



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** LeRonne L. Armstrong  
Chief of Police

**SUBJECT:** CHP OPD DUI Crime Lab and Traffic  
Safety Grants

**DATE:** July 1, 2021

City Administrator   
Approval

Date Jul 13, 2021

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt:**

- 1) A Resolution Authorizing The City Administrator To Accept And Appropriate A Grant Award In The Amount Of Four Hundred Three Thousand Five Hundred Ninety-Two Dollars (\$403,592) From The State Of California Highway Patrol (CHP), Impaired Driving Section, For The Fiscal Year 2021-2023, To Be Administered By The Oakland Police Department (OPD) Crime Laboratory; And**
- 2) A Resolution Authorizing The City Administrator To Accept And Appropriate A Grant Award In The Amount Of One Hundred Seventeen Thousand Four Hundred Seventy-Three Dollars (\$117,473) From The State Of California Highway Patrol (CHP) For The Cannabis Tax Fund Law Enforcement Grant For The Fiscal Year 2021-2023, To Be Administered By The Oakland Police Department (OPD) Alcohol Beverage Action Team (ABAT) And Traffic Operations Sections (TOS).**

## **EXECUTIVE SUMMARY**

Adoption of these resolutions will allow OPD to receive two grants in support of traffic safety in the City of Oakland. The \$403,592 CHP grant funds will be used to purchase Crime Laboratory (Lab) equipment which will be used to identify Driving Under the Influence / Driving Under the Influence of Drugs (DUI/DUID) cases in real time as well as to prevent future occurrences. The \$117,473 CHP grant will be used to fund overtime costs for Crime Lab staff and OPD officers engaged in DUI and other traffic safety and enforcement operations. Grant funds will also be used for staff training towards identifying and mitigating DUI/DUID cases.

OPD was not notified of the grant award until June 2021. Staff therefore have developed this report and accompanying resolutions under a compressed timeline. Due to the short duration of this traffic safety grant, staff is recommending the two resolutions be considered by the City Council prior to summer recess. Delay of this accepting and appropriating these grant funds will prevent OPD from completing its first quarter goals including: ordering, procuring, training, and testing with new equipment and developing of usage instructions, collecting, and processing data. Some of these grant program funds may have to be refunded to the CHP if OPD cannot accept and appropriate these grants prior to the City Council summer recess. A loss of these

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awarded grant funds will result in a diminished capacity to conduct scheduled DUI/DUID traffic safety operations.

## **BACKGROUND AND LEGISLATIVE HISTORY**

In November 2016 California voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), which legalized the recreational use of cannabis in California for people 21 and older. Proposition 64 also directed a portion of state cannabis tax revenue towards a grant program administered by the Board of State and Community Corrections (BSCC) to assist with law enforcement or other local programs addressing public health and safety associated with AUMA. Proposition 64 mandates that the State of California set aside funding for CHP to disperse some of the tax funds for education, prevention, and enforcement related to driving laws. In early 2021 the CHP released a Request for Proposals for grant applications for local jurisdictions; OPD applied for and received grant funds in two separate but related areas:

1. **Toxicology:** grant funds shall be used to purchase equipment, improve, and advance the standardization of practices in toxicology laboratories supporting driving under the influence (DUI) of alcohol and other drugs, including cannabis and cannabis products.
2. **Enforcement:** grant funds will be used to help reduce and mitigate the impacts of impaired driving by enhancing traffic safety. In particular, the grant program looks for projects that:
  - a. Reduce the number of vehicle crashes by impaired drivers.
  - b. Assist in removing impaired drivers from the roadway.
  - c. Advance research into impaired driving issues; and
  - d. Improve the effectiveness of law enforcement traffic enforcement through training and development of new strategies.

Driving Under the Influence / Driving Under the Influence of Drugs (DUI/DUID) takes a major toll on the citizens of Oakland. With a population over 430,000 within 831 miles of city streets, the City has seen over 738 victims injured from hit and runs, including seven cases with fatalities. The correlations between DUI/DUID, vehicle hit and run incidents, and traffic fatalities are seen in studies from the National Highway Traffic Safety Administration (NHTSA)<sup>1</sup>.

## **ANALYSIS AND POLICY ALTERNATIVES**

Studies conducted in California and other states have shown that cities engaged in enforcement operations targeting select vehicle code violations have seen substantial reductions in fatal and

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<sup>1</sup> [https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355\\_drugalcoholcrashrisk.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812355_drugalcoholcrashrisk.pdf)

injury vehicle collisions<sup>2 3</sup>. In 2020, Oakland had over 720 victims injured from hit and runs, and 37 fatalities.

Table 1 below shows that traffic collisions in Oakland decreased from Fiscal Year (FY) 2017-18 to FY 2018-19, and then increased again between in FY2019-2020, as did the number of victims. There was also sharp increase in fatal collisions in FY2019-2020 (27, vs 18 in the prior year).

**Table 1: Oakland Collisions, Injuries, and Fatalities: FY2017-18 to FY 2019-20**

| Collision Type              | FY 2017-18 |        |         |         | FY 2018-19 |        |         |         | FY 2019-20 |        |         |         |
|-----------------------------|------------|--------|---------|---------|------------|--------|---------|---------|------------|--------|---------|---------|
|                             | Collisions |        | Victims |         | Collisions |        | Victims |         | Collisions |        | Victims |         |
| Fatal                       | 27         |        | 27      |         | 20         |        | 21      |         | 27         |        | 28      |         |
| Injury                      | 2007       |        | 2698    |         | 1406       |        | 1677    |         | 1876       |        | 2218    |         |
|                             | Fatal      | Injury | Killed  | Injured | Fatal      | Injury | Killed  | Injured | Fatal      | Injury | Killed  | Injured |
| Alcohol - Involved          | 3          | 18     | 3       | 40      | 5          | 16     | 5       | 23      | 3          | 8      | 4       | 12      |
| Hit & Run                   | 9          | 493    | 9       | 618     | 6          | 581    | 7       | 755     | 7          | 655    | 7       | 738     |
| Nighttime (2100-0259 hours) | 14         | 114    | 17      | 176     | 6          | 282    | 6       | 310     | 15         | 172    | 16      | 154     |

**Better DUI/DUID Analysis and Data Generation**

With over 720 victims of hit and run accidents and 37 people killed in fatalities in calendar year 2020, it is imperative to establish a scientifically supported program to assess the impact of drugs on vehicle driving. Currently, Oakland does not have the technology to test for the presence of cannabinoids or other drugs during DUI checkpoints or at the scene of serious collisions. OPD’s proposed CHP-grant-funded Crime Lab and Traffic Safety program would augment the checkpoint capability to measure blood alcohol levels. New blood analysis capabilities would give Oakland another tool to identify impaired drivers and remove them from the roadway, thus preventing the loss of life, injuries, and property damage caused by driving under the influence of alcohol and/or drugs. These efforts would not lead to any changes in OPD and/or City of Oakland policies such as Measure Z<sup>4</sup>, a 2004 voter-approved law which in part, makes “law enforcement related to private adult cannabis (marijuana) use, distribution, sale, cultivation and possession, the City's lowest law enforcement priority.” OPD will use these grant funds for better blood analysis techniques, enforcement and training related to DUI cases.

<sup>2</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4254192/>

<sup>3</sup> [https://www.sciencedirect.com/science/article/pii/S0386111217302108#:~:text=The%20results%20suggested%20that%20police,and%20pedestrian%20fatalities%20\(60%25\).&text=The%20results%20showed%20a%20reduction,high%20speeds%20during%20the%20study.](https://www.sciencedirect.com/science/article/pii/S0386111217302108#:~:text=The%20results%20suggested%20that%20police,and%20pedestrian%20fatalities%20(60%25).&text=The%20results%20showed%20a%20reduction,high%20speeds%20during%20the%20study.)

<sup>4</sup> [https://ballotpedia.org/Oakland\\_Marijuana\\_Enforcement\\_a\\_Low\\_Priority,\\_Measure\\_Z\\_\(November\\_2004\)](https://ballotpedia.org/Oakland_Marijuana_Enforcement_a_Low_Priority,_Measure_Z_(November_2004))

The County of Alameda already has a well-established DUI breath testing program. This program, however, is unable to ascertain whether a driver pulled over for driving under the influence have consumed any substances that would impair the ability to operate a motor vehicle. OPD proposes to use CHP grant funds to purchase Drager Drug Test 5000 and Hounds Lab Breathalyzer instrumentation – two types of DUID field screening devices to be used by OPD traffic enforcement personnel - to assist with this real-time DUID determination. This technology will allow OPD to bridge the information gap that exists between DUI data and DUID data. The proposed DUID screening devices will allow OPD to develop statistical data regarding the number of impaired drivers who have alcohol and drugs in their system while driving.

OPD also proposes to use CHP grand funds to purchase one Liquid Chromatography / Mass Spectrometry (LC/MS)<sup>5</sup> instrument for use in the Crime Laboratory to perform required quantification analysis. Used together, these technologies will help to identify drugged and poly drug impaired (drivers who are under the influence of drugs in addition to alcohol or multiple drugs). Poly drug use often carries with it more risk than use of a single drug, due to an increase in side effects, and synergistic drug effects. This enhanced OPD Crime Laboratory diagnostic capacity will result in the ability to assemble more data. Overall, these planned purchases will also allow for in the field-real time analysis as well, with a broader array of toxicology analysis. The data generated from these programs will be compiled to better understand the breadth of impairment observed at DUI checkpoints.

### ***Grant Program Traffic Enforcement***

Proposed OPD traffic safety operations will be conducted with the collaboration of Oakland's Department of Transportation (OakDOT). Priority checkpoint location determinations will be informed by injury data. In particular, OPD and OakDOT will look at thoroughfares and intersections where the most serious injuries and deaths occur involving vehicles, pedestrians, and bicyclists.

The following operations are planned in accordance with the grant between the period of July 1, 2021 and June 30, 2022:

- Conduct five NHTSA-grant funded DUI saturations operations.
- Conduct four NHTSA-grant-funded DUI checkpoint enforcement operations, conducted by the OPD Traffic Operations Section (TOS).
- Develop training curriculum and materials on DUI/DUID impairment recognition to be presented by Crime Lab Staff and TOS staff to police officer training academies as well as Continued Professional Training (CPT) for sworn personnel.
- Send law enforcement personnel to the NHTSA Standardized Field Sobriety Testing (SFST) POST<sup>6</sup>-certified training.
- Send law enforcement personnel to the NHTSA Advanced Roadside Impaired Driving Enforcement (ARIDE) POST-certified training.
- Send law enforcement personnel to Drug Recognition Evaluator training (DRE) and recertification training.

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<sup>5</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2643089/>

<sup>6</sup> POST = Commission on Police Officer Standards and Training; <https://post.ca.gov/>

- Generate one scientific educational flyer to inform the public about DUI/DUID. These fliers will be intended for use at DUI checkpoints, saturation operations, community outreach events, and other locations where OPD sponsored informational handouts are provided to the public.

**Grant Deadline**

OPD was not notified of the grant award until June 2021. Staff therefore have developed this report and accompanying resolutions under a compressed timeline. Staff recommends adoption of the two resolutions so that OPD will receive these two grants in support of traffic safety in the City of Oakland. Delay of this action will prevent OPD from completing its first quarter drug analysis goals including: ordering, procuring, training, and testing with new equipment and developing of usage instructions, collecting, and processing data. Delay of grant acceptance may also lead to a diminished capacity to conduct scheduled DUI/DUID traffic safety operations.

**FISCAL IMPACT**

CHP will reimburse the City up to \$521,065 for the equipment and various enforcement operations focused on intoxicated drivers and education efforts during the grant period of July 1, 2021 to June 30, 2023; The CHP Impaired Driving Section Grant (\$403,952) funds will be allocated in the in the State of California Grant Fund (2159), Criminalistics (102610), Program (PS04), in the Project to be determined. The Cannabis Tax Fund Law Enforcement Grant (\$117,473.66) funds will be allocated in the State of California Grant Fund (2159), Special Operations Organization (107710), ABAT Program (PS13), in the Project to be determined. The budget for the grant awards is outlined in Tables 2 and 3 below.

**Table 2: OPD DUI Crime Lab and Traffic Safety Grants Funding**

| Grant   | Fund | Org    | Project | FY2021-22  | FY2022-23   | Total      |
|---|------|--------|---------|------------|-------------|------------|
|   |      |        |         | Amount     | Fiscal Year |            |
| CHP Impaired Driving Section                        | 2159 | 102610 | TBD     | 201,976.00 | 201,976.00  | 403,952.00 |
| CHP For The Cannabis Tax Fund Law Enforcement Grant | 2159 | 107710 | TBD     | 58,736.83  | 58,736.83   | 117,473.66 |

**Table 3A: OPD DUI/DUID Crime Lab Grant Spending Plan**

| Use of Toxicology Funds                 | Amount              |
|---|---------------------|
| Drager Drug Test 5000                   | \$29,000.00         |
| Hound Labs Breathalyzer                 | \$41,000.00         |
| Liquid chromatography/Mass Spec (LC/MS) | \$200,000.00        |
| <b>Personnel</b>                        |                     |
| Criminalist II (600 hours OT)           | \$96,702.00         |
| Criminalist III (200 hours OT)          | \$36,890.00         |
| <b>Subtotal</b>                         | <b>\$403,592.00</b> |

**Table 3B: OPD DUI/DUID Traffic Safety Grant Spending Plan**

| <b>Use of Enforcement Funds</b>            | <b>Amount</b>       |
|--|---------------------|
| Overtime to conduct enforcement operations | \$72,322.56         |
| Administrative Support overtime costs      | \$4,575.00          |
| Overtime to provide training               | \$21,659.10         |
| Travel/Training Expenses                   | \$9,417.00          |
| Roadside drug testing equipment            | \$6,500.00          |
| Misc. Supplies                             | \$3,000.00          |
| <b>Subtotal</b>                            | <b>\$117,473.66</b> |

**Table 3C: OPD DUI/DUID Crime Lab and Traffic Safety Grants Combined Totals**

|   |                     |
|---|---------------------|
| <i>Crime Lab Spending Grant Plan</i>      | \$403,592.00        |
| <i>Traffic Safety Grant Spending Plan</i> | \$117,473.66        |
| <b>Cumulative Total</b>                   | <b>\$521,065.66</b> |

### **PUBLIC OUTREACH / INTEREST**

No public outreach was required beyond standard City of Oakland legislation notification requirements. These grant-funded programs are of interest as they related to Oakland traffic safety.

### **COORDINATION**

This report and legislation have been reviewed by the Budget Bureau and the Office of the City Attorney.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** There are no economic activities associated with this report

**Environmental:** There are no environmental opportunities identified in this report.

**Race and Social Equity:** Driving Under the Influence of drugs and alcohol negatively impacts public safety and the quality of life of all Oaklanders regardless of the legality to consume them. Efforts to address these problems will lead to quality life improvements and increased pedestrian and vehicle safety for all residents and visitors.

**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

Staff Recommends That The City Council Adopt:

- 1) A Resolution Authorizing The City Administrator To Accept And Appropriate A Grant Award In The Amount Of Four Hundred Three Thousand Five Hundred Ninety-Two Dollars (\$403,592) From The State Of California Highway Patrol (CHP), Impaired Driving Section, For The Fiscal Year 2021-2023, To Be Administered By The Oakland Police Department (OPD) Crime Laboratory; And
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For questions regarding this report, please contact Dr. Sachs, OPD Criminalistics Laboratory Manager, at 510-238-2108, or A/Captain Fleming at 510-777-8552.

Respectfully submitted,



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