be awarded through the OCA to meet this direction (one grant remains pending the event organizer's payment of all outstanding City service costs). Therefore, with the estimated balance of \$106,961, staff proposes to use some of the funds for the rental of mobile barrier equipment, for a pilot program at a few events to enable staff to evaluate the deployment of this equipment as a means to reduce City service costs for traffic control at outdoor events.

CONCLUSION

Since 2010, SJPd, OCA, and DOT have been working on the reduction and control of City service costs for outdoor special events. OCA, DOT, and SEU work collaboratively with every event organizer to plan a safe event; each event is unique, and one solution will not work for every event. Staffing is dictated by location, number of street closures, type of event, alcohol being served, and history of event. The event organizer selects the location and footprint of the event. Based upon what event coordinators request, staffing and road closures are determined. Special events are staffed to the level SEU believes will ensure a safe event. The selection of high traffic areas and/or serving alcohol triggers the need for increased police staffing. Special event organizers could alter event logistics to lower police staffing costs. DOT and SEU meet prior to each event to provide a safe traffic management plan that incorporates equipment and police staffing.

The hourly rate for a SJPD officer working a job through SEU is the lowest of all cities contacted for comparison. The SEU time-and-a-half rate is lower than all but one of the agencies. Supplementing SEU Officers with PTCOs and CSOs further helps lower the cost of events for traffic control. In contacting other cities for this memorandum, it was evident SJPD staffing costs are substantially lower than those of the other cities given a similar size event (attendance/traffic), type of event, and number of street closures.

As part of the Adopted Budget process, staff will include a recommendation that the remaining \$106,961 from the City-Wide General Fund Appropriation, Cultural Event and Festivals-Secondary Employment be re-budgeted to FY 19-20, and that up to \$25,000 of these funds be utilized to rent mobile barrier equipment to pilot this measure as a potential solution to reduce event costs. The pilot would be conducted during FY 19-20 and will include an analysis of equipment deployment feasibility and logistics, staffing requirements, and identification of an adequate equipment storage facility.

These barriers will not eliminate police staffing during special events, but may reduce the need for staffing at particular road closures where the barriers would restrict a vehicle incursion. A pilot of this new equipment will provide DOT and SJPD the ability to analyze the use of these barriers for special events on a small scale to determine cost implications to event organizers. The Administration will report back to Council on the outcome of the equipment investments through an informational memorandum. If the pilot is successful in demonstrating a safe cost-efficient alternative to staffed traffic control, staff will return to Council to reallocate the remaining funding to continue the deployment of the barriers on a rental or purchase basis.

Outdoor special events in San Jose are a key part of the City's economic and cultural development strategies. City departments diligently "get to yes" to facilitate events in the public realm. This is the case with providing City services, including traffic control within manageable costs, while ensuring events are safe to the public.

COORDINATION

This memo has been coordinated with the City Attorney's Office, the City Manager's Budget Office and the City Manager's Office of Employee Relations.

/s/
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/s/
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/s/
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