

4 - District Attorney High Tech Crime Unit Expansion

1. Program Area:

PUBLIC PROTECTION

2. Identify agencies and departments involved.

Office of the District Attorney.

3. Is the Strategic Priority new or previously identified in earlier Strategic Financial Plan; if previously identified, what has changed and why.

The Office of the District Attorney established a High Tech Crime Unit in FY 2005/2006 that combines two prior approved strategic funding priorities of High Tech Crime and Identity Theft.

Funding for this program was approved by the Board of Supervisors on December 13, 2005 as Strategic Priority #7a of the 2005 Top 10 Strategic Priorities. The Office has moved the program forward and is continuing to increase the ability to prosecute crimes that involve criminals who use technology in the commission of their crimes. Specially trained investigators, attorneys, and technicians are assigned to both computer forensics and prosecution of these cases. Crimes involving technology and computers continue to grow; therefore, use of technology in proving and prosecuting high tech crimes is expected to continue.

4. Provide a description of the project/program - what it is and what it will achieve.

Crimes involving the use of computers and other technology are growing at a rapid rate as our residents become more dependent on computers, cell phones and electronic devices such as PDAs and iPods. This is true nationally, as well as, in Orange County. The widespread use of the internet means that predators, identity thieves and fraudsters have anonymous access into the homes and workplaces of our residents. We have experienced a countywide increase in the number of search warrants that involve the seizure and subsequent search of computers and other devices with memory capacity. Valuable evidence is often developed from seized computers. This leads to criminal convictions. Prosecuting high tech cases successfully requires specially trained computer experts who are able to conduct forensic computer examinations. Their work leads to admissible evidence and convictions. The Orange County District Attorney High Tech Crime Unit, established in 2005, is addressing the issue of high technology crimes by providing trained personnel and equipment to handle these complex cases.

The High Tech Crime Unit has increased the amount of computer data analyzed because of increased forensic staffing as well as the increase in the number of cases involving computer seizures:

2004	66 cases	6.8 terabytes of data
2005	83 cases	7.6 terabytes of data
2006	93 cases	63 terabytes of data*

* Year to date statistics. Increases in data analyzed are related to a more accurate infrastructure that is now used to measure data analyzed as well as an influx of seizures involving portable storage devices such as cell phones, iPods, DVD/CDs and USB external storage devices.

Some examples of cases that have used High Tech methods and personnel include:

A recent joint investigation with local law enforcement involving communications from internet predators to a fictitious child. The sting operation resulted in 15 arrests of persons who were attempting to prey on local kids.

Several ongoing investigations and prosecutions involving organized Identity Theft rings that use notebook computers, cell phones, thumb drives and PDAs to store information. When those devices were examined forensically, they resulted in linkages between persons and have led to more than 30 arrests to date.

Investigations and prosecutions of those using the storage capacity in iPods and other devices to store child pornography. If there is a technical capability for seizing and searching the information on portable storage devices, it will result in increased detection and conviction of predators who traffic in child pornography and who often store the images in "safe" portable formats.

The ability to utilize technology is important to successful criminal prosecutions because jurors expect 21st century technology to be employed to solve crimes. Television programs create an expectation in the minds of jurors that a wide range of technical and electronic testing is available in all criminal cases, the so-call "CSI effect." This requires the Office of the District Attorney to continue to invest in technical advances, trained personnel and equipment to be successful in prosecuting 21st century criminals. There is a need to use specially trained attorneys and investigators to vertically prosecute complex high tech crime cases or those criminals who use technology will remain a step ahead.

Many types of crimes can fall within the ambit of high tech crime:

Identity Theft:

Identity theft is the fastest growing area of criminal fraud. The problem is enormous and is likely to continue to grow as our residents continue to become more technology dependent. Identity theft encompasses a variety of schemes and criminals, from unsophisticated persons who steal credit cards and then use them all the way to sophisticated criminal rings that harvest personal information from databases for use and sale. Stolen identity information can translate into fraudulent real estate purchases, theft from merchants, banks and businesses, false medical billing and destruction of a victim's financial holdings. Identity theft produces large dollar losses for credit card companies, banks and businesses that must pass the costs along to consumers. Sophisticated or simple, tracking down these criminals requires extensive investigation as well as use of high tech tools such as forensic analysis of digital devices and the use of forensic accountants to track the flow of money through bank accounts.

Criminal Fraud:

Every kind of major fraud activity such as investment fraud, real estate fraud, embezzlement, medical insurance fraud, and workers' compensation fraud involves the use of sophisticated technology to perpetrate the fraud. Many cases have hundreds of victims and millions of dollars in loss. In Orange County, the number of cases with a victim loss exceeding \$100,000 is common and many major fraud cases involve more than \$1 million in loss. In one ongoing case, \$96 million in fraudulent health insurance billings were generated in an eight-month period. This enormous prosecution has 3 terabytes of data and has resulted in prosecution of 16 suspects to date. Criminals prey on the elderly or vulnerable in our county using schemes to mislead and confuse them into fraudulent investments, often using the anonymity of the internet.

Gang Crime:

Computers and portable storage devices such as cell phones and iPods are now common communication devices found in the possession of criminal street gang members. Some gangs have become deeply involved in identity theft, while others use communication devices to identify potential rivals or to identify targets for theft or robbery. Frequently, photos from cell phones have been used to prove gang-related crimes.

Internet Predators/Child Pornography:

Forensic analysis of computers has been the most important tool in identifying those who traffic in the exploitation of children through child pornography. Pedophiles frequently use the internet, including instant messaging features, to troll for victims and often misrepresent themselves as children or computer game enthusiasts. The

process of analyzing computers to uncover this evidence is extremely complex and time consuming but critical to protecting our children.

Internet Crimes:

Criminals of all kinds seek out vulnerable victims using the internet by capitalizing on the relative anonymity of the cyber world. Web sites exist to mislead people and to "phish" (illegally obtaining identifying data over the internet) for victims. Stalkers use the internet to locate and track their victims and then to threaten them at their homes and workplaces. Because these criminals are faceless, we rely on cyber-footprints left on computers to identify them.

Violent Crimes:

Homicide, rape, drug trafficking and domestic violence are common cases in which searches of computers, PDAs, cell phones and other electronic devices lead to evidence that can be used in court. The number of computer searches has increased dramatically in the past few years to the point that nearly every serious felony has some warrant activity related to computers.

Criminal Trials:

There is an increased need for sophisticated presentation tools in criminal trials and a high cost associated with hiring outside expert witnesses to perform these tasks. Some examples of work that is done internally in a high tech unit without hiring outside experts are reviewing and enhancing video/audio footage, analyzing and preserving information in digital devices, seizing and reviewing financial data and bank records as well as testifying in court as persuasive witnesses in these areas. Many outside experts charge in excess of \$300 per hour, so maintaining an adequate staff of forensic accountants and forensic computer analysts to do these tasks is cost effective and provides prosecutors with a quality source of analysis and information. Quick access to this type of evidence will result in a greater ability to successfully prosecute these crimes, bring the criminals to justice, freeze assets and hold those assets to help repay victims. In a recent complex case, \$7 million was ordered in restitution plus \$2 million for the cost of prosecution and frozen assets are being sold to pay the victims back.

5. Identify personnel - will the program/project require additional staffing? If so, estimate number of positions by classification.

Current staffing includes:

- 2 Senior Deputy Attorney
- 1 Supervising Attorney's Investigator
- 1 Investigator
- 1 Senior Technical Systems Specialist
- 2 Technical Systems Specialist

We propose to add the following staff in each year, building incremental growth into the program:

FY 2007/2008:

- 1 Senior Deputy Attorney
- 4 Investigator
- 1 Paralegal
- 1 Investigative Assistant
- 2 Technical Systems Specialist
- 2 Senior Technical Systems Specialist
- 1 Investigator Auditor
- 1 Attorney's Clerk

FY 2008/2009:

- 1 Senior Deputy Attorney
- 2 Investigator
- 1 Paralegal
- 1 Investigative Assistant
- 2 Technical Systems Specialist
- 1 Investigator Auditor
- 1 Attorney's Clerk

FY 2009/2010:

- 1 Senior Deputy Attorney
- 1 Investigator
- 1 Technical Systems Specialist
- 1 Investigator Auditor
- 1 Attorney's Clerk

FY 2010/2011:

- 1 Senior Deputy Attorney
- 1 Investigator
- 1 Paralegal
- 1 Investigative Assistant
- 1 Technical Systems Specialist
- 1 Investigator Auditor
- 1 Attorney's Clerk

FY 2011/2012:

- 1 Senior Deputy Attorney
- 1 Investigator
- 1 Investigative Assistant

1 Technical Systems Specialist
1 Senior Technical Systems Specialist

6. Identify one-time costs (e.g. equipment purchase).

Please refer to the attached spreadsheet for cost information.

7. Identify potential funding sources (e.g., State, Federal, General Fund, fees).

The Board of Supervisors approved earmarking federal Southwest Border Prosecution Initiative Funds associated with the prosecution of federally referred/declined cases to partially fund this program in FY 2007/2008. The Office funds the remaining balance of program costs from the District Attorney's portion of Fund 14B reserves up to FY 2011/2012. We are continuing to seek any additional funding sources that would supplement this funding. While the private sector would like to provide assistance, we are prohibited by conflict of interest provisions that would prevent us from accepting funding from a private source such as a victim or business group. Receipt of private funding to support the program could result in the District Attorney's Office being recused from prosecutions.

Please refer to the attached spreadsheet for funding information.

8. Identify community awareness (stakeholders).

Orange County residents and local law enforcement agencies.

9. Is this program/project mandated or discretionary?

Prosecution of fraud is mandated by the California Penal Code.

10. Identify implementation period if funding were available.

Program has already been implemented.

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	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
I. Cost											
One-Time Costs											
Equipment purchases	0	600,000	140,000	290,000	0	0	0	0	0	0	0
Agency One-Time Cost Total	0	600,000	140,000	290,000	0						
Total Cost											
Salaries & Benefits	699,550	1,395,488	2,343,636	2,999,646	3,769,218	4,456,748	4,456,748	4,456,748	4,456,748	4,456,748	4,456,748
Services & Supplies	11,848	716,068	266,553	425,629	386,200	365,850	365,850	365,850	365,850	365,850	365,850
Fixed Assets	0	600,000	140,000	290,000	0	0	0	0	0	0	0
Agency Ongoing Cost Total	0	2,711,556	2,750,189	3,715,275	4,155,418	4,822,598	4,822,598	4,822,598	4,822,598	4,822,598	4,822,598
Agency Cost Total	0	2,711,556	2,750,189	3,715,275	4,155,418	4,822,598	4,822,598	4,822,598	4,822,598	4,822,598	4,822,598
II. Non-General Fund Revenue											
Intergovernmental Revenues	11,398	1,200,000	0	0	0	0	0	0	0	0	0
Other Financing Sources	0	1,511,556	2,750,189	3,715,275	4,155,418	4,822,598	0	0	0	0	0
Agency Revenue Total	700,000	2,711,556	2,750,189	3,715,275	4,155,418	4,822,598	0	0	0	0	0
III. General Fund Requirement	0	0	0	0	0	0	4,822,598	4,822,598	4,822,598	4,822,598	4,822,598
IV. Staffing											
Attorney's Clerk II	0	1	2	3	4	4	4	4	4	4	4
Investigative Assistant, Da	0	1	2	2	3	4	4	4	4	4	4
Investigative Auditor, Da	0	1	2	3	4	4	4	4	4	4	4
Investigator	0	4	6	7	8	9	9	9	9	9	9
Paralegal	0	1	2	2	3	3	3	3	3	3	3
Senior Deputy Attorney	0	1	2	3	4	5	5	5	5	5	5
Senior Technical Systems Spec	0	2	2	2	2	3	3	3	3	3	3
Technical Systems Specialist	0	2	4	5	6	7	7	7	7	7	7
Agency Position Total	0	13	22	27	34	39	39	39	39	39	39

Recommend deferral of funding until future Strategic Financial Plans. This Strategic Priority does not request NCC funding until FY 12-13, at which time \$4.8 million per year is requested. The District Attorney was allocated \$710,000 NCC per year in the 2005 Strategic Financial Plan for this Strategic Priority.