

# CITY OF OAKLAND

## AGENDA REPORT

**To:** 2007 Office of the City Administrator  
**Attn:** Deborah Edgerly  
**From:** Police Department  
**Date:** July 10, 2007

**Re**      **Action on a Report and Recommendations From the Chief of Police on  
Procedures Established by the Police Department For Gun Exchange Programs  
Conducted in the City of Oakland**

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### SUMMARY

On May 8, 2007, the Public Safety Committee directed staff to return to a future Committee meeting with an action report detailing a draft policy and recommendations to implement successful and productive gun exchange (gun buy-back) programs in the City of Oakland. The information contained in this report offers specific procedures and strategies, in draft form, that the City and the Police Department can jointly employ to help address the issue of violent crime in the City through the use of gun exchange programs.

### FISCAL IMPACT

If the City Council accepts the recommendations to implement gun exchange programs within the guidelines set by the Oakland Police Department, the cost to conduct a buy-back project require funding in the amount of \$30,000 to \$60,000 per exchange event.

Additionally, KTVU (Channel 2) News, the Oakland Tribune, and the San Francisco Chronicle have agreed to provide time and space for the advertising of any upcoming gun exchange programs at no cost to the City.

### BACKGROUND

On May 8, 2007, staff presented an informational report to the Public Safety Committee detailing the procedures and effectiveness of past gun exchange programs conducted in Oakland, as well as other programs across the nation. At that time, the Public Safety Committee asked that staff return with procedures outlining strategies to best conduct effective gun exchange programs.

### KEY ISSUES AND IMPACTS

There is a legislative mandate that requires all firearms received by the Department to be entered into National Integrated Ballistics Information Network (NIBIN) and Integrated Ballistics Identification System (IBIS) and traced. Gun tracing is the "systematic tracking of firearms from manufacturer to purchaser for the purpose of aiding law enforcement officials in identifying suspects involved in criminal violations, establishing stolen status, and proving ownership."

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Staff proposes that individuals who participate in gun exchange programs be required to provide identification when turning in firearms. This method will preserve the Department's ability to investigate violent crimes that may be associated with a firearm recovered in the exchange program. Without the identification caveat, the Department loses the ability to trace the origin of the firearm; consequently, any firearm recovered via these programs, and its association with a crime, will not yield any probative evidentiary leads.

Obtaining identification from participants preserves an investigator's ability to follow up on the origin of a weapon that may have been used in a violent crime, or identify those individuals responsible for committing other crimes throughout the City; *without this information it is impossible to link any weapon to an individual.*

As stated in the report presented on May 8, 2007, there are specific laws and mandates that must be adhered to when implementing gun exchange programs, which include:

- PC Section 12078(a)(7) requires firearms be delivered or received by an authorized representative of a governmental agency. Voluntarily relinquishing a firearm as part of a buy-back or trade-in program is a transfer under California state law (therefore, an officer must be present to accept the firearm).
- PC Section 12028(c) requires firearms, determined to have been stolen, be returned to their lawful owner.
- PC 11108(a) requires law enforcement to update the Federal Automated Firearm System when a firearm is taken into custody.

Gun exchange programs can be conducted by the City, the Department, other governmental or non-governmental agencies. By law, a member of the Police Department is required to be present and receive the firearms as an authorized representative of a governmental agency, regardless of the program's sponsor. As such, the Department does not propose to create a policy that limits its ability to remain flexible concerning gun exchange programs.

#### *Incentives / Rewards*

Providing incentives that are desirable to participants will significantly aid in the effectiveness of the program and yield a higher number of operable guns.

### **PROGRAM DESCRIPTION**

#### *Program Strategy*

Using the procedures outlined in the attached General Order (draft), OPD sponsored buy-back events would consist of staff organizing three separate drop-off locations on three separate days. These drop-off locations would be strategically selected to cover West/North Oakland, the Fruitvale area, and East Oakland. Providing three locations makes it easier and more convenient

for individuals to participate in the programs. The dates and hours of operation would be discussed and mutually agreed upon by all involved parties (i.e., City staff, event promoters, Department staff); however, careful consideration would be given to ensure the best yield.

Participants would be granted amnesty for the possession and transportation of the firearms to the site. Participants would be required to show identification upon exchange of a functional firearm and receive a gift card or other incentive.

#### *Outside Organizations*

Events sponsored by other agencies, governmental or non-governmental, would follow the same guidelines as outlined above with one exception. When partnering with these organizations, OPD will only ask for identification when a participant exchanges a firearm. OPD will *not* make it a requirement that participants show identification. All other procedures would remain the same.

### **SUSTAINABLE OPPORTUNITIES**

*Economic:* The efforts by the Department to participate in gun exchange programs could precipitate a reduction in crime and the fear of crime thereby stimulating economic growth for the City.

*Environmental:* There are no environmental opportunities associated with this report.

*Social Equity:* Gun exchange programs organized by the City are designed to respond to the rise in violent crime by removing accessible firearms from the streets of Oakland (and other local jurisdictions) thereby increasing public safety.

### **DISABILITY AND SENIOR ACCESS**

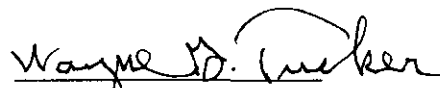
There are no ADA or senior citizen access issues identified in this report.

**RECOMMENDATION / ACTION REQUESTED OF THE COUNCIL**

Gun exchange programs have been conducted across the country with varying results. It is believed that removing weapons from residences and the streets will have a positive impact on our community and affect the accessibility of weapons to those that would commit violent crime in the City.

The Oakland Police Department recommends acceptance of this report. Staff also recommends that the City accept the proposed Department requirement that identification be produced by participants at OPD sponsored exchange programs and that the decision to require identification or permit ID-optional / anonymous exchanges be determined by a lead-partnering sponsor, as long as appropriate safeguards can be maintained by the Police Department.

Respectfully submitted,

  
Wayne G. Tucker  
Chief of Police

Prepared by:  
Captain Jeffrey Loman  
Criminal Investigation Division  
Oakland Police Department

APPROVED AND FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:

  
Office of the City Administrator

*Attachment:*

1. Draft Gun Exchange Program Policy

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DEPARTMENTAL  
GENERAL  
ORDER

VERSION 01

Effective Date  
XX Xxx XX

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Gun Exchange Programs

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## GUN EXCHANGE PROGRAMS

The purpose of this order is to set forth Departmental policy and procedures for conducting or participating in gun exchange programs. Gun exchange programs can be conducted by the Department, City or other non-governmental agencies; however, an *authorized member of a governmental agency must be present to take possession of the firearm*<sup>1</sup>.

### I. DEFINITIONS

A. Gun exchange program or gun buy-back programs

A program whereby the Department organizes and hosts or partners with another governmental or non-governmental agency for the purpose of accepting firearms from the public in exchange for an incentive.

B. Firearm

For the purposes of this order, a firearm is a working, operational or functioning firearm as defined by Title 18, United States Code 921 a)(3)(A) - *any weapon which will, or is designed to or may be readily be converted to, expel a projectile by the action of an explosive.*

C. Incentive

Any gift, reward, or services offered in exchange for a firearm

D. Amnesty

Participants in a gun exchange or gun buy-back will be granted immunity from arrest and prosecution for possession and transportation of firearms *only* en route to the specified drop off location(s) of gun exchange programs.

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<sup>1</sup> Penal Code Section 12078(a)(7)

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## **II. RESPONSIBILITIES**

- A. Members receiving a request to host or participate in a gun exchange program will inform the Criminal Investigation (CID) Commander.
- B. The CID Commander will notify the Chief of Police and coordinate the program with the requesting member or agency.
- C. Members participating in gun exchange programs are required to receive firearms from participants, complete the appropriate offense reports, and process the property per General Order H-3, *Depositing Property in Evidence*, General Order H-9, *Disposal of Firearms and Miscellaneous Weapons*, and Training Bulletin IV-A, *Guide to Packaging and Preserving Physical Evidence*.

## **III. PROCEDURES**

- A. The CID Commander shall complete the following in preparation for gun exchange programs:
  - 1. Coordinate with the Special Operations Division to ensure an adequate receptacle or vehicle is available for the deposit and transportation of all received firearms;
  - 2. Ensure the appropriate personnel are available to provide escort security, receive and log the firearms, and transport all received firearms back to the Department. This typically includes one sergeant and six officers, but is subject to the discretion of the CID Commander; and
  - 3. Coordinate with the Public Information Officer to ensure notifications to the media, including drop off locations and instructions for participation.
- B. The supervising member on scene shall ensure the following:
  - 1. Members on scene assist with the coordination of staging and processing of participants;

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2. Participants are escorted to the check in area for presentation of the firearm(s). Members shall retrieve firearm(s) from conveyances for participants whenever feasible;
3. Participants show valid identification upon presentation of a firearm;
4. Participants receive the incentive in exchange for the firearm;
5. All firearms are stored in a secure location until the recovered firearms can be safely transported to the Property Section.

By order of

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Wayne G. Tucker  
Chief of Police