



CITY OF OAKLAND

# AGENDA REPORT


**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Floyd Mitchell  
Chief of Police

**SUBJECT:** OPD 2024 DNA Backlog Reduction  
Program

**DATE:** August 16, 2024

City Administrator Approval

  
Jestin Johnson (Sep 6, 2024 09:48 PDT)

Date: Sep 6, 2024

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution: 1) Authorizing The City Administrator To Accept And Appropriate Grant Funds In An Amount Not To Exceed Four Hundred Nineteen Thousand Eight Hundred Twenty-Nine Dollars (\$419,829) From The U.S. Department Of Justice, Office of Justice Programs, Bureau of Justice Assistance For Implementation Of The FY (Fiscal Year) 2024 DNA Capacity Enhancement For Backlog Reduction (CEBR) Program For The Oakland Police Department (OPD); And**

**2) Waive The City's Advertising And Competitive Bidding Requirements For The Purchases Of DNA Typing Supplies And Equipment From (A) Qiagen For Seventy-Three Thousand Seven Hundred Dollars (\$73,700), (B) Promega For One Hundred Sixty-Five Thousand Fifty-Seven Dollars (\$165,057), (C) Thermo Fisher Scientific/Life Technologies For Forty-Nine Thousand Five Hundred Twenty-Nine Dollars (\$49,529), (D) NicheVision For Thirty-Seven Thousand Two Hundred Dollars (\$37,200), And (E) Hamilton or Promega For Sixty-Five Thousand Dollars (\$65,000).**

## EXECUTIVE SUMMARY

Adoption of this resolution will allow OPD to accept the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) Fiscal Year (FY) 2024 DNA Capacity Enhancement and Backlog Reduction grant of \$419,829, which will fund the continuation of staff training, DNA typing supplies, and DNA analysis equipment costs. The OPD Crime Laboratory (Crime Lab), with these grant funds, will be able to decrease the biological evidence analysis turnaround time and the backlog of cases. This resolution also calls for waiving the City's Advertising and Competitive Bidding Requirements because of the need to purchase specialized laboratory-validated DNA typing equipment, reagents, and supplies available only from specific vendors.

Public Safety Committee  
September 24, 2024

## **BACKGROUND AND LEGISLATIVE HISTORY**

DNA Forensic Analysis is a cornerstone of modern law enforcement investigations. DNA is the hereditary material found in nearly every cell in the human body. Body fluids such as blood, semen, and saliva can be left behind at a crime scene. Evidence collected from crime scenes is submitted for DNA analysis for the purpose of trying to identify the type of body fluid and origin of the biological material. The DNA Capacity Enhancement for Backlog Reduction (CEBR) Program is a formula grant created by the DOJ/OJP/BJA to assist laboratories that conduct DNA analysis.

The aggregate amount of FY 2024 funds expected to be awarded to eligible applicants from each State was based on a determination by the BJA and then distributed among the eligible applicants within the State, of which \$419,829 was allocated to OPD.

The goal of the program is to improve DNA laboratory infrastructure and analysis capacity so that DNA samples can be processed efficiently and effectively. The program also provides continuing education courses and training associated with DNA analyses required by rules governing the Combined DNA Index System (CODIS), as well as funds to analyze backlogged forensic DNA casework samples. Improvements are necessary and critical to reduce current DNA backlogs, prevent future increases, and to help the criminal justice system reach its full potential in the utilization of DNA technology.

Backlogged case requests from homicides, sexual assaults, robberies, assaults, and property crime cases will be enrolled into the FY 2024 DNA Backlog Reduction Program. The eligible DNA profiles obtained from evidence in these cases will be entered into CODIS. DNA profiles entered into CODIS have resulted in an approximate seventy-three percent hit rate.<sup>1</sup> This will assist not only Oakland Police Department investigators, but also the Alameda County District Attorney, and other law enforcement, prosecutorial, and judicial agencies in the surrounding area.

### ***DNA Capacity Enhancement for Backlog Reduction Program History***

The City Council previously authorized acceptance of backlog grant funds almost every year for the last 18 years. The last five Council-adopted resolutions are listed below<sup>2</sup>:

- [Resolution No. 89892 C.M.S., dated September 19, 2023](#)
- [Resolution No. 89459 C.M.S., dated November 1, 2022](#)
- [Resolution No. 89011 C.M.S., dated February 1, 2022;](#)
- [Resolution No. 88358 C.M.S., dated November 10, 2020;](#) and
- [Resolution No. 87428 C.M.S., dated November 27, 2018.](#)

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<sup>1</sup> "Hit rate" is defined as that portion of cases with DNA profiles submitted to CODIS in which an association to a named individual or case-to-case (either solved or unsolved) is made to a DNA profile(s) in the database.

<sup>2</sup> The resolution accompanying this report lists all Council-adopted resolutions.

### ***Privacy Policy for Biometric Technology***

A list of technologies was introduced by the Crime Lab to the Privacy Advisory Commission (PAC) where both a Surveillance Impact Report and a Biometric Technology Use Policy for DNA Instrumentation and Analysis Software were provided to and recommended by the PAC. The City Council approved the Use Policy and via the adoption of [Resolution No. 88358 C.M.S.](#) on December 1, 2020.

### **ANALYSIS AND POLICY ALTERNATIVES**

This policy advances the citywide priority of responsive trustworthy government. Violent crimes which occur in Oakland and surrounding areas cause trauma as well as negative economic impacts for victims and their families. The ability to solve crimes and close cases allows the victims to have closure and, in some cases, financial compensation. The funding from this grant provides the Crime Lab's Forensic Biology Unit with expanded means to examine and analyze over two hundred and fifty-seven of these types of cases, which in turn will increase holistic community safety by providing investigative leads to apprehend violent individuals. The grant funding will further enable the Department to respond to these violent crimes and increase community trust of the Department. The Crime Lab will focus on four goals with the implementation of the FY 2024 DNA Backlog Reduction Program grant initiative:

#### ***Goal #1: Reduce Backlog***

The analysis of the backlogged cases will include case evaluation, biological evidence examination and screening, DNA typing, technical review, and data entry into CODIS. A minimum of two hundred fifty-seven (257) backlogged case requests will be analyzed using CEBR 2024 funded DNA typing reagents and supplies. The supplies include sampling plates, DNA extraction kits, quantitation kits, amplification kits, and reagents for DNA digestion and typing. The funding for these reagents and supplies will augment the limited crime laboratory budget, thus increasing our ability to examine more items ultimately reducing the backlog.

#### ***Goal #2: Provide Required Continuing Education for Each Criminalist and Forensic DNA Technician***

The Criminalistics Division must comply with several types of credentialing processes:

- ANSI-ASQ National Accreditation Board accreditation (ANAB)
- Certification of individual scientists
- National DNA Index System (NDIS) requirements for CODIS data entry
- American Board of Criminalistics educational requirements
- Federal Bureau of Investigation (FBI) DNA Quality Assurance Standards (QAS) mandatory education and training requirements

To comply with and maintain the Criminalistics Division's required accreditations, scientific staff must obtain continuing education credits. The Criminalistics Division and Forensic Biology Unit do not have independent budgets for training. This federal grant will fund travel and registration for various conferences and training opportunities. Crime Lab staff will leverage conferences and training to learn about new technologies. By the end of the award period, it is expected that

all twelve Forensic Biology Unit Criminalists will have fulfilled all their annual required continuing education through this grant.

***Goal #3: Increase Capacity of the Crime Lab for Forensic Casework***

Funding from CEBR 2024 will allow the Laboratory to purchase liquid handler components and parts for the DNA typing digestion and extraction phases. Wear and tear from everyday use has taken its toll on the gears, struts, and other vital components. Replacement is essential to maintain the active workflow and high throughput of DNA samples.

***Goal #4: Purchase Service and Maintenance Contracts and License Upgrades for DNA Typing Software and DNA Typing Instruments***

The Crime Laboratory will use grant funds to purchase annual service contracts for existing real-time polymerase chain reaction (PCR) quantitation and genetic analyzer instruments and operating software, and for the purchase of annual contracts for the upgrade and maintenance of existing DNA typing software. Service contracts and licensing upgrades are vital to the laboratory's ability to generate DNA profiles in a timely manner. Thus, the ability to maintain and/or upgrade instruments and software will increase the capacity of conducting DNA typing on case samples.

***Waiver of the Advertising and Bidding Process***

Section 2.04.050.1.5 (Bid Procedure) explains that the City can make exceptions to its competitive bidding process when City Council finds and determines that it is in the best interest of the City. Purchasing DNA supplies and typing instruments from vendors other than those who manufacture DNA kits and instruments used by the Crime Laboratory would not be acceptable for this federal grant. The Forensic Biology Unit has conducted extensive validation studies as part of the selection process in determining which typing kits and instruments to implement in OPD's evidence processing scheme. The use of other products which have not been validated would hence violate the FBI DNA QAS; OPD therefore believes that waiving the competitive bidding process in this instance is in the best interest of the City. The Crime Lab must adhere to FBI DNA QAS standards to enter DNA profiles into CODIS for searching. The reagents to be purchased through this grant include DNA extraction kits (Qiagen), DNA quantitation kits (Promega), DNA typing kits (Promega), DNA typing supplies (Thermo Fisher Scientific/Life Technologies), typing software (NicheVision), and robotic liquid handler components and parts (Hamilton or Promega). These reagents, software, and hardware from these specific vendors have undergone rigorous validation studies, and no vendor substitutions are acceptable.

**FISCAL IMPACT**

The table below details how OPD will utilize the DOJ/OJP/BJA FY 2024 DNA Backlog Reduction Grant Program funds. The table lists the use of funding for staff travel and training, and technology and supply costs.

| <b>Budget Category</b>   | <b>Amount</b>    |
|--|------------------|
| <b>Training and Travel</b>                                       |                  |
| Travel, lodging and registration costs                           | \$29,378         |
| <b>Total Training and Travel</b>                                 | <b>\$29,378</b>  |
| <b>Equipment</b>   |                  |
| Robotic Liquid Handler (accessories/peripheral components)       | \$65,000         |
| <b>Total Equipment</b>   | <b>\$65,000</b>  |
| <b>Technical Supplies</b>  |                  |
| DNA Typing Supplies (Qiagen)                                     | \$73,700         |
| DNA Typing Supplies (Promega)                                    | \$165,057        |
| DNA Typing Supplies (Thermo Fisher Scientific/Life Technologies) | \$18,329         |
| <b>Total Technology and Supplies</b>                             | <b>\$257,086</b> |
| <b>Procurement Contracts</b>                                     |                  |
| Software Upgrade and Maintenance (NicheVision)                   | \$37,200         |
| Performance Maintenance (Life Technologies)                      | \$31,200         |
| <b>Total Procurement Contracts</b>                               | <b>\$68,365</b>  |
| <b>TOTAL</b>   | <b>\$419,829</b> |

The \$419,829 in grant funds from the DOJ/OJP/BJA for the implementation of the FY 2024 DNA Backlog Reduction Grant Program shall be appropriated in the Federal Grant Fund (2112), Criminalistics Division Organization (102610), Criminalistics Division Program (PS05), in a Project Number (TBD). The grant starts on October 1, 2024, for a 24-month duration, and ends on September 30, 2026.

| <b>Fiscal Years</b> | <b>Fund Source</b> | <b>Organization</b> | <b>Account</b> | <b>Project</b> | <b>Program</b> | <b>Amount</b> |
|---------------------|--------------------|---------------------|----------------|----------------|----------------|---------------|
| 2024-2026           | 2112               | 102610              | TBD            | TBD            | PS05           | \$419,829     |

### **PUBLIC OUTREACH / INTEREST**

No outreach was deemed necessary for the proposed policy action beyond the standard City Council agenda noticing procedures, because no new Departmental policy will be required in order to accept the grant funds.

### **COORDINATION**

The Budget Bureau and the Office of the City Attorney were consulted by OPD on the production of this report as well as the accompanying resolution.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** There are no economic opportunities associated with this report.

**Environmental:** There are no environmental opportunities associated with this report.

**Race and Equity:** Provisions for continuing education and supplies funded by this grant will enhance OPD's ability to analyze biological evidence in criminal cases in a timelier fashion. The public safety for all Oakland residents and visitors is enhanced through greater OPD investigative capacity, with science-based methods which mitigates potential bias.

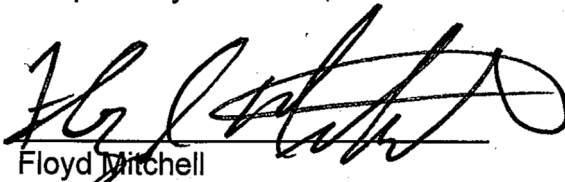
**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution: 1) Authorizing The City Administrator To (1) Accept And Appropriate Grant Funds In An Amount Not To Exceed Four Hundred Nineteen Thousand Eight Hundred Twenty-Nine Dollars (\$419,829) From The U.S. Department Of Justice, Office of Justice Programs , Bureau of Justice Assistance For Implementation Of The FY (Fiscal Year) 2024 DNA Capacity Enhancement For Backlog Reduction Program For The Oakland Police Department (OPD); And

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For questions regarding this report, please contact Bonnie Cheng, Supervising Criminalist, at (510) 238-3386 x4904.

Respectfully submitted,



Floyd Mitchell  
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