

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

08 APR 11 PM 3:02

To: Oakland City Council
Attn: President Ignacio De La Fuente
From: Vice Mayor Larry Reid
Date: April 24, 2008 – Council’s Midyear Budget Meeting
May 13, 2008 – Public Safety Committee Meeting

Re: Action on a Report and Resolution Authorizing the City Administrator to Implement the Infraction and Misdemeanor Prosecution Program as part of the City’s Crime Fighting Strategic Plan; Authorizing its Funding in an Amount not to Exceed Eight Hundred Thirty Seven Thousand, One Hundred Forty Nine Dollars (\$837,149.00); and Authorizing its Implementation to Begin Immediately to Help Remedy the Criminal Conditions Adversely Impacting the Quality of Life of Oakland Residents

SUMMARY

Council Vice President Larry Reid, Mayor Ron Dellums, Council President Ignacio De La Fuente, and Chief of Police Wayne Tucker submit this report and recommendations for implementation and funding of the City’s Infraction and Misdemeanor Prosecution Program. The report describes the overall objectives of the program and Oakland’s opportunity to become an active participant in the criminal justice system in order to alleviate the criminal conditions facing Oakland neighborhoods and improve the quality of life of Oakland residents. The Infraction and Misdemeanor Prosecution Program will strengthen the City’s Community Policing Program, support the City’s Measure Y goals, and will be integrated into the City’s Crime Fighting Strategic Plan.

FISCAL IMPACT

The Council has authorized Measure Y expenditures for the accelerated hiring of more Measure Y officers. Currently there are over one hundred police officers assignments including Problem Solving Officers, Traffic Enforcement, Alcohol Beverage Action Team, Crime Reduction Team, Campus Life and Safety, ORA Neighborhood Enhancement Team, Foot Patrol and others, who along with all of the Patrol Division officers, work with the community to eradicate some of the criminal elements that “bring down” the community’s quality of life. With the anticipated arrival of new measure Y officers by December 2008, the ability of the City to become a participant in the criminal justice system, work with the District Attorney and the Court to criminally charge and prosecute quality of life offenses, and impose “community service” conditions that work for Oakland will, remain and become even more critical if Oakland is to ultimately succeed in reducing crime in the City.

The Office of the City Attorney was asked to put together a budget proposal for designating adequate legal staff to support this Program. The intent behind the Program is to designate an attorney to each of the City’s three Patrol (geographical) Areas. These three new city attorneys, along with the support staff, will use the criminal justice process to investigate and charge

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infractions and misdemeanor violations of local and state laws to support the crime fighting efforts of the City and contribute to the Council's goal of improving the quality of life of all Oakland residents. The City Attorney's proposed budget is:

City Attorney Budget Proposal for the Infraction and Misdemeanor Prosecution Program

	<u># Positions</u>	<u>FY</u> 2008-09
Deputy City Attorney II	3	524,985.00
Supervision of Unit (Delete DCA III & Create DCA V)		40,716.00
Legal Secretary	1	114,924.00
Paralegal	1	120,024.00
On Going Annual Operating Costs (\$1,500 per new staff)		7,500.00
One-Time Expenses (Computers, Office Furniture) (\$5,800 per staff)		29,000.00
Total	5	\$837,149.00

BACKGROUND

Oakland is ranked the fourth most dangerous city in the nation (CQ Press). Although this designation can be disputed and debated, the fact remains that the "perception" of Oakland by many is that of a city struggling with serious crime problems. As the OPD April 22, 2008 Report on the City's Strategic Crime Fighting Plan indicates, "[n]umerous books and articles have been written espousing various theories on the conditions that lead to crime and, unfortunately, many of those conditions have and continue to exist in Oakland (i.e. struggling schools, illegal guns, narcotics and gang activity, etc). Over the period of 1997-2006 (in comparison to nine like-sized cities across the nation) Oakland ranked poorly in various areas of criminal activity. The most recent time period for which FBI statistics are available (2004-2006) shows similar results."

Statistically, Oakland generates the highest number of criminal cases in all of the County of Alameda. For example, during calendar year 2007, 28,661 property and assault related crimes were reported to the Oakland Police Department. Most of the crimes were misdemeanors and infraction offenses, which contributed significantly to the crime, fear and disorder in the City. Specifically, 1,168 misdemeanor assault offenses were reported to the Police Department. The District Attorney's Office charged 513 offenders, while 426 offenders remained uncharged. The reasons for the non-prosecutions ranged from staffing limitations, to the seriousness of the offense. However, while some crimes may not be violent in nature, these types of crimes impact the quality of life in the community, contribute to the perception that Oakland is a violent City, and ultimately lead to more serious crimes in the future.

Reported 2007	Cases assigned to Investigators	Cases charged by District Attorney
28,621	3641	2765

These statistics prove what is already evident to the City and to Oakland residents – that criminal activity is constant, complex and difficult for the City to address. More seriously, these statistics

reinforce the perception that crime in Oakland is a “common occurrence” that doesn’t warrant the attention of the City, the District Attorney, or the Courts.

Due to the continuing crime in Oakland neighborhoods, the Mayor and the City Council have made public safety the City’s top priority. In recent years the City began to look to its Community Policing and Measure Y programs as the means by which to achieve the important goal of protecting the life and safety of Oakland residents. The goals outlined in City Council Community Policing Resolution No. 72727 C.M.S., and the subsequent amendments in Resolution No. 79235 C.M.S., stress the importance of reducing the reliance on 911-response policing in favor of community policing or “problem-oriented” model, while the Violence Prevention and Public Safety Act of 2004 (*Measure Y*) provided the Department with funding towards achieving the community policing goals set forth by Council.

In January 2008, the Police Department reorganized its Bureau of Field Operations from a watch patrol system to a geographic accountability one. With the availability of more management flexibility within the Police Department, the reorganization allows Oakland to better align resources to set priorities; develop strategies; and work together with the community, other City agencies, Measure Y funded programs, and the rest of the criminal justice system to improve the quality of life in Oakland neighborhoods.

In addition, the Office of the Mayor, the Council, the City Administrator and city departments continue to work together through Police Service Areas, Public Safety Districts, and other initiatives to deliver a greater police presence to deter crime, target chronic offenders, and make social services available to help at-risk individuals. Through the Oakland Police Department, the City has also developed a Crime Fighting Strategic Plan for addressing the crime problem. Under this Plan, the Police Department made significant modifications to its enforcement strategies to become more effective at reducing the perception and reality of crime by devoting significant resources and strategic plans to tackle entrenched and chronic crime trends.

Currently, the Police Department devotes officers and resources within the following teams to fight crime:

- Crime Reduction Teams
- Problem Solving Officer Teams
- Foot Patrol Officer Teams;
- ORA Neighborhood Enhancement Team and
- Patrol Officer Teams

These teams, along with all members of the Oakland Police Department, with the specific assistance of the Support Operations Division, are tasked with the primary goal of reducing crime in the City.

Notwithstanding the significant time, good will, and resources devoted to this comprehensive crime-fighting effort, there is a “missing link” that could take the city’s efforts to a higher level. This missing link is a City Infraction and Misdemeanor Prosecution Program.

The Chief of Police opines that consistent misdemeanor charging of quality-of-life crimes and offenses will empower the community, police officers, and provide a means by which the City can reduce crime in Oakland neighborhoods. Effective law enforcement depends on effective partnerships. As the Oakland Police Department’s April 22, 2008 Crime-Fighting Council Report indicates, *“partnerships with residents, the business community, the City Attorney’s office, and other members of the criminal justice system are critical to the success of a sustainable crime reduction strategy. If the City does not develop these effective partnerships and engage the stakeholders that have the capacity to effect change within their sphere of influence, the City will have little success in reaching its sustainable crime reduction goals.”*

Prior to 2007, Oakland could not pursue this crime-fighting Program because its City Charter does not expressly authorize the City to pursue criminal prosecutions. However, in 2007 the offices of the Mayor, the City Attorney and the Police Chief reached an agreement with the Alameda County District Attorney to initiate this Program. Under this Program, the District Attorney will deputize three new city attorneys as criminal prosecutors. In addition, the District Attorney’s Office has agreed to help the City establish its Program and the Alameda County Superior Court has agreed to support its implementation.

KEY ISSUES AND IMPACTS

As explained above, Oakland continues to seek a solution to the City’s perception and reality of crime and find ways to protect the safety of residents and improve the quality of life in Oakland neighborhoods. But this commendable goal has been difficult to achieve because crime is a complex issue, the causes of crime are varied, and significantly more resources will be needed to achieve the City’s crime fighting strategic plan. Moreover, notwithstanding the City’s prioritizing its crime reduction plan, the significant resources dedicated to this goal, the creative and strategic plans developed to reduce crime, and the dedicated work of police officers and community leaders in reporting, investigating and arresting violators, the City does not have a role within the criminal justice system in this County which would allow it the opportunity to pursue strategic prosecutions of criminals, provide intervention services to at-risk persons, or impose alternative jail “restorative justice” conditions that make sense for Oakland neighborhoods. By investing in the creation of an Infraction and Misdemeanor Prosecution Program, the City will strengthen its Strategic Crime Fighting Plan, further its Community Policing and Measure Y goals, empower its communities, and come a step closer to achieving the Council’s goals of protecting the safety of residents and improving the quality of life in our neighborhoods.

The Community Prosecution Program is now awaiting funding and, if funded during the mid-year budget cycle, the training and operational phase of the program will begin in May 2008, with the implementation phase beginning on August 2008. In addition, as part of the City's Community Prosecution Program the District Attorney's Office has agreed to designate individual deputy district attorneys to work as liaisons with the Police Department's area commanders and with the City Attorney's Office.

PROGRAM DESCRIPTION

The City's new Infraction and Misdemeanor Prosecution Program will work with other stakeholders such as the Police Department, the Alameda Court, the District Attorney, Probation, the Councilmembers' offices, the Community, and Measure Y providers to implement a fully integrated local criminal practice program. Its primary focus will be on relieving Oakland neighborhoods from chronic criminal activity through the strategic charging of quality of life infraction and misdemeanor offenses. An equally important component of the Program will be to provide "intervention" services to first time offenders whose criminal path may be changed if adequate support services, counseling, and job training are provided. The Program will have a "restorative justice" component which will require certain offenders to restore the community they harmed.

Working with the Oakland Police Department and the District Attorney's Office, the criminal prosecutors will handle all the work associated with criminal prosecutions of misdemeanors and infractions. They will conduct all courtroom proceedings, negotiate resolutions on the majority of the cases, and review each case to determine its feasibility for trial, try the cases, and determine the sentencing parameters appropriate for each case. The attorneys will work proactively to address chronic criminal activities in specific Oakland neighborhoods as part of the City's comprehensive community-policing philosophy.

Working with the District Attorney and the Oakland Police Department the criminal prosecutors will handle the screening, arraignment and charging of misdemeanor and infraction cases. These attorneys will be responsible for receiving, processing, and reviewing citations, arrest reports, and crime reports submitted by the Oakland Police Department. Staff members and attorneys in this group will review misdemeanor violations that occur in the City consistent with Council's and the community's community policing priorities.

The criminal prosecutors will handle all pre-trial motions and writs for cases in the general misdemeanor unit and post-trial appeals. This work is significant and typically includes suppression of evidence, speedy trial, plea entry and/or withdrawal, invalidation of prior conviction, double jeopardy, and demurrers. Consequently, the criminal prosecutors will be trained on screening and arraignment, criminal discovery, trial procedures, evidence rules, constitutional standards, and sentencing laws.

The cases selected for review and/or prosecution under the Program are those identified as priority through the City's Community Policing Program and Crime Fighting Strategic Plan.

This strategic selection of cases will include community buy-in and will take into consideration those cases most likely to result in improvements to the quality of life of Oakland residents.

In the cities of San Diego and Sacramento, for example, deputy city attorneys criminally prosecute a wide range of local and state law violations, such as Fish and Game, Animal Control, Public Drunkenness, Trespass, Failures to Appear, Furnishing Alcohol to Minors, Minors in Possession of Alcohol, Hit-and-Run, Shoplifting and Other Forms of Theft, Weapons Offenses, Vandalism, Under the Influence of or Possessing Illegal Drugs, Prostitution, Indecent Exposure or Other Sexual Crimes, Driving Offenses, Reckless Driving and Illegal Street Racing Cases.

In Oakland, the Program will target chronic and continuing criminal activity which has been identified by the City as part of its comprehensive community policing approach to improving the quality of life of Oakland residents. Criminal “trends” will be detected and targeted early so that the criminal “conduct” does not take hold in the community. Among the types of offenses the City Attorney’s Office has been asked to prosecute and which the City believes will strengthen community policing and enhance the city’s crime-fighting efforts are:

- Misdemeanor and infraction violations of Oakland’s Municipal Code, particularly Titles 6, 8, 9 and 10 quality of life provisions
- State penal code violations related to quality of life issues such as vandalism, graffiti, illegal dumping, loitering, prostitution, cruelty to animals (dog and chicken fighting), sales of intoxicating liquor to habitual drunkards, drug offenders and disruptive people around school grounds, disorderly conduct and gambling
- Business and Professions Code violations related to massage parlors, flea markets and liquor stores
- Fish and Game Code violations related to urban stream and creek pollution
- Vehicle Code violations related to illegal repair facilities and the illegal modifications to vehicles; reckless driving; and exhibition of speed
- Harbors and Navigation Code violations related to the transfer of hazardous materials and illegal dumping of waste materials

The criminal prosecutors will work with a number of law enforcement agencies to ensure successful prosecution of cases, including the Oakland Police Department, County Sheriff, California Highway Patrol, School District, and Oakland’s Community College District, Animal Control, Department of Fish and Game, Park Rangers and the Department of Alcoholic Beverage Control. Several aspects of this work include:

SUSTAINABLE OPPORTUNITIES

Economic: An effective and efficient crime reduction strategy can result in less loss due to theft, a reduction in the perception of crime, and an overall improvement in the economic climate of the City.

Environmental: A comprehensive crime reduction strategy considers the impact of environmental crimes on the overall well being of the community. These are relevant to improving the quality of life and addressed through the Department's involvement in SDS.

Social Equity: An effective crime reduction strategy will improve the quality of life for all Oakland residents.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no ADA opportunities associated with this report.

RECOMMENDATION

Staff recommends acceptance of this report and recommendations, and approval of the proposed resolution authorizing the City Administrator to implement the Community Prosecution Program.

ACTION REQUESTED OF THE COUNCIL

Staff requests approval of the proposed resolution to implement the Misdemeanor Prosecution Program.

Respectfully submitted,

Vice Mayor Larry Reid
Oakland City Council

Approved as to Form and Legality
Ronald V. Dellums
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

08 APR 11 PM 3:03 RESOLUTION No. _____ C.M.S.

Introduced by: Vice-Mayor Larry Reid, Council President Ignacio De la Fuente,
and Mayor Ronald V. Dellums

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO IMPLEMENT THE INFRACTION AND MISDEMEANOR PROSECUTION PROGRAM AS PART OF THE CITY'S CRIME FIGHTING STRATEGIC PLAN; AUTHORIZING ITS FUNDING IN AN AMOUNT NOT TO EXCEED EIGHT HUNDRED THIRTY SEVEN THOUSAND, ONE HUNDRED FORTY NINE DOLLARS (\$837,149.00); AND AUTHORIZING ITS IMPLEMENTATION TO BEGIN IMMEDIATELY TO HELP REMEDY THE CRIMINAL CONDITIONS ADVERSELY IMPACTING THE QUALITY OF LIFE OF OAKLAND RESIDENTS

WHEREAS, the City of Oakland continues to face significant crime problems that compromise the safety of residents and the quality of life in Oakland neighborhoods; and

WHEREAS, the Office of the Mayor and the City Council have made public safety the City's top priority and continue to work aggressively towards remedying crime in the City; and

WHEREAS, through the passage of the Measure Y Initiative Oakland residents declared their concern for public safety and chose to pay additional funds to the City to improve law enforcement services, deter crime, and provide intervention and social services to at risk individuals; and

WHEREAS, pursuant to the City's Community Policing policies, Measure Y programs and intervention services, the Oakland City Council continues to tackle the crime occurring in Oakland neighborhoods; and

WHEREAS, the Office of the Mayor, the Council, the City Administrator, and other city departments work together through Police Service Areas and Public Safety Districts to deliver a greater police presence to deter crime, target chronic offenders, and make available social services to help at risk individuals; and

WHEREAS, the Chief of Police opines that consistent and strategic infraction and misdemeanor charging of quality-of-life crimes and offenses will empower the Oakland community, help police officers and neighborhood residents deter and solve crime in their neighborhoods, and provide a means by which the City can reduce crime in Oakland neighborhoods; and

WHEREAS, the City’s new Infraction and Misdemeanor Prosecution Program will work with other stakeholders such as the Police Department, the Alameda Court, the District Attorney’s Office, Probation, the Council offices, the Community, and Measure Y providers to implement a fully integrated local criminal practice program; and

WHEREAS, the Program will target criminal activity which has been identified by the City as a priority concern pursuant to the City’s Police Service Areas, Public Safety Districts and Community Policing program, and will further target those crimes that adversely impact the quality of life of Oakland residents; and

WHEREAS, pursuant to the Infraction and Misdemeanor Prosecution Program the City will designate an attorney to each of the City’s three Patrol Areas to support the work of the Mayor, the Council, the Oakland Police Department, and the community to eradicate crime in the neighborhoods, protect public safety and improve the quality of life of Oakland residents; now, therefore be it

HEREBY RESOLVED: That the City Council hereby directs the City Administrator to implement the Infraction and Misdemeanor Prosecution Program as part of the City’s Crime Fighting Strategic Plan; and be it

FURTHER RESOLVED: That the City Council authorizes the funding of the Infraction and Misdemeanor Prosecution Program in an amount not to exceed Eight Hundred Thirty Seven Thousand, One Hundred Forty Nine Dollars (\$837,149.00) so that the Program can begin to be implemented immediately to help remedy the criminal conditions adversely impacting the quality of life of Oakland residents; and be it

FURTHER RESOLVED: That the City Administrator is authorized to execute any further documents, contracts and agreements in order to implement the Infraction and Misdemeanor Prosecution Program.

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