



February 26, 2008

SUBJECT: Payment for Santa Clara County Crime Lab Services**REPORT IN BRIEF**

The Public Safety Department has partnered with the Santa Clara District Attorney's Crime Lab for the processing of physical evidence for more than three decades. The services they provide to our department are essential in the successful investigation and subsequent prosecution of criminal cases.

Since 1982, the Department of Public Safety has participated in a County-wide partnership under an informal agreement to equitably share the costs of the Crime Lab with the other law enforcement agencies in Santa Clara County. All police agencies in the County operate under the same informal agreement. A letter dated April 23, 2003 to the Public Safety Department documents the history of this arrangement (Attachment A).

Staff believes the current cost sharing arrangement is equitable and in the best interest of the City and other participating agencies. Staff recommends that Council approve the payment of \$133,747 to the Santa Clara County Office of the District Attorney for Crime Laboratory Services for calendar year 2007 (Attachment B). Funds to pay for Crime Lab services are budgeted in the Public Safety Department's budget in Program 487, in the amount of \$122,295.

BACKGROUND

The Santa Clara County District Attorney's Office Crime Laboratory processes physical evidence for the department as a part of criminal investigations. Payment for Crime Lab services originated in 1982 under an informal arrangement between the County Crime Lab and law enforcement agencies. This informal arrangement was adopted by the City Manager's Association in conjunction with the County Police Chief's Association. The original arrangement provided for payment of Crime Lab services by submitting bills to the agencies on a per case basis.

Under this billing procedure, the Crime Lab bill would vary a significant percentage from one year to the next. The annual fluctuation in the Crime Lab bill became enough of a problem that the Police Chief's Association, with the concurrence of the City Manager's Association, modified the billing procedure to be based on the prior five year average number of cases submitted to the

Crime Lab. This change took effect in 1995 and is the billing method still used today. The five year average allows a department to experience a single year spike in case submissions without experiencing a drastic increase in costs, allowing for longer term budget planning.

EXISTING POLICY

Law Enforcement Sub-Element Goal 4.1A

Provide a safe and secure environment for people and property in the community.

Law Enforcement Sub-Element Policy 4.1.A3

Provide investigative service directed toward successful prosecution and conviction of offenders.

Law Enforcement Sub-Element Goal 4.1D

Conduct planning and administration that incorporates interaction with other city departments, as well as other agencies where mutual concerns exist which could have impact on the delivery of law enforcement services.

DISCUSSION

It is important to realize that the Crime Lab is not a contract provider of forensic services to local law enforcement agencies, but a partner with all County law enforcement agencies in the investigations of crime. Under the existing arrangement, the Crime Lab provides evidence processing and analysis services when requested by user agencies and recovers associated costs from these user agencies.

In an effort to control our costs associated with the processing of cases, all major cases submitted to the Crime Lab are reviewed by a supervisor to ensure they warrant Crime Lab involvement. This process has proven to be effective in decreasing the number of cases submitted over the past three years by approximately 25%. This will ultimately impact our costs as we move forward with a lower number of cases submitted for our five year average.

In addition, the costs associated with major Crime Lab improvements are also shared with user agencies. The Police Chiefs' Association is presented with proposals for their comments prior to committing to any significant financial expenditure. The Crime Lab also pursues grant funding and other external funding sources to cover major capitol and technology improvements.

Staff has researched the option of establishing a formal contract with the Crime Lab and it is not a viable option. The existing arrangement has worked well and is preferred by the County and all other partnering agencies. Staff believes the current arrangement is equitable and that the current informal arrangement is in the best interest of the City and the other participating agencies.

FISCAL IMPACT

Funds to pay for Crime Lab services are budgeted in the Department of Public Safety's Program 487, Public Safety Department Management and Support.

PUBLIC CONTACT

Public contact was made through posting of the Council agenda on the City's official notice bulletin board, posting of the agenda and report on the City's web page, and the availability of the report in the Library, City Clerk's Office, Community Center, and Senior Center.

ALTERNATIVES

1. Approve payment of \$133,747 to the Santa Clara County Office of the District Attorney for Crime Lab Services.
2. Other action as directed by Council.

RECOMMENDATION

Staff recommends Alternative #1.

Reviewed by:

Don Johnson, Director of Public Safety
Prepared by: Heather Tannehill, Manager

Approved by:

Amy Chan
City Manager

Attachments

- A. Letter from Crime Lab outlining activities performed (April 2003)
- B. Crime Lab Bill

County of Santa Clara

Office of the District Attorney

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George W. Kennedy
District Attorney

April 23, 2003

Ms. Heather Tannehill
Sunnyvale Department of Public Safety
700 All American Way
Sunnyvale, CA 94086

RE: Crime Lab costs

Dear Ms. Tannehill:

This letter is in response to your request to enter into a formal contract with the District Attorney's Crime Lab for examination of physical evidence submitted by the Department of Public Safety as part of their criminal investigations.

As early as 1982, Santa Clara County law enforcement agencies were billed on a "per case" basis for examination of major case evidence by the District Attorney's County Crime Lab. Because no agency could, or can, accurately predict the number of major cases or the amount of testing each case might require, there was a lack of certainty in being able to anticipate the city police agency's annual bill for evidence examination. Additionally, this billing practice could create a disincentive to submitting cases for examination to avoid costly charges. Especially here in the Silicon Valley where technology drives industry, jurors expect thorough scientific testing to complete a criminal investigation.

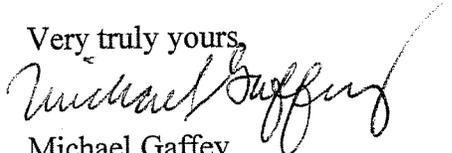
In 1995, to remedy the billing uncertainty, police chiefs and the crime lab decided to adopt a billing practice that bases current year charges on a five-year average of the number of cases submitted by a department as compared to all cases local agencies submitted for examination. This practice allows a department to experience a single year spike in submissions without experiencing a drastic increase in their costs in the following year. This informal arrangement was adopted by all cities through their City Managers' Association.

Under this long-standing arrangement, each January our crime laboratory submits an annual bill after averaging the submissions in the preceding calendar year with those of the previous four years, to each user agency, which bill is payable in July of that year when the new fiscal cycle begins. These bills have been treated as claims and promptly

paid by all cities. We believe this practice is in the public interest and authorized by Government Code section 53910.

The Crime Lab is not a contract provider of forensic services to local law enforcement agencies; rather it is a partner of the police departments in the efficient and effective investigation of crimes committed in our communities. The lab frequently sends personnel to major crime scenes to assist in identifying, collecting and preserving evidence with the local police personnel. Therefore, we do not believe it is appropriate to enter into a unique contract with the City of Sunnyvale for these collaborative efforts. We are hopeful you will understand the situation and continue to pay the bills submitted by the Crime Lab even without a contract.

Very truly yours,



Michael Gaffey
Supervising Deputy
District Attorney Administration

C: George Kennedy
Benny Del Re

County of Santa Clara

Crime Laboratory

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CRIME LABORATORY SERVICES

- 1) The Role of the Crime Laboratory in Criminal Investigations.
 - a) Prove or disprove pre-existing investigative theories.
 - b) Provide legal proof in the courts.
 - c) Occasionally assist in development of suspects.
 - d) Assist in the collection of physical evidence at crime scenes.

- 2) Lab Organization and Services
 - a) Criminalistics
 - i) Nature of Physical Evidence
 - (1) Evidence that can potentially be identified as originating from a single source (individual characteristics).
 - (a) fingerprints
 - (b) firearms
 - (c) toolmarks
 - (d) shoeprints/tiremarks
 - (e) physical matches
 - (f) questioned documents
 - (g) biological evidence (DNA)
 - (2) Evidence that can be associated with a group rather than a single source (class characteristics).
 - (a) trace (glass, paint, hair, and fibers)
 - (b) arson evidence
 - (c) biological evidence (blood, semen, saliva, etc.)

ii) Comparative Examinations

(1) Evidence and reference samples are subjected to the same tests and examinations to determine if they have a common origin.

(2) Essential materials for comparative examinations.

(a) Reference sample is a sample from a known source.

- (i) blood samples from a victim or suspect
- (ii) glass from point of entry of burglary scene
- (iii) paint from a suspected hit and run vehicle
- (iv) shoes from a suspect
- (v) writing exemplars from a victim or suspect

(b) Control samples are taken from uncontaminated areas located near evidence item. The purpose is to determine if the substrate will contribute or interfere with the examination.

- (i) bloodstains
- (ii) accelerants

(3) Services Provided

(a) Fingerprint development (no comparisons performed).

- (i) black powder
- (ii) ninhydrin
- (iii) super glue fuming
- (iv) crystal violet (adhesive surfaces)
- (v) amido black (bloody prints)
- (vi) small particle reagent (wet, non-porous surfaces)
- (vii) alternate light source

- 1. DFO
- 2. fluorescent stains/powders

(b) Firearms examinations

- (i) Firearms must be rendered safe for submission.
- (ii) Reference samples-If possible, collect all relevant ammunition from suspect.
- (iii) Types of examinations

- 1. comparison of fired projectiles and cartridge cases

2. functional examinations
3. distance determinations
4. no gun identification
5. serial number restorations
6. silencer examinations
7. gunshot residue analysis
8. trajectory reconstruction's

(c) Integrated Ballistics Identification System (IBIS)

- (i) cartridge cases and bullets

(d) Toolmarks

- (i) Compare toolmarks to suspected tools.

1. crowbars
2. screwdrivers
3. pliers
4. bolt cutters
5. staple guns

- (ii) Shoeprints/Tiremarks

1. Submit photographs
 - a. Camera directly above print
 - i. level camera (no angles)
 - ii. fill frame
 - iii. photo with and without ruler
 - iv. use a flat ruler at the same level as the print
 - v. oblique lighting
2. If possible, cast impression with dental stone
3. Submit reference samples
 - a. suspect's shoes
 - b. Inked tiremarks should be prepared with tires still on the vehicle. Tiremarks should be placed on poster board.

(e) Physical matches

(i) Physical matches of randomly torn paper or broken edges can establish with absolute certainty that two or more objects once formed a single item.

1. vehicle damage
2. matches/matchbooks
3. tape

(f) Questioned documents

(i) Examination of handwriting, typewriting, mechanical printing, papers, and inks.

(ii) Indented writing

(iii) Exemplars-multiple handwriting samples from suspect, which duplicate following characteristics of the questioned document.

1. Form
2. writing utensil
3. style of writing, (i.e., print vs. cursive)
4. contents of written material

(iv) Submit original documents whenever possible

(g) Trace evidence

(i) Presence and location can be significant

1. Glass found in shoe soles is less significant than glass found on a suspect's clothing or in head hair.

(ii) Glass

1. Reference samples-should be collected from at least two different locations from the broken area, (e.g., a window), not from the ground.

(iii) Paint

1. Reference samples - should be flakes, which include all paint layers from several locations near the damaged area. **Do not collect scrapings.**

(iv) Hair

1. Reference samples - plucked **not** cut
 - a. Head hair - front, top, back, and sides. Approximately 10 hairs per region.
 - b. Pubic hairs - approximately 12 hairs from various areas.

- c. Animal hairs
- d. Synthetic hairs (wig)
- e. A

(v) Fibers

- 1. reference samples
- 2. clothing
- 3. carpet
- 4. upholstery

(h) Arson Analysis

(i) Identification of petroleum distillates and other accelerants by class

- 1. gasoline
- 2. medium petroleum distillate, (e.g., some charcoal) lighter fluids
- 3. heavy petroleum distillate, (e.g., diesel fuel)
- 4. non-petroleum accelerants, (e.g., ethanol, turpentine)

(ii) Package samples in clean, unused metal cans or "Fire Debris Kapak." Make sure containers are sealed.

(iii) Control samples should be collected away from the point of origin

(i) Narcotics

- (i) Identification of solid dosage drug samples
- (ii) Quantitative analysis for sentence enhancement
- (iii) Identification of precursor(s)

(j) Biological Evidence

(i) Identification of body fluids, (e.g., blood, semen, saliva)

(ii) Characterization (DNA typing)

- 1. Reference samples must be collected from victim(s) and suspect(s)
 - a. Blood should be collected in yellow stopper tubes and refrigerated. **Do not freeze!**
- 2. DNA is the genetic or inherited information that determines the make up of each individual. The differences we see in each other are outward manifestations of a person's unique DNA pattern. Such features as eye, hair and skin color, facial features, height, shape and "blood types" are all determined by individuals DNA.

3. RFLP
 - a. requires a large amount of DNA
 - b. must be in good condition (not degraded)
 - c. high discrimination power
 - d. analysis takes weeks to months

4. PCR
 - a. requires a small amount of DNA
 - b. sample can be degraded
 - c. lower discrimination power
 - d. short analysis time

5. Samples that can be typed by DNA
 - a. blood
 - b. semen
 - c. penile swabs
 - d. condoms (outside and inside)
 - e. saliva (envelope flaps, postage stamps, cigarette butts, bite marks)
 - f. urine
 - g. hair roots
 - h. tissue (skin, organ, etc.)
 - i. bone
 - j. teeth
 - k. fingernail scrapings

6. STR
 - a. 13 alleles
 - b. identification

(iii) Computer Examinations

(iv) Crime Scene Processing

1. Personnel available for crime scene response

(k) Toxicology

- (i) Blood (gray stopper tubes)

1. urine
 2. intoxilyzer maintenance
 3. interpretations
- (ii) Blood/Urine Drugs
1. cocaine, amphetamines, PCP, opiates
 2. interpretations
 3. confirmation for H & S cases on request only
 4. coroner's samples
- (l) Photography
- (i) color and black and white film processing
 - (ii) color and black and white print processing (proofs to 20X24)
 - (iii) digital imaging
- (m) Computers
- (i) Recovery of files and/or deleted information
 1. text/work sheets
 2. photographs
 3. e-mail
 4. sound files
 - (ii) Search for key words
 - (iii) Unlock password protected programs

County of Santa Clara

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Dolores Carr
District Attorney

Benny Del Re
Laboratory Director

January 15, 2008

Don Johnson, Chief of Police
Sunnyvale Department of Public Safety Police Department
700 All America Way
Sunnyvale, CA 94088

Dear Chief Mr. Johnson:

The Major Case Unit of the Crime Laboratory is submitting the following invoice. This invoice is for the analysis of physical evidence submitted by your agency during calendar year 2007. The amount due is based on a combination of personnel expense, supplies, and equipment directly related to the analysis of evidence by the Major Case Unit. It does not, however, include the costs related to the analysis of drunk driving samples, narcotic samples, or samples from individuals arrested under the influence of a drug.

As agreed, the cost is based upon the last five years average percent of cases submitted by your agency. During the last five years, Sunnyvale Department of Public Safety Police Department has submitted 5.8% of the cases submitted to the Major Case Unit.

The annual cost to operate the Major Case Unit during calendar year 2007 was \$2,295,585. I'm therefore, requesting that your agency submit a check for \$133,747. Please make the check payable to "**District Attorney's Crime Laboratory,**" and mail on or before March 1, 2008 to the Crime Laboratory, at the above address.

To assist you in your budget preparation for next year, based on cases submitted by your agency during calendar year 2007 and the previous four years, your bill should not exceed \$133,132. As the Crime Laboratory Director, I look forward to working with you and if further assistance is needed please call me at (408) 918-2920.

Sincerely,

A handwritten signature in black ink, appearing to read "Benny Del Re", is written over a large, stylized flourish.

Benny Del Re
Crime Laboratory Director