

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

To: 2009 JUL 18 PM 7:07 City Administrator

Attn: Dan Lindheim

From: Oakland Police Department

Date: July 14, 2009

Re: A Report and Proposed Resolution Authorizing the City Administrator, on Behalf of the City of Oakland, to Accept Current Funds in the Amount of Two Hundred Ninety-Eight Thousand Nine Hundred Twenty-Six Dollars and Seventy-five Cents (\$298,926.75) and Future Funds Collected Annually Pursuant to Government Code 76104.6 (Proposition 69), From the County of Alameda and Appropriate Said Funds To the Oakland Police Department for Use by The Criminalistics Division for Statutorily Allowable Forensic DNA Program Related Purposes

SUMMARY

Staff has prepared a report and proposed resolution authorizing the City Administrator, on behalf of the City of Oakland, to accept current funds in the amount of \$298,926.75, and future funds collected annually pursuant to Government Code 76104.6 (hereafter Proposition 69 Funds), and appropriate said funds to the Oakland Police Department Criminalistics Division for use on statutorily allowable forensic DNA program related projects, without return to Council. It is expected that additional funds will become available every year hereafter until at least the year 2024.

FISCAL IMPACT

Since the passage of statewide Proposition 69, entitled "The DNA Fingerprint, Unsolved Crime and Innocence Protection Act" (hereafter "The Act") in November 2004, funds have accumulated pursuant to Government Code Section 76104.6. "The Act" empowers county governments to levy a penalty of one dollar for every ten dollars or part of ten dollars upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. Said monies (plus interest) are collected in a fund established by the County Board of Supervisors called "The DNA Identification Fund" (hereafter "The Fund"). As of the end of calendar year 2008, the amount in The Fund was \$1,426,753; there was no distribution to local agencies until February 2009.

Approval of this resolution will authorize the City Administrator to accept and appropriate a portion of the current funds relative to Proposition 69 in the amount of \$298,926.75 to offset the cost of the Oakland Police Department's Crime Lab on forensic DNA-related projects. Additionally, approval of this resolution will authorize the acceptance of future Proposition 69

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funds without return to Council. As there are no costs associated with accepting Proposition 69 funds, the Police Department will be able to support and enhance forensic DNA analysis and related services. Said funds shall be deposited into State of California Fund: 2159, Criminalistics Organization Code: 102610, Revenues and Receipts Account: 48727, and project to be determined.

KEY ISSUES AND IMPACTS

The Oakland Police Department had been in negotiations with the Alameda County Sheriff's Department for more than a year concerning an equitable formula for the distribution of monies in The Fund between the two agencies. Without the Department's knowledge and without proper notice, the Sheriff and County Administrator submitted a proposal to the Board of Supervisors for a 70%/30% split of the money between Alameda County Sheriff's Office and the City of Oakland, respectively, after reimbursing the Sheriff for the cost of collection claimed. The proposal was accepted by the Board of Supervisors; the Department only became aware of these actions following the receipt of a check from the County in the amount of \$298,926.75.

The Department considers the distribution formula inequitable and unacceptable. Acceptance of current distribution does not in any way convey the City's agreement with the distribution formula adopted by the Board of Supervisors. Options for addressing the inequity are under review by the City Attorney.

BACKGROUND

In November 2004, statewide Proposition 69, entitled "The DNA Fingerprint, Unsolved Crime and Innocence Protection Act" was adopted and immediately implemented. In addition to other provisions, the Act provided a dramatic expansion of the Offender DNA Database and creation of state and local DNA Identification Funds to support enhanced DNA related programs at the state and local level.

In the first three years following passage of the Act, 50-70% of the funds collected were transferred to the State's DNA Identification Fund as provided by the statute. Beginning in 2008 and for each calendar year thereafter, the State's annual share of the Fund is 25%.

The remaining 75% of the funds are to be used for specific statutorily sanctioned purposes:

- (1) To reimburse local sheriff or other law enforcement agencies to collect DNA samples and fingerprint impressions from persons who are DNA database eligible, including the cost of equipment and software integral to confirming that a person qualifies for entry into the DNA Databank Program, and

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- (2) to reimburse local crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene samples from unsolved cases.

Funds may not be used to supplant any federal, state or local funds that would, in the absence of this measure, be made available to support law enforcement and prosecutorial activities.

PROGRAM DESCRIPTION

The Oakland Police Department Criminalistics Division operates a state-of-the-art forensic DNA analysis program which includes access to state and national DNA databases. The City's share of The Funds will be used to further develop the capabilities of the Forensic Biology/DNA Unit, including, but not limited to, hiring personnel, staff training, technology enhancements, and support and continuous improvement of the laboratory's quality assurance program—activities that are consistent with the legislation.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no Americans with Disabilities Act (ADA) or senior access issues applicable to this report.

SUSTAINABLE OPPORTUNITIES

Social Equity: By enhancing DNA related programs, evidence will be more efficiently processed, thereby increasing the chances of apprehending responsible parties of violent crime and improving the quality of life in Oakland.

Economic: Increased use of forensic DNA technology has the potential to increase the identification, charging and successful prosecution of perpetrators of violent crimes, thereby making the City safer and more attractive as a place in which to do business.


Environmental: There are no environmental concerns associated with this report.

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RECOMMENDATION / ACTION REQUESTED OF THE COUNCIL


Staff recommends acceptance of this report and authorization for the City Administrator, on behalf of the City of Oakland, to accept current funds in the amount of at least \$298,926.75, and future funds collected annually pursuant to Government Code 76104.6 (Proposition 69), and to appropriate said funds to the Oakland Police Department Criminalistics Division for use on statutorily allowable forensic DNA program related projects, without return to Council.

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:



Office of the City Administrator

Respectfully submitted,



Howard A. Jordan
Acting Chief of Police

Prepared By:
Ms. Mary M. Gibbons
Laboratory Manager
Criminalistics Division
Oakland Police Department

Mr. Gilbert Garcia
Fiscal Services Manager
Oakland Police Department

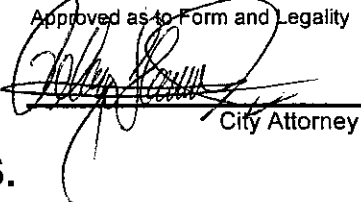
Reviewed by:
Ms. Cynthia Perkins
Legislative Analyst
Oakland Police Department

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OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION NO. _____ C.M.S.
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RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, ON BEHALF OF THE CITY OF OAKLAND, TO ACCEPT CURRENT FUNDS IN THE AMOUNT OF AT LEAST TWO HUNDRED NINETY-EIGHT THOUSAND NINE HUNDRED TWENTY-SIX DOLLARS AND SEVENTY-FIVE CENTS (\$298,926.75), AND FUTURE FUNDS COLLECTED ANNUALLY PURSUANT TO GOVERNMENT CODE 76104.6 (PROPOSITION 69), FROM THE COUNTY OF ALAMEDA, AND APPROPRIATE SAID FUNDS TO THE OAKLAND POLICE DEPARTMENT FOR USE BY THE CRIMINALISTICS DIVISION FOR STATUTORILY ALLOWABLE FORENSIC DNA PROGRAM RELATED PURPOSES

WHEREAS, in November 2004, statewide Proposition 69, entitled "The DNA Fingerprint, Unsolved Crime and Innocence Protection Act" was adopted and immediately implemented; and

WHEREAS, since the passage of Proposition 69, funds have accumulated pursuant to Government Code Section 76104.6, which empowers county governments to levy a penalty of one dollar for every ten dollars, or part of ten dollars, upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code; and

WHEREAS, said monies (plus interest) are collected in a fund established by the County Board of Supervisors called "The DNA Identification Fund" which, as of as of the end of calendar year 2008, totaled \$1,426,753; and

WHEREAS, the City of Oakland is entitled to a portion of said funds in the amount of at least \$298,926.75, as well as future funds collected annually pursuant to Proposition 69 for use on statutorily allowable forensic DNA projects; and

WHEREAS, the City of Oakland is pursuing with the County of Alameda, a reapportionment of the DNA Identification Fund monies allocated up to the end of calendar year 2008 (and all subsequent allocations,) and acceptance of \$298,926.75 is not intended as final acceptance of that allocation; and

WHEREAS, upon approval of this resolution, said funds shall be deposited into State of California Fund: 2159, Criminalistics Organization Code: 102610, Revenues and Receipts Account: 48727, and project to be determined; now, therefore be it

RESOLVED: That the City Council hereby authorizes the City Administrator to accept current DNA Identification Fund monies in the amount of at least \$298,926.75 for the time period ending in the calendar year 2008, and future funds collected annually pursuant to Government Code 76104.6

(Prop 69), and appropriate said funds to the Oakland Police Department Criminalistics Division for use on statutorily allowable forensic DNA program related projects, without return to Council; and be it

FURTHER RESOLVED: That said funds shall be deposited into deposited into State of California Fund: 2159, Criminalistics Organization Code: 102610, Revenues and Receipts Account: 48727, and project to be determined, for use on statutorily allowable forensic DNA projects by the Oakland Police Department Criminalistics Division.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE: BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST _____

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