

CITY OF OAKLAND

AGENDA REPORT

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To: Office of the City Administrator
Attn: Deborah Edgerly
From: Police Department and City Attorney's Office
Date: May 29, 2008

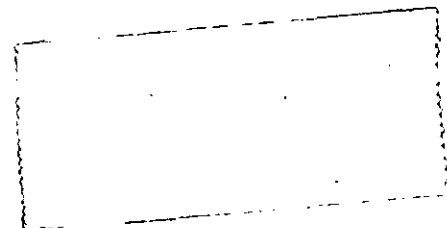
Re: Supplemental Report Regarding the City of Oakland's Community Prosecution Program Implementation Plan.

Pursuant to Council's request, enclosed please find the City's proposed Implementation Plan for the City's Community Prosecution Program.

Respectfully submitted,

Wayne G. Tucker
Chief of Police

John A. Russo
City Attorney



COMMUNITY PROSECUTION PROGRAM

Implementation Plan

I. PROGRAM DESCRIPTION

The Community Prosecution Program is a new and innovative approach to resolve some of the most persistent crime problems in Oakland. It is the City's first program focused on prosecuting infractions and misdemeanors to improve the quality of life for residents and merchants.

The Community Prosecution Program uses the criminal law system and criminal laws, rather than civil law, to eradicate the illegal activities and street crime that contribute to continual neighborhood blight problems. The program aims to provide intervention remedies and restorative justice opportunities to some offenders to get these individuals out of the cycle of street crime.

The program is designed to fill a significant gap in Oakland's capacity to improve our neighborhoods and it is an important component of the City's 2008 Oakland Police Department Strategic Crime Fighting Plan. It also furthers the City Council's policies on community policing and promotes many of the goals approved by voters in the Measure Y Initiative.

II. PROGRAM OBJECTIVES: GOALS AND DESIRED OUTCOMES

The ultimate goal of the Community Prosecution Program is to improve the safety and livability of Oakland neighborhoods. This goal can be met by fulfilling the following program objectives: (1) building strong partnerships with local, state and federal law enforcement agencies and specifically with the

Alameda County District Attorney's Office; (2) supporting the work of the officers of the Oakland Police Department; and (3) strengthening and empowering the community to report crime, become involved, and learn to manage the livability and safety of their neighborhoods. The program will undertake the following initiatives to achieve the stated outcomes and deliverables:

1. Adopt new local laws and strengthen existing provisions of the Oakland Municipal Code related to local violations involving vandalism, littering, loitering with intent to commit certain crimes (prostitution, drug sales, etc.), graffiti, illegal car repairs, illegal dumping, etc. The attorneys will research state preemption issues and ways in which the city can strengthen its own city codes to prosecute these illegal activities.

Measurable outcome: Stronger municipal code provisions will enable officers to issue appropriate citations and allow the City Prosecutors to prosecute violations of these codes.

2. Identify the type of offenses that occur repeatedly in certain neighborhoods and address these violations through criminal prosecutions.

Measurable outcomes: The goal of this initiative is to deter illegal activity and support the crime reduction projects of OPD's Problem Solving Officers, Crime Reduction Teams and beat officers. It also should reduce the number of repeat calls for service for the same illegal conduct and free officers' time so they can focus on patrolling the neighborhoods and preventing more serious crimes.

3. The City Prosecutors will attend at least two community meetings per month to provide information about the city's new program and to work with the community in identifying and reporting illegal activities in their neighborhoods.

Measurable outcomes: This initiative will raise awareness in the

community that the City Prosecutors and the District Attorneys are working together with the police department and law-abiding citizens to stop illegal activity in Oakland. It will send a strong message that the City will not overlook illegal activity. The expected outcomes include a greater level of participation from the community in reporting and identifying crime and a reduction in illegal activity over time.

4. The program will look for funding opportunities and in-kind contributions to support the crime fighting work of law enforcement agencies in Alameda County, to support the work of the District Attorney and the City Prosecutors, and to enhance court resources and availability for the future.

Measurable outcomes: Seeking support and funding for these purposes will enhance the cooperative and multi-agency approach to reducing illegal activities in Oakland neighborhoods and will bring much needed resources to Oakland.

5. The program will compliment the Council's initiatives and innovative programs dealing with violence including the McCullum Youth Court, Mediation in Schools, the Ambassadors Program, the Truancy Project and others.

III. PROGRAM METHODS AND DESIGN: ACTION PLAN

To the extent possible, the program will be implemented in phases. However, we expect significant overlap to occur within and among each phase in order to achieve concurrent progress with the several components of the *program and be programmatically efficient.*

A. PHASE 1: Establish the Program

1. RECRUIT AND HIRE CITY PROSECUTORS

The City will advertise the positions, interview candidates, and hire three City Prosecutors. The positions will be advertised as mid-level Deputy City Attorney II positions. The ideal candidate will have three to five years in practice and will have some criminal law experience. The City Attorney's Office recruitment and selection process is projected to be completed by July 15, 2008.

2. DEPUTIZE AND TRAIN CITY PROSECUTORS

The District Attorney's Office will deputize the new City Prosecutors. The City Attorney will work with the DA's office to coordinate the training of the City Prosecutors and other aspects of the program. The training will include, among other things: (i) access to and instruction on the handling of the *criminal court calendar in the Alameda County Superior Court*; (ii) review of court documents and drafting procedures for prosecuting criminal cases; (iii) tour of the Alameda County Wiley Manuel Courthouse and introduction to the judges and commissioners who handle the infraction and misdemeanor courts. The projected time for completing this phase is August 8, 2008.

3. CREATE A NEW POLICE UNIT WITHIN THE CITY ATTORNEY'S OFFICE

To provide the structural and functional support for this program the City Attorney's Office will create a new attorney unit within the office. This new unit will have a supervisory attorney, the three City Prosecutors and other attorneys who currently handle police-related, public safety and council-related work. The unit will supervise and support the work of the City Prosecutors who, depending on the needs of Oakland residents and the cases presented by the police department, will each handle about 100 to 150 infraction and misdemeanor cases per year. The unit will also supervise and support all other

work related to public safety so that this work can be integrated and coordinated to further the goals of the City and the Council. The new unit will be in place by August 30, 2008.

B. PHASE 2: Identify and Develop Cases for the Program

This phase of the program will focus on the City's identification of quality of life cases for prosecution under the program. The cases selected will be those chargeable as infractions or misdemeanors. The types of cases being considered for prosecution include vandalism, littering, loitering with intent to sell drugs or engage in prostitution, illegal dumping, possession of drug paraphernalia, gambling, disturbing the peace and unlicensed activities such as illegal car repairs, massage parlors, etc.

In selecting the cases for prosecution, we will consider the needs of the community in which these crimes occur. Consideration also will be given to how these prosecutions tie into the City's overall crime-fighting priorities. Among other things, the following criteria will be used to identify cases for prosecution:

1. ELEMENTS OF A CRIME

The elements of the crime must be present before charges can be brought. The City Prosecutors will train and provide guidance to the police department and the community on the elements of the specific crime and how to develop the evidence necessary to charge them. The City Prosecutors will work with the District Attorney's Office in having these cases charged in court.

2. ROLE OF THE POLICE DEPARTMENT AND THE OAKLAND COMMUNITY

Both the police department and the community will have a

significant role in the city's new program. The Bureau of Field Operations will designate charging officers from the Support Operations Division who will work with the three Police Area Captains and their staff to identify the quality-of-life cases to be considered for the program. The department will prioritize these cases based on the information from Crime Reduction Teams, Problem Solving Officers and patrol officers about the types of crimes occurring in their specific areas. The department will also consider information it receives from representatives of the Neighborhood Crime Prevention Councils, merchants, businesses and community organizations about the public safety needs of the community. In addition, the City Prosecutors will work with the Neighborhood Services Division and the Council's Service Delivery System Teams to identify areas of concern. The City Prosecutors will also review available statistical crime data and crime trends on the occurrence of crimes and their location. As the program progresses, the City will evaluate the process of selecting and prioritizing these cases to ascertain the most adept and efficient process.

3. AVAILABILITY OF COURT AND JUDGES

The cases generated through the city's program and charged in partnership with the District Attorney's Office will use existing court and judicial resources. There are a total of ten courtrooms in the Oakland Wiley Manuel Courthouse and four of them are assigned to handle misdemeanor cases – arraignments, pre-trial motions, guilty pleas and trials. Currently, the Oakland Courthouse has ten judges: Seven elected/appointed judges, one commissioner, one acting retired judge and one visiting judge. Consistent with experience, most misdemeanor cases are resolved prior to trial and during the adjudication of the case. In addition, infractions can be tried before a court commissioner and do

not require the services of a judge.

In funding this program, the city is committed to working with the courts and the District Attorney to utilize the court and judicial resources efficiently.

C. PHASE 3: Provide Intervention and Restorative Justice Opportunities

The Community Prosecution Program aims to employ a restorative justice approach to resolving the problems brought forward through the program. Restorative Justice is a methodology for responding to crime that focuses on repairing the harm caused by the crime, or “righting the wrong.” This practice allows for a wide variety of sanctions because it is focused on solving the problem as opposed to a one-size-fits-all punishment approach. The best restorative justice programs involve the cooperation of the victim and offender, as well as the police, attorneys, and courts. Some resolutions used in restorative justice programs involve community service, restitution or conflict mediation. The court can order these resolutions as a way to resolve the case, or they can be achieved through a diversion approach, i.e., before the case goes before a judge when the offenders admit guilt.

In Phase 3, we will provide intervention and restorative justice opportunities to individuals pursued through the program. Once a case has been identified and brought to the attention of the courts the offender may be eligible to participate in an intervention or restorative justice program. In addition to these programs available through the City, some offenders may qualify for intervention and alternative sentencing programs provided by the county, such as the Sheriff’s Work Alternative Program (SWAP) for non-violent offenders. This

program allows offenders to work under the Sheriff's supervision in lieu of serving a jail sentence. However, as the County recently reported to the Public Safety Committee, the County is facing a serious budget deficit and its intervention and alternative sentencing programs have limited capacity.

Presently, the City of Oakland can offer several restorative justice and intervention programs. These programs are dedicated to serving at-risk youth and include the McCullum Youth Court and the Oakland Artist Graffiti Abatement Program.

1. MCCULLUM YOUTH COURT

The mission of McCullum Youth Court is to offer youth offenders a second chance through restorative justice, peer accountability, and empowering opportunities; and to engage all youth - especially those at risk for entering the juvenile justice system - in empowering experiences related to law and justice with the aim of changing young lives and impacting communities.

The core elements of the program include;

- McCullum Youth Court is a youth centered peer court for first time juvenile offenders. The youth offender acknowledges responsibility for the offense and is willing to accept consequences determined by their peers.
- Offenders are represented by youth attorneys who have been trained in prosecution (to represent the victim(s) and community) and defense (to represent the offender). Cases are tried and sentences issued by a jury of peers.
- Sentences are designed to hold the youth accountable in a meaningful, restorative manner.
- The community service component of sentencing is designed to provide a meaningful learning experience as well as an opportunity to build relationships with other youth, supportive adults, and services or a program that can serve as a source of positive support after the youth has completed Youth Court.

- Youth in leadership positions at youth court assist with all aspects of the Court, including case management of youth offenders, under the close supervision of professional adult staff. Professional case managers work closely with the offenders and their families to ensure effective and appropriate services are provided.
- Youth Court maintains an expansive network of collaborative agencies in order to provide referrals for the diverse needs of our clients.
- Youth Court serves as a steppingstone for aspiring youth attorneys and provides youth volunteers and interns an opportunity to experience themselves as positive agents in the legal system as they develop valuable civic and social skills to assist them as they pursue their dreams.
- Youth Court actively promotes an environment that values the diversity of youth, families, communities, staff, and volunteers.
- The City is in the process of developing its relationship with this organization and as such will be able to provide the name and phone number of a contact within the coming weeks.

2. OAKLAND ARTIST GRAFFITI ABATEMENT PROGRAM

The Oakland Artist Graffiti Abatement Program is a new program that is funded by the Oakland Redevelopment Agency (ORA) and was developed through contributions from Councilmember Nadel and ORA. The program partners youth with professional mural artist and together the artist and the youth create and execute a mural.

Throughout the process the youth are actively engaged. As such they not only paint over the graffiti plagued property, but also learn mural arts skills in the process.

Currently, the program has been funded to execute six (6) murals in the Coliseum and Central City East Redevelopment Area. This program is in its pilot phase and is set to begin implementation in June 2008. The organizers of the program have agreed to take a few young people accused of vandalism

during its pilot phase. However, once the program graduates beyond the pilot phase in the summer of 2009, it will have more openings for young people and will be more closely modeled after the Philadelphia Mural Arts Program which serves as a diversion program for eligible youth. Contacts for this program are Yonathan Santana 238- and Reygan Harmon 238-3649.

Undeniably, this part of the program will need further development and more resources in order to be effective. For instance, currently there is no single person within the City designated to coordinate and oversee the Intervention and Restorative Justice portion of the City's program. However, Ms. Sara Bedford from the Department of Human Services has offered to provide some assistance in identifying possible programs and providers that may be available to render this type of services. In addition, as the program continues to grow all stakeholders including OPD, the City Attorney's Office, the Alameda County District Attorney's Office, DHS, and representatives from Council will continue to evaluate our progress and make necessary adjustments and improvements to the type and scope of intervention and restorative justice services offered. Moreover, there is also the intention to tap into the resources of our local colleges and possibly hire a graduate student who would help oversee and manage the intervention and restorative justice component of the program. In the interim, however, we will rely on the assistance of existing DHS staff.

IV. PHASE 4: PROSECUTION

In some instances, individuals will not be eligible to participate in a restorative justice or intervention program. Depending on the crime involved, an individual may be fined, placed on probation or sent to jail to serve his or her sentence. Most persons arrested in Oakland for committing a low level crime are

either cited and released or taken to the Glen E. Dyer, North County Jail at 550 6th Street in Oakland. In the instance where a fine is imposed those monies will be collected and distributed among the state, the county and the city according to the uniform accounting system established by the State Controller pursuant to Penal Code Section 1463 et seq.

V. CONCLUSION

The Community Prosecution Program focuses on utilizing the criminal law system and criminal laws to improve the quality of life of the citizens of Oakland by reducing illegal activities and crime. The program also focuses on providing intervention remedies and restorative justice opportunities to some offenders.

The ultimate goal of the program is to improve the safety and livability of Oakland neighborhoods. The City will meet this goal by (1) building strong partnerships with local, state and federal law enforcement agencies and specifically with the Alameda County District Attorney's Office, (2) supporting the hard work of the officers of the Oakland Police Department; and (3) strengthening and empowering the community to report crime, become involved, and learn to manage the livability and safety of their neighborhoods.

The program will be implemented in several phases during which adjustments to program components will be made based in order to achieve the most adept and efficient process. The program is an important component of the City's 2008 Oakland Police Department Strategic Crime Fighting Plan and will support the City Council's policies on community policing and many of the goals voters envisioned when they passed the Measure Y Initiative.