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2017 NOV -2 AM 10:05

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Anne Kirkpatrick  
Chief of Police

**SUBJECT:** OPD 2017 DNA Backlog Reduction  
Program

**DATE:** October 6, 2017

City Administrator  
Approval

Date

11/1/17

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To: 1) Accept And Appropriate Grant Funds In An Amount Not To Exceed \$246,237 From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIJ) For Implementation Of The Fiscal Year (FY) 2017 Oakland Police Department (OPD) Forensic Casework Deoxyribonucleic Acid (DNA) Backlog Reduction Grant Program In The Oakland Police Department; And 2) Waive The City Advertising And Competitive Bidding Requirements For The Purchases Of DNA Typing Supplies From Two Companies (1) Promega For Thirty-Five Thousand Eight Hundred Ninety-Two Dollars (\$35,892), and (2) Qiagen For Twenty-Seven Thousand Dollars (\$27,000).**

## EXECUTIVE SUMMARY

Adoption of this resolution will allow OPD to accept the USDOJ/NIJ DNA Backlog grant of \$246,237, which will fund the continuation of a critical staff position as well training and technology 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 needing testing. This resolution calls for waiving the City's Advertising and Competitive Bidding Requirements because of the need to buy highly specialized equipment available only from particular vendors. The resolution also recommends a contribution from the General Purpose Fund of \$12,957.60, as the grant does not allow for overhead costs.

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

Item: \_\_\_\_\_  
Public Safety Committee  
November 14, 2017

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 Crime Lab; the Crime Lab utilizes robotic processes as well as the assistance of the grant-funded Criminalist I to analyze DNA evidence associated with homicides, other person crimes, and non-person crimes,.

Backlogged case requests from homicides, non-sexual assault person crimes, and property crime cases will be enrolled into the FY17 DNA Backlog Reduction Program. The DNA profiles obtained from probative evidence in these cases will be entered into the Combined DNA Index System (CODIS). Experience with DNA profiles entered into CODIS have resulted in a sixty-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.

### **ANALYSIS AND POLICY ALTERNATIVES**

The Crime Lab will focus on three goals with the implementation of the FY 2017 DNA Backlog Reduction Program grant initiative:

#### *Goal #1: Reduce the Forensic DNA Case Backlog*

In the first half of 2017, the Forensic Biology Unit has completed the analyses on 252 requests in an average of 93 business days<sup>2</sup>. The goal of the proposed grant is to decrease the Forensic Biology Unit's turnaround time on all DNA analyses to less than 60 business days. Turnaround time will be reduced through specialized training and the purchase of supplies for Forensic Biology Unit Criminalists to analyze 63 backlogged cases. 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 salary and benefits will be funded through this grant. Laboratory DNA kits will be purchased to analyze these 63 backlog cases.

#### *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). The grant-funded Criminalist will conduct analysis on 50 case requests during the life of this grant.

#### *Goal #3: 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

<sup>1</sup> "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.

<sup>2</sup> The Crime Lab counts business days as from the date of receipt of request to report publication.

- 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 60 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 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 this USDOC/NIJ grant. The Forensic Biology Unit has not validated the use of other products – the use of other products would hence violate the FBI DNA QAS; OPD 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 for the Crime Lab to enter DNA profiles into the CODIS for searching. The reagents to be purchased through this grant include: DNA extraction kits (QIAgen), quantitation kits, Fusion6C DNA Typing Kits (Promega). These reagents from these particular vendors have undergone rigorous validation studies and no vendor substitutions are acceptable.

**FISCAL IMPACT**

The table below detail how OPD will utilize the USDOJ/NIJ FY 2017 OPD Forensic Casework DNA Backlog Reduction Grant Program funds. The table lists the use of funding for personnel, travel and training, and technology and supply costs.

<b>Budget Category</b>	<b>Amount</b>
<b>Personnel</b>	
Criminalist Personnel (12 mo.)	\$90,486
Fringe Benefits	\$73,764
<b>Total Personnel and Fringe</b>	<b>\$164,250</b>
<b>Training and Travel</b>	
Travel and Lodging Costs	\$13,945
(12) Forensic Biology Unit Training Registrations	\$5,150
<b>Total Training and Travel</b>	<b>\$19,095</b>
<b>Technology and Supplies</b>	
DNA Typing Supplies (Promega)	\$35,892
DNA Typing Supplies (QIAgen)	\$27,000
<b>Total Technology and Supplies</b>	<b>\$62,892</b>
<b>TOTAL</b>	<b>\$246,237</b>

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

The \$246,237 in grant funds from the USDOJ/NIJ for the implementation of the FY 2017 OPD Forensic Casework DNA Backlog Reduction Grant Program shall be appropriated in the Federal Grant Fund (2112), Criminalistics Division Org. (102610), Criminalistics Division Program (PS05), in a Project Number to be established.

<b>Fiscal Year</b>	<b>Fund Source</b>	<b>Organization</b>	<b>Account</b>	<b>Project</b>	<b>Program</b>	<b>Amount</b>
2017-18	2112	102610	PS05	TBD	PS05	\$246,237

USDOJ/NIJ, the grantor, does not allow the use of any grant funds for overhead costs. Therefore, it is requested the City accept this grant condition that all central services overhead (CSO) charges associated with this grant in an estimated amount of \$12,957.60 be offset through a contribution of the General-Purpose Fund.

### **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 Budget Office and the Office of the City Attorney consulted 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.

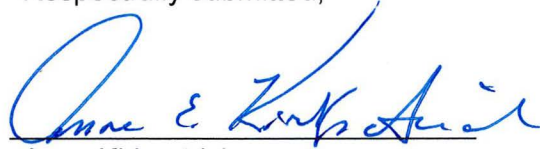
**Social Equity:** Provisions for continuing education and supplies funded by this grant will enhance OPD's ability to analyze biological evidence in criminal cases in a more timely fashion. The public safety for all Oakland residents and visitors is enhanced through greater OPD investigative capacity.

**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To: 1) Accept And Appropriate Grant Funds In An Amount Not To Exceed \$246,237 From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIJ) For Implementation Of The Fiscal Year (FY) 2017 Oakland Police Department (OPD) Forensic Casework Deoxyribonucleic Acid (DNA) Backlog Reduction Grant Program; And 2) Waive The City Advertising And Competitive Bidding Requirements For The Purchases Of DNA Typing Supplies From: (1) Promega For Thirty-Five Thousand Eight Hundred Ninety-Two Dollars (\$35,892); and (2) Qiagen For Twenty-Seven Thousand Dollars (\$27,000).

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

Respectfully submitted,



Anne Kirkpatrick  
Chief of Police  
Oakland Police Department

Reviewed by:  
Sandra Sachs, Crime Laboratory Manager,  
OPD, Criminalistics Division


Prepared by:  
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OPD, Criminalistics Division

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



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**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 TWO HUNDRED FORTY-SIX THOUSAND AND TWO HUNDRED AND THIRTY-SEVEN DOLLARS (\$246,237) FROM THE U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE (USDOJ/NIJ) FOR IMPLEMENTATION OF THE FISCAL YEAR 2017 OAKLAND POLICE DEPARTMENT (OPD) FORENSIC CASEWORK DEOXYRIBONUCLEIC ACID (DNA) BACKLOG REDUCTION GRANT PROGRAM; AND 2) WAIVING THE CITY ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS FOR THE PURCHASE OF DNA TYPING SUPPLIES FROM: (A) PROMEGA FOR THIRTY-FIVE THOUSAND EIGHT HUNDRED NINETY-TWO DOLLARS (\$35,892), AND (B) QIAGEN FOR TWENTY-SEVEN THOUSAND DOLLARS (\$27,000).**

**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 \$246,237 were awarded by USDOJ/NIJ to the Oakland Police Department (OPD) to its Fiscal Year 2017

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, for staff required training, and for the purchase of laboratory validated DNA typing reagents; and

**WHEREAS**, the USDOJ/NIJ DNA Backlog Reduction Grant Program rules do not allow funds to be spent on indirect overhead costs, a contribution from the General Purpose Fund in an amount equivalent to the Central Services Overhead in an estimated amount of twelve thousand nine hundred and fifty seven dollars and sixty cents (\$12,957.60) is requested; and

**WHEREAS**, the OPD Criminalistics Division also plans to use \$62,892 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, 2018 through December 31, 2019; and

**WHEREAS**, the City Council previously authorized acceptance of similar grant funds by Resolution No. 86532 C.M.S., dated November 22, 2016, 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 \$246,237 from the USDOJ/; and be it

**FURTHER RESOLVED:** That all central services overhead charges associated with this grant in an estimated amount of twelve thousand nine hundred and fifty seven dollars and sixty cents (\$12,957.60) will be offset through a contribution of the General-Purpose Fund; and be it

**FURTHER RESOLVED:** That said grant funds, in an amount not to exceed \$246,237, 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 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 twenty seven thousand dollars (\$27,000) and Promega for thirty five thousand eight hundred and ninety two dollars (\$35,892); 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, GIBSON  
MCELHANEY, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

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