REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
May 15, 2007

Honorable Members of the
Law and Legislation Committee

Title: Ordinance: Mandatory Reporting of Theft or Loss of Firearms

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee approve and forward to the full City Council the attached ordinance requiring mandatory reporting of the theft or loss of firearms to the Sacramento Police Department.

Contact: James Maccoun, Lieutenant, 808-0866

Presenters: James Maccoun, Lieutenant, 808-0866

Department: Police

Division: Fiscal/Economic Development

Organization No: 2112

Description/Analysis

Issue: Councilmember Kevin McCarty requested that staff research establishing an ordinance requiring gun owners to report the loss or theft of a firearm to the Police Department within forty-eight (48) hours of knowledge of loss or theft. The Committee subsequently requested that the City Attorney draft such an ordinance. Consistent with the protocols established by the Committee and City Council, staff is submitting this draft ordinance to request that the Committee approve and forward the ordinance to the full City Council.

Policy Considerations: This ordinance would be consistent with the City's mission to protect, preserve, and enhance the quality of life for present and future generations. It would also be consistent with current California law requiring registration of newly purchased handguns as a restriction on the unlawful possession of firearms.

Previously Expressed Concerns:

- *Enforcement* – No jurisdiction with similar ordinances contacted by SPD staff has enforced a similar ordinance. Enforcement would be incidental to other criminal investigations.

- *Penalty* – The penalty would be a misdemeanor, pursuant to the maximum authority for City ordinance violation.

- *Cost for Enforcement / Cost Recovery* – Unknown. No California city has enforced similar ordinances, and no mechanism is known or authorized for cost recovery. Any tax or fee on gun sales would require voter approval.

- *Bureaucracy* – No special staff would be required beyond that necessary to handle a possible increase to the workloads of prosecuting City Attorney and District Attorney staff.

Environmental Considerations: This report concerns administrative issues that will not have any significant effect on the environment, and that do not constitute a "project" as defined by the California Environmental Quality Act (CEQA) [CEQA Guidelines Sections 15061(b)(3); 15378(b)(2)].

Rationale for Recommendation: The adoption of this ordinance could have an impact on reducing the diversion of firearms from the legal market to the illegal market and on tracking firearms in the hands of criminals, domestic violence offenders, unauthorized juveniles, and other persons prohibited by law from possessing firearms. This ordinance requires gun owners to take responsibility for the whereabouts of their weapons and prevents use of a common alibi for illegal firearm transfer. In addition, a reporting requirement could give prosecutors another weapon against illegal trafficking in firearms. Reductions in gun violence have been achieved where communities have adopted focused, comprehensive, and innovative strategies to attack their gun violence problems.

The ordinance requires that:

- Persons owning or in possession of a lost or stolen firearm reside within the City of Sacramento limits, or the loss or theft of a firearm occur within the City of Sacramento limits.
- Persons owning or in possession of a firearm notify the Sacramento Police Department within forty-eight (48) hours of becoming aware of the loss or theft of such firearm.
- As used in the ordinance, "firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, that expels a projectile through a barrel by the force of an explosion or other form of combustion.
- Failure to report a stolen or missing gun would be a misdemeanor.

Similar ordinances have been enacted in San Francisco, Oakland and Los Angeles and have engendered no legal challenges.

Financial Considerations: The proposed ordinance has no current fiscal effects.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: _____
James Maccoun
Lieutenant

Approved by: _____
Albert Nájera
Chief of Police

Recommendation Approved:

_____
GUSTAVO F. VINA
Assistant City Manager

Ref: COP 2-33

Table of Contents:

	Report	pg. 1

Attachments:

1	Background	pg. 4
2	Draft Ordinance	pg. 5

Attachment 1

Background

It has been estimated that only one in six guns used to commit crimes is obtained legally, and that many of the rest are stolen, trafficked, or purchased through "straw" buyers. Police officers often waste precious time and resources trying to contact the original purchaser of a firearm who later claims it was lost or stolen. "Straw" buyers often purchase weapons which they pass on to criminals, gang members, and others unable to purchase firearms legally, complicating the tasks of tracing weapon ownership and solving gun-related crimes.

The purpose of this ordinance is to (1) deter the criminal use of stolen or lost weapons, (2) facilitate the recovery of stolen or lost property, (3) facilitate the apprehension of criminals who commit crimes with stolen or lost weapons, (4) prevent unwarranted criminal accusations against owners who suffer the loss or theft of a firearm, (5) deter persons from falsely claiming that a firearm was stolen or lost to avoid punishment for an illegal firearm transfer, and (6) deter “straw” firearm purchases, in which persons purchase firearms legally and then sell these firearms to persons who are prohibited from gun ownership due to a felony conviction, age restriction, or another prohibition.

Attachment 2

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE ADDING SECTION 9.32.180 TO CHAPTER 9.32 OF TITLE 9 OF THE SACRAMENTO CITY CODE TO REQUIRE REPORTING STOLEN OR LOST FIREARMS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 9.32.180 is added to Chapter 9.32 of Title 9 of the Sacramento City Code as follows:

9.32.180 Reporting of stolen and/or lost firearms required.

It is unlawful for any person who owns or possesses a firearm to knowingly or negligently fail to report the theft or loss of such firearm to the Sacramento Police Department within forty eight (48) hours of the time he/she knew or should have known the firearm has been stolen or lost, when either the owner or possessor resides in the city, or the theft or loss of the firearm occurs in the city. As used in this section, "firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, that expels a projectile through a barrel by the force of an explosion or other form of combustion. Any person violating this section is guilty of a misdemeanor.