

2020 DEC 10 AM 11:17



City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. 88388 C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION: (1) APPROVING THE OAKLAND POLICE DEPARTMENT (OPD) CRIME LAB CRIMINALISTICS LABORATORY DNA INSTRUMENTATION AND ANALYSIS SOFTWARE BIOMETRIC TECHNOLOGY USE POLICY AND REPORT; AND (2) APPROVING OPD'S SURVEILLANCE IMPACT REPORT FOR ITS USE OF DNA INSTRUMENTATION, ANALYSIS AND SOFTWARE**

**WHEREAS**, Oakland's Surveillance Ordinance No.13489 C.M.S., adopted by the City Council on May 15, 2018 added Chapter 9.64 to the Oakland Municipal Code (OMC), and covers policy areas related to surveillance technology; and

**WHEREAS**, OMC 9.64.030.1.C requires City Council approval for new and existing surveillance technology; additionally, OMC Section 9.64.020.1 requires that, "[p]rior to seeking City Council approval for existing city surveillance technology under Section 9.64.030, city staff shall submit a Surveillance Impact report and Surveillance Use Policy to the Privacy Advisory Commission (PAC) for its review at a regularly noticed meeting; the surveillance impact report and surveillance use policy must address the specific subject matter specified for such reports as defined under 9.64.010"; and

**WHEREAS**, OPD Crime Lab staff presented its DNA Instrumentation and Analysis and Software Surveillance Impact Report (SIR, *Attachment A*) and DNA Instrumentation and Analysis Software Biometric Technology Surveillance Use Policy (SUP, *Attachment B*) at the October 1, 2020 PAC meeting; and

**WHEREAS**, at this October meeting, the PAC recommended both the Policy (*Attachment B*) and Report (*Attachment A*), in accordance with Resolution 88262 as amended and passed by Council on July 28, 2020; and

**WHEREAS**, the SIR (*Attachment A*) covers the following areas as required by the Surveillance Ordinance:

- Information describing the system and how it works;
- Purpose of the technology;
- Locations where, and Situations in which the technology may be used;
- Privacy Impact of the technology;
- Mitigations to prevent privacy impacts;
- Data Types and Sources;
- Data Security;
- Costs;

- Third Party Dependence;
- Alternatives Considered;
- Track Record of Other Entities; and

**WHEREAS**, the SUP (*Attachment B*) covers relevant areas required by OMC 9.64.030, including the following areas:

- Technology Description;
- Authorized Use;
- Use Restrictions;
- Data Access, Data Collection and Retention, and Security;
- Monitoring and Reporting;
- System Training; and

**WHEREAS**, the Crime Laboratory is a full-service forensic science laboratory accredited to ISO/IEC 17025:2017 (ISO) by the American National Standards Institute National Accreditation Board (ANAB); and

**WHEREAS**, the Crime Laboratory must adhere to all applicable accreditation standards and requirements to successfully maintain and renew accreditation every four years; and

**WHEREAS**, ANAB is the largest and most established accrediting body in the United States engaging in the accreditation of forensic science testing laboratories; and

**WHEREAS**, accreditation is a requirement for eligibility for receipt and use of state and federal grant funds and for access to the state and national databases; and

**WHEREAS**, the use of validation methods and proficiency testing by ISO 17043 approved providers are requirements of accreditation; and

**WHEREAS**, the Crime Laboratory has implemented validation methods across all its forensic disciplines; and

**WHEREAS**, those validated methods specify supplies, instrumentation, and other analytical conditions necessary to produce reliable results; and

**WHEREAS**, the Crime Laboratory's Forensic Biology Unit is required to adhere to the Federal Bureau of Investigation (FBI) DNA Quality Assurance Standards (QAS) in order to maintain access to the Combined DNA Index System (CODIS); and

**WHEREAS**, the FBI QAS requires the Forensic Biology Unit to use rigorously validated DNA typing methods that use specific quality-controlled reagents and instruments from specific vendors; and

**WHEREAS**, ANAB requires the Crime Laboratory to use only suitable external providers of specific supplies, instruments, equipment, instrument service, equipment service, proficiency testing, and evidence collection kits to perform its casework using its validated

methods; and

**WHEREAS**, the Crime Laboratory employs forensic subject matter experts who possess the requisite scientific knowledge to determine which supplies, instruments, and services are most suited to the Laboratory's needs or which are required to successfully analyze evidence in particular cases; and

**WHEREAS**, at the November 10, 2020 Council meeting, Council approved OPD's procurement request for DNA and other Crime Laboratory supplies but scheduled adoption of the related DNA Instrumentation and Analysis Software Biometric Technology Surveillance Use Policy (*Attachment B*) and SIR (*Attachment A*) to its December 1, 2020 meeting in order to provide adequate public notice; now therefor be it

**RESOLVED**: that City Council does hereby approve the OPD Crime Lab DNA Instrumentation and Analysis Software Biometric Technology Surveillance Use Policy (SUP (*Attachment B*)); and be it

**FURTHER RESOLVED**: That pursuant to Oakland Municipal Code Section 9.64.030.2, the City Council approves City's staff's Surveillance Impact Report for the DNA Instrumentation and Analysis and Software Surveillance Impact Report, as provided in (*Attachment A*); and be it

**FURTHER RESOLVED**: that pursuant to OMC 9.64.020.2, City Council has considered the PAC's recommendation to favor City Council authorization of the acquisition and use of DNA Instrumentation and Analysis Software Biometric Technology; and be it

**FURTHER RESOLVED**: That pursuant to OMC Section 9.64.020.2, for the reasons referenced above by and in the agenda report and SIR (*Attachment A*), the City Council finds that the benefits to the community of the surveillance technology outweigh the costs (cost benefit determination); that the proposal will safeguard civil liberties and civil rights, and that, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective; and so authorizes the City Administrator or designee's acquisition and use of DNA Instrumentation and Analysis Software Biometric Technology.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 01 2020

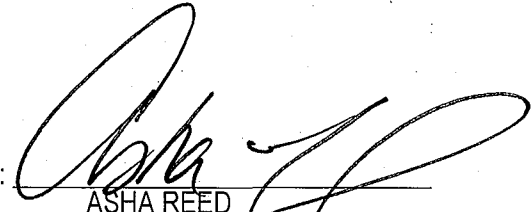
**PASSED BY THE FOLLOWING VOTE:**

AYES – FORTUNATO-BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO, and PRESIDENT KAPLAN — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:   
ASHA REED  
Acting City Clerk and Acting Clerk of the Council  
of the City of Oakland, California