



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** DISTRICT ATTORNEY

**File #:** 21-289

Board Meeting Date: 4/20/2021

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**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Stephen M. Wagstaffe, District Attorney

**Subject:** Critical Fill "Sit-Out" rule Waiver Request for Assistant District Attorney

**RECOMMENDATION:**

Adopt a resolution authorizing the hiring of District Attorney's Office retired Assistant District Attorney James Wade pursuant to Government Code section 7522.56(F)(1) and finding that the nature of employment and appointment is necessary to fill a critically needed position during the 180 day post-retirement separation period.

**BACKGROUND:**

In September 2012, the California Public Employees Pension Reform Act (PEPRA) as set forth in Assembly Bill 340 was signed into law. The PEPRA legislation includes provisions in Government Code section 7522.56 requiring a 180 day period of separation following the date of retirement for non-safety retirees who are re-employed by a public agency within the same retirement system as an employee or through a contract, unless the employer certifies that appointment is necessary to fill a critically needed position before the 180 day period has passed. For the exception to the 180 day separation period to apply, state law requires that the Board, as the County's governing body, approve the appointment in a public meeting by resolution and not on the consent calendar.

**DISCUSSION:**

On February 26, 2021, Assistant District Attorney James Wade retired after 33 years of service with the San Mateo County District Attorney's Office. Following years of trial work and supervision of various branches of the office, Assistant District Attorney Wade was responsible for managing two areas of critical importance for the office. Mr. Wade conducted all of our prosecutor recruitment duties, including outreach to law schools and the legal community with a particular emphasis on recruitment and hiring of a diverse workforce. It continues to be a particular focus of this office to expand office diversity to greater reflect the San Mateo County community. As an African-American long time prosecutor, Mr. Wade was particularly effective at conveying to potential candidates the importance of joining the District Attorney's Office and serving all of the diverse communities in our county. Additionally, Assistant District Attorney Wade at my request in 2020 started our office Racial

Equity committee with Mr. Wade as the head of the committee. Under his leadership we have conducted two separate implicit bias trainings for office personnel and established racial equity performance measures to help move this office in the appropriate direction as Criminal Justice Reform continues in our state. It is critically important for this office to be able to take advantage of Mr. Wade's specialized skills to continue our progress in diversifying and broadening the perspective of the members of the District Attorney's Office.

**FISCAL IMPACT:**

The cost of hiring Mr. Wade as an extra-help employee for a maximum of 960 hours per fiscal year at a rate of \$130.80 per hour is included in the District Attorney's Office Fiscal Year 2020-2021 Adopted Budget. There is no new Net County Cost associated with the resolution.