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OAKLAND

2017 MAY 12 AM 9:20

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: Supplemental Gun Tracing Report

DATE: April 28, 2017

City Administrator
Approval

Date

5/11/17

RECOMMENDATION

Staff Recommends That The City Council Receive This Supplemental Report And Update From The Oakland Police Department (OPD) Criminal Investigations Division (CID) Regarding Gun Tracing, From January 2015 Through December 2016, As Well As An Update On The Use Of One Million Dollars (\$1M) Allocated To Gun Tracing In The Fiscal Year (FY) 2015-17 Budget.

REASON FOR THE SUPPLEMENTAL REPORT

The Public Safety Committee on March 14, 2017 requested additional information regarding the following topics:

1. Cooperation of the City of Oakland with other jurisdictions and agencies to stop guns from being used in Oakland;
2. The enforcement of the current Oakland gun restriction laws;
3. Biometric and/or "Smart Gun" technology;
4. Comprehensive gun data analysis program; and
5. An analysis of how social media is connected with gun-related crimes.

This report provides additional detail relating to these five topics.

ANALYSIS AND POLICY ALTERNATIVES

1. *Cooperation of the City of Oakland with Other Jurisdictions and Agencies*

Page two of the report titled, "Guns Recovered and Traced" dated November 13, 2014 explains that OPD submits gun trace requests to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) via a system known as 'eTrace 4.0' (eTrace). eTrace is a paperless firearms trace request submission system and an interactive firearms trace analysis tool that provides an electronic exchange of crime gun incident-based data in a secure web-based environment. Through eTrace, law enforcement agencies can electronically submit firearms trace requests, monitor the progress of traces, retrieve completed trace results and query firearms trace-related

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data. eTrace includes analytical and download capabilities for ATF's firearms trace information including selective field searches and statistical reporting."

The November 13, 2014 report further states that "OPD eTrace requests are submitted by the Department's Weapons Charging Detail. The detail is currently staffed with one sworn officer and the officer is authorized to operate the eTrace system." The report titled "Informational Report on Gun Tracing" dated February 17, 2017 further elaborates on OPD's important collaboration with the ATF to conduct gun tracing. The Weapons Charging Detail (within OPD's Criminal Investigations Division (CID)) is currently working with the U.S. Department of Justice (DOJ) to analyze the origin of firearms discovered in Oakland over the last several years¹. DOJ analysts are researching the gun stores and counties within California from which illegally possessed firearms originated.

Shikha Hamilton, Regional Manager for the Brady Campaign to Prevent Gun Violence, and Deane Calhoun, founder and former executive director of Oakland's Youth ALIVE!, submitted a memo to the Public Safety Committee at the March 14, 2017 included in this report as **Attachment A**. This memo speaks to the importance of maintaining internal gun tracing analysis capacity as well as to working with regional partners. OPD personnel agree completely with this analysis. CID staff has met with Ms. Calhoun, along with other members of the Oakland/Alameda County Brady Campaign Chapter several times of the last few years. OPD anticipates collaborating closely with the Oakland/Alameda County Brady Campaign Chapter on gun tracing and advocacy following the completed U.S. DOJ firearms analysis.

2. *Enforcement of Current Oakland Gun Restriction Laws*

The City of Oakland's firearm laws are mostly located in Oakland Municipal Code (OMC) Chapters 9.36 to 9.39. The OMC detailed below is provided in **Attachment B**:

- OMC Section (Sec.) 9.36.131 requires the reporting of lost or stolen firearms. This law was enacted through Ordinance Nos. 12996 C.M.S. (February 16, 2010) and 12529 C.M.S. (2003).
- OMC Chapter 9.37 (Unsecured Firearms and Ammunition in Unattended Vehicles), enacted by Ordinance No. 13351 C.M.S (January 19, 2016), requires the secured storage of firearms and ammunition in motor vehicles.
- OMC Chapter 9.38 (Possession of Large-Capacity Magazines) details the restrictions of possessing any large-capacity magazine firearms.
- OMC Sec. 9.39 requires the safe storage of firearms when not in use. This law was enacted through Ordinance 13353 C.M.S. (January 19, 2016).

All of these laws, as well as other firearm-related sections of the OMC, align with OPD's commitment to promoting public safety and to combating gun crimes originating with stolen firearms. OPD CID personnel have reviewed the connection of the above OMC sections with recent recovered firearm cases. These connections are described below.

¹ The February 17, 2017 report provides further detail on OPD's gun tracing process as well as summary statistics.

1. OMC Section (Sec.) 9.36.131 (Reporting of lost or stolen firearms): OPD received 41 reports of stolen firearms from commercial or residential locations between January 1, 2016 and December 31, 2016. None of these firearms have so far been recovered in Oakland, or within California². OPD has not recovered any firearms in Oakland that connect to Oakland residents who failed to report the firearms as stolen. There may also be cases where Oakland residents or merchants experienced the theft of a firearm, but never reported the theft. OPD does not know of these unreported cases if the firearm was not recovered in Oakland or in California. OPD can only ascertain data from residents and merchants who choose to report stolen firearms.
2. OMC Chapter 9.37 (unsecured firearms and ammunition in unattended vehicles) and OMC Chapter 9.39 (safe storage of firearms when not in use): OPD burglary and theft reports do not currently distinguish as to whether stolen firearms were properly secured at the time of the burglary or theft. Therefore, OPD cannot ascertain to what extent Oakland residents have followed these Oakland civil laws. OPD realizes that additional training is required so that investigators can document the manner in which firearms were reported to be secured when taking reports of stolen firearms. OPD will implement steps to be taken by officers in the field, so that OPD can document as to whether or not firearm owners are complying with OMC Chapters 9.37 and 9.39.
3. OMC Chapter 9.38 (Possession of Large-Capacity Magazines): This OMC section is distinguished from the previous OMC laws. OMC Sections 9.36, 9.27 and 9.39 relate to failing to report the theft of, or to secure a firearm. OMC Chapter 9.38 is used to charge someone with possession of an illegal device. OPD made 88 arrests in 2016 related to possession of illegal large-capacity firearm magazines. OPD has made 40 such arrests between January 1, 2017 and April 26, 2017.

3. *Biometric and/or "Smart Gun" Technology*

The "Informational Report on Gun Tracing" report dated February 17, 2017 and presented to the Public Safety Committee on March 14, 2017 provided a summary of the current state of technology advances related to gun tracing. OPD personnel are not aware of additional information related to new technology to support gun tracing or gun safety efforts. The information from the February 17, 2017 is reprinted below:

"Gun safety advocates are looking at technology as well as tracing efforts to reduce gun violence. Biometrics is one type of technology that is being researched through by different technology organizations. The basic concept is that a firearm can only be used by one individual, usually through fingerprint recognition or other type of biometric. Other technology concepts involve using Radio Frequency Identification Device (RFID) system to match a gun with bracelet or other object so that the firearm's use is restricted to the owner. If the gun is lost or stolen, no one else will be able to use the gun due to a lack of matching identification; therefore the gun would not be used illegally. The Smart Tech Challenges Foundation³, based

² OPD uses AFS, an ATF database which can include data on purchasers from the initial purchaser through all subsequent documented purchasers; this system will notify OPD of subsequent sales of particular firearms if the firearm was last legally sold within California and if the dealer filed a Dealer's Record of Sale with the United States Department of Justice.

³ <https://smarttechfoundation.org>

in San Francisco since being founded in 2013, is focused on fostering innovation in firearm safety. The Smart Tech for Firearms Challenge granted \$1 million to innovators from around the globe developing user-authentication features for firearms.

Ballistic identification systems require gun manufacturers to test-fire the firearms they produce and store images left on the cartridge cases in a database; law enforcement can later determine whether a particular gun fired a particular cartridge, likely from the ATF eTrace system, should this system be implemented in the future. Microstamping is an even newer technology. Microstamping uses lasers to make precise, microscopic engravings on the internal mechanisms of a semiautomatic pistol; when fired, such a gun produces an alpha-numeric code identifying the gun's make, model and serial number upon the cartridge. The Law Center to Prevent Gun Violence, also based in San Francisco, provides detailed information about these technologies⁴.

U.S. Representative Carolyn Maloney introduced the legislation H.R.2613, the Handgun Trigger Safety Act, on June 2, 2015. This legislation would require the Director of the National Institute of Justice to make one-year grants to qualified entities to develop technology for personalized handguns. The bill also would prohibits any person: (1) beginning 5 years after enactment of this Act, from manufacturing in the United States a handgun that is not a personalized handgun; or (2) beginning 10 years after enactment of the Act, from distributing in commerce any handgun that is not a personalized handgun or a retrofitted personalized handgun. On June 16, 2015, the bill was referred to the U.S. Congressional Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, which is the latest action as of the time of this report."

4. *Comprehensive Gun Data Analysis Program*

OPD's "Informational Report on Gun Tracing" dated February 17, 2017 provides a complete review of OPD's gun tracing efforts as well as ATF summary statistics on guns seized in Oakland between 2015 and 2016. The Section "*Cooperation of the City of Oakland with Other Jurisdictions and Agencies*" (page 1 and 2 in this report) also speaks to OPD efforts towards a comprehensive data analysis program.

5. *Analysis of Social Media and Gun Crime Connections*

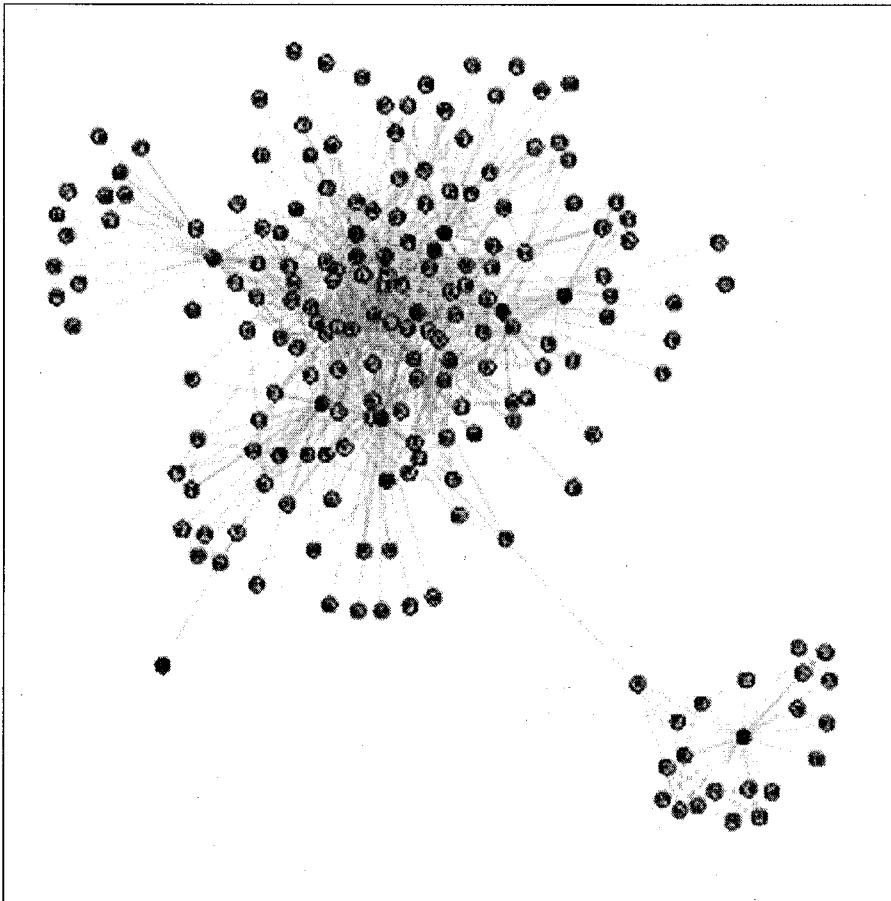
OPD's crime analysts within OPD CID devote their time and resources towards analyzing crimes and crime trends. Social Network Analysis is one strategy used by personnel in CID as well as within OPD's Ceasefire Program⁵ to determine the landscape of local criminal activity connected to firearms and shootings. Social Network Analysis (SNA) is completely different than social media analysis; the latter involves the review of actual social media accounts (i.e., Facebook or Twitter).

⁴ <http://smartgunlaws.org/gun-laws/policy-areas/investigating-gun-crimes/microstamping-ballistics>

⁵ The "2016 Ceasefire Evaluation Contract" report dated June 20, 2016 provides additional information about OPD's Ceasefire Program. Additionally, each quarterly crime report presented to the Public Safety Committee addresses updates in the Ceasefire Program.

The "2016 Ceasefire Evaluation Contract" report dated June 20, 2016 describes SNA and its role in OPD's Ceasefire Program. The report explains that SNA "looks at social relationships in terms of nodes (representing individual actors within the network) and ties (which represent relationships between the individuals, gang/group affiliation). These networks are often depicted in a social network diagram, where nodes are represented as points and ties are represented as lines." Figure 1 below, also from the June 20, 2016 report, is an example of SNA and the work done by OPD's Ceasefire Program.

Figure 1: Social Network Diagram, as developed by Yale Professor Andrew V. Papachristos's work with the Chicago Police Department



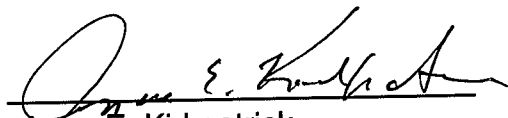
OPD uses SNA to connect individuals as part of a larger landscape of groups and gangs known to engage in violent crime involving firearms. SNA helps OPD to focus resources on stopping this type of violent crime. This data-informed policing also leads to the apprehension of illegally-possessed firearms which can then be traced. OPD has limited resources to consistently implement this type of analysis as there is only one investigator within the Weapons Charging Detail.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Receive This Supplemental Report And Update From The Oakland Police Department (OPD) Criminal Investigations Division (CID) Regarding Gun Tracing, From January 2015 Through December 2016, As Well As An Update On The Use Of One Million Dollars (\$1M) Allocated To Gun Tracing In The Fiscal Year (FY) 2015-17 Budget.

For questions regarding this report, please contact Lieutenant Brandon Wehrly at (510) 238-3209.

Respectfully submitted,



Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
Acting Captain Roland Holmgren,
OPD, Criminal Investigations Division

Brandon Wehrly, Lieutenant
OPD, Criminal Investigations Division, Burglary Unit

Prepared by:
Bruce Stoffmacher, Legislation Manager
OPD, Research and Planning, OCOP

Attachments (2):

A: Memo from Shikha Hamilton and Deane Calhoun

B: Local Gun Restriction Laws

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May 23, 2017

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OAKLAND

Oakland Public Safety Meeting
March 14, 2017 – 6:00pm

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**Statement on Agenda #5 – Informational Report on Gun Tracing
In Favor**

Shikha Hamilton, Regional Manager
Brady Campaign to Prevent Gun Violence

Thank you for all the hard work this committee, the council, and the Oakland Police Department, especially, put into this effort on gun tracing. We believe this is a great step forward on the issue of tackling gun violence and the Brady Campaign is proud to have supported these efforts. We believe this work should continue.

We are so glad Oakland is committed to using this data to keep the community safer. It is essential that the data work continue and that we analyze and publicly release the statistical aggregate data about the sources of crime guns in Oakland.

If there are gun dealers from neighboring counties that are the sources of a large percentage of crime guns, we need to use that information to stop the flow of crime guns to our streets.

The Brady Campaign to Prevent Gun Violence is proud to support the City of Oakland and will continue to support and be a resource in your efforts to prevent gun violence and save lives. Thank you.

- I also added support of owner-authorized guns, as it was brought up during discussion; and
- I reiterated the Chair's question about which cities in CA the guns are coming from and added that getting that info and the dealers is critical to helping cut off the supply of illegal guns into the city.

Public Safety Committee Gun Tracing Tuesday March 14 6:00 pm

Deane Calhoun, Founder & Retired Executive Director, Youth ALIVE!

I am here tonight as a member of the Oakland Gun Tracing Committee,

which includes members of national and local gun violence prevention organizations and ranking members of the Oakland Police Department. We've been meeting since 2013 to Establish a comprehensive gun tracing system in Oakland to bring the city into compliance with California's gun tracing law, and implement this effective tool to prevent gun violence. (Hertzberg 2011 1998). (I would like to thank Lt. Brandon Wehrly for his diligence in working with us.)

I am here to encourage the city council to continue to support the accomplishments to date, including for non-sworn personnel to enter the data on the weapons into the data base, and to support the departments work going forward for a comprehensive tracing program. This includes:

- Sustaining a staff person for tracing leadership and staff training;
- Maintaining an in house records management system for data entry
- Build and maintain capacity to analyze data to detect patterns and trends in gun acquisition and use. Analysis is *essential* for planning, strategic resource deployment and intervention, policy development, public education, and funding. We need this information.
- **Build and maintain an active Partnership in local, Regional, state and federal Law Enforcement Networks (by completing data sharing agreements).**

(And I also mentioned my support for "biometric" or "smart" guns)

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City of Oakland Local Gun Restriction Laws

9.36.131 - Theft or loss of firearms—Reporting of stolen and/or lost firearms required.

- A. Any person owning a firearm or in possession of a firearm is required to report the theft or loss of such firearm to the Oakland Police Department when:
 - a. Owner resides in Oakland, AND/OR
 - b. The theft or loss of the firearm occurs in Oakland.
- B. A person subject to the reporting requirements in Subsection A. is required to report the theft or loss of a firearm within 48 hours of when he or she knew or reasonably should have known that the firearm was stolen or lost.
- C. A person who has experienced the theft or loss of a firearm between August 1, 1992 and July 30, 2002 and who otherwise meets the reporting requirements in subsection A is required to report the loss or theft of such firearm to the Oakland Police Department within sixty (60) days of the effective date of the Amendment under which this new section was adopted.

Chapter 9.37 - UNSECURED FIREARMS AND AMMUNITION IN UNATTENDED VEHICLES

9.37.010 - Title.

This chapter shall be known as Oakland's Ban on Unsecured Firearms and Ammunition in Unattended Vehicles Act.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.020 - Findings and purpose.

The City Council finds:

- A. The purposes of this law is to protect public safety, reduce gun violence, and make the City safer from unsecured guns and ammunition stolen from unattended vehicles and used to kill and injured people.
- B. The high levels of gun crimes and gun violence in the City is caused by the proliferation of weapons within the City. As reported by the news media and the Oakland Police Department, about three thousand seven hundred twenty-two (3,722) guns were seized

in the City between 2010 and 2012. This averaged about three guns per day, which is significantly higher than in San Francisco, a city with twice the population of Oakland.

C.

People in Oakland experience a high number of automobile burglaries. Auto burglaries increased exponentially between 2010 and 2015. According to the Oakland Police Department's 2014 End of Year Crime Report, there were three thousand three hundred seventy-five (3,375) auto burglaries reported in 2010; three thousand six hundred seventy-three (3,673) in 2011; six thousand six hundred fifty-four (6,654) in 2012; six thousand nine hundred forty-eight (6,948) in 2013; and seven thousand two hundred eighty-three (7,283) in 2014.

D.

A significant number of the auto burglaries that occur in Oakland result in guns or ammunition being stolen from vehicles. According to the Oakland Police Department, from August 17, 2004 to November 9, 2015, there were approximately three hundred (300) firearms reported stolen during auto burglaries: two hundred seventy-three (273) handguns and twenty-seven (27) long guns.

E.

These findings, the information provided in City Council reports, and the testimony and evidence presented at City Council meetings on this matter, are incorporated herein by reference in support of the City Council's actions.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.030 - Definitions.

The following terms are defined for use in this chapter.

"Ammunition" has the same meaning as defined by state law. It does not include fixed ammunition of a caliber greater than .60 caliber (California Penal Code § 18735) nor "deactivated ammunition" (California Penal Code § 30335).

"Firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion, as defined by state law.

"Handgun" means a pistol, a revolver, or a firearm capable of being concealed upon the person. A firearm capable of being concealed includes a pistol or revolver, including any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than sixteen (16) inches in length. It includes any device that has a barrel sixteen (16) inches or more in length which is designed to be interchanged with a barrel less than sixteen (16) inches.

"Licensee" is a person with a valid concealed carry weapons license issued by the appropriate law enforcement authorities, as defined in the Penal Code § 26150 et seq.

"Locked container" means a lock box that is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices and that is locked and secured from entry by an unauthorized user.

"Long gun" means any firearm except for a handgun, a machine gun, an assault rifle or a .50 BMG rifle as those terms are defined in state law.

"Person" includes a natural person or a legal entity (association, corporation, etc.) with responsibility for the ownership, use, control, or direction of the vehicle.

"Public place" means a place that is open and accessible to the public, including but not limited to gas stations, public parking lots and garages, driveways, and carports.

"Public right-of-way" means a highway, street, or roadway as those terms are defined in California Vehicle Code §§ 360, 590 and 530 et seq.

"Trunk" means a fully enclosed compartment that is separate from the main cabin of the motor vehicle.

"Unattended" means a vehicle that is parked or standing in the public right-of-way or public place within the City and which is not occupied and/or is outside the immediate control of the person responsible for the vehicle.

"Unsecured" means a handgun, long gun, or ammunition that is not safely stored in a vehicle in accordance with this chapter.

"Vehicle" means a vehicle as defined in California Vehicle Code § 670, and a motor vehicle as defined in California Vehicle Code § 415.

"Vehicle owner" means the registered owner of the vehicle, Vehicle Code § 460.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.040 - Unsecured handguns, long guns, and ammunition in unattended vehicles unlawful and prohibited.

A.

Handguns.

1.

It is unlawful for a person to leave a handgun in an unattended vehicle within the City of Oakland in a public right-of-way or public place unless the handgun is stored in accordance with the safe storage provisions of this chapter.

2.

It is unlawful for a licensee to leave a handgun in an unattended vehicle within the City of Oakland in a public right-of-way or public place unless the handgun is stored in accordance with the safe storage provisions of this chapter.

B.

Long Guns. It is unlawful for a person to leave a long gun in an unattended vehicle within the City of Oakland in a public right-of-way or public place unless the long gun is stored in accordance with the safe storage provisions of this chapter.

C.

Ammunition. It is unlawful for a person to leave ammunition in an unattended vehicle within the City of Oakland in a public right-of-way or public place unless the ammunition is stored in accordance with the safe storage provisions of this chapter.

D.

Safe Storage Requirements. Unless exempted by law, firearms and ammunition inside unattended vehicles must be secured as follows:

1. In a lock box; and
2. The lock box must be stored:
 - (a) In the locked trunk of the vehicle; or
 - (b) The lock box must be stored inside the vehicle in a place where the lock box cannot be seen from the outside or the lock box must be placed in a container that is permanently attached to the inside of the vehicle; and
3. The key or other disabling device to the lock box is not left in the unattended vehicle.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.050 - Public nuisance.

Unsecured firearms and ammunition in unattended vehicles in violation of this chapter constitute a public nuisance subject to abatement, penalties, and remedies provided under this chapter, other provisions of the Oakland Municipal Code, and state or federal law.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.060 - Exemptions.

This chapter does not apply to persons authorized by state or federal law to carry or transport firearms or ammunition in vehicles. To the extent there is a conflict between this chapter and state or federal, the more stringent requirements shall govern.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.070 - Criminal penalties.

Violations of this chapter constitute misdemeanors punishable by imprisonment in the county jail not exceeding six months, a fine not exceeding one thousand dollars (\$1,000.00), or by both. Each violation shall be deemed a distinct and separate offense in accordance with the law.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.080 - Civil penalties.

The City may assess civil penalties in accordance with Oakland Municipal Code Chapter 1.08 (Civil Penalties). Alternatively or in conjunction with Chapter 1.08, the City may assess the following penalties for violations of this chapter: (a) one thousand dollars (\$1,000.00) for the first violation; (b) two thousand five hundred (\$2,500.00) for the second violation; and (c) five thousand

dollars (\$5,000.00) for the third violation and for each subsequent violation committed within a calendar year.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.090 - Authority of City Attorney to bring a court action.

A.

The City Attorney may bring a civil action for damages, abatement, injunctive and/or declaratory relief, and to recover City costs as s/he deems appropriate.

B.

The City Attorney may bring a civil action to obtain a money judgment against the defendant for any amount of damages that is not ordered or collected by a criminal court, including but not limited to costs, attorney's fees, court costs, and/or other costs incurred in connection with the civil prosecution of any claim for relief, damages or reimbursement.

C.

The City Attorney may bring a criminal action for violations of this chapter.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.100 - Liability of owner or operator of vehicle.

To the extent permitted by law, the registered owner, the driver, and any other person with control of the vehicle may be subject to civil liability, penalties, and other remedies provided by this chapter and other law, including but not limited to costs, penalties and fines based on negligence.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.110 - Remedies not exclusive.

Remedies under this chapter are cumulative and not exclusive. They are in addition to any other administrative, civil, and/or criminal remedies provided by state, federal or other laws contained in the Oakland Municipal Code. The City may seek an order for award of attorney's fees.

Remedies may be recovered by all appropriate legal means including but not limited to criminal prosecution, civil action, nuisance abatement, or lien proceedings.

Concealed carry licensees also may be subject to suspension or revocation of their licenses for violations of this chapter.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.120 - Amendments to state laws adopted.

In the event that any California statute adopted or referred to in this chapter is amended or succeeded by another enactment of the California Legislature, such amendments shall be automatically deemed adopted as part of this chapter as if fully set forth herein unless the City Council amends this chapter to provide otherwise.

(Ord. No. 13351, § 1, 1-19-2016)

9.37.130 - City Administrator regulations.

The City Administrator directly or through the Oakland Police Department may establish regulations to aid in the administration of this chapter, but the lack of such regulations shall not delay or otherwise impede enforcement of this law.

(Ord. No. 13351, § 1, 1-19-2016)

Chapter 9.38 - POSSESSION OF LARGE-CAPACITY MAGAZINES

Sections:

9.38.010 - Title.

This chapter shall be known as Oakland's Ban on Possession of Large-Capacity Magazines Act.

(Ord. No. 13352, § 1(A), 1-19-2016)

9.38.020 - Findings and purpose.

The City Council finds as follows:

1. This law is intended to reduce gun violence and make the City safer.
2. The ability of large-capacity magazines to hold numerous rounds of ammunition significantly increases the lethal capacity of automatic and semiautomatic firearms equipped with these magazines.
3. Large-capacity magazine bans reduce the capacity, and thus the potential lethality, of any firearm that can accept a large capacity magazine.
4. Large-capacity magazines are not necessary for individuals to vindicate their right to self-defense. Only in an extraordinarily rare circumstance would a person using a firearm in self-defense ever be required to use a large-capacity magazine to defend himself or herself effectively. This is particularly true in an urban center like Oakland where law enforcement can and does respond quickly to threats and incidents. Conversely, the dangers of large-capacity magazines are heightened in dense urban areas like Oakland.
5. It has been reported that from 2011 to 2012, roughly ten percent of all handguns seized by the Oakland Police Department had large-capacity magazines.

6.

It has also been reported that large-capacity magazines are difficult to trace to their point of origin because ammunition magazines for public sale are not stamped with serial numbers.

7.

In 2015 alone, the Oakland Police Department reported that one hundred one (101) criminal cases were charged where a large capacity magazine was recovered.

(Ord. No. 13352, § 1(B), 1-19-2016)

9.38.030 - Definitions.

"Large-capacity magazine" means any detachable ammunition feeding device with the capacity to accept more than ten rounds, but shall not be construed to include any of the following:

1.

A feeding device that has been permanently altered so that it cannot accommodate more than ten rounds;

2.

A .22 caliber tube ammunition feeding device;

3.

A tubular magazine that is contained in a lever-action firearm.

(Ord. No. 13352, § 1(C), 1-19-2016)

9.38.040 - Possession of large-capacity magazines prohibited.

A.

It is unlawful for any person to possess any large-capacity magazine, except as otherwise authorized by law, whether assembled or disassembled.

B.

Any person who, prior to the effective date of this article, was legally in possession of a large-capacity magazine shall have ninety (90) days from such effective date to do any of the following without being subject to prosecution:

1.

Remove the large-capacity magazine from the City of Oakland;

2.

Surrender the large-capacity magazine to the Oakland Police Department for destruction;

3.

Sell or transfer the large-capacity magazine lawfully in accordance with Section 32410 of the California Penal Code.

(Ord. No. 13352, § 1(D), 1-19-2016)

9.38.050 - Exemptions.

The provisions of Section 9.38.040 shall not apply to the following:

1. Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine, and does so while acting within the scope of his or her duties.
2. A person licensed pursuant to Sections 26700 to 26915 of the California Penal Code;
3. A gunsmith for the purpose of maintenance, repair or modification of the large-capacity magazine;
4. Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity's armored vehicle business;
5. Any person, corporation, or other entity that manufactures a large-capacity magazine for a person specified in subsection 1, or for an expert pursuant to applicable federal regulations;
6. Any person using the large-capacity magazine solely as a prop for a motion picture, television or video production, so long as it does not contain any live ammunition;
7. Any holder of a special weapons permit issued pursuant to California Penal Code Sections 18900, 31000, 32650, 32700—32720, or 33300;
8. Any person issued a permit pursuant to California Penal Code Section 32315 by the Department of Justice upon a showing of good cause for the possession, transportation or sale of large-capacity magazines between a person licensed pursuant to Sections 26700 to 26915 of the California Penal Code, and an out-of-state client, when those activities are in accordance with the terms and conditions of the permit;
9. Any federal, state or local historical society, museum or institutional collection which is open to the public, provided that the large-capacity magazine is properly housed, secured from unauthorized handling and unloaded;
10. Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to the law;
11. A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities;
12. Any person in the business of selling or transferring large-capacity magazines in accordance with California Penal Code Section 32310 who is in possession of a large-capacity magazine solely for the purpose of doing so; or
- 13.

Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000 if no magazine that holds ten or less rounds of ammunition is compatible with that firearm and the person possesses the large-capacity magazine solely for use with that firearm.

(Ord. No. 13352, § 1(E), 1-19-2016)

9.38.060 - Penalty.

A violation of this section shall be subject to enforcement through criminal prosecution and/or civil penalties, as provided herein.

1.

Violation a Misdemeanor. A person who violates this chapter shall be guilty of a misdemeanor punishable by imprisonment in the County Jail not exceeding six months or by fine not exceeding one thousand dollars (\$1,000.00), or by both. Each violation shall be deemed a distinct and separate offense.

2.

Civil Penalties. The City may assess civil penalties pursuant to Oakland Municipal Code Chapter 1.08 (Civil Penalties) in the amount of one thousand dollars (\$1,000.00) per violation.

(Ord. No. 13352, § 1(F), 1-19-2016)

9.38.070 - Remedies not exclusive.

Remedies under this chapter are cumulative and not exclusive. They are in addition to and do not supersede or limit other administrative, civil, and/or criminal remedies provided under state or federal law, or other provisions of the Oakland Municipal Code. The City may seek an order for the award of attorney's fees.

(Ord. No. 13352, § 1(G), 1-19-2016)

9.38.080 - Amendments to state laws adopted herein.

In the event that any California statute adopted or referred to in this chapter is amended or succeeded by another enactment of the California Legislature, such amendments shall be deemed automatically adopted as part of this chapter as if fully set forth herein unless the City Council amends this chapter to provide otherwise.

(Ord. No. 13352, § 1(H), 1-19-2016)

Chapter 9.39 - SAFE STORAGE OF FIREARMS IN A RESIDENCE

9.39.010 – Title. This chapter shall be known as Oakland's Safe Storage of Firearms in a Residence Act.

(Ord. No. 13353, § 1(A), 1-19-2016)

9.39.020 - Findings and purpose.

The City Council finds as follows:

1. This law is intended to reduce gun violence and gun injuries and make the City safer.
2. Having a loaded or unlocked gun in the home is associated with an increased risk of gun-related injury and death.
3. In 2013, more than five children under the age of twelve (12) were killed each month by guns that were improperly stored and secured at the home of a family member or friend.
4. Children are particularly at risk of injury and death, or causing injury and death, when they can access guns in their own homes or homes that they visit.
5. A 2005 study found that an estimated 1.69 million children under age eighteen (18), including children as young as three years old, are strong enough to fire handguns.
6. More than two-thirds of school shooters obtained their guns from their own home or that of a relative.
7. Quick access to loaded firearms heightens the risk that a young person's impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the attempt will be fatal. One-third of youths who died by suicide had faced a crisis within the previous twenty-four (24) hours. Among people who nearly died in a suicide attempt, almost a quarter indicated that fewer than five minutes had passed between deciding on suicide and making the attempt. While less than ten percent of suicide attempts by other means are fatal, at least eighty-five (85) percent of firearm suicide attempts end in death.
8. Guns kept in the home are more likely to be involved in an unintentional shooting, criminal assault, or used in suicides and against family and friends rather than in self-defense.
9. According to information from the Oakland Police Department, from 2005 through 2015, there were approximately seven hundred seven (707) residential burglaries reported where a firearm was stolen.
10. Applying trigger locks or using lockboxes when storing firearms in the home reduces the risk of firearm injury and death.
11. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owners' knowledge or permission. This simple measure significantly decreases the risk that the gun will be used to commit suicide, homicide or inflict injury, whether intentionally or unintentionally.
12. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored.

13. There is a wide consensus among medical professionals, police chiefs, gun control advocates and gun rights groups that applying trigger locks or using lockboxes to store unsupervised guns in the home promotes health and safety.

(Ord. No. 13353, § 1(B), 1-19-2016)

9.39.030 - Definitions.

"Firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion.

"Residence" means any structure intended or used for human habitation, including but not limited to, houses, condominiums, rooms, motels, and time-shares. For purposes of this chapter, it also includes a garage which is enclosed within or located adjacent to such a structure and which is not open to the public.

"Locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device as defined by California Penal Code Section 16850. It includes a lock box that is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices. For purposes of this chapter, it does not include a bag or other container made of fabric or other penetrable material, such as a regular purse, backpack, or gym bag.

(Ord. No. 13353, § 1(C), 1-19-2016)

9.39.040 - Safe storage of firearms in a residence required.

Except when carried on his or her person, no person shall keep a firearm (as defined in Penal Code Section 16520 or as amended) in any residence unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock that is listed on the California Department of Justice's list of approved firearms safety devices.

(Ord. No. 13353, § 1(D), 1-19-2016)

9.39.050 - Penalty.

A violation of this section shall be subject to enforcement through criminal prosecution and/or civil penalties, as provided herein.

1. Violation a Misdemeanor. A person who violates this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months or by fine not exceeding one thousand dollars (\$1,000.00), or by both. Each violation shall be deemed a distinct and separate offense.
2. Civil Penalties. The City may assess civil penalties pursuant to Oakland Municipal Code Chapter 1.08 (Civil Penalties) in the amount of one thousand dollars (\$1,000.00) per violation.

(Ord. No. 13353, § 1(E), 1-19-2016)

9.39.060 - Remedies not exclusive.

Remedies under this chapter are cumulative and not exclusive. They are in addition to and do not supersede or limit other administrative, civil, and/or criminal remedies provided under state or federal law, or other provisions of the Oakland Municipal Code. The City may seek an order for the award of attorney's fees.

(Ord. No. 13353, § 1(F), 1-19-2016)

9.39.070 - Amendments to state laws adopted herein.

In the event that any California statute adopted or referred to in this chapter is amended or succeeded by another enactment of the California Legislature, such amendments shall be deemed automatically adopted as part of this chapter as if fully set forth herein unless the City Council amends this chapter to provide otherwise.

(Ord. No. 13353, § 1(G), 1-19-2016)