



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 NOV 22 AM 11:45

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: David Downing
Assisting Chief of Police

SUBJECT: OPD 2016 DNA Backlog Reduction Program

DATE: October 28, 2016

City Administrator Approval

Christina Johnson SB

Date:

11/22/16

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution: 1) Authorizing The City Administrator, Or Designee, To Accept And Appropriate Grant Funds In An Amount Not To Exceed Three Hundred Twelve Thousand And Two Hundred And Forty-One Dollars (\$312,241) From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIJ) For Implementation Of The Fiscal Year 2016 Forensic Casework Deoxyribonucleic Acid (DNA) Backlog Reduction Grant Program In The Oakland Police Department (OPD); And 2) Waiving The Advertising And Competitive Bidding Requirements For The Purchase Of DNA Typing Supplies From Two Companies: (1) Promega For Thirty-Four Thousand Two Hundred Twenty-Four Dollars (\$34,224), And (2) Qiagen For One Thousand Five Hundred Eight-Seven Dollars (\$1,587).

EXECUTIVE SUMMARY

Adoption of this resolution will allow the OPD to accept the USDOJ/NIJ DNA Backlog grant of \$312,241, which will continue fund much needed current staff positions as well as personnel training and technology costs. With the grant funds, the OPD Crime Laboratory will decrease the biological evidence analysis turnaround time and the backlog of testing needed for criminal cases. This resolution also calls for waiving the City's Advertising and Competitive Bidding Requirements because of the need to purchase highly specialized equipment available only from particular vendors.

BACKGROUND / LEGISLATIVE HISTORY

The DNA Forensic Casework Backlog Program was created by the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) to assist crime laboratories that conduct DNA analysis. The goal of the Backlog 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 associated with DNA analyses, as well as funds to analyze backlogged forensic DNA casework samples. Improvements are necessary and critical to prevent

Item: _____
Public Safety Committee
December 6, 2016

to prevent future DNA backlogs and to help the criminal justice system reach its full potential in the utilization of DNA technology.

The advent of DNA technology and automation equipment has revolutionized law enforcement's ability to analyze biological evidence at a genetic level. In particular, DNA analysis of semen evidence encountered in sexual assault cases can provide information leading to arrest and prosecution. Coinciding with this revolution in genetic analysis is the utilization of computer-based DNA databases.

OPD Criminalists conduct analysis on sexual assault evidence and produce reports to the investigators within 20 business days of the receipt of the kit in the laboratory. The Crime Laboratory is achieving a 15 percent increase in work efficiency due to the use of these robotic processes and the continued assistance of the grant-funded Criminalist I and Forensic DNA Technician. The combination of this critical staff and the use of modern forensic techniques is invaluable to OPD's Criminal Investigations Division (CID) for the analysis of DNA evidence associated with homicides and other violent crimes.

Backlogged case requests from homicides, non-sexual assault person crimes, and property crime cases will be enrolled into the FY2016 DNA Backlog Reduction Program. The DNA profiles obtained from probative evidence (evidence that can be associated with a crime and entered into CODIS) in these cases will be entered into the Combined DNA Index System (CODIS). Past experience with DNA profiles entered into CODIS have resulted in a sixty-three percent hit rate.¹ This will assist not only OPD investigators, but also the Alameda County District Attorney, and other law enforcement, prosecutorial, and judicial agencies in the surrounding area.

The City Council has previously authorized acceptance of similar grant funds by Resolution No. 85899 C.M.S., dated November 17, 2015, Resolution No. 85223 C.M.S., dated October 21, 2014, Resolution No. 84686 C.M.S., dated November 5, 2013, Resolution No. 84041 C.M.S., dated October 2, 2012; Resolution No. 83672 C.M.S., dated December 15, 2011; Resolution No. 83030 C.M.S., dated October 19, 2010; Resolution No. 82291 C.M.S., dated September 22, 2009; Resolution No. 81624 C.M.S., dated October 21, 2008; Resolution No. 80869 C.M.S., dated October 2, 2007; Resolution No. 80129 C.M.S., dated September 19, 2006; Resolution No. 79534 C.M.S., dated October 18, 2005 and Resolution No. 78909 C.M.S., dated November 16, 2004.

ANALYSIS AND POLICY ALTERNATIVES

Through enactment of the proposed FY 2016 DNA Backlog Reduction Program grant initiative, the Crime Laboratory will analyze 15 of the backlogged case requests (see next paragraph below). This will be achieved by accomplishing three goals:

Goal #1: Reduce the Forensic DNA Case Backlog

¹ "Hit rate" is defined as that portion of cases with DNA profiles submitted to CODIS in which at least one association (named individual and case-to-case) is made to a DNA profile(s) in the database. Multiple suspects may be identified in some portion of the cases examined.

In the first half of 2016, the Forensic Biology Unit has been able to complete analyses on 265 requests in an average of 121 business days as counted from the date of receipt of request to report publication. The goal of the proposed grant is to decrease the Forensic Biology Unit's turnaround time on all DNA analyses to less than 100 business days. Turnaround time will be reduced through specialized training and the purchase of supplies for Forensic Biology Unit Criminalists to analyze an additional 15 backlogged cases – laboratory DNA kits will be purchased to analyze these 15 backlog cases (see page 4 below). Case evaluation, biological evidence examination and screening, DNA typing, technical review, and data entry into CODIS will be conducted during normal business hours. A Criminalist I and a Forensic Technician salaries and benefits will be funded through this grant; based on the grant funds used to purchase supplies, the crime laboratory has determined that they can process an additional 15 cases per year.

Goal #2: Increase Capacity of the Crime Lab for Forensic Casework

The Crime Laboratory will use the grant to retain Biology Unit staff (1.0 FTE Criminalist I and 1.0 FTE Forensic DNA Technician). The grant-funded Criminalist will conduct analysis on 100 cases during the life of this grant. The Forensic DNA Technician will assist the Criminalists in non-interpretive casework processes.

Goal #3: Provide Required Continuing Education for Each Criminalist and Forensic DNA Technician

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

- American Society of Crime Laboratory Directors / Laboratory Accreditation Board (ASCLD/LAB) accreditation
- 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 educational 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. The USDOJ/NIJ grant will fund travel and tuition for various conferences and training opportunities. It is anticipated that case completion time would improve to less than 100 days, on average, as a result of conference attendance, implementation of the new technologies learned, and training of Forensic Biology Unit staff. By the end of the award period, it is expected that the Forensic Biology Unit Criminalists and the Forensic DNA Technician will have fulfilled a portion of their required continuing education through this grant.

Waiver of the Advertising and Bidding Process

Section 2.04.050.1.5 (Bid Procedure) explains that the City can make exceptions to its complete bidding process when City Council finds and determines that it is in the best

interests of the city. Purchasing DNA supplies from vendors other than those who manufacture DNA kits currently used by the Crime Laboratory would not be acceptable for crime laboratory accreditations. The Forensic Biology Unit has not validated other vendors, and their use by the OPD Forensic Biology Unit would violate the FBI DNA QAS. Staff therefore believes that waiving the complete bidding process in this instance is in the best interest of the City. The FBI DNA QAS must be followed in order for the laboratory to enter DNA profiles developed from evidence associated with crimes into the CODIS for searching. The reagents to be purchased through this grant include:

- DNA extraction kits (QIAGEN)
- Quantitation kits and Fusion DNA Typing Kits (Promega),

These reagents from these particular vendors have undergone rigorous validation studies and no vendor substitutions are acceptable.

Central Services Overhead

The City of Oakland charges a central services overhead (CSO) rate of 15.36 percent of personnel costs to City departments, to cover central administrative costs. The USDOJ/NIJ does not allow any grant funds to be used to cover such overhead costs. The resolution accompanying this report therefore requests that the City Council authorize a contribution from the general purpose fund equivalent to the 15.36 percent central services overhead charges, in the amount of \$23,195.

FISCAL IMPACT

USDOJ/NIJ, the grantor, does not allow the use of any grant funds for overhead costs. Therefore, it is requested the City accept this condition of the grant acceptance and that the City's General Purpose Fund contribute the \$23,195 (15.36%) cost of OPD's Central Service Overhead.

Fiscal Year	Fund Source	Organization	Account	Project	Program	Amount
2016-17	2112	102610	PS05	TBD	PS05	\$312,241

Table 1: USDOJ/NIJ DNA Backlog Reduction Program Expenditures

Budget Category	Amount
Personnel*	
Criminalist Personnel and Forensic Technician Personnel (12 mo.)	\$151,006.58
Fringe Benefits	\$109,796.88
Total Personnel and Fringe	\$260,803.47
Training and Travel	
Travel and Lodging Costs	\$8,636.00
(12) Forensic Biology Unit Training Registrations	\$6,990.00
Total Training and Travel	\$15,626.00
Technology and Supplies	
DNA Typing Supplies (Promega)	\$34,224.53
DNA Typing Supplies (QIAGEN)	\$1,587.00
Total Technology and Supplies	\$35,811.53
TOTAL	\$312,241.00

*Personnel costing does not include the 4% vacancy rate.

PUBLIC OUTREACH / INTEREST

The public has a significant interest in ensuring that the OPD Crime Laboratory is able to effectively process DNA evidence; successfully processed DNA evidence helps OPD with investigations that bring lead to effective criminal prosecutions.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Controller's Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Whenever possible, supplies and equipment will be purchased locally. Enhancing the Criminalistics Division's ability to more efficiently and effectively process DNA evidence will significantly help to secure prosecutions, removing predators from the streets and thereby creating an environment where businesses can thrive and customers feel safe to shop.

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

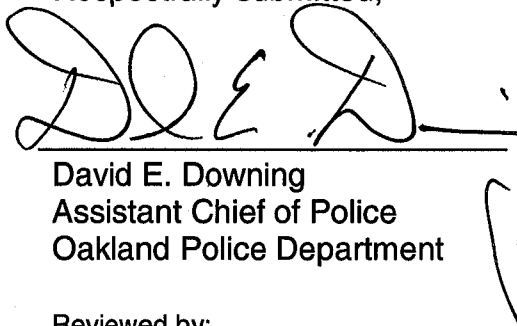
Social Equity: Provisions for continuing education and supplies funded by this grant will enhance the Department's ability to analyze biological evidence in criminal cases in a more timely fashion, improving public safety for all people in Oakland.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution: 1) Authorizing The City Administrator, Or Designee, To Accept And Appropriate Grant Funds In An Amount Not To Exceed Three Hundred Twelve Thousand And Two Hundred And Forty-One Dollars (\$312,241) From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIJ) For Implementation Of The Fiscal Year 2016 Forensic Casework Deoxyribonucleic Acid (DNA) Backlog Reduction Grant Program In The Oakland Police Department (OPD); And 2) Waiving The Advertising And Competitive Bidding Requirements For The Purchase Of DNA Typing Supplies From Two Companies: (1) Promega For Thirty-Four Thousand Two Hundred Twenty-Four Dollars (\$34,224), And (2) Qiagen For One Thousand Five Hundred Eight-Seven Dollars (\$1,587).

For questions regarding this report, please contact Jennifer Mihalovich, Criminalist III, at (510) 238-3386.

Respectfully submitted,



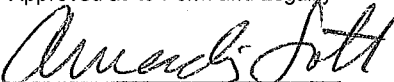
David E. Downing
Assistant Chief of Police
Oakland Police Department

Reviewed by:
Mary Gibbons, Crime Laboratory Manager,
OPD, Criminalistics Division

Prepared by:
Jennifer S. Mihalovich, Criminalist III
OPD, Criminalistics Division

Bruce Stoffmacher, Legislation Manager
OPD, Research and Planning, Office of the Chief

OAKLAND CITY COUNCIL


City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION: 1) AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO ACCEPT AND APPROPRIATE GRANT FUNDS IN AN AMOUNT NOT TO EXCEED THREE HUNDRED TWELVE THOUSAND AND TWO HUNDRED AND FORTY-ONE DOLLARS (\$312,241) FROM THE U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE (USDOJ/NIJ) FOR IMPLEMENTATION OF THE FISCAL YEAR 2016 FORENSIC CASEWORK DEOXYRIBONUCLEIC ACID (DNA) BACKLOG REDUCTION GRANT PROGRAM IN THE OAKLAND POLICE DEPARTMENT; AND 2) WAIVING THE ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS FOR THE PURCHASE OF DNA TYPING SUPPLIES FROM TWO COMPANIES: (1) PROMEGA FOR THIRTY-FOUR THOUSAND TWO HUNDRED TWENTY-FOUR DOLLARS (\$34,224), AND (2) QIAGEN FOR ONE THOUSAND FIVE HUNDRED EIGHT-SEVEN DOLLARS (\$1,587).

WHEREAS, the advent of Deoxyribonucleic Acid (DNA) technology and automation equipment has revolutionized law enforcement's ability to analyze biological evidence at a genetic level; and

WHEREAS, the DNA analysis of semen evidence encountered in sexual assault cases can provide information leading to arrest and prosecution; and

WHEREAS, Oakland Police Department (OPD) Criminalists conduct analysis on sexual assault evidence and produce reports to the investigators within 20 business days of the receipt of the kit in the laboratory; and

WHEREAS, the DNA Forensic Casework Backlog Program was created by the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) to assist laboratories that conduct DNA analysis with a goal of improving DNA laboratory infrastructure and analysis capacity so that DNA samples can be processed efficiently and effectively; and

WHEREAS, grant funds in an amount not to exceed \$312,241 were awarded by USDOJ/NIJ to the Oakland Police Department (OPD) to its Fiscal Year 2016

implementation of the DNA Backlog Reduction Program; and

WHEREAS, the DNA Backlog Reduction Program was created to assist laboratories in reducing the number of cases in their backlog in which DNA analyses may be conducted on biological evidence; and

WHEREAS, the funds will be allocated to continue to employ one (1) Criminalist I and one (1) Forensic Technician, staff required training, and purchase laboratory validated DNA typing reagents; and

WHEREAS, Central Service Overhead (CSO) costs, in the amount of \$23,195 (15.36 percent), are not permitted by the grantor thus requiring the City to contribute \$23,195 from the General Purpose Fund; and

WHEREAS, the OPD Criminalistics Division also plans to use \$34,224.53 in USDOJ/NIJ DNA Backlog Reduction Program grant funds to purchase needed DNA reagent typing supplies; and

WHEREAS, the OPD Criminalistics Division must use reagent typing supplies from particular vendors have undergone rigorous validation studies and are currently used by the OPD Crime Laboratory because purchasing DNA supplies from vendors other than those who manufacture DNA kits would not be acceptable as the OPD Forensic Biology Unit has not validated their use and hence would violate the Federal Bureau of Investigation (FBI) DNA Quality Assurance Standards (QAS); and

WHEREAS, Oakland Municipal Code (OMC) Section 2.04.050.1.5 authorizes the City Council to waive the advertising and competitive bidding requirements of OMC Section 2.04.050 after a finding and determination that it is in the best interests of the City to do so; and

WHEREAS, the grant term for the proposed initiative is January 1, 2017 through December 31, 2018; and

WHEREAS, the City Council previously authorized acceptance of similar grant funds by Resolution No. 85899 C.M.S., dated November 17, 2015, Resolution No. 85223 C.M.S., dated October 21, 2014, Resolution No. 84686 C.M.S., dated November 5, 2013, Resolution No. 84041 C.M.S., dated October 2, 2012; Resolution No. 83672 C.M.S., dated December 15, 2011; Resolution No. 83030 C.M.S., dated October 19, 2010; Resolution No. 82291 C.M.S., dated September 22, 2009; Resolution No. 81624 C.M.S., dated October 21, 2008; Resolution No.80869 C.M.S., dated October 2, 2007; Resolution No. 80129 C.M.S., dated September 19, 2006; Resolution No. 79534 C.M.S., dated October 18, 2005 and Resolution No. 78909 C.M.S., dated November 16, 2004; and

WHEREAS, staff recommends that the City Council make a finding and a

determination that it is in the best interests of the City to waive advertising and bidding processes because purchasing DNA supplies from vendors other than those who manufacture DNA kits currently used by the Crime Laboratory would not be effective as other DNA supplies from other vendors have not been validated for use; now, therefore be it

RESOLVED: That the City Council hereby authorizes the City Administrator, or designee, to accept and appropriate grant funds in an amount not to exceed \$312,241 from the USDOJ/NIJ and to increase revenues and appropriate said budget to OPD; and be it

FURTHER RESOLVED: That the General Fund contributes \$23,195 to cover Central Services Overhead costs (15.36%); and be it

FURTHER RESOLVED: That said grant funds, in an amount not to exceed \$312,241, shall be appropriated 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 said grant funds shall be used to fully fund one (1) Criminalist I position and one (1) Forensic Technician position to conduct examination of biological material during the term of the grant; and be it

FURTHER RESOLVED: That said grant funds shall be used to fund DNA training courses, and purchase laboratory validated DNA typing reagents utilized in the examination of biological material; and be it

FURTHER RESOLVED: That the City Council finds and determines that pursuant to OMC Section 2.04.050.1.5 and based upon the reasons stated above and in the City Administrator's report accompanying this resolution, that it is in the best interests of the City to waive the advertising and competitive bidding requirements of the OMC for the purchases of DNA typing supplies from QIAGEN for \$1,587 and Promega for \$34,224; and be it

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

FURTHER RESOLVED: That any agreement authorized by this resolution shall be reviewed and approved by the Office of the City Attorney for form and legality prior to execution, and a copy shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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