

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK
OAKLAND

2008 MAY 15 PM 1:45

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Police Department
DATE: May 27, 2008

RE: **A Supplemental Report to the Report From The Office Of Chief Of Police On The Development Of A Consent-To-Search Program For The City Of Oakland, Which Is A Gun Control Strategy Used In Other Cities Across The Country To Locate Guns That May Be In The Possession Of Juveniles, And May Have Been Used In The Commission Of Crimes In The City**

SUMMARY

Information contained in this report is supplemental to the report presented to the Public Safety Committee on April 8, 2008, on the Department's development of a "Consent-to-Search" program. At the request of City Council, staff has prepared a more detailed description of the program and has provided answers to questions raised by members of the community and other City staff.

KEY ISSUES AND IMPACTS

The Consent-to-Search program is designed to provide assistance to parents (at their request) who are concerned that their children may be involved in at-risk behavior. The program allows parents to contact the police with the intention of inviting officers into their home to search for a gun in a minor child's room (with some restrictions) or any space shared by the child and the parent. *Prior to a police search of the residence, a full and complete explanation will be provided to the parent / guardian(s) detailing the policy and procedures of police rights to search, which include the requirement of obtaining valid consent by someone who has the authority to provide such consent; This person can be the homeowner or any person over 18 years old who has the lawful authority to grant consent. It should be heavily stressed that the Consent-to-Search program does not include conducting searches based on information received from confidential informants, and will not result in officers randomly knocking on doors requesting to search the premise. The program is explicitly designed for parents or guardians to request police assistance in the form of searching identified areas of the home for guns that may have been brought in by their children.*

Laws of Search and Seizure

The 4th Amendment (governing courts of law search and seizure) has been interpreted by the US Supreme Court (and many others) to allow consensual searches provided they are conducted

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within certain parameters. A consent search is not governed by the 4th Amendment based on the fact that the consenting party gives the police permission to search, thereby, relinquishing a reasonable expectation of privacy in the item or area to be searched; consent searches are only conducted at the invitation of the resident.

In order for consent to be valid the following considerations must be evaluated:

- Did officers obtain verbal, written, or an implied consent to search?
- Was the consent voluntary?
- Did the consenter appear to have the authority to give consent?
- Did officers exceed the permissible scope of the search?
- Did anyone present having authority to object do so to the person providing consent?
- Did the consenter withdraw consent?

Oakland police officers have conducted consent searches with positive outcomes for many years. Many of these searches have contributed to reductions in violence and drug related crimes throughout the City.

Police officers who are invited into a home at the request of a parent are presented with a unique opportunity to build a special relationship with the entire family. Reaching out to City officials for help can sometimes be a very traumatic and challenging situation, therefore the trust and respect that comes from this type of contact is invaluable.

Referral Services

In addition to conducting consent searches, the Department will provide families with referrals to service providers who can assist them in working through the issues they are experiencing. The following three service providers are currently partners with the Department:

- *Project First* provides a mentoring program to youth who have been involved in criminal activities. Services include case management and intervention services for at-risk youth and their families. Additional services include vocational services, counseling, school services and mental health therapy.
- *Scotlan Youth and Family* provides referrals and facilitates linkages to resources that can prevent children who are experiencing extraordinary personal challenges from entering intensive and/or restrictive service delivery system (i.e., mental health, foster care, juvenile justice systems). This is accomplished through triage, referral and follow-up, multidisciplinary case management and school-based service coordination.
- *Project Re-Connect* provides Central and East Oakland parents of elementary and middle school age children, at-high risk for gang involvement, with parent education classes. Classes are held one time per week for eight weeks and include sessions devoted specifically to gang awareness and prevention. *Project Re-Connect* offers continued

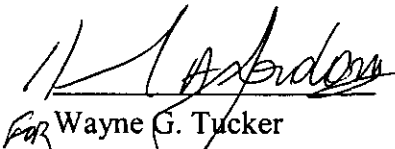
parent support services for the parents who have attended the workshops including mentoring, parent support groups and resource referrals for additional services.

Publicity

Prior to the start of the program, the Department will conduct an advertising campaign to publicize and educate the community on how the program works. Community participation and involvement are crucial components in making the program a success, and therefore a priority for the Police Department.

Problem Solving Officers (PSO) and Neighborhood Service Coordinators (NSC) will work with their Neighborhood Crime Prevention Councils (NCPC) to help with educating the community about the program. In cooperation with Oakland's Faith based organizations, PSOs, NSCs, and NCPCs will work to ensure that community members understand the program, and have an opportunity voice any concerns they may have and offer feedback concerning the program.

Respectfully submitted,


FOR Wayne G. Tucker
Chief of Police

Prepared by:
Lieutenant Fausto Melara
CLASS Section
Bureau of Investigations

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


Office of the City Administrator

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