

FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2009 FEB 11 PM 1:20
To: The City Administrator
Attn: Dan Lindheim
From: Police Department
Date: February 24, 2009

Re: A Report and Proposed Resolution Authorizing the City Administrator, or His Designee, to 1) Enter Into a Memorandum of Understanding (MOU) Between the US Department of Homeland Security, United States Secret Service (USSS) and the City of Oakland through the Oakland Police Department (OPD), to Participate in the Bay Area Identity Theft Strike Force (BAIT SF) for the Period of October 1, 2008 through September 30, 2009 (Renewable Annually), and 2) Accept Reimbursement Funds In An Amount Not to Exceed Twenty-Five Thousand Dollars (\$25,000) From the US Department of Justice Asset Forfeiture Fund to the Oakland Police Department for Investigator Overtime and Other Asset Forfeiture Fund Authorized Reimbursements in Accordance with the Existing Federal Sharing Agreement

SUMMARY

Staff has prepared a report and proposed resolution authorizing the City Administrator or his designee, on behalf of the City of Oakland, to execute a Memorandum of Understanding (MOU) between the US Department of Homeland Security, United States Secret Service (USSS), and the City of Oakland through the Oakland Police Department (OPD) to enable OPD's participation in the Bay Area Identify Theft Strike Force (BAIT SF). As a participating agency, OPD will be required to assign one fulltime police sergeant to the BAIT SF for the duration of the MOU. The purpose of the BAIT SF is to establish cooperation between federal and local law enforcement agencies in addressing identity theft and related financial crimes.

The duration of the MOU shall be one year, renewable every 12 months under joint agreement between the participating agencies. Either agency may withdraw from the MOU with a 30-day notice to the other participant.

FISCAL IMPACT

Approval of this resolution will authorize the City Administrator to execute an MOU between the USSS and the City to enable OPD to participate in the BAIT SF.

OPD will assign (from its existing authorized strength) one fulltime sergeant of police to BAIT SF, and shall bear all personnel costs for this officer, including but not limited to salary, retirement, expenses, disability and all other employment-related benefits incident to the sergeant's employment. The USSS agrees to reimburse OPD for payment of overtime and other expenses directly related to participation in BAIT SF activities pursuant to provisions of the Treasury Forfeiture Fund Act of 1992, 31 USC 9703, as amended. This Act established the

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Department of the Treasury Asset Forfeiture Fund and authorized the payment of certain overtime expenditures, travel, fuel, training, equipment and other similar costs of State and Local law enforcement officers, who are involved in joint operations, with a Department of the Treasury law enforcement organization, as prescribed in 31 USC 9703 (a)(1)(I).

This resolution will authorize OPD to assign one currently authorized (per FY 2007-09 Adopted Budget) sergeant of police to the BAIT SF. It is the Department's intention to assign all major and complex identity theft cases to the sergeant assigned to the BAIT SF for investigation throughout his/her assignment, which will help to relieve the burden on other criminal investigators who currently investigate these cases. This plan will not require additional overtime or hiring of staff to cover the BAIT SF investigator's current and anticipated case loads.

Notwithstanding the above provisions, at the discretion of the USSS Resident Agent-in-Charge, the USSS may provide funds from the US Department of Treasury Forfeiture Fund for the payment of OPD BAIT SF related activities pursuant to 31 USC 9703, as amended and as outlined in the Federal Sharing Agreement. Reimbursement funds shall be deposited into General Fund (1010), Theft Section Organization (102340), Criminal Investigations Program (PS03), in a Project to be Determined.

BACKGROUND

Identity theft continues to be an ever growing crime problem for the residents of Oakland and throughout the nation. Recognizing the need to bring greater resources to bear on this ever increasing problem, the Oakland Police Department has sought to enter into partnerships with Federal agencies. These partnerships have proven beneficial to local communities by contributing federal assets (e.g., experienced agents, prosecutors, strict sentencing guidelines, federal grand jury, federal search and arrest warrants, federal asset forfeiture funds) to solving local crime problems that are sometimes outside the means of the local jurisdiction.

The Federal government recognizes the complexity of identity theft crimes and the need to address them through partnerships with state and local agencies. The Bay Area Identity Theft Strike Force is comprised of US Secret Service Agents, US Postal Inspectors and Police Officers from the cities of Oakland and San Leandro.

Since October 2007, BAIT SF has identified 71 identity theft cases with an Oakland nexus. This figure, however, is misleading as individuals engaged in identity theft frequently impact more than one victim. BAIT SF has also determined that the vast majority of those individuals investigated by the Strike Force for identity theft crimes reside in Oakland.

There is currently one sergeant of police assigned to the Department's Criminal Investigation Division who has been working in conjunction with BAIT SF. This resolution and MOU seeks to formalize the relationship between OPD and the USSS, providing reimbursement for overtime and other expenses enjoyed by the local agencies that are in full partnership with BAIT SF.

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KEY ISSUES AND IMPACTS

Participation in BAIT SF will provide OPD the opportunity to refer its more time consuming and complex identity theft cases to the Strike Force for investigation, allowing investigators to address the multiplicity of other less labor intensive cases. BAIT SF also offers the option to charge offenders under either state or federal statutes, allowing for maximum exposure upon conviction.

The USSS offers reimbursement for overtime and other strike force related expenses for all BAIT SF member agencies. Participation in BAIT SF will allow OPD to recover these expenses from the US Treasury's Forfeiture Fund.

Participation in BAIT SF will greatly benefit the City, providing OPD with additional resources to address identity theft related crimes. The City benefits from the partnership by gaining the participation of agents from the USSS, US postal inspectors, and other BAIT SF member agencies. As previously mentioned, it has been found that many of BAIT's cases have an Oakland nexus either among the victims and/or among the suspects. Participation in BAIT SF will have a direct positive effect on addressing identity theft, and crime in general, throughout the City of Oakland.

PROGRAM DESCRIPTION

BAIT SF will comprehensively address identity theft related crime within and directly impacting the City of Oakland. The Strike Force is a joint venture of all participating agencies under the administrative control of the USSS. OPD officers assigned to BAIT SF shall be subject to all rules and regulations of OPD, in addition to those of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and US Marshal's service when acting as deputized special deputy US Marshals. Disputes (e.g., overtime assignments, mandatory call back, etc.) concerning OPD's participation in BAIT SF will be resolved between the USSS San Francisco Field Office Special Agent-in-Charge and the OPD Bureau of Investigation Deputy Chief of Police.

Cases will be jointly investigated and neither participating agency will act unilaterally. Primary consideration for investigation will be given to cases with a nexus to the participating local law enforcement agency. Investigators will target assets for criminal and civil forfeiture when appropriate.

The need for BAIT SF activity in Oakland is evident in some basic performance statistics on identity theft the Strike Force has accumulated in the past year. Since October 2007, BAIT SF has obtained 20 Federal indictments and 43 state charges in a total of 63 cases with an Oakland nexus. BAIT SF will act as a force multiplier for OPD as the more complex identity theft cases are turned over to the Strike Force to address, leaving OPD's investigators to address other less labor intensive cases.

It is requested that the City Administrator, or his designee, be authorized to complete and execute all required negotiations, certifications, assurances, and documentation required to

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accept, modify, extend and/or amend this agreement, without return to the City Council, so long as additional funding by the City is not required.

SUSTAINABLE OPPORTUNITIES

Economic: The utilization of US Department of the Treasury Forfeiture Funds to cover OPD overtime expenses may reduce the overall financial impact of BAIT SF to the City. The City also gains the investigative services of BAIT SF members while working on cases with an Oakland nexus at no cost to the City. In essence, the City gains the services of the BAIT SF without any appreciable additional expenditures.

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

Social Equity: The elderly are among the growing number of victims of crimes perpetrated by identity thieves. Providing the community with a BAIT SF specifically targeting identity theft will reduce the incidents of these crimes, ensure efficient and timely investigation when these crimes do occur and, ultimately, reduce the victimization of the vulnerable elderly residents of our community.

DISABILITY AND SENIOR ACCESS

There are no ADA or senior citizen access issues identified in this report. As previously mentioned, seniors are often targeted by identity theft suspects. BAIT SF will hopefully reduce the predation of our community's senior citizens.

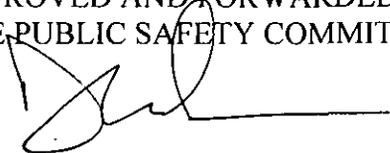
RECOMMENDATION /ACTION REQUESTED OF THE COUNCIL

Staff recommends approval of this resolution authorizing the City Administrator, or his designee, to 1) enter into a Memorandum of Understanding (MOU) between the US Department of Homeland Security, United States Secret Service (USSS) and the City of Oakland through the Oakland Police Department (OPD) to permit OPD to participate as a member of the Bay Area Identity Theft Strike Force for the period of October 1, 2008 through September 30, 2009, renewable annually, and 2) accept and appropriate reimbursement funds in an amount not to exceed \$25,000 from the US Department of Justice Asset Forfeiture Fund to the Oakland Police

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Department for investigator overtime and other asset forfeiture fund authorized reimbursements in accordance with the existing federal sharing agreement.

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:



Office of the City Administrator

Respectfully submitted,


Wayne G. Tucker
Chief of Police

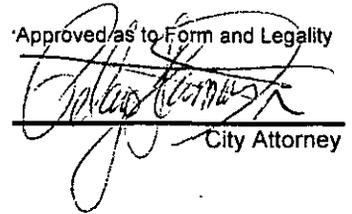
Prepared by:
Lieutenant Kenneth W. Parris
Criminal Investigation Division

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OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

2009 FEB 11 PM 4:20 RESOLUTION No. _____ C.M.S.

Resolution Authorizing the City Administrator, or His Designee, to 1) Enter Into a Memorandum of Understanding with the US Department of Homeland Security, United States Secret Service (USSS) and the City of Oakland Through the Oakland Police Department (OPD) to Participate in the Bay Area Identity Theft Strike Force (BAIT SF), for the Period of October 1, 2008 Through September 30, 2009, Renewable Annually, and 2) Accept Reimbursement Funds in an Amount not to Exceed Twenty Five Thousand Dollars (\$25,000) From the US Department of the Treasury Asset Forfeiture Fund to the Oakland Police Department for Investigator Overtime and Other Asset Forfeiture Fund Authorized Reimbursements in Accordance with the Existing Federal Sharing Agreement

WHEREAS, the City of Oakland wishes to enhance the Oakland Police Department's (hereinafter "OPD") its ability to investigate and prosecute identity theft related crimes; and

WHEREAS, the US Department of Homeland Security, United States Secret Service (hereinafter "USSS"), has offered to enter into a Memorandum of Understanding (herein after "MOU") with the City of Oakland through OPD to participate in the Bay Area Identity Theft Strike Force (herein after "BAIT SF"); and

WHEREAS, entering into an MOU with the USSS benefits the City by providing additional investigative resources to address identity theft related crimes at no cost to the City; and

WHEREAS, participating in BAIT SF provides access to federal search and arrest warrants, federal grand juries and the ability to seek federal prosecution of select identity theft related crimes; and

WHEREAS, federal law provides the advantage of more stringent bond rules and sentencing guidelines in federal court; and

WHEREAS, the only costs associated with participation in BAIT SF are the existing personnel costs associated with one (1) Sergeant of Police being assigned fulltime to BAIT SF; and

WHEREAS, the USSS may provide reimbursement for investigator overtime and other investigative expenses from the US Department of the Treasury Asset Forfeiture Fund; and

WHEREAS, Oakland Municipal Code section 2.04.010 reserves to the Council the authority to enter into contracts with another public entity; and

WHEREAS, Oakland City Charter section 504(1) empowers the City Administrator to represent the City in its intergovernmental relations and to negotiate contracts, which includes MOUs, with other

government entities subject to approval by the Council; now, therefore, be it

RESOLVED: That, pursuant to Oakland City Charter section 504(l), the City Council authorizes the City Administrator to enter into a Memorandum of Understanding with the US Department of Homeland Security, United States Secret Service; and be it

FURTHER RESOLVED: That the City Administrator, or his designee, is authorized to complete and execute all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend this agreement, without return to the City Council, so long as additional funding by the City is not required; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator to accept reimbursement funds in an amount not to exceed \$25,000 each year this MOU is in effect from the US Department of Justice Asset Forfeiture Fund to the Oakland Police Department for investigator overtime and other asset forfeiture fund authorized reimbursements in accordance with the existing federal sharing agreement; and be it

FURTHER RESOLVED: That said funds shall be deposited into General Fund (1010), Theft Section Organization (102340), Criminal Investigations Program (PS03), in a Project to be Determined; and be it

FURTHER RESOLVED: That all Memorandums of Understanding authorized hereunder shall be approved by the City Attorney as to form and legality prior to execution and placed on file in the Office of the City Clerk.

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