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OAKLAND  
2013 FEB 27 PM 4:40

# AGENDA REPORT

TO: Deanna J. Santana  
City Administrator

FROM: Howard A. Jordan  
Chief of Police

SUBJECT: Letters to Prospective Handgun Purchasers DATE: February 22, 2013

City Administrator  
Approval

*Deanna Santana*

Date

*2/25/13*

COUNCIL DISTRICT: City-Wide

## RECOMMENDATION

Staff recommends approval of a resolution to request the City Administrator to direct the Chief of Police to send letters to handgun purchasers who reside in the jurisdiction informing them of their responsibilities as firearm owners.

Additionally, this recommendation alters language found in the originally proposed resolution: removing the word "prospective" from the resolution is recommended as staff or resource unavailability (i.e., Mandatory Business Shutdown, sickness, vacation, prioritization of competing responsibilities, or emerging priorities) may delay letter delivery until after transactions have been completed. The goal of such a program would not be to deliver advisory letters during a prospective handgun purchaser's mandatory 10-day wait, but to deliver advisory letters as soon as practicable.

## OUTCOME

Should the resolution be adopted, the Chief of Police, pursuant to the direction of the City Administrator, will identify and direct Oakland Police Department (OPD) personnel to request, accept, and receive daily California Department of Justice (CalDOJ) reports containing names and addresses of Oakland residents engaged in the purchase or transfer of a handgun to their possession. A process will be directed whereby OPD will craft and send form letters to listed Oakland residents advising them of legal requirements and obligations to safely secure firearms, process transfers of handguns through licensed dealers, and report firearms which become lost or stolen in a timely manner as prescribed by law. Based on review of 24 months' worth of data, the resulting outcome would require approximately 125 letters to be mailed monthly.

## BACKGROUND/LEGISLATIVE HISTORY

On January 3, 2013, Council Member Brooks submitted, to the Rules and Legislation Committee, a request to schedule an agenda item titled Resolution Urging The Chief of Police

Item: \_\_\_\_\_  
Public Safety Committee  
March 12, 2013

To Send Letters To Prospective Handgun Purchasers Who Reside In The Jurisdiction Informing Them Of Their Responsibilities As Firearm Owners. The original request was to place the item on the February 26, 2013 Public Safety Committee Agenda. The item was postponed and rescheduled for the March 12<sup>th</sup>, 2013 Public Safety Committee Agenda due to an OPD extension request pending pertinent information receipt from CalDOJ. No previous hearings or Council discussions have occurred to date. No policy, practice, or direction establishing receipt of CalDOJ firearm purchaser information or requiring delivery of such advisory letters is currently in place within the OPD.

### ANALYSIS

In 2010, the RAND Corporation, a nonprofit institution that helps improve policy and decision making through research and analysis, published results of a Los Angeles based experiment to assess the impact of targeted gun-law messaging. The objective of the study was to assess whether gun law awareness can modify gun purchasers' behaviors. In short, the study found that letters sent to gun purchasers resulted in increased owner likelihood of reporting the theft of firearms, but no distinguishable effects related to rates at which firearms were legally transferred or rates at which the firearms were linked to crime. In their abstract of findings, the authors noted:

*Between May 2007 and September 2008, 2,120 guns were purchased in two target neighborhoods of the City of Los Angeles. Starting in August 2007, gun buyers initiating transactions on odd-numbered days received a letter signed by prominent law enforcement officials, indicating that law enforcement had a record of their gun purchase and that the gun buyer should properly record future transfers of the gun. The letters arrived during buyers' 10-day waiting periods, before they could legally return to the store to collect their new gun. Subsequent gun records were extracted to assess the letter's effect on legal secondary sales, reports of stolen guns, and recovery of the gun in a crime. An intent-to-treat analysis was also conducted as a sensitivity check to remedy a lapse in the letter program between May and August 2007. The letter appears to have no effect on the legal transfer rate or on the short-term rate of guns subsequently turning up in a crime. However, we found that the rate at which guns are reported stolen for those who received the letter is more than twice the rate for those who did not receive the letter ( $p$  value=0.01). Those receiving the letter reported their gun stolen at a rate of 18 guns per 1,000 gun-years and those not receiving the letter reported their gun stolen at a rate of 7 guns per 1,000 gun-years. Of those receiving the letter, 1.9% reported their gun stolen during the study period compared to 1.0% for those who did not receive the letter. The percentage of guns reported stolen in these neighborhoods is high, indicating a high rate of true gun theft, a regular practice of using stolen-gun reports to separate the gun buyer from future misuse of the gun, or some blend of both. Simple, targeted gun law awareness campaigns can modify new gun buyers' behaviors. Additional follow-up or modifications to this initiative might be needed to impact the rate at which guns enter the illegal gun market and ultimately are recovered in crimes.*

Item: \_\_\_\_\_  
Public Safety Committee  
March 12, 2013

Existing California law and Oakland Municipal Code (OMC) set forth numerous requirements which are pertinent to this resolution's recommended practice:

- California Penal Code § 11106 requires the Department of Justice to compile information about prospective handgun purchasers based on information received from firearms dealers at the time of application, and to furnish this information to peace officers of the state upon any proper request.
- All firearms purchases and transfers, including private party transactions, must be made through a licensed dealer under the Dealer Record of Sale (DROS) process.
- California Penal Code § 26845 requires prospective handgun buyers to present clear evidence of identity and California residency.
- California Penal Code § 26815 prohibits delivery of a firearm until ten days have passed since the purchaser has submitted an application to purchase the firearm.
- California law imposes certain responsibilities on firearm owners, including the responsibility to process all secondary transfers of firearms through a licensed firearms dealer pursuant to compliance with California Penal Code § 27545.
- California Penal Code provides punishment for criminal storage of a firearm in circumstances when he or she keeps any loaded firearm within any premises that are under his or her custody or control and he or she reasonably should know that a child is likely to gain access to the firearm.
- OMC § 9.36.131 - Theft or loss of firearms, requires any person owning a firearm or in possession of a firearm to report the theft or loss of such firearm to the Oakland Police Department when the owner resides in Oakland and/or the theft or loss of the firearm occurs in Oakland within 48 hours of when he or she knew or reasonably should have known that the firearm was stolen or lost. OMC § 9.36.141 defines violation of Section 9.36.131 as a misdemeanor subjecting the owner to prosecution.
- California Penal Code does not mandate the reporting of theft or loss of firearms. SB 1366, which would have required reporting, was vetoed by the Governor on September 28, 2012.

Under the guidelines of the above, should a resolution requesting the City Administrator to request the Chief of Police to send letters to prospective handgun purchasers, the Chief of Police can direct recurring weekday download of CalDOJ transaction information, a mail merge function which will automatically print envelope labels from the CalDOJ spreadsheet, and the

mailing of a City Attorney approved form letter explaining the above applicable laws and requirements.

The intent of the proposed policy contemplated by this resolution is to advise gun buyers that they must store their guns safely, keep them locked up and away from children, report thefts of firearms to the Oakland Police Department, and conduct firearms transactions through fully licensed firearms dealers.

### **PUBLIC OUTREACH/INTEREST**

This item did not require any additional public outreach other than the required posting on the City's website.

### **COORDINATION**

This recommendation has been reviewed by the Office of the City Attorney for associated legal issues.

### **COST SUMMARY/IMPLICATIONS**

Staff approximates that after an initial investment of personnel time used to create a standardized form letter, less than 20 minutes of one employee's time per weekday will be used in printing and mailing letters at standard Department mail rates.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** No sustainable economic opportunities are identified in this report.

***Environmental:*** No environmental opportunities are identified in this report.

***Social Equity:*** Increasing knowledge and awareness regarding firearm storage may decrease incidents of theft or negligent discharge by minors. Increasing likelihood of stolen or lost firearms reporting through education may assist law enforcement's ability to recover those firearms thereby reducing incidents of gun violence. Minimizing the likelihood that firearms may be sold or purchased through undocumented private party transactions may reduce the unlawful possession and use of firearms.

For questions regarding this report, please contact Sergeant Chris Bolton, Chief of Staff to Howard A. Jordan at (510) 238-3131.

Respectfully submitted,



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Howard A. Jordan  
Chief of Police

Prepared by:  
Sergeant Chris Bolton  
Chief of Staff

Item: \_\_\_\_\_  
Public Safety Committee  
March 12, 2013

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND**OAKLAND CITY COUNCIL****DRAFT**  
City Attorney2013 FEB 28 AM ~~RES~~OLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember Desley Brooks

**RESOLUTION URGING THE CHIEF OF POLICE TO SEND LETTERS TO PROSPECTIVE HANDGUN PURCHASERS WHO RESIDE IN THE JURISDICTION INFORMING THEM OF THEIR RESPONSIBILITIES AS FIREARM OWNER**

**WHEREAS**, between July 1, 2001 and June 30, 2011, 3,829 victims of gunshot wounds were brought to Highland Hospital for treatment. Of those, 3,289 survived, 540 died; and

**WHEREAS**, in 2012, there were many senseless killings in Oakland -- a grandmother walking home from the store, slain by a stray bullet from a nearby gunbattle; Six students and a staff member gunned down at Oikos University; two best friends from childhood, girls ages 15 and 16, shot and left to die on the street; a 15-year-old girl at an Oakland housing complex where another teen died in July, bringing the number of people killed in the city in 2012 to 131; and

**WHEREAS**, in 2012 Oakland's homicides were at the highest number of homicides in Oakland since 2006, when 148 were slain. In 2011, 110 people were killed; and

**WHEREAS**, in 2006, 3,253 people died from firearm-related injuries in California and 4,305 other people were treated for non-fatal gunshot wounds; and

**WHEREAS**, California Penal Code § 11106 requires the Department of Justice (DOJ) to compile information about prospective handgun purchasers based on information received from firearms dealers at the time of application, and to furnish this information to peace officers of the state upon any proper request; and

**WHEREAS**, Penal Code § 12071(b)(3)(A) prohibits delivery of a firearm until ten days have passed since the purchaser has submitted an application to purchase the firearm; and

**WHEREAS**, California law imposes certain responsibilities on firearm owners, including the responsibility to process all secondary transfers of firearms through a licensed firearms dealer, thereby allowing DOJ to run a background check on every recipient of a firearm; and

**WHEREAS**, from July 2005 through July 2009, the Los Angeles Police Department received the names and addresses of prospective handgun purchasers residing in targeted areas of the City from DOJ, and distributed letters during the ten-day waiting period to those purchasers informing them of their responsibilities as firearm owners; and

**WHEREAS**, the letter to be sent out to prospective handgun purchasers by the Oakland Police Department would state that it is a crime to sell or give a gun to anyone without first completing a Dealer Record of Sale (DRoS) form at a gun store, and if the police recover a gun involved in a crime, the City Attorney will prosecute the previous owner if he or she did not fill out a DRoS form; and

**WHEREAS**, other California jurisdictions have found that the letters are an effective way to inform gun purchasers of their legal obligations, and have had a constructive impact on the behavior of gun purchasers; and

**WHEREAS**, the RAND Corporation has recently completed a study describing the results of the Los Angeles program. The study found that prospective gun purchasers who received the letter were twice as likely to report to law enforcement that those guns were stolen as purchasers who did not receive the letter. The study noted that it was unclear whether the guns that were reported stolen were actually stolen or were being falsely reported as stolen to break the paper trail between the initial purchaser and the eventual criminal owner of the gun. Either way, the knowledge that a handgun is no longer in the hands of the initial buyer is important to law enforcement in its own right; and

**WHEREAS**, Attorney General Jerry Brown agreed that DOJ may extend the Los Angeles program to other cities and counties in California that wish to send letters to prospective handgun purchasers; and

**WHEREAS**, in November 2009, the County of San Mateo enacted a resolution encouraging the Sheriff to send similar letters to prospective handgun purchasers in the County, and the County has begun sending these letters; now, therefore be it

**RESOLVED**: That the Oakland City Council by adoption of this resolution hereby urges the Chief of Police to request assistance from the Department of Justice so that the City may send letters to prospective handgun purchasers who reside in the City during the ten-day waiting period advising them of their obligations as firearm owners, and be it

**FURTHER RESOLVED**: That the letters sent by the Chief of Police should inform the purchaser that it is a crime to sell or give a gun to someone else without first completing a Dealer Record of Sale (DROS) form at a gun store, and if the police recover a gun involved in a crime, the City Attorney may prosecute the previous owner if he or she did not fill out a DROS form.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California