

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: District Attorney *B. Flady*

BOARD AGENDA # *B-7

Urgent Routine

AGENDA DATE March 18, 2008

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval for the District Attorney to Accept a \$90,000 Seed Award from the United States Attorney's Office for "Project Safe Neighborhoods" and Related Budget Adjustments

STAFF RECOMMENDATIONS:

1. Accept a grant from the United States Attorney's Office for "Project Safe Neighborhoods".
2. Authorize the District Attorney to sign and administer the "Project Safe Neighborhoods" grant from the United States Attorney's Office.
3. Direct the Auditor-Controller to increase estimated revenue and appropriations in the amount of \$90,000, according to the budget journal.

FISCAL IMPACT:

The total amount of the grant award is \$90,000 to be used to establish an anti-gang unit in collaboration with the United States Attorney's Office. This is one time "seed" funding which will enable a Criminal Investigator to initiate the program, primarily to allow enhanced investigation and support for prosecution of gang and gun related charges locally and also in the United States District Court as an alternative to the local Superior Court. In subsequent years the investigations for this program will be assigned as a collateral duty to a Criminal Investigator currently assigned to the District Attorney's office.

BOARD ACTION AS FOLLOWS:

No. 2008-173

On motion of Supervisor Monteith, Seconded by Supervisor DeMartini and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval for the District Attorney to Accept a \$90,000 Seed Award from the United States Attorney's Office for "Project Safe Neighborhoods" and Related Budget Adjustments, page two

Discussion:

The District Attorney's Office is requesting approval to accept a \$90,000 grant award from the "Project Safe Neighborhoods" program administered by the United States Attorney's office with funding provided by the United States Department of Justice, Project Safe Neighborhoods program. This award is "seed" money to establish an anti-gang program as detailed below. The funding is for one year only, and requires that the department commit to continue the project in future years.

Project Goal:

The goal of this program will be to create safer neighborhoods in Stanislaus County by measurably reducing incidents of gang related violent crime. This will be accomplished by concentrating efforts on those who illegally possess firearms and incarcerating them before they are able to commit acts of violence.

The Project Safe Neighborhoods anti-gang grant would allow the Stanislaus County District Attorney's Office to expand its crime fighting efforts into areas not previously focused on. Primarily, the funding would allow enhanced investigation and support for prosecution of gang and gun related charges locally and also in the U.S. District Court as an alternative to the local Superior Court.

It has been shown in other parts of the state and across the nation that this type of program can reduce violent crime in several different ways. By using the U.S. District Courts and their stiffer sentencing guidelines, defendants are more apt to become cooperating witnesses and debrief with law enforcement about other people engaging in criminal activity. Specifically, we would seek information about other gang members and criminals who may be committing or planning to commit firearms related violence.

In local court, the threat of spending a year in the county jail is meaningless due to overcrowding and jail population caps. Defendants have no incentive to cooperate with law enforcement because they know it is not likely they will serve any significant portion of their sentence if the underlying offense is not a crime of actual violence. In those cases where the defendant will still not cooperate with law enforcement, then the reality is that they will be serving a longer sentence in the federal system and therefore cannot be in the community committing more crime. For that reason alone, the program is worth the investment made to implement it.

Approval for the District Attorney to Accept a \$90,000 Seed Award from the United States Attorney's Office for "Project Safe Neighborhoods" and Related Budget Adjustments, page 3

Common sense dictates that if you remove those who are inclined to carry firearms in the community from the community, the incidents of homicides and aggravated assaults with firearms should decrease. The gang members and other prohibited people with prior criminal history who choose to carry loaded firearms on the streets of Stanislaus County are the same people who are one argument or look of disrespect away from becoming homicide defendants. Additionally, if law enforcement seizes the opportunity to publicize the punishment these defendants receive and use it as a tool to deter future incidents of similar behavior, the community as a whole should benefit from less violence.

The Stanislaus County District Attorney's Office has an obligation to provide a safe community for its citizens. Our goal is to provide this in partnership with the United States Attorney's Office and the Bureau of Alcohol, Tobacco, Firearms and Explosives using their resources that would not otherwise be available to us.

Project Justification:

Two major freeways, US Interstate 5 and State Highway 99 both pass through Stanislaus County. Both of these freeways serve as pipelines for drugs and guns from Mexico and southern California to northern California and points beyond. Stanislaus County has had the deserved reputation as the methamphetamine capital of the nation. Additionally, Stanislaus County is currently ranked fifth in the nation for per capita auto theft, down from number one for the previous three years.

According to the FBI crime index report for 2005, Stanislaus County ranks above the national average for aggravated assaults per capita. Perhaps due in part to the close proximity of Deuel Vocation Institute in Tracy, and Sierra Conservation Center near Jamestown, we have a large population of parolees. According to the Modesto office of the California Department of Corrections, there are approximately 3,000 parolees living within the county at the present time.

Stanislaus County Law Enforcement authorities have documented 46 gangs and 3,840 gang members or associates in the CALGANG system. The CALGANG system is a state-wide system which allows law enforcement agencies to document gang members. However, the true number of gang members and/or associates residing in Stanislaus County is believed by our local gang task force to be between 5,000 and 7,000. Experience has shown that these gang members are frequently armed and have a predisposition to gun violence.

Approval for the District Attorney to Accept a \$90,000 Seed Award from the United States Attorney's Office for "Project Safe Neighborhoods" and Related Budget Adjustments, page 4

In 2006, the Stanislaus County District Attorney's Office charged the following felonies involving firearms. This in no way reflects the true number of crimes, only those where, given sufficient evidence, suspects were identified, arrested and charged.

Homicides with firearms: **18**

Attempted homicides with firearms: **44**

Aggravated assaults with firearms: **56**

Discharging of firearms: **60**

Firearms enhancements to other felony charges: **213** enhancements for the personal possession, use and/or discharge of a firearm during the crime.

Brandishing of firearms: **15**

Possession of illegal firearms: **24**

Firearms with obliterated serial numbers: **6**

Narcotics related firearms offenses: **48**

Possession of concealed firearms: **17**

Prohibited persons attempting to purchase firearms:

In 2006, the Stanislaus County District Attorney's Office received notice from the California Department of Justice, Firearms Division that 144 people who were prohibited from possessing firearms attempted to purchase firearms from a federally licensed firearms dealer (FLF). These individuals either had criminal convictions, restraining orders, or mental health proceedings that prohibited them from possessing or purchasing firearms. These purchases were blocked by the National Instant Check System (NICS) and California DOJ. Due to a lack of funds and personnel, neither this nor any other law enforcement agency in Stanislaus County currently pursues those cases for prosecution. In light of the recent Virginia Technical University shootings by a suspect who should have been blocked from buying firearms, these blocked purchases have become a priority.

Approval for the District Attorney to Accept a \$90,000 Seed Award from the United States Attorney's Office for "Project Safe Neighborhoods" and Related Budget Adjustments, page 5

Proposed Activities:

1. Cross-designate a Deputy District Attorney and a District Attorney Investigator so that local cases can be reviewed for suitability for prosecution at the federal level.
2. Specifically targeted would be those defendants charged with being a felon or other prohibited person in possession of a firearm and/or ammunition who had at least one prior felony conviction and would meet at least a base offense level 20 under section 2K2.1 of the federal sentencing guidelines. These defendants would be prosecuted using 18 U.S.C. 922(g) (felon in possession of a firearm or ammunition) in the United States District Court instead of Penal Code section 12021 (felon in possession of a firearm) in state Superior Court.

The emphasis would be on prosecuting gang members and gang associates who have shown a predisposition for violence. Unlike arrests on local charges, once defendants arrested on these federal charges make their initial appearance, they are typically detained as a danger to the community pending trial. The immediate effect is one less person with a violent criminal history and access to firearms off the streets in our community. These defendants would be given an opportunity to de-brief with law enforcement and to become cooperating witnesses in the hopes of preventing future gang and firearm violence.

3. Investigate and potentially prosecute those defendants who attempted to purchase firearms from Federally Licensed Firearm dealers, but the transaction was blocked via the National Instant Check System (NICS) due to prohibiting convictions or mental health proceedings.
4. Investigate and potentially prosecute those cases that involve Federally Licensed Firearm dealers engaging in criminal behavior by knowingly selling firearms to prohibited persons, including minors, or that allow "straw" sales in violation of Title 18, U.S.C. 922 (1-5).
5. Investigate and potentially prosecute those persons who "engage in the business" of selling firearms without a license in violation of Title 18, U.S.C. 922 (a).

Approval for the District Attorney to Accept a \$90,000 Seed Award from the United States Attorney's Office for "Project Safe Neighborhoods" and Related Budget Adjustments, page 6

6. Investigate and potentially prosecute any defendants possessing machine guns or other destructive devices not registered in accordance with the National Firearms Act (NFA) that could be prosecuted under Title 26, U.S.C. 5861.

7. Encourage the smaller local law enforcement agencies in Stanislaus County to submit their recovered ballistics evidence to the National Integrated Ballistics Identification Network, (NIBIN) lab located at Stockton Police Department. This, combined with the test firing of recovered firearms, will link suspects to prior shootings. This network has been used with amazing results in San Joaquin County including solving a homicide investigation that was otherwise focusing on the wrong suspect. The Modesto Police Department and the Stanislaus County Sheriff's Office are currently submitting their ballistics evidence to the lab.

Collaboration:

The Stanislaus County District Attorney's Office has a long term and effective collaborative relationship with the Central Valley Gang Impact Task Force (GIT), the Stanislaus Drug Enforcement Agency (SDEA), and the High Intensity Drug Trafficking Area Task Force (HIDTA). Our office assigns Criminal Investigators to these task forces who are recognized for their expertise and contributions.

Another advantage the Stanislaus County District Attorney's Office has apart from other local law enforcement agencies is that all of its Criminal Investigators are experienced law enforcement officers who came from other agencies. This prior experience will allow the Office to continue the strong partnerships it has forged with the local, state and federal law enforcement agencies in this area. Through these partnerships, we will be able to provide the community a higher level of law enforcement service without duplication of effort.

Performance Measures:

1. Measurably reduce firearms related crime through the use of federal prosecution and the ability to obtain stiffer sentences. The reduction will come through the inability of the current defendant to commit crime due to his incarceration, or through the use of defendants who agree to become cooperating witnesses in order to avoid the stiffer federal sentence.

Anticipated reduction- 20% in the first year due to currently charged defendants typically being detained pending trial. Potential defendants will be deterred through the use of community outreach and education about the program.

Approval for the District Attorney to Accept a \$90,000 Seed Award from the United States Attorney's Office for "Project Safe Neighborhoods" and Related Budget Adjustments, page 7

2. Remove illegal firearms from the community thereby reducing their ability to be used in violent crime. This will be accomplished through the use of search warrants, parole and probation searches. Specifically targeted would be documented gang members and their associates who have shown a pre-disposition for possessing and using firearms in their criminal activity.

Anticipated increase in number of firearms seized by law enforcement from documented gang members/associates -10% in the first year.

3. Increase the submission of ballistics evidence to ATF's National Integrated Ballistics Identification Network. This will assist in linking recovered firearms and those who possess them to other assaults with firearms. This will allow for additional charging and stiffer sentencing keeping the defendants out of the community.

Anticipated increase in submissions to National Integrated Ballistics Identification Network by local law enforcement- 20% in the first year.

Policy Issues:

This program is intended to meet the Board's goals of A Safe Community and Effective Partnerships.

Staffing Impact:

This program will be assigned as a collateral duty to an existing Criminal Investigator II position.

**AUDITOR-CONTROLLER
BUDGET JOURNAL**

BUDGET JOURNAL SCREEN

Budget Organization **District Attorney**
 Budget **LEGAL BUDGET**
 Accounting Period From **Jul 07-Jun 08**
 To



BATCH SCREEN

Journal Batch
 Category **Budget**

| Line | Coding Structure | | | | | | Period | Description |
|--------|------------------|----------|--------------|---------------|----------|-----------|------------|-------------|
| | Fund 4 | Org 7 | Account 5 | G/L Proj 7 | Loc 6 | Misc 6 | AMOUNT | |
| 1 | 100 | 23110 | 50000 | | | | 90,000.00 | |
| 2 | 100 | 23110 | 25000 | | | | 90,000.00 | |
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| 4 | | | | | | .0 | | |
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| 25 | | | | | | .0 | | |
| Totals | | | | | | | 180,000.00 | |

Explanation: Accept funding from US Attorney's Office for
 "Project Safe neighborhood"

| | | | | | |
|--|--|----------------------------------|--|--|--|
| Requesting Department | | CEO | | Auditors Office Only | |
| Signature 3/12/08 Date | | Signature 3/12/08 Date | | Admin Approval (\$75K+) 3-11-08 Date | |
| Wendy Duggan 525-5563 Contact Person & Phone Number | | | | | |



GOVERNOR'S OFFICE OF EMERGENCY SERVICES
LAW ENFORCEMENT AND VICTIM SERVICES DIVISION
3650 SCHRIEVER AVENUE
MATHER, CALIFORNIA 95655
(916) 324-9112
FAX: (916) 323-1756



Application Cover Sheet

RFA PROCESS

ANTI-GANG INITIATIVE (AGI) PROGRAM

Submitted by:

Birgit Fladager

Stanislaus County
District Attorney
832 12th Street, Suite 300
Modesto, CA 95354
(209) 525-5550

OES ID# _____

Award # _____

**GOVERNOR'S OFFICE OF EMERGENCY SERVICES
LAW ENFORCEMENT AND VICTIM SERVICES DIVISION**

GRANT AWARD FACE SHEET (OES A301)

The Governor's Office of Emergency Services, hereafter designated OES, hereby makes a grant award of funds to the following:

- 1. **Grant Recipient:** Stanislaus County
hereafter designated Recipient, in the amount and for the purpose and duration set forth in this grant award.
- 2. **Implementing Agency:** District Attorney's Office
- 3. **Project Title:** Anti-Gang Initiative
- 4. **Grant Period:** 10/01/07 to 09/30/08

*Select the Grant year and fund source(s) from the lists below or type the appropriate acronym in box 9. Enter the amount(s) from each source. Please do not enter both State and Federal fund sources on the same line. Add any cash match(s). Block 10G is the Grant Award total amount.

| Grant Year | Fund Source | A. State | B. Federal | C. Total | D. Cash Match | E. In-Kind Match | F. Total Match | G. Total Project Cost |
|------------|-------------|----------|------------|----------|---------------|------------------|----------------|------------------------------|
| 07/08 | 5. AGIE | \$90,000 | \$0 | | \$0 | \$0 | \$0 | |
| Select | 6. Select | | | | | | \$0 | |
| Select | 7. Select | | | | | | \$0 | |
| Select | 8. Select | | | | | | \$0 | |
| Select | 9. | | | | | | \$0 | |
| | 10. TOTALS | \$90,000 | \$0 | \$90,000 | \$0 | \$0 | \$0 | 10. Grand Total: \$90,000 |

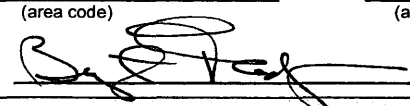
11. This grant award consists of this title page, the application for the grant, which is attached and made a part hereof, and the Assurance of Compliance forms which are being submitted. I hereby certify I am vested with the authority, and have the approval of the City/County Financial Officer, City Manager, County Administrator, or Governing Board Chair, to enter into this grant award agreement; and all funds received pursuant to this agreement will be spent exclusively on the purposes specified. The grant recipient signifies acceptance of this grant award and agrees to administer the grant project in accordance with the statute(s), the Program Guidelines, the *Recipient Handbook*, and the OES audit requirements, as stated in the applicable RFP or RFA. The grant recipient further agrees to all legal conditions and terms incorporated by reference in the applicable RFP or RFA, and agrees that the allocation of funds is contingent on the enactment of the State Budget.

12. **Official Authorized to Sign for Applicant/Grant Recipient:** Birgit Fladager **Federal Employer ID Number:** 94-6000540

Name: Birgit Fladager Title: District Attorney

Payment Mailing Address: 832 12th Street, Suite 300 City: Modesto Zip: 95354

Telephone: (209) 525-5550 FAX: (209) 525-5545 Email: birgit.fladager@standa.org
(area code) (area code)

Signature:  Date: 8-30-07

[FOR OES USE ONLY]

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purposes of this expenditure stated above.

OES Fiscal Officer Date OES Director (or designee) Date

PROJECT CONTACT INFORMATION

Applicant Stanislaus District Attorney's Office Grant Number _____ **[FOR OES USE ONLY]**

Provide the name, title, address, telephone number, and e-mail address for the project contacts named below. If a section does not apply to your project, enter "N/A." NOTE: If you use a PO Box address, a street address is also required for package delivery and site visit purposes.

1. The **Project Director** for the project:

Name: Birgit Fladager Address: 832 12th Street, Suite 300
 Title: District Attorney City: Modesto Zip: 95354
 Telephone #: (209) 525-5550 Fax #: (209) 525-5545
(Area Code) (Area code)
 E-Mail Address: birgit.fladager@standa.org

2. The **Financial Officer** for the project:

Name: Larry Haugh Address: 1010 10th Street, Suite 5100
 Title: Auditor-Controller City: Modesto Zip: 95354
 Telephone #: (209) 525-7925 Fax #: (209) 525-6487
(Area Code) (Area code)
 E-Mail Address: HAUGHL@CO.STANISLAUS.CA.US

3. The **person** having **routine programmatic responsibility** for the project:

Name: Jerry Begen Address: 832 12th Street, Suite 300
 Title: Chief Deputy District Attorney City: Modesto Zip: 95354
 Telephone #: (209) 525-5550 Fax #: (209) 525-5545
(Area Code) (Area code)
 E-Mail Address: jerry.begen@standa.org

4. The **person** having **routine fiscal responsibility** for the project:

Name: Lori Acree Address: 832 12th Street, Suite 300
 Title: Accountant City: Modesto Zip: 95354
 Telephone #: (209) 525-5505 Fax #: (209) 525-5545
(Area Code) (Area code)
 E-Mail Address: lori.acree@standa.org

5. The **Executive Director** of a nonprofit organization or the **Chief Executive Officer** (e.g., chief of police, superintendent of schools) of the implementing agency:

Name: Richard Robinson Address: 1010 10th Street, Suite 6800
 Title: Chief Executive Officer City: Modesto Zip: 95354
 Telephone #: (209) 525-6333 Fax #: (209) 525-5545
(Area Code) (Area code)
 E-Mail Address: RICKCEO@CO.STANISLAUS.CA.US

6. The **Chair** of the **governing body** of the implementing agency: (Provide contact information other than that of the implementing agency)

Name: William O'Brien Address: 1010 10th Street, Suite 6500
 Title: Chairman, Board of Supervisors City: Modesto Zip: 95354
 Telephone #: (209) 525-4440 Fax #: (209) 525-4410
(Area Code) (Area code)
 E-Mail Address: OBRIENW@CO.STANISLAUS.CA.US

SIGNATURE AUTHORIZATION

Grant Award #: _____

Grant Recipient: STANISLAUS COUNTY

Implementing Agency: DISTRICT ATTORNEY'S OFFICE

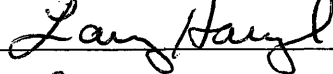
***The Project Director and Financial Officer are *REQUIRED* to sign this form.**

***Project Director:** BIRGIT FLADAGER

Signature: 

Date: 8-30-07

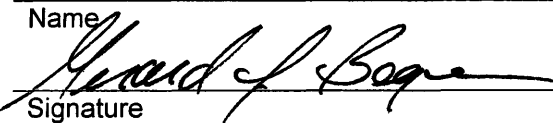
***Financial Officer:** LARRY HAUGH

Signature: 

Date: 8-31-07

The following persons are authorized to sign for the
Project Director


Signature
Carol Shipley, Assistant District Attorney


Signature
Jerry Begent, Chief Deputy DA

Name

Signature

Name

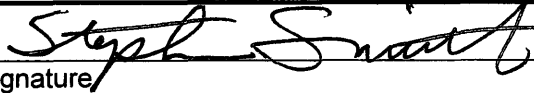
Signature

Name

Signature

Name

The following persons are authorized to sign for the
Financial Officer


Signature
Stephen Smith, Assistant Auditor Controller

Name

Signature

Name

Signature

Name

Signature

Name

Signature

Name

CERTIFICATION OF ASSURANCE OF COMPLIANCE

I, Birgit Fladager hereby certify that
(official authorized to sign grant award; same person as Section 12 on Grant Award Face Sheet)

RECIPIENT: Stanislaus County

IMPLEMENTING AGENCY: District Attorney

PROJECT TITLE: Anti-Gang Initiative Program

is responsible for reviewing the *Recipient Handbook* and adhering to all of the Grant Award Agreement requirements (state and/or federal) as directed by OES including, but not limited to, the following areas:

I. Equal Employment Opportunity - (*Recipient Handbook*, Section 2151)

It is the public policy of the State of California to promote equal employment opportunity by prohibiting discrimination or harassment in employment because of race, religious creed, color, national origin, ancestry, disability (mental and physical) including HIV and AIDS, medical condition (cancer and genetic characteristics), marital status, sex, sexual orientation, denial of family medical care leave, denial of pregnancy disability leave, or age (over 40). **OES-funded projects certify that they will comply with all state and federal requirements regarding equal employment opportunity, nondiscrimination and civil rights.**

Please provide the following information:

Equal Employment Opportunity Officer: Ramon Bawanan

Title: Personnel Manager

Address: 832 12th Street, Suite 300

Phone: (209) 525-5550

Email: ramon.bawanan@standa.org

II. Drug-Free Workplace Act of 1990 - (*Recipient Handbook*, Section 2152)

The State of California requires that every person or organization awarded a grant or contract shall certify it will provide a drug free workplace.

III. California Environmental Quality Act (CEQA) - (*Recipient Handbook*, Section 2153)

The California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000 et seq.) requires all OES funded projects to certify compliance with CEQA. Projects receiving funding must coordinate with their city or county planning agency to ensure that the project is compliance with CEQA requirements.

IV. Lobbying - (*Recipient Handbook, Section 2154*)

OES grant funds, grant property, or grant funded positions shall not be used for any lobbying activities, including, but not limited to, being paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

V. Debarment and Suspension - (*Recipient Handbook, Section 2155*) *(This applies to federally funded grants only.)*

OES-funded projects must certify that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department of agency.

VI. Proof of Authority from City Council/Governing Board

The above-named organization (applicant) accepts responsibility (with an original signature) for and will comply with the requirement to obtain written authorization from the city council/governing board in support of this program. The applicant agrees to provide all matching funds required for said project (including any amendment thereof) under the Program and the funding terms and conditions of OES, and that any cash match will be appropriated as required. It is agreed that any liability arising out of the performance of this Grant Award Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The State of California and OES disclaim responsibility of any such liability. Furthermore, it is also agreed that grant funds received from OES shall not be used to supplant expenditures controlled by the city council/governing board.


The applicant is required to obtain written authorization (in accordance with: *Government Code, Section 25103*) from the city council/governing board that the official executing this agreement is, in fact, authorized to do so. The applicant is also required to maintain said written authorization on file and readily available upon demand. This requirement does not apply to state agencies.

All appropriate documentation must be maintained on file by the project and available for OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both and the recipient may be ineligible for award of any future grants if the OES determines that any of the following has occurred: (1) the recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

CERTIFICATION

I, the official named below, am the same individual authorized to sign the Grant Award Agreement [Section 12 on Grant Award Face Sheet], and hereby swear that I am duly authorized legally to bind the contractor or grant recipient to the above described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

Authorized Official's Signature:



Authorized Official's Name: (print)

BIRGIT FLADAGER

Authorized Official's Title:

DISTRICT ATTORNEY

Date Executed:

8-30-07

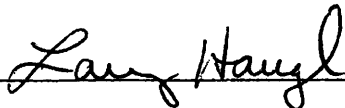
Executed in the City/County of:

STANISLAUS

AUTHORIZED BY: (Not Applicable to State Agencies)

- City/County Financial Officer, or
- City Manager, or
- Governing Board Chair

Signature:



Name: (print)

LARRY HAUGH

Title:

AUDITOR-CONTROLLER

Project Narrative

Background:

The County of Stanislaus is located in the center of the State of California, approximately 90 miles east of San Francisco and 80 miles south of Sacramento. The population of the County is approximately 519,000; the city of Modesto's population is estimated to be 208,000 and the Sheriff's Office jurisdiction encompasses a population of 174,000. As a result, the Sheriff's Office and the city of Modesto Police Department provide law enforcement services to 75 percent of the residents in the county. The cities of Turlock, Ceres, Oakdale and Newman also maintain their own Police Departments.

Problem Statement:

Two major freeways, US Interstate 5 and State Highway 99 both pass through Stanislaus County. Both of these freeways serve as pipelines for drugs and guns from Mexico and southern California to northern California and points beyond. Stanislaus County has had the deserved reputation as the methamphetamine capital of the nation. Additionally, Stanislaus County is currently ranked fifth in the nation for per capita auto theft, down from number one for the previous three years.

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Problem Statement (Continued):

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Possession of concealed firearms: **17**

Prohibited persons in possession of firearms cases:

In 2006, there were 114 cases in which the Stanislaus County District Attorney's Office charged a defendant with being a prohibited person in possession of a firearm. Of those, 52 cases were dismissed by the people for various reasons including as part of a plea agreement; 3 of the defendants were not held to answer by the court; 49 of the defendants were convicted. Of the 41 defendants who received sentences involving incarceration, 20 were sentenced to an average of 29 months in prison and the other 21 were sentenced to an average 6.6 months in the county jail.

Due to population caps at the county jail and overcrowding in the state prison system, it is unlikely that an inmate will serve even the majority of their sentence. Unlike the federal system which has no parole, the state system allows inmates in most cases to serve less time than they are sentenced to by utilizing parole and giving credit for work days, good behavior, etc.

Prohibited persons attempting to purchase firearms:

In 2006, The Stanislaus County District Attorney's Office received notice from the California Department of Justice, Firearms Division that 144 people who were prohibited from possessing firearms attempted to purchase firearms from a federally licensed firearms dealer (FFL). These individuals either had criminal convictions, restraining orders, or mental health proceedings that prohibited them from possessing or purchasing firearms. These purchases were blocked by the National Instant Check System (NICS) and California DOJ. Due to a lack of funds and personnel, neither this nor any other law enforcement agency in Stanislaus County currently pursues those cases for prosecution. In light of the recent Virginia Technical University shootings by a suspect who should have been blocked from buying firearms, these blocked purchases have become a priority.

Program Goal:

The goal of this program will be to create safer neighborhoods in Stanislaus County by measurably reducing incidents of gang related violent crime. This will be accomplished by concentrating efforts on those who illegally possess firearms and incarcerating them before they are able to commit acts of violence.

The Project Safe Neighborhoods Anti-Gang Initiative grant would allow the Stanislaus County District Attorney's Office to expand its crime fighting efforts into areas not previously focused on. Primarily, the funding would allow investigation and prosecution of gang and gun related charges in the US District Court versus local Superior Court.

It has been shown in other parts of the state and across the nation that this type of program can reduce violent crime in several different ways. By using the US District Courts and their stiffer sentencing guidelines, defendants are more apt to become cooperating witnesses and debrief with law enforcement about other people engaging in criminal activity. Specifically, we would seek information about other gang members and criminals who may be committing or planning to commit firearms related violence.

In local court, the threat of spending a year in the county jail is meaningless due to overcrowding and jail population caps. A defendant has no incentive to cooperate with law enforcement because he knows that he is not likely to serve any significant portion of his sentence if the underlying offense is not a crime of violence. In those cases where the defendant will still not cooperate with law enforcement, then the reality is that he will be serving a longer sentence in the federal system and therefore cannot be in the community committing more crime. For that reason alone, the program is worth the investment made to implement it.

By using the stiffer sentencing guidelines as a "Federal Hammer," our goal is to motivate defendants into becoming cooperating witnesses and provide information about others engaged in criminal activity. With this information, law enforcement in Stanislaus County can prevent crimes from occurring and incarcerate those who are committing the crimes.

Common sense dictates that if you remove those who are inclined to carry firearms in the community from the community, your incidents of homicides and aggravated assaults with firearms should decrease. The gang members and other prohibited people with prior criminal history who find it necessary to carry loaded firearms on the streets of Stanislaus County are the same people who are one argument or look of disrespect away from becoming homicide defendants. Additionally, if law enforcement seizes the opportunity to publicize the punishment these defendants receive and use it as a tool to deter future incidents of similar behavior, the community as a whole should benefit from less violence.

Program Goal (Continued):

The Stanislaus County District Attorney's Office has an obligation to provide a safe community for its citizens. Our goal is to provide this in partnership with the United States Attorney's Office and the Bureau of Alcohol, Tobacco, Firearms and Explosives using their resources that would not otherwise be available to us.

Organization:

The Stanislaus County District Attorney's Office mission statement:

"The mission of the office of the District Attorney is to vigorously and effectively seek justice by providing exemplary legal services and by treating all people in a professional, ethical, honest, courteous and respectful manner. Above all, the Office of the District Attorney is dedicated to keeping Stanislaus County a safe community"

The Stanislaus County District Attorney's Office has 42 Deputy District Attorneys, (DDA's) with heavy caseloads. Its Criminal Investigations Division has 18 full time, sworn, Criminal Investigator positions, 3 sworn supervisors, and one part time sworn investigator. The District Attorney's Office works very closely and effectively with the other law enforcement agencies in the county.

Designated organizational units within the District Attorney's Office that are relevant to this proposal include: "Gangs" (two prosecutors and one investigator assigned to the vertical prosecution of gang related cases), "Career Criminal Prosecution" (one prosecutor assigned to the vertical prosecution of habitual or career criminals) and the Drug Enforcement Unit, (one prosecutor and one investigator assigned to the Stanislaus Drug Enforcement Agency).

Investigators from the District Attorney's Office frequently liaison with local, state and federal law enforcement agencies and participate in enforcement and intelligence related operations. The investigator assigned to the gang unit is also attached full time to the Central Valley Gang Impact Task Force (GIT) which is an FBI Operation Safe Streets funded unit.

The Stanislaus County District Attorney's Office has a history of cooperation with federal law enforcement agencies including assistance with ATF's Operation American Graffiti in Modesto in 2004-2005. This resulted in approximately 18 federal defendants and in excess of 60 defendants charged in Superior Court on various weapons and narcotics trafficking related offenses.

Despite this level of cooperation, the Stanislaus County District Attorney's Office has not benefited from the receipt of any monetary federal assistance in recent years.

Unique Organizational Expertise

The Stanislaus County District Attorney's Office benefits from an employee with a unique expertise. Criminal Investigator David Hutchinson joined our office in 2005 coming from the Stockton Police Department where he served as the firearms investigation coordinator assigned to the Gang Violence Suppression Unit from 1999 to 2004. Investigator Hutchinson coordinated the installation of the integrated ballistics identification system, (IBIS) at the police department in 1999 and implemented a comprehensive firearms tracing program through the Bureau of Alcohol, Tobacco, Firearms and Explosives, (ATF's) National Tracing Center in the same year. Investigator Hutchinson also coordinated the implementation of the "Project Exile" Task Force in partnership with ATF in 2000.

As a Project Exile Task Force Agent from 2000 to 2004, Investigator Hutchinson worked with Assistant United States Attorney (AUSA) Rick Bender and others to perfect more than 30 cases for prosecution in the eastern district of California for Title 18 violations of the United States Code. Investigator Hutchinson is recognized as an expert in the illicit firearms market and has testified in both federal and superior courts as an expert in the field. Investigator Hutchinson also provided organized training for numerous state and local law enforcement officers on perfecting cases for federal prosecution.

Investigator Hutchinson successfully lobbied ATF in 2001 to designate Stockton as a youth crime gun interdiction initiative, (YCGII) city which brought additional resources from ATF and the United States Attorney's Office in an effort to combat firearms violence in Stockton. Investigator Hutchinson coordinated the design and placement of billboards in strategic areas of the city that warned potential violators of the potential federal prison sentence if they possessed firearms or committed gun violence.

In 2001, Investigator Hutchinson was awarded the "Excellence in Law Enforcement Award" by the Federal Law Enforcement Administrators of the bay area for his efforts in combating gun crime in San Joaquin County. In 2002, Investigator Hutchinson was the only local law enforcement officer in the nation invited to participate in an executive session on the national illegal firearms market at the Kennedy School of Government at Harvard University.

In 2004, Investigator Hutchinson co-authored the successful "Project Sentry" grant application for the San Joaquin County District Attorney's Office. This grant from the US Attorney's Office provided funds to expand the successful efforts of the Project Exile program being used in the City of Stockton to other unincorporated areas of San Joaquin County. Due to the success of these programs, ATF began assigning Special Agents to the Stockton area on an individual basis. As the productivity increased, an ATF satellite office and, ultimately, a full field office was permanently opened in Stockton to serve the central valley.

Unique Organizational Expertise (Continued)

Investigator Hutchinson continues his relationship with ATF to this day working part time as a contract Firearms Crime Analyst responsible for analyzing the firearms tracing data for the central valley law enforcement agencies that participate in tracing. This data has resulted in numerous interstate firearms trafficking schemes as well as local straw purchase rings being investigated by ATF.

Given this unique resource not available to other grant applicants, the Stanislaus County District Attorney's Office believes that we could successfully implement a program similar to the Stockton Police Department and San Joaquin County District Attorney's Office Project Exile program given the necessary resources from the Anti-Gang Initiative grant.

Proposed Activities:

1. Cross-designate a Deputy District Attorney and a District Attorney Investigator so that local cases can be reviewed for suitability for prosecution at the federal level.
2. Specifically targeted would be those defendants charged with being a felon or other prohibited person in possession of a firearm and/or ammunition who had at least one prior felony conviction and would meet at least a base offense level 20 under section 2K2.1 of the federal sentencing guidelines. These defendants would be prosecuted using 18 U.S.C. 922(g) in the United States District Court instead of 12021 PC in state Superior Court.

The emphasis would be on prosecuting gang members and gang associates who have shown a predisposition for violence. Unlike arrests on local charges, once defendants arrested on these federal charges make their initial appearance, they are typically detained as a danger to the community pending trial. The immediate effect is one less person with a violent criminal history and access to firearms off the streets of our community. These defendants would be given an opportunity to de-brief with law enforcement and to become cooperating witnesses in the hopes of preventing future gang and firearm violence.

3. Investigate and potentially prosecute those defendants who attempted to purchase firearms from FFL's, but the transaction was blocked via the National Instant Check System (NICS) due to prohibiting convictions or mental health proceedings.
4. Investigate and potentially prosecute those cases that involve FFL's engaging in criminal behavior by knowingly selling firearms to prohibited persons, including minors, or that allow "straw" sales in violation of Title 18, U.S.C. 922 (1-5).

Proposed Activities (Continued):

5. Investigate and potentially prosecute those persons who “engage in the business” of selling firearms without a license in violation of Title 18, U.S.C. 922 (a).
6. Investigate and potentially prosecute any defendants possessing machine guns or other destructive devices not registered in accordance with the National Firearms Act (NFA) that could be prosecuted under Title 26, U.S.C. 5861.
7. Encourage the smaller local law enforcement agencies in Stanislaus County to submit their recovered ballistics evidence to the National Integrated Ballistics Identification Network, (NIBIN) lab located at Stockton PD. This, combined with the test firing of recovered firearms, will link suspects to prior shootings. This network has been used with amazing results in San Joaquin County including solving a homicide investigation that was otherwise focusing on the wrong suspect. The Modesto Police Department and the Stanislaus County Sheriff’s Office are currently submitting their ballistics evidence to the lab.

Additionally, the Stanislaus County District Attorney’s Office would educate local law enforcement personnel by providing training to ensure cases are investigated and documented to meet the standard necessary for prosecution in federal court. If funds are available, Project Safe Neighborhoods billboards and public service announcements (PSA’s) will be utilized to educate the public about the program. Similar billboards and PSA’s have been used with success in cities as close as Stockton, California and as far away as Richmond, Virginia. Investigator Hutchinson has media presentations that he has used for outreach to community service groups and other non law enforcement government agencies. These presentations help educate the public about the illicit firearms market and the federal/local partnerships that have been formed to fight the gun violence attributed to it.

Probation and Parole Officers would be instructed to inform the personnel on their caseloads about the program and that gun possession and especially gun violence will not be tolerated in Stanislaus County. The likelihood of spending time in federal prison versus state prison would likely have a deterrent effect. This information could also be given to probationers and parolees via group meetings in the “Operation Peacekeeper” format used by Stockton and San Joaquin County. Through this outreach and public education it is hoped that a deterrent effect similar to that seen in other communities would take place.

Collaboration:

The Stanislaus County District Attorney's Office has a long term and effective collaborative relationship with the Central Valley Gang Impact Task Force (GIT), the Stanislaus Drug Enforcement Agency (SDEA), and the High Intensity Drug Trafficking Area Task Force (HIDTA). Our office assigns Criminal Investigators to these task forces who are recognized for their expertise and contributions.

Another advantage the Stanislaus County District Attorney's Office has apart from other local law enforcement agencies is that all of its Criminal Investigators are experienced law enforcement officers who came from other agencies. This prior experience will allow the Office to continue the strong partnerships it has forged with the local, state and federal law enforcement agencies in this area. Through these partnerships, we will be able to provide the community a higher level of law enforcement service without duplication of effort.

Performance Measures:

1. Measurably reduce firearms related crime through the use of federal prosecution and the ability to obtain stiffer sentences. The reduction will come through the inability of the current defendant to commit crime due to his incarceration, or through the use of defendants who agree to become cooperating witnesses in order to avoid the stiffer federal sentence.

Anticipated reduction- 20% in the first year due to currently charged defendants typically being detained pending trial. Potential defendants will be deterred through the use of community outreach and education about the program.

2. Remove illegal firearms from the community thereby reducing their ability to be used in violent crime. This will be accomplished through the use of search warrants, parole and probation searches. Specifically targeted would be documented gang members and their associates who have shown a pre-disposition for possessing and using firearms in their criminal activity.

Anticipated increase in number of firearms seized by law enforcement from documented gang members/associates -10% in the first year.

Performance Measures (Continued):

3. Increase the submission of ballistics evidence to ATF's National Integrated Ballistics Identification Network. This will assist in linking recovered firearms and those who possess them to other assaults with firearms. This will allow for additional charging and stiffer sentencing keeping the defendants out of the community.

Anticipated increase in submissions to NIBIN by local law enforcement- 20% in the first year.

Closing Statement:

The motto of the Stanislaus County District Attorney's Office is to "Seek Justice, Serve Justice, Do Justice." We strive to accomplish this on a daily basis through aggressive and innovative enforcement of the law, while ensuring the rights of both victims and defendants are protected. It is our belief that, with the assistance of the United States Department of Justice and the Project Safe Neighborhoods program, justice can be found, justice can be served, and justice can be done.

Budget Narrative

The grant will fund the salary of the investigator. The grant amount will only cover roughly 93% of the annual salary for the investigator. The investigator will help in the prosecution of gang and gun related charges in the US District Court.

Since all funds are being used for personnel services, there are not any requests for operating, or equipment expenses.


BUDGET CATEGORY AND LINE ITEM DETAIL

| A. Personal Services – Salaries/Employee Benefits | COST |
|--|-----------------|
| INVESTIGATOR | |
| Salary..... (65,251 x .9255) | \$60,390 |
| Retirement.....(23,784 x .9255) | \$22,012 |
| Workers Comp Insurance..... (900 x .9255) | \$833 |
| Health Insurance.....(2,129 x .9255) | \$1,970 |
| Unemployment Insurance..... (1,300 x .9255) | \$120 |
| Employee Assistance Program..... (59 x .9255) | \$55 |
| FICA/Medicare..... (4,992 x .9255) | \$4,620 |
| TOTAL | \$90,000 |

BUDGET CATEGORY AND LINE ITEM DETAIL

| B. Operating Expenses | COST |
|------------------------------|-------------|
| | |
| TOTAL | \$0 |

BUDGET CATEGORY AND LINE ITEM DETAIL

| C. Equipment | COST |
|--|-----------------|
| | |
| TOTAL | \$0.00 |
|  | |
| Total Project Cost* | \$90,000 |
| <i>*Same as Block 10G on the Grant Award Face Sheet</i> | |

PROJECT SUMMARY**1. GRANT AWARD NO.****3. GRANT PERIOD****2. PROJECT TITLE** ANTI-GANG INITIATIVE PROGRAM

10/01/07 to 09/30/08

4. APPLICANT

Name: Stanislaus County Phone: (209) 525-5550

Address: 832 12th St., Ste. 300 Fax #: (209) 525-5545

City: Modesto Zip: 95354

5. GRANT AMOUNT

(this is the same amount as 10G of the Grant Award Face Sheet)

\$ 90,000

6. IMPLEMENTING AGENCY

Name: District Attorney's Office Phone: (209) 525-5550 Fax #: (209) 525-5545

Address: 832 12th Street, Suite 300 City: Modesto Zip: 95354

7. PROGRAM DESCRIPTION

The program involves the federal prosecution of felons, gang members, and other prohibited persons in possession of firearms. The Stanislaus County District Attorney's Office, the United States Attorney's Office for the Eastern District of California, and the United States Department of Justice, Bureaus of Alcohol, Tobacco, Firearms and Explosives will form a Project Safe Neighborhoods (PSN) task force. This task force will examine all cases in Stanislaus County in which felons, gang members, or other prohibited persons possess a firearm. Based on the specifics of the case and the defendant's criminal history, the case will be presented to a federal grand jury for an indictment. The local case will be dismissed in lieu of federal prosecution and the longer prison sentences associated with it.

8. PROBLEM STATEMENT

Due to severe overcrowding at the Stanislaus County Jail the average sentence served by a defendant convicted of the state violation for being a felon in possession of a firearm is approximately 6.6 months. Because the violation is not considered a crime of violence, when defendants are in custody pre-trial, they are frequently released due to the jail reaching capacity. This can hardly be considered a deterrent. Using the federal guidelines, these same defendants would most likely be detained without bail pre-trial, and the sentencing guidelines would call for a sentence between 36-60 months.

9. OBJECTIVES

1. Measurably reduce firearms related crime through the use of federal prosecution and the ability to obtain longer sentences in the federal system. The reduction will come through the inability of the current defendant to commit crime due to his incarceration, or through the use of defendants who agree to become cooperating witnesses in order to avoid the longer federal sentence.
2. Remove illegal firearms from the community thereby reducing their ability to be used in violent crime. This will be accomplished through the use of search warrants, parole and probation searches. Specifically targeted would be documented gang members and their associates who have shown a pre-disposition for possessing and using firearms in their criminal activity.

10. ACTIVITIES

1. The emphasis would be on prosecuting gang members and gang associates who have shown a predisposition for violence. Unlike arrests on local charges, once defendants arrested on these federal charges make their initial appearance, they are typically detained as a danger to the community pending trial. The immediate effect is one less person with a violent criminal history and access to firearms off the streets of our community. These defendants would be given an opportunity to de-brief with law enforcement and to become cooperating witnesses in the hopes of preventing future gang and firearm violence.
2. Investigate and potentially prosecute those defendants who attempted to purchase firearms from federal firearms dealers, (FFL's), but the transaction was blocked via the National Instant Check System (NICS) due to prohibiting convictions or mental health proceedings.

11. EVALUATION (if applicable)

An anticipated reduction in firearms related offenses is hoped in the first year due to defendants being detained pending trial. Potential defendants will be deterred through the use of community outreach and education about the program. The program success will be measured by District Attorney's staff.

12. NUMBER OF CLIENTS

(if applicable)

13. PROJECT BUDGET

(these are the same amounts as on Budget Pages)

| | Personal Services | Operating Expenses | Equipment | TOTAL |
|----------------|--------------------------|---------------------------|------------------|--------------|
| | \$90,000 | | | \$90,000 |
| | | | | \$0 |
| | | | | \$0 |
| | | | | \$0 |
| | | | | \$0 |
| | | | | \$0 |
| Totals: | \$90,000 | \$0 | \$0 | \$90,000 |

PROJECT SERVICE AREA INFORMATION

1. COUNTY OR COUNTIES SERVED: Enter the name(s) of the county or counties served by the project. Put an asterisk where the project's principal office is located. 4 Lines Max

*Stanislaus County

2. U.S. CONGRESSIONAL DISTRICT(S) : Enter the number(s) of the U.S. Congressional District(s) which the project serves. Put an asterisk for the district where the project's principal office is located. 4 Lines Max

*U.S. Congressional District #18
U.S. Congressional District #19

3. STATE ASSEMBLY DISTRICT(S) : Enter the number(s) of the State Assembly District(s) which the project serves. Put an asterisk for the district where the project's principal office is located. 4 Lines Max

*25th Assembly District
26th Assembly District

4. STATE SENATE DISTRICT(S) : Enter the number(s) of the State Senate District(s) that the project serves. Put an asterisk for the district where the project's principal office is located. 4 Lines Max

*12th State District

5. POPULATION OF SERVICE AREA : Enter the total population of the area served by the project. 4 Lines Max

519,000