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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: OPD Gun Crime Strategy and Gun
Tracing Report

DATE: March 15, 2019

City Administrator
Approval

Date

4/11/19

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report And Update From The Oakland Police Department (OPD) Regarding Gun Crime Prevention And Gun Tracing Data Including:

1. Total Number Of Firearms Recovered & Traced By Year;
2. Recovery By Year And Weapon Type;
3. Recovery By Year And Crime;
4. Recovery By Year & Caliber;
5. Recovery By State Of Origin;
6. Recovery By Time From Purchase Date To Use In Crime;
7. Recovery By Age Of Possessor;
8. Short Time-To-Crime (Less Than 3 Years Between Sale By Licensed Dealer And Recovery) By Where The Guns Were Purchased (County And State, As Much As Possible).

EXECUTIVE SUMMARY

This report responds to a scheduling request from City Council President Rebecca Kaplan and covers several topics and operational areas related to gun crimes. OPD analyzes gun crime-related data and relies on the Bureau of Alcohol Tobacco and Firearms (ATF) to trace guns used illegally in violent gun crimes. OPD also partners with the ATF locally on crime investigations and is beginning to partner with academic researchers to trace the trajectory of guns that end up being used to commit violent crimes in Oakland. OPD also relies on a gunshot location detection system to better respond to gunshots. The City Council's passage of gun storage laws also helps to keep Oaklanders safe from gun crimes.

BACKGROUND AND LEGISLATIVE HISTORY

Gun crimes – homicides, non-fatal shootings, robberies, and aggravated assault - occur too often in the City of Oakland. Oakland continues to suffer from some of the highest per-capita

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crime rates of any large U.S. City, despite positive drops in serious crime in recent years. In 2018 Oakland residents and visitors experienced the following citywide levels of homicides, aggravated assaults and robberies:

- 68 homicides;
- 3,006 aggravated assaults (including 277 assaults with a firearm, and 217 shootings related to an occupied home or vehicle);
- 2,576 robberies (including 866 involving firearms)

OPD is committed to using all available resources to combat and prevent these crimes. To accomplish this goal, OPD utilizes intentional strategies, technology, partnerships, data analysis, and policy.

Police Commanders, including the Captains who lead each of the five geographic police areas as well as the Captain over OPD's Ceasefire Strategy¹, consistently review crime incident data and crime analysis reports to maximize the effectiveness of officer deployments. OPD also relies on a gunshot location detection system data (see ***Gunshot Location Detection*** Section on Page 3 below) to help provide critical real-time gunshot data. Furthermore, OPD leverages resources by partnering with regional and Federal partners to impact gun crime.

OPD has produced several past reports on gun tracing for the City Council. The report titled, "\$1M Gun Tracing Allocation in FY 2015-2017 Budget" which outlined the use of \$1 Million dollars in one-time gun tracing funding, was presented to the Public Safety Committee on October 27, 2015. "Informational Report on Gun Tracing" presented to the Public Safety Committee on March 14, 2017 provided an update on the same \$1 Million in funding – as well as a gun tracing report from ATF). "Supplemental Gun Tracing Report" presented to the Public Safety Committee on May 23, 2017 and "2nd Supplemental Gun Tracing Report" presented to the Public Safety Committee on June 20, 2017 provided further information on the gun tracing funding.

ANALYSIS AND POLICY ALTERNATIVES

Gun Tracing Data

The report titled, "Implementation of \$1M Gun Tracing Allocation in FY 2015-2017 Budget" presented to the Public Safety Committee on October 27, 2015, explained that United States does not have a national database for the manufacturing and purchasing of all the guns, but that the e-Trace system maintained by the ATF allows police agencies like OPD to request the history of particular guns used in crimes. e-Trace is an ATF-managed paperless firearm trace submission system that provides access to gun purchase records from U.S. dealers. e-Trace is not a database with data on all legal gun sales. ATF employees review gun purchase records (paper, microfiche or electronic) and send information to the requesting agency. ATF's National Tracing Center (NTC) is the only organization authorized by the U.S. Congress to trace U.S.

¹ <https://www.oaklandca.gov/topics/oaklands-ceasefire-strategy>

and foreign manufactured firearms for international, federal, state, and local law enforcement agencies.

Apart from the e-Trace system, OPD's Crime Lab uses ATF's Integrated Ballistic Identification System (IBIS) to compare ballistic evidence. The Crime Lab's gun examiners enter scanned images of bullets and cartridges into the ATF National Integrated Ballistic Information Network (NIBIN) automated ballistic imaging system. This system uses computer algorithms to analyze images of bullet and shell casing signatures and aids in providing matches at a greatly accelerated rate. However, OPD's gun investigators must still use the IBIS imaging equipment and microspores to determine matches.

The NIBIN database provides information on the guns themselves – whether they were used in other crimes or are connected to other events. Because NIBIN contains information on the guns and the events and associates connected to the guns, as opposed to purchasing information, the NIBIN system tends to provide data about local (Oakland and Bay Area primarily) crime events. Additionally, NIBIN is networked to other Northern California Crime Labs operated by the ATF. This local data promises strong opportunities to develop greater intelligence about local gun tracing and social crime networks.

OPD is limited in accessing gun trace data not directly related to actual crime investigation. The Tiahrt Amendment is a provision of each U.S. Department of Justice appropriations bill since 2003 that, according to the Giffords Law Center to Prevent Gun Violence², “significantly restrict law enforcement’s ability to investigate gun crimes and prosecute unscrupulous gun dealers. The Amendments currently:

- Prohibit the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) from releasing firearm trace data for use by cities, states, researchers, litigants and members of the public;
- Require the Federal Bureau of Investigation to destroy all approved gun purchaser records within 24 hours; and
- Prohibit ATF from requiring gun dealers to submit their inventories to law enforcement.”

Table 1 below provides specific data related to firearms recovered by OPD. OPD is limited in the data which can be provided here due to limited Criminal Investigations Division (CID) staffing as well as by the Tiahrt Amendment. However, OPD is hopeful that the partnership with the California Policy Lab (next section below) will provide a greater level of gun tracing analysis that which can be provided here now in this report.

² <https://lawcenter.giffords.org/gun-laws/federal-law/other-laws/tiahrt-amendments/>

Table 1 - Total Number of Firearms Traced by OPD, by Year (2017-2018)

Type	2017*	2018*
Handgun	1,071	746
Rifle	895	85
Shotgun	102	57
Machine Gun	2	0
Partial Firearm ³	8	7

* 2017 = 1,313 total traced; 2018 = 895 total traced

Table 2 – Firearm Recovery by Crime Type, by Year (2017-2018)

Type	2017	2018
Murder	39	35
Robbery	24	32
Aggravated Assault	43	58
Assault	23	6
Domestic Disturbance	14	12
Firearm Investigations	448	96
Carry Concealed	133	126
Felon in Possession	317	261
Aggravated Assault on Police Officer)	0	9
Narcotics Investigation	41	0
Weapons Offense	57	0
Residential Robbery	0	6
Health and Safety	24	26
Discharging Weapon	15	25
Car Jacking	7	6
Domestic violence	7	8
Stolen vehicle	8	9
Stolen Property	5	6
Sexual Assault	2	0
Suicide	14	15
Found Firearm	74	77
Miscellaneous (surrender, safe keeping, etc)	18	82

³ Receiver or frame of gun

Table 3 – Firearm Caliber*, by year (2017-2018)

Type	2017	2018
.45*	116	78
.4	166	191
9 MM	257	243
10 MM	2	6
.38	217	51
.32	42	17
.25	39	18
.22	86	52
.357	50	18
5.56	11	15
.223	7	15
7.62	21	11
Shotguns, lever action rifles, long guns	299	180

* caliber refers to the approximate internal diameter of the gun barrel; unless followed by MM for millimeters, the decimal refers to percentage of an inch of diameter.

Table 4 – Recovery by State of Origin, by Year (2017-2018)⁴

State or Area	2017	2018
California	346	346
USA Military Surplus	6	6
Arizona	61	64
Nevada	93	72
Utah	10	10
Alabama	14	8
Oregon	20	14
Florida	2	4
Ohio	2	7
Louisiana	14	10
Virginia	3	1
North Carolina	5	0
South Carolina	2	4
Georgia	18	9
Florida	12	4

⁴ OPD cannot produce data on firearm tracings per licensed dealer by county and state as OPD does not have access to this data.

State or Area	2017	2018
Tennessee	6	6
Mississippi	6	0
Iowa	2	0
Illinois	2	4
North Dakota	1	1
South Dakota	1	0
Ohio	4	0
Indiana	4	5
West Virginia	1	1
Kentucky	5	5
Missouri	3	7
Minnesota	0	2
Kansas	2	1
Arkansas	13	0
Oklahoma	9	3
Texas	26	27
Wyoming:	2	0
Wisconsin	0	2
Colorado	5	5
New Mexico	2	2
Maine	1	0
New York	4	6
New Jersey	6	4
Pennsylvania	1	4
Maryland	3	3
Massachusetts	0	2
Montana	2	0
Idaho	3	2
Washington	6	11
Connecticut	1	4
Alaska	1	3
Puerto Rico	1	0
Thailand	1	0
Austria	1	0

*The above listed data is reflects firearms that could be traced; CID could not trace firearms where serial numbers were obliterated, where there was no stamped serial numbers (also known as "Ghost Guns") and weapons in which the report came back "not on file."

Table 5 – Recovery by Time from Purchase Date to use in Crime; by Year (2017-2018)*

Time Period	2017	2018
Under 3 months	43	23
3 months and under 7 months	34	15
7 months and under one year	55	29
One year and under two years	91	60
Two years and under three years	65	51
Three years and over	594	414
Unable to calculate	719	481

Table 6 – Recovery by Age of Possessor; by Year (2017-2018)*

Age of Possessor	2017	2018
Possessor 17 and younger	34	34
Possessor 18 to 21	152	110
Possessor 22 to 24	106	68
Possessor 25 to 30	170	130
Possessor 31 to 40	133	108
Possessor 41 to 50	54	69
Possessor over 50	61	57
Unable to calculate	603	350

California Policy Lab – University of California Research Partnership

OPD has recently begun to partner with the California Policy Lab (CPL)⁵. CPL staff at the University of California at Los Angeles (UCLA) have worked with the City of Chicago and University of Chicago Crime Lab on gun crime tracing and gun crime prevention research. The goal of this CPL-OPD project is to provide an analytical report regarding where the firearms were sold (the dealer), if any particular store has sold multiple guns which were recovered crime guns, if any particular person / groups are affiliated with the crime gun(s), and linkage as requested by OPD and the Office of the Mayor. The research will look at 5-10 years of eTrace

⁵ CPL pairs trusted experts from UCLA and UC Berkeley with policymakers to solve our most urgent social problems, including homelessness, poverty, crime, and education inequality - <https://www.capolicylab.org/>

data⁶ regarding crime guns. CPL and OPD are hopeful that a compromise can be reached between OPD, CPL and ATF legal counsel regarding access to eTrace data for the purposes of gun tracing research. OPD hopes that this research project will provide a greater snapshot into how illegal guns become available within the City of Oakland.

ATF Taskforce

The OPD-ATF Taskforce (approved by the City Council on with the passage of Resolution No. 87474 C.M.S. on December 11, 2018) provides extremely useful resources to OPD. OPD relies upon ATF and its National Tracing Center (NTC) to trace U.S. and foreign manufactured firearms. The CID Weapons Charging Detail uses e-Trace to track gun purchase records from U.S. dealers in particular crime investigations. The ATF also provides the OPD Taskforce Officer with access to the San Francisco Crime Gun Intelligence Center (CGIC). The CGIC utilizes the National Integrated Ballistic Information Network (NIBIN), which provides crucial intelligence about firearm-related crimes committed in Oakland and the San Francisco Bay Area – the ATF and OPD will actually be developing a new Oakland CGIC this year. The ATF Special Agents compile NIBIN leads which have been linked to hundreds of violent crimes in the Oakland community. ATF Special Agents and TFOs frequently respond to assist law enforcement agencies and OPD to conduct investigations of individuals or groups who victimize Oakland residents and visitors.

OPD also relies upon collaboration with ATF for local investigations of crimes and criminal networks involving firearms. ATF supports OPD by investigating local firearm-involved violent crimes; ATF and OPD can best solve violent firearm-related crimes in Oakland through collaborations that combine resources and knowledge. This partnership also allows for some reimbursement for overtime and auxiliary expenses related to OPD personnel assigned to ATF Taskforce cases.

OPD Gunshot Location Detection (Shotspotter) Program

OPD's Gunshot Location Detection (GLD) system employs acoustic sensors which are strategically placed in specified areas. Currently, OPD contracts with ShotSpotter, Inc., the creator of the ShotSpotter® Flex™ system "Shotspotter." The GLD system sensors are designed to record and recognize gunshots based on their high-frequency sound and acoustical signature. The utilization of multiple sensors allows the system to capture the sound and acoustical signature from different angles and thus to pinpoint a gunfire location; the sensors then send the audio recording and location data to Shotspotter Headquarters (HQ) for gunshot verification; Shotspotter uses computer-learning algorithms and then human analysts to verify gunshot occurrences (within seconds or minutes). Verified gunshots and related information are then quickly sent from HQ to the OPD Communications Division so that Communications may notify responding personnel where gunshots were recently fired.

⁶ eTrace (Electronic Tracing System) is an internet-based system that allows participating law enforcement agencies to submit firearm traces to the Alcohol Tobacco and Firearms (ATF) National Tracing Center (NTC). Authorized users can receive firearm trace results, search a database of all firearm traces submitted by their individual agency, and perform analytical functions.

The mission behind OPD's GLD program is to reduce violent crime and incidents of indiscriminate gunfire. The plan is in support of OPD's overall violent crime reduction efforts and strategies. As officers respond to GLD notifications, they look to: 1) gather evidence (casings, bullets, firearms, and/or video); 2) apprehend and arrest those responsible for gunfire; 3) conduct thorough follow-up canvasses; 4) coordinate with outside agencies to assist with preliminary and follow-up investigations; 5) prepare an after-action report which contains data necessary for intelligence development; and 6) develop and disseminate intelligence associated with gunfire. These tasks support OPD in its GLD program mission. These tasks also let the communities directly impacted by gunfire know that OPD values their quality of life and that OPD wants to collaborate on intelligence gathering.

In September 2018, the system logged 395 total incidents (275 multiple gunshots, 92 single gunshots, and 28 possible gunshots). 911 call data suggests that when there are witnesses who call 911 to report gunshots, the locations provided by witnesses (if there are witnesses who chose to report gunshots) are often inaccurate. The GLD system allows OPD to become aware in real-time of gunshots when they occur – where they occur - when within range of installed GLD system sensors.

The total coverage area for the current ShotSpotter system comprises 15.38 square miles or approximately 25 percent of the City (see **Attachment A OPD ShotSpotter System Coverage Map** for more information about the three coverage areas termed "phases"). OPD has chosen to install the sensors in areas most prone to gunshots based upon historical data. In an effort to be fiscally responsible and immediately responsive to violent crime the coverage area was identified using the most current data, institutional knowledge, and input from the citizens by 911 calls.

The GLD system has two major components: 1) Gunshot Notifications (ShotSpotter Flex™ Alert); and 2) Investigative Component (ShotSpotter Flex™ Investigator Portal). The ShotSpotter Flex instantly notifies officers (logged into the system) of gunshots in progress with real-time data delivered to the OPD Communications Section and patrol vehicles. This service provides important information for first responders to aid victims and enhances officer safety and effectiveness through real-time access to maps of shooting locations. OPD can use this actionable intelligence to search for evidence and follow up with community members who may be witnesses to the gunshots - these initial meetings related to gunfire also serve as starting points for greater contact between residents and OPD officers.

OPD's Ceasefire Unit (focused on diminishing the prevalence of gunshot activity) sees correlations between the use of the GLD system and gunshot activity; in 2014 there were 420 incidents of Assault with a firearm (criminal code 245(a)(2)PC); 2015 saw 342 incidents; 2016 saw 331 incidents; 2017 saw 281 incidents and 2018 saw 277 incidents – a consistent five year decrease.

OPD expects each of the five Police Area Commanders to address areas with repetitive shots fired within the Police Area; OPD addresses repetitive gunshot activity during weekly shooting review meetings with the Chief of Police. Police Area Commanders constantly

review how GLD data along with data from 911 public calls of shots fired and crime analysis data; this combined data is used by commanders to make critical officer deployment decisions.

Shotspotter Phase I is currently funded with ongoing funds; Phases II and Phases III are currently funded with one-time funds – OPD will seek funding for Phases II and III in the Fiscal Year 2019-21 Budget.

Oakland Secure Firearms Laws

The Oakland City Council has passed several ordinances that change laws relating to the securing of firearms for Oakland residents and visitors. Ordinance No. 13353 C.M.S. passed on February 3, 2016 requires the safe storage of firearms in private residences. This law is intended to reduce gun violence and gun injuries and make the City safer; the ordinance states in its "Findings and Purpose" section that, "having a loaded or unlocked gun in the home is associated with an increased risk of gun-related injury and death." The Ordinance created Oakland Municipal Code (OMC) 9.39.040-9.39.070; OMC 9.39.040 declares that no person, except when carried on his or her 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 container⁷, 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. This law makes it a misdemeanor to not properly secure firearms in private residences punishable by imprisonment in the county jail not exceeding six months or by fine not exceeding one thousand dollars (\$1,000), or by both. Each violation shall be deemed a distinct and separate offense.

OPD and OCA are currently reviewing how best to ensure that: 1) the public is made more aware of these recent laws; and 2) protocols are established with OPD and OCA to ensure that officers can speak with members of the public who may be violating secure gun storage laws (even if they are also themselves burglary crime victims) when notifying the City of the OMC violation. The city has taken a first step by creating the website "Oakland Gun Storage Laws⁸" accessible from OPD's "Community-Police Partnerships⁹" website. Staff hopes that this website can serve as a useful resource to educate the public about this important law (as well as for a related gun safety law – see Ordinance 13351 immediately below).

Ordinance No. 13351 C.M.S. passed on February 11, 2016 bans unsecured firearms and ammunition located in unattended vehicles in the public right of way and public spaces. This Ordinance, which cites the purpose, "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," creates OMC 9.37; 9.37.040 states that, "It is unlawful for a Person to

⁷ From OMC 9.39.030 "Definitions:" a 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. For purposes of this ordinance, this OMC section also 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.

⁸ <https://www.oaklandca.gov/topics/oakland-gun-storage-laws>

⁹ <https://www.oaklandca.gov/topics/community-police-partnerships>

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;" the law repeats the same language for long guns and ammunition. 9.37.040 also states that "safe storage" compliance only occurs (unless exempted by law) through the use of a "Lock Box." 9.37.040 explains that a 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
- c. The key or other disabling device to the Lock Box is not left in the unattended Vehicle.

9.37.70 "Criminal Penalties" states that "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), or by both. Each violation shall be deemed a distinct and separate offense in accordance with the law." 9.37.80 "Civil Penalties" states that the City may "assess the following penalties for violations of this Chapter: (a) one thousand dollars (\$1,000) for the first violation; (b) two thousand five hundred (\$2,500) for the second violation; and (c) five thousand dollars (\$5,000) for the third violation and for each subsequent violation committed within a calendar year. 9.37.90 "Authority of City Attorney to Bring a Court Action" explains further actions permissible by OCA for OMC violations.

OPD and OCA would only be aware of a violation of this OMC if someone reports a stolen firearm and admits that the firearm was not properly stored.

In 2017, there were three citations issued; One case was forwarded to the City Attorney after charges were declined by DA. Going forward all OMC violations listed in Chapter 9.37 – Unsecured Firearms and ammunition in unattended vehicles and Chapter 9.39 – Safe Storage of Firearms in a residence will be referred to the City Attorney's Office. A CID Sergeant is now assigned all 2018 cases which involved a firearm(s) being stolen to be reviewed by an investigator. OMC citations will be issued for cases involving negligent storage. The CID Investigator will handle these backlogged cases. OPD expects to possibly be issuing retroactive citations in the near future. CID Command are currently working on a plan to train OPD officers regarding the enforcement of 9.39.040 and 9.37.040 OMC.

A third gun storage ordinance was approved by the City Council on February 11, 2016, which would ban unsecured city-owned firearms in unattended vehicles. This legislation affects city employees – the meet and confer process is being coordinated by the Office of the City Administrator.

PUBLIC OUTREACH / INTEREST

No public outreach was required in the production of this report. Public Safe and gun safety advocates (such as the Brady Campaign to Stop Gun Violence) see a nexus between gun tracing data, gun crime prevention strategy, and efforts to stem the flow of guns used to commit violent crimes.

COORDINATION

OPD coordinated with the Office of Council President Rebecca Kaplan on this report; the Office of the City Attorney reviewed this report.

FISCAL IMPACT

There is no fiscal impact associated with this report.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

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

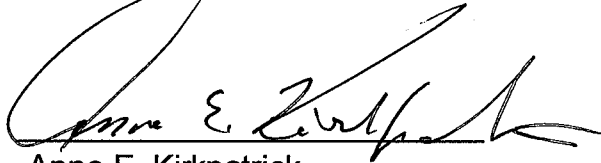
Social Equity: Many residents and visitors benefit from efforts to stop violent gun crimes.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Receive An Informational Report And Update From The Oakland Police Department (OPD) Regarding Gun Crime Prevention And Gun Tracing Data Including: 1) Total Number Of Firearms Recovered & Traced By Year; 2) Recovery By Year And Weapon Type; 3) Recovery By Year And Crime; 4) Recovery By Year & Caliber; 5) Recovery By State Of Origin; 6) Recovery By Time From Purchase Date To Use In Crime; 7) Recovery By Age Of Possessor; 8) Short Time-To-Crime (Less Than 3 Years Between Sale By Licensed Dealer And Recovery) By Where The Guns Were Purchased (County And State, As Much As Possible).

For questions regarding this report, please contact Lieutenant James Beere, OPD, Criminal Investigations Division, Burglary Unit at (510) 238-2144.

Respectfully submitted,



Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
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OPD, Criminal Investigations Division

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Attachments:

A: OPD ShotSpotter System Coverage Map

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Attachment A - Shot Spotter Coverage Areas

Phase I (horizontal-lined area) (Activated in 2006): 6.2 square miles

East Oakland: East of High Street to 106th Avenue

West Oakland: East of Highway 980 to Frontage Road

Phase II (dotted-area) (Activated in 2013): 6.4 square miles

East Oakland: West of High Street to Park Boulevard

North Oakland: North of Highway 580 to Alcatraz Avenue

Phase III (cross-hatched area) (Activated in 2016): 2.78 square miles

Downtown Oakland: Jack London Square to about West MacArthur Boulevard

Cleveland Height area: East of Lake Merritt to Highway 580 & Park Boulevard

Maxwell Park: East of High Street to Highway 580 & Mills College

