

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2007 SEP 13 PM 5: 52

To: Office of the City Administrator
Attn: Deborah Edgerly
From: Police Department
Date: September 25, 2007

Re: **A Report and Proposed Resolution Authorizing the City Administrator, on Behalf of the City of Oakland, to Accept and Appropriate Grant Funds in an Amount Not to Exceed Two Hundred and Seventy-Three Thousand Eight Hundred and Seventy Dollars (\$273,870) from the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) for Implementation of the FY 2007 Solving Cold Cases with DNA Grant Program in the Police Department**

SUMMARY

This report and resolution authorizes the City Administrator, on behalf of the City of Oakland, to accept and appropriate grant funds in an amount not to exceed \$273,870 from the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) for implementation of the FY 2007 Solving Cold Cases with DNA grant program. The proposed program period is October 1, 2007 through March 30, 2009. The funds will be used to offset costs to the Police Department's Criminalistics Division Forensic Biology Unit and Homicide Unit relative to the analysis of biological evidence and the investigation of female homicide victims. The Department is also requesting approval of a waiver request for applicable Central Services Overhead charges.

FISCAL IMPACT

Approval of the proposed resolution will authorize the application, acceptance and appropriation of U.S. Department of Justice, National Institute of Justice grant program funds for the Police Department's FY 2007 Solving Cold Cases with DNA grant program for the project term October 1, 2007 to March 30, 2009, in the estimated amount of \$273,870. Funding will be appropriated to the Federal Grant Fund (2112); Criminalistics Division Org. (102610); Criminalistics Division Program (PS05), in a Project Account to be determined. The funding agency does not require a matching funds component. The program will be managed by the Criminalistics Division Manager.

Proposed expense allocations are as follows:

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Description and Use of Funds	Amount
Criminalist III – Staff Overtime (\$53.55/hr x 1.5 x 5/hrs/mo x 18/mos)	\$7,229
Criminalist II – Staff Overtime (\$47.33/hr x 1.5 x 20/hrs/mo x 18/mos x 4/persons)	\$102,232
Sergeant of Police – Staff Overtime (\$48.35/hr x 1.5 x 20/hrs/mo x 18/mos)	\$26,109
DNA Typing Supplies	\$36,905
Computer Equipment (Laptops and Printers)	\$20,395
Annuitant Homicide Investigator	\$81,000
Total	\$273,870

Central Services Overhead (CSO) charges associated with the \$135,570 for salary and wages equals \$24,090, based on a 17.77% calculation rate. However, the granting agency specifically disallows CSO charges. Therefore, the Department requests a waiver for applicable Central Services Overhead charges. Approval of this waiver request will require the General Purpose Fund to absorb this cost.

BACKGROUND

The FY 2007 Solving Cold Cases With DNA Grant Program was created to assist local law enforcement agencies to readily identify, review, and investigate violent crime “cold cases” that have the potential to be solved using DNA analysis, and to locate and analyze biological evidence associated with these cases. Experience has shown that cold case programs can solve a substantial number of old violent crime cases, including homicides and sexual assaults. Advances in DNA technologies have substantially increased the successful DNA analysis of aged, degraded, limited, or otherwise compromised biological evidence. As a result, crime scene samples once thought to be unsuitable for testing, may now yield DNA profiles. Additionally, samples that previously generated inconclusive DNA results may now be successfully analyzed using newer methods.

KEY ISSUES AND IMPACTS

The Police Department’s Criminalistics Division shall utilize the FY 2007 Solving Cold Cases with DNA grant program funds to further assist in its efforts toward:

- The identification, review, and prioritization of violent crime cold cases that have the potential to be solved by using DNA analysis (by appropriate persons such as prosecutors, public defenders, law enforcement personnel, forensic scientists, and

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medical examiners) in order to determine whether biological evidence may exist that might (through DNA analysis) assist in solving the cold case.

- The identification, collection, retrieval, and evaluation of biological evidence from such cases that may reasonably be expected to contain DNA.
- The performance of DNA analyses on such biological evidence including the handling and screening of this evidence.

Additionally, the proposed grant funds will support the OPD Homicide Unit's investigation of Cold Cases and the laboratory's DNA analysis of the ten most violent cold cases which contain biological evidence.

The DNA profiles obtained from probative evidence will be entered into the Combined DNA Indexing System (CODIS). A DNA match made by CODIS can then be matched to a named individual or to another unknown suspect case. Based upon past experience with DNA profiles obtained from suspectless cases, staff anticipates a 25% Hit-Rate.¹

The advent of DNA technology has revolutionized law enforcement's ability to analyze biological evidence at a genetic level, in particular, semen evidence encountered in sexual assaults and homicides with a potential sexual assault. The ability to identify, review, and investigate "violent crime cold cases" that have the potential to be solved through DNA analysis is often limited by the resources of the police department. This application of the DNA typing technology to unsolved homicide cases (Cold Cases) can ultimately lead to the arrest and prosecution of violent individuals.

PROJECT DESCRIPTION

Forensic Biology and Female Homicide Investigations

The Crime Laboratory's Forensic Biology staff, in conjunction with the Homicide Investigators, will evaluate physical evidence to select the most probative items of evidence for analyses. The primary evidence in Cold Cases with female victims is typically body orifice swabs and fingernail clippings. This physical evidence, in addition to other potentially probative evidence, will be analyzed for the presence of foreign biological material. The Forensic Biology staff will attempt to develop 13 Combined DNA Indexing System (CODIS) Core Loci DNA profiles on the evidence and the corresponding victim reference sample(s), if available. Due to the age of these Cold Cases, it is anticipated that the biological material will be degraded and may not yield

¹ "Hit Rate" is defined as that portion of all cases examined in which at least one suspect is identified. Multiple suspects may be identified in some portion of the cases examined. In "named" cases, investigators frequently request multiple suspects be examined.

a full 13 CODIS core loci profile. The DNA profiles of the most probative evidence will be entered into CODIS for subsequent searching against the local, state, and national databases.

The Crime Laboratory will confirm the accuracy of any identification(s) made through CODIS by analyzing referencing samples from the named individuals obtained. The Crime Laboratory will then inform the Homicide Investigators in the event of a CODIS investigation. The Homicide Investigators will attempt to secure a fresh reference sample from the identified individual to confirm the identification.

Annuitant Homicide Investigator

Part of the Oakland Police Department's solving of Cold Cases with DNA strategy involves the use of retired homicide investigators (annuitants), retained on a contractual basis, to evaluate (50) of the female homicide victim cases for potential biological material. Three hundred and sixty (360) hours of contractual homicide investigatory time will be funded through this grant initiative. The annuitant Homicide Investigators will be supervised and assisted by a current OPD Cold Case Homicide Investigator in the evaluation of these cases.

The Oakland Police Department's Homicide Unit, the Criminalistics Laboratory, and the Alameda County District Attorney's Office, will then collectively evaluate the cases involving the confirmed identifications for prosecution. Due to the current case loads carried by the Homicide Unit and Crime Lab staff, overtime is needed for post-CODIS named individual identification, or case-to-case link homicide investigations and confirmation analyses conducted by the Crime Laboratory. The use of staff overtime will not account for all of the time and effort needed to investigate and analyze the biological evidence in these Cold Cases, for it is neither practical nor cost-effective to work a case entirely on an overtime basis.

SUSTAINABLE OPPORTUNITIES

Economic

Whenever possible, supplies and equipment will be purchased locally.

Environmental

There are no environmental issues associated with this report.

Social Equity

Support personnel and supplies funded by this grant will enhance the Department's ability to analyze biological evidence associated with female homicide victims in a more timely fashion.

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DISABILITY AND SENIOR CITIZEN ACCESS

There are no ADA or senior citizen access issues contained in this report.


RECOMMENDATION

The Oakland Police Department recommends that the City Council authorize the City Administrator to accept grant funds in an amount not to exceed \$273,870 from the U.S. Department of Justice, National Institute of Justice, FY 2007 Solving Cold Cases with DNA Grant Program and appropriate said funds to the Police Department.

ACTION REQUESTED BY THE CITY COUNCIL

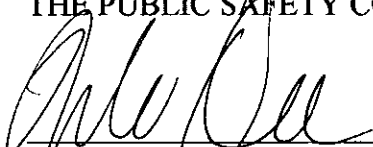
Staff recommends that the City Council approve the resolution.

Respectfully submitted,


Wayne G. Tucker
Chief of Police

Prepared by: Jennifer Mihalovich
Criminalistics Division
Bureau of Investigation
and
Candice Jessie
Budget and Grants Administrator
Bureau of Administration

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:

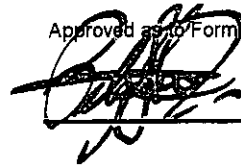


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OFFICE OF THE
CLERK OF THE
CITY OF OAKLAND

OAKLAND CITY COUNCIL



City Attorney

2007 SEP 19 10 52 AM '07
RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, ON BEHALF OF THE CITY OF OAKLAND, TO ACCEPT AND APPROPRIATE GRANT FUNDS IN AN AMOUNT NOT TO EXCEED TWO HUNDRED AND SEVENTY-THREE THOUSAND EIGHT HUNDRED AND SEVENTY DOLLARS (\$273,870) FROM THE U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE (USDOJ/NIJ) FOR IMPLEMENTATION OF THE FY 2007 SOLVING COLD CASES WITH DNA GRANT PROGRAM IN THE POLICE DEPARTMENT

WHEREAS, it is anticipated that grant funds in an amount not to exceed \$273,870 shall be awarded by the U.S. Department of Justice, National Institute of Justice, in support of the Police Department's FY 2007 Solving Cold Cases with DNA program; and

WHEREAS, the FY 2007 Solving Cold Cases with DNA grant program was created to assist local law enforcement agencies to readily identify, review, and investigate violent crime "cold cases" that have the potential to be solved using DNA analysis; and

WHEREAS, the grant term for the proposed initiative is October 1, 2007 through March 30, 2009; and

WHEREAS, the State of California, Office of Criminal Justice Planning, previously awarded the Police Department a grant in the amount of \$650,483 to fund a three-year Cold Hit Program within the Department's Criminalistics Laboratory; and

WHEREAS, the City Council previously authorized acceptance of those grant funds by Resolution No. 76294 C.M.S., dated February 20, 2001, for the period October 1, 2002 through September 30, 2003; and

WHEREAS, the proposed grant does not allow for indirect costs (Central Services Overhead) charges in the amount of \$24,090, and the Department has requested a waiver of said charges; now, therefore be it

RESOLVED: That the City Council hereby authorizes the City Administrator or her designee to accept grant funds in an amount not to exceed \$273,870 from the U.S. Department of Justice, National Institute of Justice, and to increase revenues and appropriate said budget to the Police Department; and be it

FURTHER RESOLVED: That Central Services Overhead costs of \$24,090 (17.77%) are hereby waived and the General Purpose Fund will absorb these costs; and be it

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FURTHER RESOLVED: That said grant funds shall be maintained in the Federal Grant Fund: 2112; Criminalistics Division Org.: 102610; Criminalistics Division Program: PS05; in a Project Number to be established; and be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized to complete all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend the grant award.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland, California