

FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2009 OCT 15 PM 3:25
To: Office of the City Administrator
Attn: Dan Lindheim
From: Police Department
Date: October 27, 2009

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 Five Hundred Eighty-Two Thousand Eighty-Eight Dollars (\$582,088) from the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) FY 2009 Solving Cold Cases with DNA Grant Program, and Authorizing the Hiring of One (1) Professional Employee For Up to Eighteen (18) Months to Serve as a Forensic Technician in the Criminalistics Division of 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 \$582,088 from the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) for implementation of the FY 2009 Solving Cold Cases with DNA grant program. The funds will be used to offset costs to the Police Department's Criminalistics Division Forensic Biology Unit and Cold Case Unit relative to the analysis of biological evidence and the investigation of homicide and sexual assault victims. A portion of the funds will also be used to hire one professional employee (non-sworn) for up to eighteen (18) months to serve as a Forensic Technician in the Criminalistics Division. The proposed program term is October 1, 2009 to March 30, 2011.

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 2009 Solving Cold Cases with DNA grant program in the estimated amount of \$582,088. 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 shall be overseen by the Criminalistics Division Manager. Proposed expense allocations are as follows:

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Description and Use of Funds	Amount
Criminalists (Ten Positions – Overtime Allocation)	\$97,826
Sgt. of Police (One Position - Overtime Allocation)	\$45,837
Police Officer (Two Positions – Overtime Allocation)	\$39,730
Forensic Technician (\$61,849/yr x 1.5/yrs x 1/person)	\$92,773
Forensic Technician – Fringe Benefits (\$92,773 x 58.44%)	54,216
Training for Scientists and Police Investigators	\$24,032
DNA Typing Supplies	\$45,688
Annuitant Homicide Investigator (\$46.15/hr x 1,440/hrs x 2/investigators)	\$132,912
Central Services Overhead (Indirect Costs) ¹ (\$276,166 x 17.77%)	\$49,074
Grand Total:	\$582,088

BACKGROUND

The FY 2009 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 violent crime cold cases, including homicide 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.

¹ At the time of proposal submission, the Police Department’s Central Services Overhead (indirect cost) rate was 17.77%. Currently, the Department’s overhead rate is 13.64%. A budget modification shall be submitted to the grantor to amend the indirect cost set-aside; with the excess funds reallocated in keeping with the overall spending plan referenced above.

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KEY ISSUES AND IMPACTS

The Police Department's Criminalistics Division shall utilize the FY 2009 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 using DNA analysis (by appropriate persons such as prosecutors, public defenders, law enforcement personnel, forensic scientists, and 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 Cold Case Unit's investigation of Cold Cases and the laboratory's DNA analysis of the ten (10) most violent homicide cases and thirty (30) sexual assault cases containing 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.²

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.

² "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.

PROJECT DESCRIPTION

Forensic Biology and Homicide and Sexual Assault Investigations

The Crime Laboratory's Forensic Biology staff, in conjunction with the Cold Case Investigators, will evaluate physical evidence to select the best items of evidence for analysis. 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 a full 13 CODIS core loci profile. The DNA profiles of the most probative evidence will be entered into CODIS for subsequent searches against the local, state, and national database.

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 Cold Case 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 ten (10) of the homicide victim cases and thirty (30) sexual assault victim cases for potential biological material. One thousand nine hundred twenty (1920) hours of contractual annuitant investigatory time will be funded through this grant initiative. The annuitant Investigators will be supervised and assisted by a current OPD Cold Case Homicide Investigator in the evaluation of these cases.

Forensic Technician

Part of the Oakland Police Department's solving of Cold Cases with DNA strategy involves the use of a Forensic Technician to assist laboratory scientists in the preparation of reagents and supplies for DNA analyses, preparing discovery documentation for legal purposes, and assist the Cold Case Unit in tracking the CODIS information. This is a full time position. The Forensic Technician will be funded through this grant initiative. The Forensic Technician will be supervised by the Crime Laboratory Forensic Biology Supervisor.

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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. 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.

Equity

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

DISABILITY AND SENIOR CITIZEN ACCESS

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

RECOMMENDATION

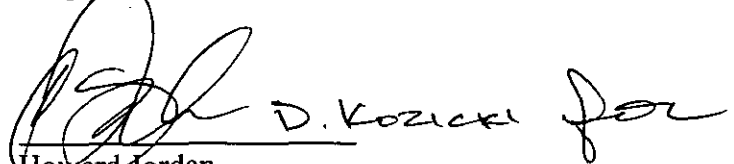
The Oakland Police Department recommends that the City Council authorize the City Administrator to accept grant funds in an amount not to exceed \$528,088 from the U.S. Department of Justice, National Institute of Justice, FY 2009 Solving Cold Cases with DNA Grant Program, and appropriate said funds to the Police Department.

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ACTION REQUESTED BY THE CITY COUNCIL


Staff recommends that the City Council approve the resolution.

Respectfully submitted,


Howard Jordan
Assistant Chief of Police

Prepared by: Jennifer Mihalovich
Criminalistics Division
Bureau of Investigation
and
Candice Jessie
Budget and Grants Administrator
Fiscal Services Division
Office of the Chief of Police

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


Office of the City Administrator

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OAKLAND

OAKLAND CITY COUNCIL

DRAFT

City Attorney

2009 OCT 15 PM 3:25 RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE ACCEPTANCE AND APPROPRIATION OF GRANT FUNDS IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED EIGHTY-TWO THOUSAND EIGHTY-EIGHT DOLLARS (\$582,088) FROM THE U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE (USDOJ/NIJ) FOR IMPLEMENTATION OF THE FY 2009 SOLVING COLD CASES WITH DNA GRANT PROGRAM, AND AUTHORIZING THE HIRING OF ONE (1) PROFESSIONAL EMPLOYEE FOR UP TO EIGHTEEN (18) MONTHS TO SERVE AS A FORENSIC TECHNICIAN IN THE CRIMINALISTICS DIVISION OF THE POLICE DEPARTMENT

WHEREAS, it is anticipated that the Police Department shall be awarded grant funds in an amount not to exceed \$582,088 from the U.S. Department of Justice, National Institute of Justice, in support of the Police Department's FY 2009 Solving Cold Cases with DNA program; and

WHEREAS, the FY 2009 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 initiative is October 1, 2009 through March 31, 2011; and

WHEREAS, the Department is requesting authorization to add one (1) full-time professional staff (civilian) position to the Police Department's staff who will be assigned to the Criminalistics Division and funded by the FY 2009 Solving Cold Cases with DNA grant for up to eighteen (18) months; and

WHEREAS, the proposed Forensic Technician shall provide specialized scientific analyses relating to DNA profiles of Cold Cases within the Department's Criminalistics Division; and

WHEREAS, the City Council previously authorized acceptance of similar grant funds by Resolution No. 80870 C.M.S. dated October 2, 2007, and Resolution No. 81222 C.M.S. dated April 15, 2008; now, therefore be it

RESOLVED: That the City Council hereby authorizes the City Administrator or his designee to accept grant funds in an amount not to exceed \$582,088 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 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 Police Department is authorized to hire a Forensic Technician to provide specialized scientific analyses relating to DNA profiles of Cold Cases within the Department's Criminalistics Division, and funded by the FY 2009 Solving Cold Cases with DNA grant program for up to eighteen (18) months; and be it

FURTHER RESOLVED: That the City Administrator, or his 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, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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