

Supplemental Memorandum, 6/28/2021



COUNCIL AGENDA: 6/29/21
FILE: 21-1579
ITEM: 4.1

Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Anthony Mata

SUBJECT: SEE BELOW

DATE: June 25, 2021

Approved

Date

6/28/2021

**SUBJECT: EARLY CONSIDERATION FORM REGARDING REDUCING GUN HARM
AND THE PUBLIC BURDENS OF GUN VIOLENCE**

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

This supplemental memorandum transmits the Police Department's Early Consideration Response Form for the recommendations contained in the memorandum dated June 16, 2021 from Mayor Liccardo, Vice Mayor Jones, and Councilmembers Carrasco, Peralez and Cohen. The Early Consideration Response Form is attached.

Anthony Mata
Chief of Police

AM:SD

For questions related to the Police Department, please contact Stephen Donohue, Lieutenant, at (408) 390-5810.

Attachment: Early Consideration Response Form



Council Policy Prioritization: Early Consideration Response Form

Department Police Department

Department Rep. Name/Ext. Anthony Mata, Chief of Police

Policy/Ord. Subject Gun Harm Reduction

Council Date 06/29/2021 4.1

Council Member Sponsorship Mayor Liccario, Vice Mayor Jones

Councilmembers Carrasco, Peralez and Cohen

Staff Recommendation

- ☒ **GREEN** The Administration can implement this Nominated Idea under its current workplan
- ☐ **ALREADY UNDERWAY** ☐ **MINIMAL WORK LESS THAN 40 HOURS** ☐ **REQUEST FOR INFORMATION**
- ☐ **YELLOW** The Administration recommends Council send this Nominated Idea to the Priority Setting Process (See Complexity Level Below)
- ☐ **RED** The Administration recommends Council not adopt this Nominated Idea
- ☐ **EDS CLARIFICATION OR MORE TIME TO EVALUATE**

Criterion to Determine Scale of Project Complexity

Project complexity is determined by scoring the project in each of the 3 criterions below and then summing the score.

- a. Low Complexity is a sum of 6 or less.
- b. Medium Complexity is a sum of 7 - 9
- c. High Complexity is a sum of 10 or greater.

Total Score = **12**

DEPT. Required	Scoring Criterion	Low Complexity		Medium Complexity		High Complexity	
		Estimated Duration	Organizational Complexity (Internal)	Estimated Duration	Organizational Complexity (Internal)	Estimated Duration	Organizational Complexity (Internal)
<input type="checkbox"/> Airport	6 - 9 months	<input type="checkbox"/> =	9 - 18 months	<input checked="" type="checkbox"/> =	More than 18 months	<input type="checkbox"/> =	
<input checked="" type="checkbox"/> CA	Can Easily be Absorbed into Existing Workplan	<input type="checkbox"/> =	Planned Work (Future)	<input type="checkbox"/> =	Work Not Currently Proposed	<input checked="" type="checkbox"/> =	
<input type="checkbox"/> Housing	Have staff with required skillset/ knowledge	<input type="checkbox"/> =	Have staff with required skillset/ requires moderate research	<input checked="" type="checkbox"/> =	Do not have staff with required skillset/ requires significant research	<input type="checkbox"/> =	
<input type="checkbox"/> ES	Less than or equal 2 Staff required	<input type="checkbox"/> =1	3 - 4 Staff required	<input checked="" type="checkbox"/> =2	More than 5 Staff required	<input type="checkbox"/> =3	
<input checked="" type="checkbox"/> CMO	1 Additional Departments	<input type="checkbox"/> =	2 Other Department Involved	<input type="checkbox"/> =	3 or more Depts Involved	<input checked="" type="checkbox"/> =	
<input type="checkbox"/> DOT							
<input type="checkbox"/> OED							
<input type="checkbox"/> LIB.							
<input type="checkbox"/> PRNS							
<input type="checkbox"/> PW							
<input type="checkbox"/> PD							
<input type="checkbox"/> PBCE							
<input type="checkbox"/> EM							

Additional Depts Required:

☒ Finance

☒ ITD

Analysis

Explain the rationale for Staff recommendation, including any mitigating factors that need to be considered (recent legislative action, significant workplan changes, etc). Please address the following as well.

GREEN LIGHT: The Administration can implement this Nominated Idea under its current workplan. Item should be sent to Council to add to Department workplan. Explain how the Idea will be approached.

Part 1: Reducing Gun Harm and the Public Burdens of Gun Violence:

The City Attorney's Office will draft the ordinance requiring gun owners living in San Jose, with certain exceptions, to obtain and maintain a City-issued document showing payment of an annual fee and attestation of insurance coverage. The proposal contemplates fees will be collected and receipts issued by the Finance Department. The firearm owner attestation will be self-reported and documented on the receipt provided by the Finance Department to the firearm owner. Development, thorough testing and deployment of an easy-to-use, reliable web portal for this fee will involve Finance and Information Technology Department (ITD) staff to safeguard the security and privacy of the owner database. Finance anticipates procuring and deploying a specialized application to ensure this sensitive information remains "air-locked" from other City-managed data. Finance staff resources would be required for the initial processing, annual renewal invoicing, managing the exemption/waiver applications process, as well as any collection activities required due to non-payment. Consequently, the Criterion to Determine Scale of Project Complexity scores this referral at 12, which signals a high complexity project. However, if directed by Council, the Finance Department would proceed with implementation of this project within current resources. If through this effort staff determines that the project would need additional resources, such as to procure the specialized application, or would entail significant work plan trade-offs, staff would return to the Council in the fall with a time and materials workplan, inclusive of resource tradeoffs. The estimated timeline for deployment, once resources are identified, would be 9-18 months to allow for thorough testing of the web portal and security features. After implementation of the web portal and database, the costs for additional staffing in the Finance Department needed for post-deployment activities, as described above, and ongoing software support expense would be recovered from fee proceeds.

Preliminary research performed by the Risk Management unit within Finance indicates insurance products are generally available for this risk; costs and eligibility for these particular insurance products are dependent on the specific owner qualifications, as well as the coverage limits required. As proposed, failure to comply with the fee and insurance requirements will constitute a violation of the Municipal Code, subjecting the owner to temporary impoundment or permanent seizure of the firearm, and under specified circumstances, a civil fine. The civil fine will be administered by the Finance Department. Because this program is reactive in nature, officers will not be seeking out residents who own firearms and have not complied with the Municipal Code. However, if officers encounter these firearms or individuals owning firearms during the normal course of their duties, officers may determine compliance within the bounds of consent and/or legal search and seizure. Upon discovery of non-compliance in these instances, officers may impound or permanently seize the firearm, as determined by the ordinance. The impoundment, storage, and release of the firearm will be the responsibility of the Police Department. This will have minimal impact on the Department and may be implemented under the current workplan.

The Police Department is requesting Reserve Police Officers and Retired Police Officers to be exempted from the permitting requirement. In lieu of the permit, they would be required to present a valid Department-issued identification card.

(Continued on Page 3 below)

YELLOW LIGHT: The Administration recommends Council send this Nominated Idea to the Priority Setting Process due to [describe cost implications, workload impacts, or other factors].

Part 7: "Looking out for One Another" and Part 9: Leveraging Federal Information for Early Intervention:

These two parts of the proposal are grouped together based on their similarities in open communication between intelligence and investigatory units with neighboring law enforcement agencies and federal partners. The Police Department currently collaborates with many of the agencies listed and will continue to do so. When the City and County leaders develop a public campaign to encourage notification of implied or explicit threats of violence, planning, or preparatory steps to commit violence, or apparent fascination with prior acts of violence, additional staff may be necessary. Similarly, the Police Department expects that with better communication from federal agencies and additional public involvement, the volume of concerns may increase, as well as the depth of investigations necessary to fully assess the threats. Should the Police Department see the expected increase in concerns through the implementation of these measures, and, consequently, require more investigatory resources, increased staffing in the Intelligence Unit will be necessary. Exact staffing needs would depend on the actual increase in concerns received and associated workload, but the Police Department anticipates a potential staffing need of four officers and one sergeant assigned to the Intelligence Unit at an annual cost of approximately \$1.44M the first year and \$1.28M ongoing.

GREEN LIGHT: (Continued from Page 2)

Part 2: Gun Violence Restraining Orders (GVROs):

This will create and post material informing the public about the ability and method of obtaining Gun Violence Restraining Orders. The Police Department would work in collaboration with the City Attorney's Office, District Attorney's Office, and county-wide law enforcement partners to develop and disseminate the materials. No additional staff is needed for this part of the proposal. Additional funding would be necessary to produce the materials (e.g. posters and incident cards). Estimated cost is expected to be approximately \$25,000. The Police Department is prepared to move forward with this part of the proposal, pending funding.

In coordination with the District Attorney's Office, officers will be trained in the use and acquisition of GVROs. If funding is necessary for additional training, this may be requested at a later date.

Part 3: Assault Weapons Ban:

The City Attorney's Office will file an amicus curiae brief regarding a recent court decision. This will have no impact on the Police Department.

Part 4: Ghost Guns:

The City Attorney's Office will draft an ordinance prohibiting the possession, assembly, and manufacture of any untraceable firearm lacking a serial number ("ghost gun"). Similar to Part 1 above, this ordinance will be reactive in nature. If officers encounter "ghost guns" during the normal course of their duties, the officers will seize those weapons within the bounds of consent and/or legal search and seizure. This will have minimal impact on the Police Department and may be implemented under the current workplan.

Part 5: Straw Purchasing and Suicide Prevention:

This item is complete. The ordinance was passed at the June 15, 2021 City Council meeting.

Part 6: Ammunition Checks:

This part of the proposal is pending federal litigation. After the court decision additional evaluation will be dependent upon the proposed process for the background checks.

Part 8: Gun Buy-Back Programs:

The last gun buy-back hosted by the Police Department was in 2018. The event was staffed by on-duty personnel, overtime personnel, Reserve Officers, Cadets, and volunteers from the Santa Clara County Crime Lab, District Attorney's Office, and Behavioral Health. The event incurred approximately \$32,000 in staffing costs. During the event, they recovered 289 firearms, providing approximately \$27,000 to the public. Facilitating additional gun buy-back programs will incur a cost both for the purchase of the firearms, as well as event staffing. The Police Department is prepared to move forward with this part of the proposal, pending funding.