

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 SEP 15 PM 1:14

To: Office of the City Administrator
Attn: Deanna J. Santana
From: Police Department
Date: September 27, 2011

Re: An Informational Report on the Progress of the Untested Sexual Assault Evidence Kit Project Conducted by the Oakland Police Department Criminalistics Laboratory

SUMMARY

As requested by the Public Safety Committee on September 28, 2010, staff has prepared a second follow-up informational report on the progress of the Untested Sexual Assault Kit Project (hereafter "The Project"). Beginning July 1, 2009, the Criminalistics Laboratory undertook a project to analyze 489 sexual kits in 435 incidents that occurred between October 1, 2003 and June 30, 2009 which previously had not been requested for analysis.

FISCAL IMPACT

This is an informational report only. The Project is conducted primarily on regular time; no General Fund overtime was used. The overtime required was supported by the use of grant funds (2010 NIJ/DNA Backlog Grant: 2112.102610.G397410.PS05).

BACKGROUND

As previously reported, by conducting a hard census in 2008-09, the Laboratory identified 489 untested sexual assault evidence kits in 435 cases that had accumulated in the Property and Evidence Unit between September 30, 2003 and June 30, 2009. Staff worked with Special Victim Unit personnel to determine which kits met the several eligibility requirements for enrollment in the Project. These requirements were as follows:

- The untested kit had to be associated with an open case in the Oakland jurisdiction;
- The incident had to have occurred between October 1, 2003 and June 30, 2009; and
- No request for analysis of the kit was previously submitted to the laboratory as of June 30, 2009.

The project began July 1, 2009 as a new performance based budgeting initiative. The analytical plan called for the screening of 400 kits in the first year and the remaining 89 kits in the second year. It was anticipated that this would be accomplished by dedicating 3 FTE Forensic Biology Unit analysts to the task, limiting analysis to kit samples only, and employing a streamlined batch analysis approach.

Item: _____
Public Safety Comte.
September 27, 2011

KEY ISSUES AND IMPACTS

Considerable progress was made toward the goal of completing work on the 489 kits by the target date of June 30, 2011. As of that date, 89% (436) of the kits were completed. All project kits were completed as of August 24, 2011.

TABLE 1
 Untested Sexual Assault Project
 Kit Throughput

	July 1, 2009	July 31, 2010	June 30, 2011	August 24, 2011
Untested Kit Inventory	489	298	489	489
Kits Canceled	0	28	47	47
Kits Analyzed	0	163	389	442
Total Kits Completed*	0	191 (39%)	436 (89%)	489 (100%)

* Kits completed is sum of kits canceled and kits analyzed.

As reflected in Table 2 below, considerable progress was made toward the goal of completing the analyses of the 489 kits in the two-year project as of the target date of June 30, 2011. As of that date, work on 55 kits remained to be completed:

- 48 of the 55 kits (91%) were in some stage of analysis, report writing or technical review prior to publication; and
- 5 of the 55 kits (9%) remained to be screened.

TABLE 2
 Untested Sexual Assault Project:
 Screening Progress

	July 1, 2009	July 31, 2010	June 30, 2011	August 24, 2011
Kits Received by Lab	0	384	489	489
Total Kits Screened	0	312	437	442
Total Kits Canceled	0	28	47	47
Total Kits Processed*	0	340 (69%)	484 (99%)	489 (100%)
Kits remaining to be screened	489	149	5	0

* Kits processed is the sum of kits screened and kits canceled.

Item: _____
 Public Safety Comte.
 September 27, 2011

All kits were completed and published as of August 24, 2011 and the Project was considered completed.

Forty-seven (47) of the 489 kits were canceled in the course of the project. As explained in previous report, kits may be canceled for several reasons, including any of the following:

- The kit contains biological reference material, only (i.e., it does not contain any physical evidence of the sexual assault by which the perpetrator could be identified);
- The kit is one obtained from the suspect, but there is no reference sample available from the complainant in the case; or
- The kit was destroyed by the Property and Evidence Unit after the start of the project.

DNA profiles that meet eligibility requirements are entered into the state and national DNA databases. Table 3 shows the DNA Database Activity associated with Project profiles.

TABLE 3
Untested Sexual Assault Project
DNA Database Activity

	As of August 24, 2011
Kits with no probative biological evidence	227 (51%)
Kits with potentially probative evidence (i.e. subjected to DNA typing)	215 (49%)
DNA profiles entered into CODIS	142
Number of cases with CODIS profiles	134
Total associations made in CODIS	108
• Named individual associations	95
• Case-to-case associations	13

Forty-nine percent (49%) of the Project kits contained sufficient potentially probative biological evidence to support a DNA analysis. By the end of the Project, 142 DNA database eligible profiles from 134 cases were entered into the Combined DNA Index System (CODIS). A total of 108 associations in 89 cases resulted. Of these 108 associations, 95 (88%) were to named individuals in the database; 13 (12%) were associations between cases, known as case-to-case hits, indicating the involvement of a common, but unknown perpetrator.

Of the 95 named individual associations, 36 (38%) were to individuals previously known to the investigator. However, the remaining 59 (62%) named individual associations were to individuals who were unknown to the investigator.

Item: _____
Public Safety Comte.
September 27, 2011

Hit rate is defined as the number of cases in which at least one association is made over the total number of cases added to the database. It is expressed as a percentage.

This project yielded an overall hit rate of 66% distributed as follows:

- 63% named individual hit rate
- 3% case-to-case hit rate

The outcome of CODIS searches is conveyed as a matter of routine to the appropriate investigative unit for follow-up investigation. These associations may provide significant, new investigative leads in unsolved cases or help to strengthen otherwise weak cases. Additional hits may occur over time as DNA profiles of new individuals or evidence from other cases are added to the database.

Project Staffing

The original Project Team consisted of three full time employees. During the course of this project circumstances arose preventing these three individuals from focusing exclusively on the Project. Additional laboratory analysts backfilled to complete the Project on time. On average, 23 work hours were required per kit; it is estimated that 11,300 work hours were invested in the Project by analytical staff. Additional supervisory, management, and administrative work hours were also contributed over and above the analytical time.

PROGRAM DESCRIPTION

A streamlined batch approach was used in which all kits were expected to be cycled through the analytical process by the June 30, 2011 project end date. The first step was a screening that identified those samples suitable for DNA typing. Suitable samples were moved on to DNA typing; a portion of the samples typed was expected to yield profiles suitable for searching in CODIS.

Completion of casework by the batch approach employed was not expected to be linear (i.e., it was not a first-in-first-out process). The batch approach front loaded the process with screening (80% of the kits were expected to be screened in the first year). While some DNA analysis and CODIS searching was expected to occur during the first year, those activities represented the majority of the work conducted in the second year. A kit was counted as completed only after a report was published. The report was published after all applicable analytical work and technical review was completed.

Despite the non-linearity of the batch process, our goal for the Project was to screen and complete the work on the 489 total kits in the project within a two year timeframe. Staff came very close to meeting the targeted end date of June 30, 2011 with the completion of 89% as of that date; the Project was completed on August 24, 2011. All of the DNA profiles eligible for

Item: _____
Public Safety Comte.
September 27, 2011

DNA databank searching have been entered into CODIS. Investigators have been and will be notified of hits as soon as that information is made available to us.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no Americans with Disabilities Act (ADA) or senior access issues contained in this report.

SUSTAINABLE OPPORTUNITIES

Social Equity: Analysis of physical evidence in sexual assault cases will assist the Police Department in conducting effective investigations of child abuse and sexual abuse, by identifying crimes of a serial nature, and ultimately by identifying perpetrators through the use of available DNA databases. Apprehending and prosecuting offenders will improve public safety and the welfare of women and children in the community while making the City safer.

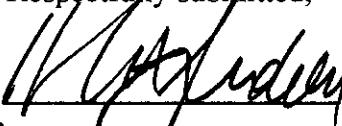
Economic: With the reduction of child abuse and sexual assault cases, and the subsequent apprehension and prosecution of offenders, the physical atmosphere and the reputation of Oakland will improve, affording the City an opportunity for further financial growth.

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

RECOMMENDATION

Staff recommends acceptance of this informational report.

Respectfully submitted,


FOR Anthony W. Batts
Chief of Police

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


Office of the City Administrator

Prepared By:

Mary M. Gibbons, Laboratory Manager
Jennifer S. Mihalovich, Supervisor,
Forensic Biology Unit
Criminalistics Division
Oakland Police Department

Item: _____
Public Safety Comte.
September 27, 2011