

CITY OF OAKLAND

Agenda Report

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 SEP 11 PM 3:07

TO: Office of the City Administrator
ATTN: Mr. Dan Lindheim
FROM: Police Department
DATE: September 23, 2008

RE: An Information Report Presenting The Feasibility Of Executing Project Exile In Oakland, Including A Description Of The Program, The Success And Failures Of The Previous Implementation In Oakland, The Affect On Overtime, Whether OPD Is Adequately Staffed To Dedicate Staff To The Program, Whether The Necessary Federal Agencies Can Provide The Required Assistance And Any And All Costs Associated With The Implementation Of The Program

SUMMARY

As requested by the Rules and Legislation Committee, staff has prepared an informational report presenting the feasibility of re-instituting "Project Exile" in Oakland. "Project Exile" was a multi-agency effort established to pursue the prosecution of suspects arrested for firearm offenses. In Oakland, the Bureau of Alcohol, Tobacco and Firearms (ATF) and the Oakland Police Department (OPD) collaborated in conducting the project. "Project Exile" was operational from approximately March 1, 1999 through September 30, 2000. This report will address the success of the previous program implementation, the affect on overtime, staffing requirements associated with program, and whether the necessary federal agencies can provide the required assistance.

FISCAL IMPACT

Information on the fiscal impact of "Project Exile" is only available in 1999 to 2000 dollars. Officers assigned to "Project Exile" were from existing budgeted staff without any additional cost to the City. The "Project Exile" MOU authorized a maximum reimbursement of \$13,000 for overtime costs from ATF per OPD officer assigned to the project.

OPD in cooperation with the ATF has established a new program with similar objectives as "Project Exile". By resolution the City Council has authorized a MOU between the ATF and OPD establishing the Joint Oakland Firearm and Gang Task Force. A "Project Exile" program, if available, would incur similar fiscal impacts, from similar funding sources as the Joint Oakland Firearm and Gang Task Force (Task Force).

Item: _____
Public Safety Committee
September 23, 2008

The new Task Force MOU specifies OPD will assign (from its existing authorized strength) two fulltime police officers to the Task Force, and shall bear all personnel costs for these officers, including but not limited to salaries, retirement, expenses, disability and all other employment-related benefits incident to their employment. Cost per officer is \$170,542; \$341,084 total for two officers.

Notwithstanding the above provisions, at the discretion of the ATF Resident Agent-in-Charge, the ATF may provide funds from the US Department of Justice Asset Forfeiture Fund for the payment of OPD Task Force related activities pursuant to 28 U.S.C. § 524(c)(1)(I) and as outlined in the Federal Sharing Agreement. 85% of funds received for Federal Asset Forfeiture are deposited into Federal Asset Forfeiture – City Share Fund: 2912, Org:101140, Account: 43219, Project H76010, Program: PS12 and 15% of funds received are deposited into Federal Asset Forfeiture 15% Set-Aside Fund: 2910, Org: 101140, Account, 43219, Project H76020, Program PS12

BACKGROUND

Starting in 1987, Richmond, Virginia was plagued by violent crime that increased steadily over a 10 year period. Richmond routinely found itself placed in the top five cities in the United States with the worst murder rate (per capita). An analysis of Richmond's statistics for 1997 revealed that of the 140 people murdered that year, 122 (or 87%) were killed with firearms. From this simple statistical analysis, it was clear something needed to be done to reduce the number of firearms available to violent criminals.

Recognizing the need for aggressive intervention, the US Attorney's Office in Richmond, Virginia developed an aggressive, innovative and creative approach to apprehending and prosecuting persons involved in distributing firearms to violent offenders called "Project Exile." Since "Project Exile's" first implementation in Richmond, the project has been replicated in other cities with similar violent crime problems throughout the United States, including Oakland.

The Oakland Police Department, in collaboration with the U.S. Attorney's Office (USA), the Bureau of Alcohol, Tobacco, and Firearms (ATF), the Department of Justice (DOJ), the Alameda County District Attorney's Office (ADA), and the Office of the City Manager (CMO) initiated "Project Exile" in March 1999. "Project Exile" was designed to reduce gun violence by pursuing the prosecution of subjects arrested for firearm offenses under either federal or state statutes, based on which system would provide the greater sentencing penalty.

This project was conducted in Oakland from March 1999 through September 2000. Oakland's implementation of "Project Exile" was specifically aimed at:

1. Reducing the supply of guns in the City.

Reducing the availability of firearms has a positive impact on violent crime. In addition, the Police Department Weapons Unit conducted comprehensive background checks on individuals seeking Federal Firearms Licenses (FFL) since 1994. At the time, the number of licensees was reduced from 57 in 1994 to 4, as of December 1998.

2. Apprehending illegal gun dealers.

Even with a reduction of legitimate sources, ineligible individuals are still able to purchase firearms from illegal sources. A 1997 Department of Justice (DOJ) study had shown those who are most likely to possess illegal guns are drug sellers and gang members; with the vast majority also being young and male. The Weapons Unit maintained a database to identify multiple gun sales and determine if certain individuals were operating as independent dealers or completing questionable sales.

3. Pursuing prosecution options that provide for enhanced sentencing penalties.

The threat of federal prosecution resulted in several positive outcomes:

- Alameda County Deputy District Attorneys (ACDA) used the specter of federal prosecution, often having more severe penalties than state charges, to “raise the bar” during plea bargains.
- The option of federal charging provided prosecutors greater flexibility in determining how to proceed with a case. Cases not charged by the ACDA (e.g., an uncooperative complainant) had the potential to be charged federally due to the involvement of a firearm in the commission of a crime.
- In Richmond, Virginia (the first jurisdiction to implement “Project Exile”) many persons admitted they stopped carrying firearms because they feared federal prosecution. The resulting reduction in the number of firearms translated into an overall reduction in violent crime.

4. Engaged in a public information campaign to deter criminal gun possession and usage.

The Oakland Metropolitan Chamber of Commerce, in a cooperative effort with the City Manager’s Office and the Police Department, formed a steering committee to oversee the marketing of “Project Exile.” The goal of the campaign was to heighten public awareness (through the media) of the problems and dangers of criminal gun possession and usage. This media campaign included billboards, bus ads, radio spots, and television

commercials – all aimed at encouraging citizens to report illegal guns, and driving home the message offenders will be “exiled” from our community.

One of the major components of “Project Exile” was its prosecution steering committee. All “Project Exile” cases were reviewed by the Steering Committee to determine the most appropriate prosecutorial action on each “Project Exile” related or generated case. The Steering Committee initially met biweekly from November 1998 to May 1999, and then met on a monthly basis until the conclusion of the project.

During the course of “Project Exile” the Police Department assigned two investigators to the “Project Exile” Unit. The officers were cross-deputized as Special Deputy US Marshals and were required to complete federal documentation as a supplement to the original local police report. They also functioned as inspectors/investigators for the U.S. Attorney’s Office during case preparation and trial. Their work included re-interviews of officers and witnesses, fingerprinting subjects, obtaining conviction histories from all superior courts, contacting the Governor’s Office to determine if the subject had been pardoned, serving subpoenas for the U.S. Attorney, and testifying before the Federal Grand Jury.

The county and federal attorneys assigned to the “Project Exile” Steering Committee conferred to determine whether more prison time would result from prosecuting a case under federal or state statutes. The attorneys then decided which cases would be presented for federal prosecution.

According to statistical information available from the time of the project’s implementation and as reported in the media, Oakland experienced a 23% reduction in firearms related crimes involving robbery, assault and weapons violations in 1999.¹ OPD has been unable to locate any further statistical information on the success of “Project Exile”.

KEY ISSUES AND IMPACTS

Violent crime continues to plague the City of Oakland with firearms and/or gang activity involved in a majority of these incidents. Unfortunately, the City has experienced a resurgence of gang related activity in the intervening years since the completion of “Project Exile.” Also, an increasing number of homicides and shootings can be attributed to gang activity of all types. Recognizing the need to bring greater resources to bear on this ever increasing problem, the OPD has entered into partnerships with Federal agencies. These partnerships have proven beneficial to the local community by contributing federal assets (e.g., experienced agents, prosecutors, strict sentencing guidelines, federal grand jury, federal search and arrest warrants, federal asset forfeiture funds) to solve local crime problems that are sometimes outside the means of the local jurisdiction.

¹ *Oakland Tribune*, “Exchange program to trade computers for illegal guns”, June 21, 2000.

Based on the positive experience with the implementation of "Project Exile" from 1999 to 2000, OPD has developed a new partnership with the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to create an Oakland Firearms and Gang Task Force. This Task Force will operate similar to "Project Exile," focusing on the acquisition and marketing of illegal firearms, but on a smaller scale. The MOU between OPD and ATF for this new Task Force operation was approved by City Council on September 16, 2008.

PROGRAM DESCRIPTION

The Joint Oakland Firearm and Gang Task Force

The purpose of the Task Force is to establish cooperation between federal and local law enforcement in addressing crimes involving firearms and explosives and/or gang related activity similar to those experienced during "Project Exile." The Task Force will investigate and charge cases either in state or federal courts where the suspects will be subject to the greatest potential penalty exposure if found guilty of the alleged offenses.

The Task Force will benefit from the lessons learned during "Project Exile" in working to address the growing tide of firearm and gang related violent crime. The Task Force will seek to identify gang members involved in criminal activity and firearm suppliers who are providing weapons to these criminals. Once identified, the gang members and firearm suppliers will be prosecuted in whichever court (state or federal) that will offer the greatest penalty exposure once convicted. Not only will this prosecutorial effort more effectively address illegal firearms and gang activity but will hopefully work to dissuade others from becoming involved in criminal gangs and utilizing firearms for criminal purposes.

SUSTAINABLE OPPORTUNITIES

Economic: As an information report, there are no economic opportunities associated with this report.

Environmental: As an information report, there are no environmental opportunities associated with this report.

Social Equity: As an information report, there is no social equity opportunities associated with this report.

DISABILITY AND SENIOR ACCESS

As an information report, there are no ADA or senior citizen access issues identified in this report.

RECOMMENDATION / RATIONALE


With the reported 23% reduction in firearms related crimes involving robbery, assault and weapons violations in 1999, "Project Exile" proved to be an efficient tool in reducing the supply of guns in the City of Oakland and in apprehending illegal gun dealers. The project provided the District Attorney's Office with an additional tool to prosecute violent felons and those persons aiding violent felons who were apprehended under the program. The Police Department clearly experienced a positive impact on reducing crime in Oakland during "Project Exile's" implementation.

While smaller in scope, the new Joint Oakland Firearm and Gang Task Force promises to reap similar results for the City as experienced with "Project Exile." Since it no longer exists as a federal program, it is not feasible to reinstitute "Project Exile". However, the new Task Force will benefit from OPD's prior experience in working with the US Attorney and ATF acquired during "Project Exile." It is anticipated the Task Force will provide similar positive results in reducing the availability of guns and inhibiting the activities of gangs as experienced with "Project Exile."

REQUESTED OF THE CITY COUNCIL

Staff recommends acceptance of this informational report.

Respectfully submitted,


Wayne G. Tucker
Chief of Police

Prepared by:
Lieutenant Kenneth W. Parris
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APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


Office of the City Administrator

Item: _____
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