

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 20, 1999

March 20, 1999

MEMORANDUM FOR THE SECRETARY OF THE TREASURY
THE ATTORNEY GENERAL

SUBJECT: Deterring and Reducing Gun Crime

Since the start of my Administration, we have developed and implemented a number of effective national strategies to reduce crime. We have provided funds to over 11,000 communities to hire and deploy more than 92,000 local law enforcement officers; we have prevented more than a quarter of a million illegal handgun sales through Brady background checks; and we have developed a coordinated attack on the illegal sources of guns used in crime. Dozens of other smart, tough, crime-fighting strategies have been put in place throughout the country through the leadership and dedicated efforts of State and local police and prosecutors, Mayors, U.S. Attorneys, the Bureau of Alcohol, Tobacco, and Firearms (ATF), and community leaders.

During this period, the Nation's crime rate has dropped by more than 20 percent, and crime committed with guns has dropped 27 percent. In certain communities, where Federal, State, and local law enforcement officials have worked with other community leaders, violent crime rates have gone down even more dramatically. In Boston, Massachusetts, for example, when law enforcement and community leaders worked together to reduce violence by youth gangs, they reduced the number of homicides among youth by 70 percent in just 2 years. In Minneapolis, Minnesota, effective law enforcement and prevention efforts conducted by public-private partnerships have reduced homicides by 30 percent and summertime homicides by 75 percent. And in Richmond, Virginia, effective and coordinated law enforcement, including stepped up enforcement of gun crimes through the program known as Project Exile, has reduced the homicide rate significantly.

Still, the number of people killed with firearms remains unacceptably high. More than 14,000 people were murdered with guns in the United States in 1997. We must redouble our efforts to deter and further reduce gun crime -- and work to make every neighborhood and community free of gun violence.

I therefore direct you to develop an integrated firearms violence reduction strategy that draws on the proven measures and innovative approaches being demonstrated by communities throughout the country. We know that gun violence issues differ in each community, and no single program or strategy will be right for every community. Therefore, in developing the strategy, you should consult closely with U.S. Attorneys and ATF Special Agents in Charge, as well as other Federal, State, and local law enforcement, elected officials, and other leaders. The strategy should consider the special needs of local communities and strike an appropriate balance between Federal and State law enforcement. I ask that the strategy specifically include elements to:

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(1) Increase investigation and prosecution of significant firearms violations, including illegal possession, use, and trafficking of guns, through innovative programs such as Project Exile and Boston's Operation Ceasefire;

(2) Expand comprehensive "crime gun" tracing, analysis, and mapping; increase use of ballistics identification technology; and coordinate use of crime gun information to identify illegal gun markets, gun "hot spots," and illegal gun traffickers;

(3) Strengthen the coordination of law enforcement and regulatory enforcement efforts to ensure compliance with all applicable laws by federally licensed gun dealers and prospective gun purchasers;

(4) Implement targeted deterrence of violent offenders through (a) improved coordination with probation and parole officials supervising such offenders, and (b) swift and certain punishment for those found to have violated the conditions of their parole or probation; and

(5) Promote problem-solving analysis and innovative strategies to work closely with community members to identify gun criminals, remove weapons in the hands of juveniles, search for and seize crime guns, and increase the public's knowledge of their community's gun-related crime and violence problem.

Finally, I direct you to make recommendations on how best to allocate Federal resources to support the goals of the strategy you develop. I further direct you to provide me with your report on this integrated firearms violence reduction strategy within 90 days of the date of this memorandum.

WILLIAM J. CLINTON

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 20, 1999

RADIO ADDRESS OF THE PRESIDENT
TO THE NATION

The Oval Office

10:06 A.M. EST

THE PRESIDENT: Good morning. Today I want to talk with you about the next important steps we can take to rid our streets of gun violence and to make our communities even safer for our families. I'm proud to be joined today in the Oval Office by Attorney General Janet Reno, Treasury Under Secretary Jim Johnson, ATF Director John Magaw, Mayor Kurt Schmoke of Baltimore, Police Chief Jerry Oliver of Richmond, and Chief Robert Olson of Minneapolis, Congressman Anthony Weiner, as well as four of our United States attorneys who are leading this fight across America.

Over the last six years we've worked hard to fight crime, putting in place a strategy of more prevention, stricter enforcement, tougher punishment. We funded more than 92,000 police officers for 11,000 communities, taken more criminals and deadly assault weapons off the street, and with Brady background checks, stopped more than a quarter of a million handguns from falling into the hands of convicted felons and other prohibited persons.

As a result, the crime rate has dropped by more than 20 percent, to the lowest level in a generation. Gun crimes have declined by more than 25 percent. Gun murders have fallen by a third. Slowly, but surely, neighborhoods once abandoned at the crack of gunfire and the wail of ambulance sirens are coming alive with the sounds of children playing freely in the streets.

This is indeed encouraging news. But we must do more. In 1997, 14,000 people were murdered by guns. While the numbers are declining, any child caught in the cross-fire of a gang shootout, or a police officer struck down by a criminal's bullet, or a store clerk murdered in a robbery is one tragedy too many.

That is why today I'm directing Treasury Secretary Robert Rubin and Attorney General Reno to use every available tool to increase the prosecution of gun criminals and shut down illegal gun markets. I'm asking them to work closely with local, state and federal law enforcement officials, and to report back to me with a plan to reduce gun violence by applying proven local strategies to fight gun crime nationwide.

Look at what federal prosecutors and the ATF are doing in Richmond, Virginia, in an effort they call Project Exile. Under the leadership of U.S. Attorney Helen Fahey, Project Exile has used the threat of tough federal statutes -- statutes that require stiff sentences and deny bail to offenders -- to reduce gun crime and take serious gun criminals off the street. And gun murders are down in Richmond by a remarkable 41 percent.

My balanced budget will help to hire more federal

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prosecutors and ATF agents so we can crack down on even more gun criminals and illegal gun trafficking all across America.

After six years of hard work, America is winning the war against crime. But we're a long way from declaring victory. We must keep even more guns from falling into the wrong hands by requiring background checks at gun shows, and banning violent juvenile offenders from owning guns for life. And I ask you to support our 21st century policing initiative to give law enforcement the manpower, the high-tech tools, and the prevention strategies they need to keep us safe.

Unfortunately, the Republicans in Congress have proposed a budget that would dramatically cut back our investment in community policing, just when we're trying to increase it. That would be a big mistake. We must move forward in our fight for safer streets and safer families.

Over the years the proliferation of guns in our streets, of criminals packing pistols instead of switchblades, have made crime deadlier than ever. Guns have magnified the malevolence of crime. That is why disarming criminals has been, and must continue to be, a top crime-fighting priority. Let none of us rest until every American is safe from gun violence.

Thanks for listening.

END

10:11 A.M. EST



STATEMENT

OF

ERIC H. HOLDER, JR.
DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

AND

JAMES E. JOHNSON
UNDER SECRETARY FOR ENFORCEMENT
U.S. DEPARTMENT OF THE TREASURY

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

CONCERNING

FIREARMS LEGISLATION AND ENFORCEMENT

PRESENTED ON

MAY 27, 1999

**JOINT TESTIMONY OF THE DEPARTMENT OF JUSTICE AND
THE DEPARTMENT OF THE TREASURY**
Deputy Attorney General Eric H. Holder, Jr., Department of Justice, and
Under Secretary (Enforcement) James E. Johnson, Department of the Treasury
House Committee on the Judiciary
Subcommittee on Crime
Thursday, May 27, 1999
2:00 p.m.

We appreciate this opportunity to appear today before the Subcommittee to address vital issues relating to firearms. We recognize that a discussion of firearms legislation and enforcement addresses only a part of the issue. The building blocks of our communities and our lives, including our families, our neighborhoods, our schools, our faith communities, and our culture, all have an important role to play in our effort to reduce gun violence and must be constantly reenforced. However, as we work together to consider these issues, we must act now on the immediate issues of firearms legislation and enforcement. We come before you today at a critical moment in our ongoing effort to fight crime and gun violence, especially as they affect our children. Although the nation's violent crime rate, including violent crimes committed with guns, has dropped dramatically during this Administration, tragedies like the murders in Littleton, Colorado, and the shooting in Conyers, Georgia, remind us that we must do more to reduce firearms violence even further. And we should not only be concerned about suburban school shootings. The fact is that 13 young people in America die every day from gunshot wounds. While we may never fully understand all the reasons why incidents like these occur, it stands to reason that if the young people and adult criminals who committed these crimes had a tougher time getting their hands on guns, these horrible crimes might have been prevented. We

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can – indeed we must – build upon the successes of existing state and federal laws to provide greater protections for our children and all of our citizens.

Last week, the Senate took a strong, bipartisan stand against firearms violence by adopting several firearms measures that reflect common sense and constitute good public policy, and are supported by an overwhelming majority of Americans. The juvenile justice bill (S. 254) passed by the Senate closes the gun show loophole once and for all by mandating background checks and crime gun tracing records for all guns that are sold at gun shows; requiring child safety devices to be sold with every new handgun; banning adjudicated violent juveniles from possessing a gun for the rest of their lives; banning the importation of large capacity ammunition feeding devices; prohibiting juveniles from possessing assault weapons; increasing penalties for those who traffic guns to juveniles; and strengthening the law regarding those who transfer firearms having reasonable cause to know that the weapon will be used in crime. The House should act quickly in support of these proposals, which are included in the Administration's "Youth Gun Crime Enforcement Act of 1999" – introduced by Representative Conyers as H.R. 1768 – so that they can be enacted as soon as possible.

H.R. 1768 contains a comprehensive array of proposals to bring about further reductions in gun violence. These proposals would both prevent guns from falling into the wrong hands and strengthen our ability to enforce the law when they do. We cannot emphasize too strongly that our success over the past six years has taught us that reducing gun violence requires a coordinated approach that includes prevention and enforcement.

On the prevention side, over the last six years, Congress and the Administration have worked together to increase dramatically the effectiveness of current federal laws that are

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designed to prevent guns from falling into the hands of dangerous individuals such as felons, fugitives, and those who are under a restraining order. Until 1993, federal law allowed gun sales to operate on the "honor" system. A licensed dealer would sell guns when buyers certified that they did not fall into any prohibited category, and no one checked to see if they were telling the truth. In 1993, Congress recognized that when it came to buying a gun, the honor system was not good enough, and enacted the Brady Law to require background checks on gun purchasers. Through a simple background check, the Brady Law has kept guns out of the hands of more than a quarter of a million felons and other prohibited people, preventing untold crimes and violence, and with minimal inconvenience to law-abiding gun purchasers and dealers.

On the enforcement side, we plan to build on the success that we have had over the past several years in bringing more violent gun criminals to justice. The Administration has developed and implemented a strategy of building strong partnerships among federal, state, and local law enforcement to catch and punish criminals and thereby reduce violent crime. These combined efforts are paying sizable dividends for public safety. Federal, state, and local law enforcement officials have worked together closely, and have significantly increased the overall number of firearms prosecutions in this country. Since 1992, the combined number of federal and state firearms convictions is up sharply, and the number of criminals incarcerated for state and federal weapons offenses has risen approximately 22 percent. The number of federal cases in which the firearms offender is sentenced to five or more years in prison is also up by more than 25 percent. Our strategy of increased collaboration among federal, state, and local law enforcement has resulted in: (1) a more efficient distribution of prosecutorial responsibilities, (2) a steady *increase* in firearms prosecutions on a cumulative basis, and most important, (3) a sharp

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decline in the number of violent crimes committed with guns. Indeed, violent crimes committed with firearms are down 27 percent since 1993. See Graph 1.

In addition, with strong bipartisan support from Congress and from state and local law enforcement organizations, the Bureau of Alcohol, Tobacco and Firearms (ATF) has greatly strengthened its crime gun tracing system, designed to assist federal, state, and local law enforcement officials in evaluating their local crime gun problem, and identifying, investigating, arresting, and prosecuting illegal gun traffickers. Crime gun traces have grown from 55,000 in 1993 to 197,000 in 1998. Since 1996, ATF has investigated approximately 650 illegal federal and state trafficking cases involving juveniles and youth. These investigations involved nearly 26,000 illegally trafficked firearms.

Of course, as the many victims of gun violence know all too well, the imposition of criminal sanctions after firearms have been used to injure or murder is no substitute for preventing such crimes from occurring in the first place. And just as we recognize that no single prosecution will undo the harm that has been caused by gun violence, we also recognize that no single law or initiative will prevent all acts of gun violence from occurring. That is why the Administration has supported a comprehensive approach that addresses the illegal transfer, acquisition, possession, and use of firearms, as well as the underlying causes and consequences of violence. Congress has an historic opportunity to reduce gun violence further across the country by giving law enforcement some additional necessary, practical, and effective tools.

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I. The Clinton Administration's Legislative Proposals in the 106th Congress

During the past six years, the Administration and the Congress have worked to put in place common sense measures such as the Brady Law, the Assault Weapons Ban, and expanded crime gun tracing, which have contributed significantly to the reduction in violent crime. The success of these measures has in turn led to a broader recognition among law enforcement, the American public, gun manufacturers, and gun owners that sensible measures to regulate firearms can and will make a difference in reducing gun violence and saving lives.

In developing legislative proposals for the 106th Congress, the Administration looked for ways to build on our successes. We also carefully examined our federal gun laws to see where critical gaps needed to be filled. The legislation contained in H.R. 1768, the Administration's Youth Gun Crime Enforcement Act, builds on this country's recent successes against gun violence without interfering with those sportsmen, hunters, and other law-abiding Americans who wish to buy and use firearms for legitimate activities.

The Youth Gun Crime Enforcement Act contains a number of practical and sensible measures designed to keep guns out of the hands of criminals and youth by preventing them from acquiring guns and imposing stiffer penalties when they do. The legislative package includes the following six parts.

First, H.R. 1768 extends and strengthens the Brady Law, which has successfully prevented more than 250,000, fugitives, and other prohibited persons from getting guns by, for example, closing the gun show loophole and prohibiting violent juveniles from getting guns when they become adults.

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Second, the bill makes it more difficult for youth to gain inappropriate access to firearms by raising the minimum age for handgun possession to 21 – which is the current minimum age to legally buy a handgun from a licensed dealer. The bill also will require child safety devices for every gun that is sold.

Third, the bill strengthens the assault weapons ban by prohibiting the importation of all large capacity ammunition feeding devices and prohibiting youth under 21 from possessing assault weapons.

Fourth, H.R. 1768 gives law enforcement additional tools to combat criminal misuse of firearms by increasing penalties on criminals who use guns in the commission of crimes.

Fifth, the bill combats illegal trafficking in guns to stem the illegal supply of guns to our streets through measures such as a restriction on handgun purchases to one a month, and increased penalties for illegal trafficking.

Sixth, H.R. 1768 would allow us to more effectively enforce our explosives laws by requiring background checks on explosives purchasers and restricting possession of explosives by juveniles.

A. Extending and Strengthening the Brady Law

The Brady Law has dramatically increased the effectiveness of our Nation's gun laws that prohibit certain people – for example, felons, stalkers, and fugitives – from possessing firearms by requiring background checks on people who want to buy guns, and by denying guns to those who are not allowed to possess them. During the first five years of the Brady Law, state and

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local law enforcement officials conducted Brady background checks on prospective gun purchasers and stopped more than a quarter of a million people who should not have guns from getting them. The cooperation of state and local law enforcement, in voluntarily conducting these checks in areas covering 99 percent of our population – and the willingness of gun buyers throughout the country to comply with this common sense provision – made the success of the Brady Law possible and undoubtedly saved lives and prevented crimes from occurring.

Since November 30, 1998, when the National Instant Criminal Background Check System (NICS), went into operation, the FBI has shared the responsibility for doing background checks with states that have agreed to serve as points of contact (POCs) for the system. In just under 6 months, the NICS has processed more than 4 million background checks. Of these, our state partners acting as points of contact handled just over 2 million checks. In the vast majority of checks, legal gun buyers have completed their gun purchases within minutes. At the same time, federal officials have stopped more than 42,000 felons and other prohibited persons from getting guns, and we estimate that our state partners have stopped about 42,000 more.

In addition, through the cooperation of federal, state, and local law enforcement officials, the NICS has been used to apprehend fugitives who have tried to acquire firearms. Two recent examples illustrate this success. On March 12, 1999, the Texas Highway Patrol was able to apprehend a fugitive who had been wanted in Oscoda, Michigan, for eight years – for aggravated assault with a deadly weapon – after a NICS check at a pawn shop in Texas revealed the fugitive's criminal history when the fugitive attempted to redeem a pawned gun. And, on March 27, 1999, a NICS check was run on an individual seeking to buy a gun in Salina, Kansas. The NICS located an arrest record for terrorist threats in 1992, and the transfer of the gun was

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therefore delayed. The disposition of the arrest was not available to the NICS in automated records, however, and the FBI was unable to track down the disposition of the arrest – to determine if a conviction had been obtained – during the 3-day period allowed by the Brady Law. As a consequence, a handgun was transferred to the individual after the 3-day period expired. But, a few days later, the FBI was able to learn that the individual had been convicted of felony attempted terrorist threats, and notified the Dodge City Kansas Police Department. Local authorities promptly arrested the individual, charged him with felony possession of a firearm, and recovered the gun.

1. *Closing the Gun Show Loophole*

The Administration is committed to building on the success of the Brady Law by expanding its protections in three key areas. First, we want to close the gun show loophole. Since last November, when President Clinton directed Treasury Secretary Rubin and Attorney General Reno to develop a plan to address the gun show problem, we have been working to achieve this goal. Today, licensed dealers are required to conduct background checks at gun shows, but unlicensed people who set up tables right alongside the licensees can sell guns at gun shows without doing background checks. And while licensees have recordkeeping requirements in connection with their gun sales, unlicensed sellers are not required to provide any documentation of gun show sales to assist law enforcement in tracing firearms if they subsequently are used in crimes. This is a significant public safety problem, because more than 4,000 gun shows are held in America each year, and an estimated 25-50 percent of the vendors at these shows are unlicensed, and therefore not required to do background checks or keep records for crime gun tracing on any of the hundreds of thousands of buyers and transactions. A single

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gun show may have as few as 50 or as many as 2,000 tables, each displaying numerous guns (sometimes hundreds) for sale. Those barred from buying or possessing a gun seek out the unlicensed sellers, because they know that they can get guns "no questions asked." Also, because unlicensed sellers do not keep any records and because many of the guns sold at gun shows are used guns, there is often no way to trace a gun back to the person who sold or bought it if the gun later turns up at a crime scene. Because guns can be bought anonymously at gun shows, they are a significant source of guns for criminals. In fact, in an evaluation of 314 investigations related to gun shows, the firearms involved numbered more than 54,000.

In one case, an ATF inspector discovered that a convicted felon in Michigan used a false police identification to buy handguns at gun shows and resold the guns for profit. Among the firearms purchased were 16 new and inexpensive handguns. Local police recovered the guns in the course of investigating a domestic disturbance. The defendant pled guilty to numerous federal firearms violations and was sentenced to 27 months' imprisonment.

In their January 1999 report to the President, Treasury Secretary Rubin and Attorney General Reno presented recommendations for closing the gun show loophole by proposing legislation that will require a background check and gun tracing records in connection with *all* firearms transfers at gun shows, even if the seller is unlicensed. This way, gun shows can continue to be a place for law-abiding citizens to gather to trade, buy, and sell firearms but will no longer be a "safe haven" where felons, fugitives, those convicted of domestic violence, and juveniles can buy guns. Under the Lautenberg-Kerrey amendment to S. 254, licensed dealers will conduct background checks on behalf of unlicensed dealers at gun shows. In addition, licensed dealers will maintain and provide to the Secretary of the Treasury strictly limited

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information about the type of gun being transferred for the sole but critically important purpose of being able to trace the gun if it is later used in a crime. No identifying information about the buyer will be provided to ATF. Rather, only the make, model, and serial number of the gun sold will be provided, so that ATF can contact the seller to assist with a crime gun trace when requested to do so by a law enforcement agency that recovers the firearm.

Now that the Senate has passed legislation that actually closes the gun show loophole, the House has the opportunity to do the same. We strongly urge you to do so.

Our experience with the Brady Law and with the NICS has shown that background checks impose a minimal inconvenience on lawful gun sellers and buyers and offer a high return for our society as a whole. Under the NICS, more than 70 percent of the background checks are fully completed within minutes – often before the dealer requesting the check hangs up the phone – and waiting for a background check to be completed is a small price to pay for making our communities safer. We need to assure that the only people getting guns at gun shows are those who are permitted to have them.

2. *Juvenile Brady*

Second, we want to ensure that when juveniles commit violent acts that would be serious felonies if committed by an adult, they are permanently barred from ever getting a firearm. Today, juvenile adjudications – even for the most serious offenses, like murder – do not prevent juveniles from acquiring guns once they become adults. We have proposed an amendment to the Brady Law that would treat violent juveniles and violent adults in the same manner for purposes of determining whether they can possess a gun. If they have been convicted of an act that would

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have been a violent felony if committed by an adult, they will be barred for life from getting a gun regardless of their age when they committed the crime.

3. *Mandatory Waiting Period*

Third, our proposal imposes a mandatory 72-hour waiting period for all handgun purchases and gives law enforcement up to two additional business days to complete background checks. We believe that a mandatory waiting period of 72 hours for handgun transfers will save lives, because many gun crimes are committed within days of the time that the gun is purchased. This cooling-off period will prevent those murders and suicides that are committed in the heat or despair of the moment.

We also want to give law enforcement up to two additional days to complete a background check when further research is required to determine whether a person is prohibited by law from possessing a gun. Although more than 70 percent of the Brady background checks are completed within minutes, some records are not yet fully automated, and therefore some background checks require further research and analysis. Allowing a maximum of five days for conducting the check – which was the original amount of time allowed in the Brady Law – will prevent guns from being transferred to prohibited people about whom definitive information is unavailable at the end of three business days.

B. Restricting Youth Access to Firearms

Keeping guns out of the hands of juveniles has been one of the Clinton Administration's top priorities. The Clinton Administration worked with Congress to pass legislation prohibiting juvenile possession of handguns, and encouraging States to have "zero tolerance" for guns in schools. Also, in cooperation with local police departments, the Administration established

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ATF's Youth Crime Gun Interdiction Initiative (YCGII). H.R. 1768 seeks authorization for an expansion of YCGII. Through comprehensive crime gun tracing, YCGII is helping to establish how the illegal market in firearms operates in specific jurisdictions and to identify and arrest individuals who illegally supply guns to juveniles and young people, as well as the young people who illegally possess guns.

However, our current laws are still inadequate to protect our young people from gun violence. The recent school shootings and the deaths of 13 children every day from gunshot wounds, confirm this sad reality. The Clinton Administration has proposed four targeted measures to reduce inappropriate youth access to firearms.

First, we propose to raise the minimum age that a young person can possess a handgun from 18 to 21. Today, although it is not legal for a licensed firearms dealer to sell a handgun to anyone under 21, it is legal for persons between the ages of 18 and 21 years to possess handguns and even to buy them from unlicensed sellers in their neighborhood or at a gun show. The ease with which 18- to 20-year-olds can get guns is especially troubling given that ATF crime gun tracing data shows that more crime guns are recovered from 18- and 19-year-olds than from any other age group.

We urge Congress to extend the provisions of the Youth Handgun Safety Act to young people between the ages of 18 and 21. The same exceptions that apply to juveniles will apply to persons between the ages of 18 and 21. Under certain conditions, they could temporarily possess a handgun if they need it to hunt or farm or in connection with a job.

Second, we have proposed legislation to ban the possession by youth of all assault weapons. Although current law prohibits juveniles from possessing assault pistols, it allows

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them to possess assault rifles and large capacity ammunition feeding devices that were manufactured before the effective date of the assault weapons ban in 1994. The Administration's proposal closes this dangerous loophole by prohibiting the possession of all assault weapons and large capacity magazines by persons under the age of 21.

Third, H.R. 1768 includes a proposal that would require the sale of a child safety lock or safe storage device with every firearm. The Senate's juvenile justice bill includes a similar provision, but it is limited to handguns. Unfortunately, many children need look no further than their own home to get their hands on loaded and unlocked guns, as an estimated one-third of privately-owned handguns are kept loaded and unlocked.

Fourth, some 16 states across the country have recognized that adults have a responsibility to prevent children from obtaining unsupervised access to guns. "Child access prevention" (CAP) laws promote gun safety and responsibility by holding adults responsible if they allow children to have easy access to loaded firearms. According to one study published by the American Medical Association in 1997, CAP laws have helped reduce fatal unintentional shootings by an average of 23 percent.

However, too few states have CAP laws, and the laws in those states that do have them vary widely. Because youth gun violence is a serious national problem, H.R. 1768 includes a provision that will hold adults criminally responsible if they recklessly disregard the risk that a child will gain access to a gun which is used to cause death or serious injury.

C. Strengthening the Assault Weapons Ban

In 1994, the Congress and the Administration worked together to enact the Assault Weapons Ban, banning the manufacture and importation of 19 of the deadliest assault weapons,

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copies of those weapons, and large capacity ammunition clips that hold more than 10 rounds of ammunition.

Despite these efforts, a significant loophole remains. Although the assault weapons ban prohibits the importation of large capacity ammunition feeding devices that were manufactured after 1994, the ban is virtually unenforceable, because it is tremendously difficult to determine whether the devices that are shipped into this country were manufactured before the ban went into effect. H.R. 1768 includes a proposal – that was also part of the Senate's juvenile justice bill – to close this loophole by banning the importation of large capacity ammunition feeding devices, regardless of when they were manufactured.

D. Giving Law Enforcement Additional Tools to Combat Criminal Misuse of Firearms

Recognizing the increased public safety risks associated with criminal activity carried out with firearms, H.R. 1768 gives law enforcement additional tools to crack down on criminals who misuse firearms. First, the bill will make certain gang-related firearms offenses predicates for RICO. Criminal street gangs and guns go together all too often, and gang members use guns in carrying out all aspects of their illegal activities. This proposal will add a number of firearms offenses to the RICO statute, which prohibits the illegal activities of criminal organizations such as street gangs.

Second, the legislation will increase penalties for firearms conspiracies by making conspiracies to violate the firearms laws punishable by the same maximum term as the underlying substantive offense that was the object of the conspiracy. In other words, if gang members agree to get guns illegally, and any one gang member takes steps to get guns illegally,

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all of the gang members who agreed to the plan can be punished as if they had actually gotten guns.

Third, H.R. 1768 makes gun convictions predicate crimes for purposes of the Armed Career Criminal Act (ACCA). Today, only violent felonies and serious drug offenses are predicate offenses under the ACCA, which imposes a 15-year mandatory minimum prison sentence and is aimed at recidivist violent offenders and narcotics traffickers. This proposal will add prior convictions for being a felon-in-possession to the ACCA when the violator has at least one prior conviction for a violent felony or serious drug offense, so that gun-carrying criminals will be subject to the ACCA's strict terms.

Fourth, the bill increases the limitations period for National Firearms Act prosecutions. Under current law, the statute of limitations for violations of the National Firearms Act, which prohibits the unlawful possession of bombs and machineguns, is only three years. H.R. 1768 will extend the statute of limitations to five years, bringing it in line with the general statute of limitations for gun crimes.

Fifth, H.R. 1768 will permit federal law enforcement to forfeit guns that are used in crimes of violence and felonies. In addition, ATF will be able to forfeit additional items (such as drugs and property) that are used in the crimes. Both civil and criminal forfeitures will be available.

E. Combating Illegal Trafficking in Guns

The Clinton Administration has made targeting illegal gun traffickers a law enforcement priority. In 1996, the Administration launched the Youth Crime Gun Interdiction Initiative (YCGII) in 17 cities to trace all crime guns recovered in these cities, and to identify and arrest the

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traffickers who illegally supply firearms to young people. Since then, the Administration has added an additional 20 cities to the initiative and conducted more than 160,000 crime gun traces for federal, state, and local law enforcement in those cities.

These successes notwithstanding, illegal trafficking in guns remains a serious problem, and H.R. 1768 strikes at the heart of gun trafficking through tough, smart proposals to reduce the illegal supply of guns.

First, H.R. 1768 will restrict handgun purchases to one per month as an effective means to combat demonstrated gun trafficking patterns. Gun traffickers stockpile handguns – which are the criminal's gun of choice – and transport them to areas where guns are difficult to obtain and where their sale is most profitable.

A federal one-gun-a-month law will establish nationwide what has been accomplished in the three states that presently restrict handgun sales to one a month. When the citizens of South Carolina, Virginia, and Maryland recognized that traffickers purchased handguns in their state and shipped them elsewhere, the state legislatures moved to limit handgun purchases to one a month. All three states have reported success with their one-handgun-a-month laws.

A federal one-gun-a-month law will eliminate the need for a piecemeal approach to stopping gun trafficking by imposing a uniform rule that will make handguns equally difficult for criminals to obtain in *every* community. Allowing a person to obtain one handgun a month – for a total of 12 handguns in a single year – will not overburden legitimate gun buyers. In those cases in which a person might have a legitimate need to obtain more than one handgun a month, H.R. 1768 provides exceptions, such as when a person wishes to acquire an existing collection of firearms.

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Second, H.R. 1768 will require licensed firearms dealers to store their firearms inventories securely. "Smash and grab" thefts and large-scale burglaries by gun traffickers provide a significant source of firearms to the illegal gun market. To cut down on thefts of firearms from licensed dealers, H.R. 1768 will give ATF the authority to issue regulations requiring licensed dealers to store their firearms inventories securely, just as ATF presently requires explosives dealers to store explosives securely.

Third, the bill will allow ATF to better assure responsibility of all licensed firearms dealers. Current law allows ATF to conduct only one inspection of a firearms dealer per year, in the absence of probable cause and a warrant. Limiting ATF in this way means that dealers, once they are inspected, have a "bye" from oversight for the remainder of the year. H.R. 1768 will allow ATF to conduct up to three inspections of firearms dealers annually to ensure that the dealers are complying with the federal background check and recordkeeping requirements.

Fourth, because traffickers also steal guns when they are in transit and divert the guns to the illegal market, the legislation will require firearms thefts from common carriers to be reported. Specifically, H.R. 1768 will require common carriers to report the theft or loss of a firearm within 48 hours to give law enforcement the chance to prevent the diversion from being completed.

Fifth, H.R. 1768 clarifies existing law by establishing liability when a firearm is transferred to commit a crime of violence. It is now illegal to transfer a gun to someone who uses it to commit a violent crime or a drug crime if the person transferring the gun "knows" that the gun will be used in a crime. This legislation clarifies that there is liability when the transferor "knows or has reasonable cause to believe" that the gun will be used to commit a violent crime or

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a drug crime. This will make it easier to hold straw purchasers accountable for the consequences of their actions.

Sixth, H.R. 1768 will improve ATF's tracing ability by requiring federal firearms licensees to report the acquisition of used guns. New guns that are used to commit crimes already can be traced effectively, because the serial number of the gun enables ATF to get information about the retailer who received a new gun from the manufacturer and distributor. ATF can find out from the retailer who bought the gun. In contrast, it is much more difficult to trace used guns, because they often have been through many private transfers before being resold by a licensed retailer or pawnbroker. Under the legislation, licensed dealers will submit reports to ATF about used firearms that they acquire, to enable the guns to be traced if they are later used in crime. The information submitted by the dealers to ATF will not include identifying information about private individuals who sell used guns to, or buy them from, licensed dealers; rather, it will be restricted to information identifying the firearm.

F. Restricting Unlawful Access to Explosives

Current law prohibits felons and others from possessing explosives, but does not require that purchasers of explosives undergo a background check. Just as the Brady Law replaced the "honor system" for firearms purchases, there is no need to rely on the "honor system" for explosives when the NICS is already in place for guns. The Administration's proposal will require a NICS check on every person who buys explosives from a licensed explosives dealer. It will also restrict possession of explosives by juveniles.

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II. The Clinton Administration's Accomplishments in Fighting Gun Crime

Our overall approach to firearms enforcement is based on the following two elements, which work in tandem. First, we have committed federal resources to both prevent access to firearms by prohibited persons and incarcerate violent gun offenders. Second, we have developed partnerships with state and local authorities, and who make the vast majority of arrests and undertake the vast majority of prosecutions. Implementing this approach has brought us unprecedented success in combating violent crime.

A. The Historic Reduction in Crime

Since 1992, the nation's crime rate has been reduced by more than 20 percent. Nationally, homicide rates have fallen to levels last seen in the 1960s. There has also been a sharp decline in the number of violent crimes committed with firearms nationwide. Between 1992 and 1997, there was an overall decrease of 27 percent in the estimated total violent crimes committed with firearms reported by state and local law enforcement agencies to the Federal Bureau of Investigation (FBI). This decrease is depicted in Graph 1. During this same period, homicide with firearms dropped 24 percent; robbery with firearms, 27 percent; and aggravated assault with firearms, 26 percent.

Despite this very good news with respect to firearms violence, the Justice Department and the Treasury Department view the continued reduction of violent crime — including violent crime committed with firearms — as a top priority. The number of people killed with firearms remains extraordinarily high, as more than 34,000 people, including 4,643 people under the age of 20,

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died as a result of firearms injuries in 1996. In addition, youth gun violence remains at historically high levels, and we must continue to focus special attention on that problem.

B. Increased Collaboration Among Law Enforcement

In the past few years, federal, state and local law enforcement have collaborated in numerous violent crime task forces and specially-targeted initiatives. These collaborative efforts, as exemplified by the Justice Department's Anti-Violent Crime Initiative (AVCI), provide for greater flexibility at the district level to develop firearms and violent crime prosecution strategies in coordination with state and local prosecutors, consistent with the enforcement and investigative programs that ATF has put in place to better support locally-designed initiatives.

The Justice Department introduced the AVCI in 1994, broadening the national violent crime focus from one emphasizing firearms violations alone to one that strategically targets violent crime as manifested in local communities. The AVCI has generated an increased focus on gangs and other violent crime enterprises that frequently involve firearms violations. This expanded focus has yielded cases that are more difficult to develop but which can have a greater impact on community safety. For example, successful prosecutions have been brought against major gangs such as the Latin Kings in the East and the Gangster Disciples in the Midwest.

To provide a solid investigative base for prosecution strategies, ATF has developed an overall enforcement strategy that has three dimensions. First, ATF attacks armed violent crime through direct intervention, arresting criminals who misuse firearms. Second, ATF attacks violent crime on the supply side, by identifying and arresting individuals who illegally supply firearms to criminals and juveniles. Third, ATF seeks to forestall criminal diversion from the legal to the illegal market through regulatory enforcement measures. Each of these three

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components is essential. Removing the most violent offenders from society is a primary responsibility. Eliminating the flow of firearms to violent criminals, gang offenders, and juveniles will reduce the overall violent crime rate as well as the armed violent crime rate. Effective regulatory enforcement will lessen the burden on the criminal justice system.

To carry out these strategies, ATF relies on close working relationships with state and local law enforcement departments throughout the country as well as with United States Attorneys and local prosecutors. Close cooperation takes a variety of forms. For instance, state and local law enforcement are currently tracing nearly 200,000 crime guns annually with ATF, which provides them with information on potential traffickers. The trafficking information is then analyzed and acted upon by joint task forces, in cooperation with United States Attorneys and local prosecutors. For example, in Philadelphia, Pennsylvania, a straw purchaser and gun trafficker conspired to purchase over 50 semiautomatic rifles, high-powered ammunition, and accessories. Through tracing, one of the rifles was linked to a homicide and the trafficker had given a number of the other guns to a convicted felon, drug dealers, and a juvenile. The defendants were convicted on several counts, including gun trafficking and possession of a firearm in a school zone. The felon-trafficker received a sentence of over 11 years, while the straw purchaser was sentenced to four years in prison.

C. The Increase in Overall Firearms Prosecutions

On a combined basis, federal, state, and local firearms prosecutions have steadily increased since 1992, as the number of violent crimes committed with firearms has sharply declined. Although the total number of *federal* firearms cases decreased between 1992 and 1998, that decrease does not mean that criminals are avoiding prosecution or receiving shorter

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sentences. The federal, state, and local law enforcement systems are coordinating more closely, and federal agents and prosecutors are focusing greater attention on higher-level firearms offenders. At the same time, many states have increased enforcement efforts and/or penalties for firearms offenders.

Data from the Administrative Office of the United States Courts suggests that much of the decline in federal firearms prosecutions between 1992 and 1997 occurred among lower-level offenders who received sentences of probation up to imprisonment for less than 3 years, while the number of higher-level federal firearms offenders — those who received prison sentences of 5 years or more — has increased more than 25 percent. See Graph 2.

Between 1992 and 1996 — when most of the decline in federal firearms prosecutions occurred — state prosecutions of weapons offenders increased sharply, more than offsetting the federal decline, and the combined number of firearms offenders sentenced to prison has increased by approximately 22 percent. See Graph 3.

D. Successful Collaborative Efforts in Our Communities

In certain communities, the integrated efforts of federal, state, and local law enforcement and other community leaders have produced very dramatic drops in the violent crime rate. In Boston, Massachusetts, for example, collaboration among law enforcement and community leaders through Operation Ceasefire reduced violence by youth gangs and brought down the number of youth homicides 64 percent in three years. And in Richmond, Virginia, effective and coordinated law enforcement, including stepped-up enforcement of gun crimes through the program known as "Project Exile," has reduced the homicide rate by more than 30 percent in the last year. The Boston and Richmond experiences are described in more detail in the statements

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by the United States Attorneys from these jurisdictions that were submitted to the Senate Subcommittee on Criminal Justice Oversight and Youth Violence on March 22, 1999, and which are attached hereto as Exhibits.

The Justice Department and the Treasury Department expect to build on these successful strategies by helping more communities develop strategies and solutions that take into account the specific elements of the gun violence problem as experienced by those communities and the unique tools available in each jurisdiction to combat that violence. We have already provided an unprecedented level of resources to state and local law enforcement through our COPS program and other programs that were funded through the 1994 Crime Bill. Because no single formula for combating gun violence works in all, or even most, settings, it would be a mistake for the Administration to mandate the use of any particular formula across the country, and such an attempt might significantly hamper the ability of the United States Attorneys and ATF to combat all the diverse aspects of violent crime.

Given the uniquely federal system of government in the United States, no crime reduction strategy can ignore the fact that the vast majority of the violent crime in our country falls within the jurisdiction of state and local agencies or that the vast majority of resources to fight crime are provided by state and local governments. Current federal enforcement strategies and programs are based on this understanding. Indeed, any effort that does not consider the appropriate roles of the respective levels of government runs the risk of shifting cases that can be handled effectively at the local and state level to the federal level, with significant opportunity and financial costs. Substantial opportunity costs are incurred when federal resources that could be used to combat

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uniquely federal crimes – like interstate gun trafficking – are used instead on cases that could be handled effectively by state and local authorities.

In some areas, of course, such as multi-district trafficking in drugs, weapons, or aliens, crime must be attacked primarily at the federal level. In most other areas, including where state and local governments have primary responsibility, the federal government is most helpful to the extent it provides leadership, support, statutory tools, and coordination. In the area of firearms enforcement, the federal government also has important responsibilities in the regulatory area, ensuring compliance with laws governing the manufacture, distribution, and sale of firearms.

E. Building on Success in Gun Violence Reduction

We will continue to work together, and with other federal, state, and local agencies to reduce gun violence. To replicate the best practices occurring throughout the country, we will be developing a coordinated firearms violence reduction strategy as outlined in the Directive issued by President Clinton in March of this year. Our strategy will draw on the proven measures and other innovative approaches being demonstrated by communities throughout the country. Through the continued leadership of the United States Attorneys and ATF, we will assure that federally licensed firearms dealers comply with all applicable laws; that crime gun information developed through comprehensive tracing, mapping and analysis is used strategically to identify illegal gun markets, gun hot spots, and illegal gun traffickers; and that illegal possessors, users and traffickers of guns receive appropriate sanctions. Many of the tough and effective crime-fighting strategies focusing on gun violence that have been put in place by local communities are highlighted in a new DOJ Report, entitled "Promising Strategies to Reduce Gun Violence," which was released by the President in March. The report summarizes and analyzes 60 such

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local strategies, including those to which we have referred in this statement. A one-page summary describing this report is attached hereto.

We believe that the most effective strategies will be *coordinated* efforts in which federal prosecutors and investigators team up with state and local prosecutors and investigators, as well as other community leaders, to determine what prevention and intervention methods will work best, and which available sanctions are most appropriate. Accordingly, we have asked for additional resources to enable us to implement our comprehensive gun violence reduction strategy.

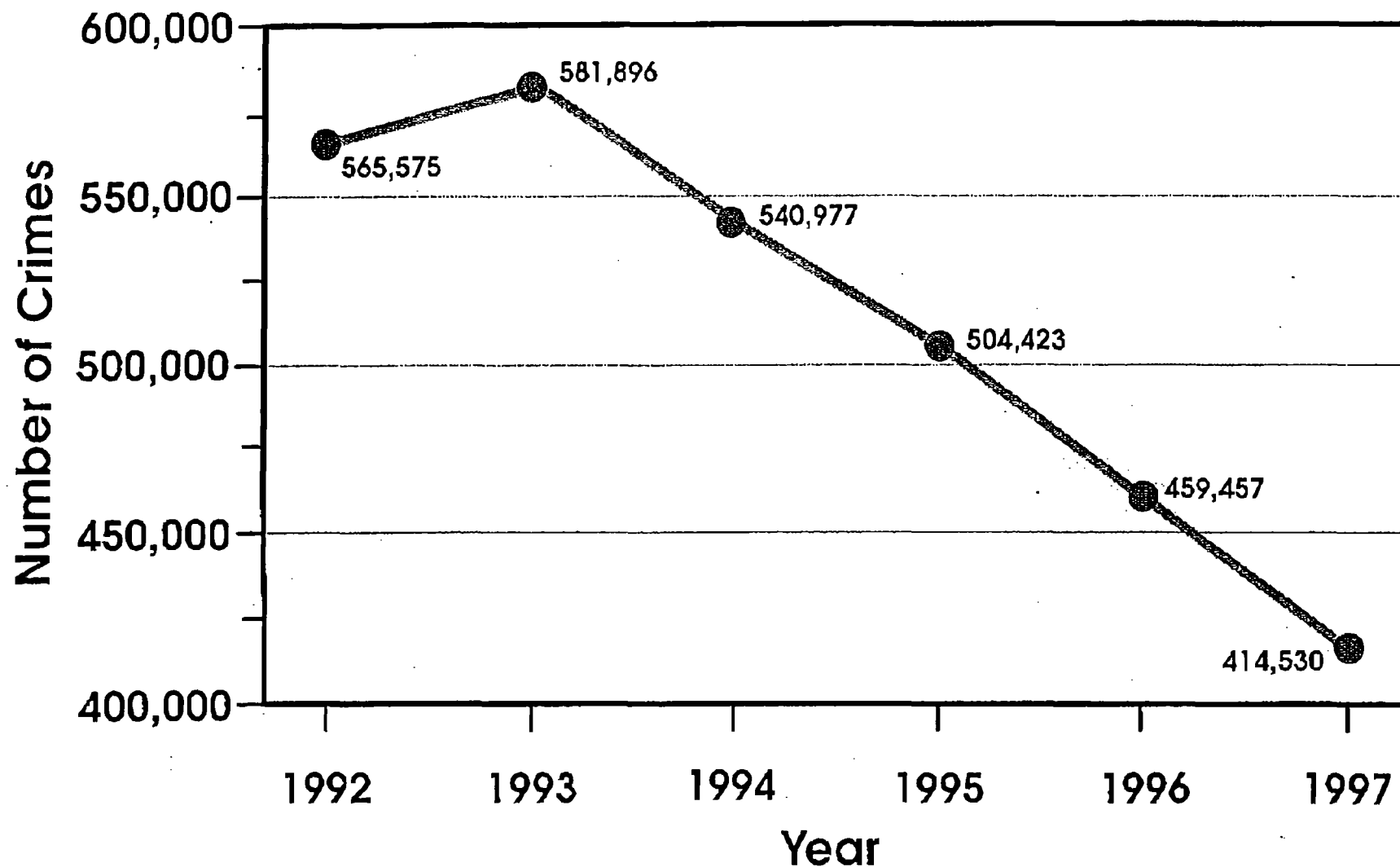
CONCLUSION

We must heed the voices of the local beat cop, the corner grocer, and the parents who have felt the devastating impact of gun violence. We must take note of the children whose voices have been silenced by gun violence throughout the country. We must take further common sense steps to reduce the access to firearms by criminals and our children. We can not afford to wait any longer.

Attachments

GRAPH 1

Violent Crimes With Firearms*

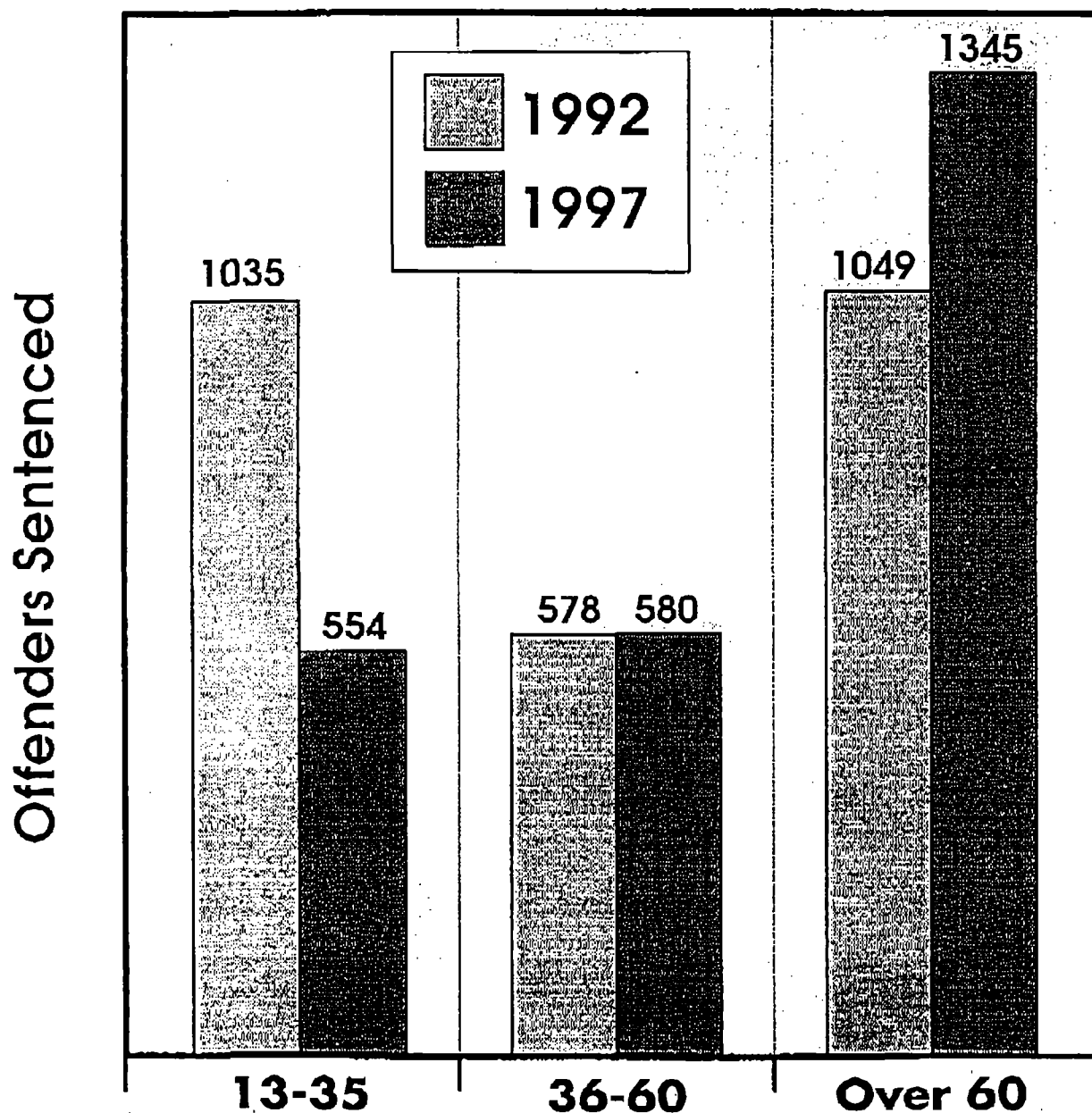


* Excluding Rape

Source: FBI/Uniform Crime Report Data

GRAPH 2

Federal Weapons and Firearms Offenders Convicted & Sentenced, 1992 vs.1997*



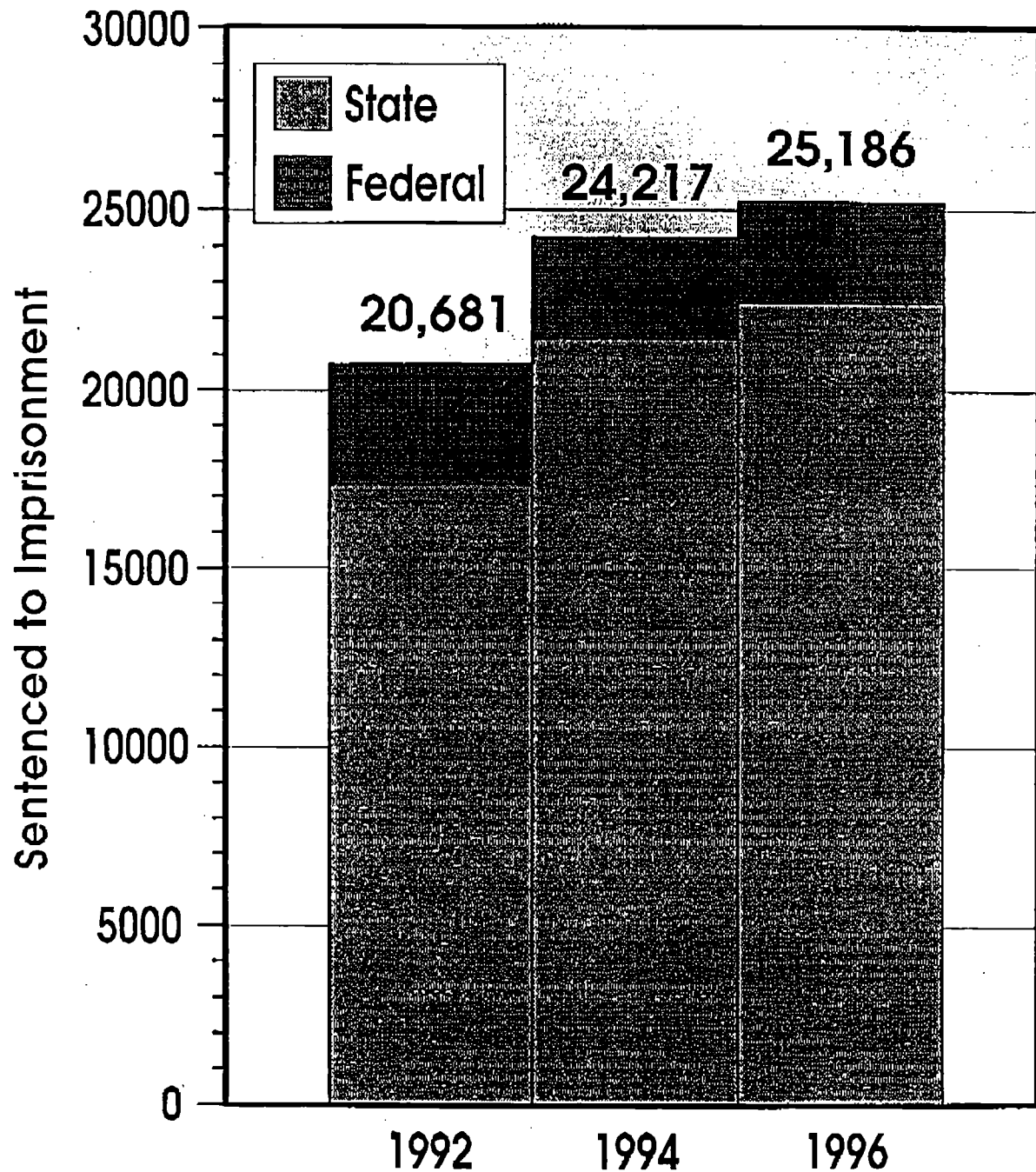
Sentence: Months in Prison

**Excluding Sentences One Year or Less*

Source: AOUSC annual reports, Table D-5, 1992 and 1997.

GRAPH 3

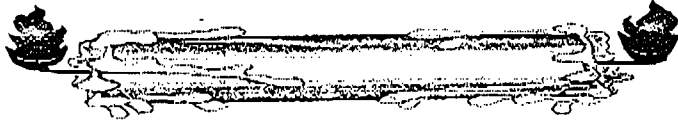
Total State and Federal Weapons Offenders Sentenced to Imprisonment in 1992, 1994, 1996



Source: BJS, National Judicial Reporting Program (NJRP) state estimates and Federal Justice Statistics Program (FJSP) totals, 1992 (cy), 1994 (cy), 1996 (st=cy; fed=fy)

FAX TRANSMISSION COVER SHEET

Executive Office of the President
Office of Management and Budget
TREASURY BRANCH

**FROM:**

Mark Schwartz
Bob Mahaffie
Ursula Gillis
Esther Rosenbaum
Joanne Chow
Ingrid Schroeder
Rachel Rogers
Jean Anderson

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OFFICE: (202) 395-6156

FAX: (202) 395-6825

Date:

9/20

To:

Leanne Shimabukuro

Fax:

456-7028Pages: (1) Including this cover sheet**COMMENTS:**

Leanne - ATF budget authority.
Our email is down. Let me
know if you have questions
- Joanne 5-3646

	FY 00		FY 94-00			
ed	Requested	Enacted(Cont)	Requested	%	Enacted	%
553	585	566	226	63%	194	52%
0	15	0				
16	13	41				
569	613	607	254	71%	235	63%

TOTAL P.01



FRATERNAL ORDER OF POLICE

NATIONAL LEGISLATIVE PROGRAM

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JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

BERNARD H. TEODORSKI
CHAIRMAN, NATIONAL LEGISLATIVE COMMITTEE

FAX COVER SHEET

DATE: 23 SEPTEMBER 1999

FROM: **James O. Pasco, Jr.**
Executive Director

TO: Leanne

NUMBER: 456-7028

Comments: _____

Transmitting 3 pages, including cover sheet. Please contact the Fraternal Order of Police Legislative Office if you did not receive all sheets.

Good morning. My name is Gilbert G. Gallegos and I am the National President of the Fraternal Order of Police, the nation's oldest and largest organization of law enforcement professionals, representing more than 283,000 men and women. I am here with Chairman Hatch to ask the Clinton Administration to do what they have failed to do for too long--enforce the firearms laws of our country.

The Administration has been so preoccupied with efforts to pass new gun control legislation they have forgotten that the aim of law enforcement is crime control. The Fraternal Order of Police has been a strong supporter of the Brady Law and the ban on assault weapons. According to the President, since the Brady Law was enacted, nearly 250,000 felons were prohibited from purchasing a firearm as of June 1998. What the President has failed to mention is that these are people who have committed a Federal felony and should have been prosecuted! According to the GAO, there have only been 7 Brady-related prosecutions. Seven.

This is totally unacceptable and terrible policy which does nothing to protect the public. Turning down their attempt to buy a gun and letting them go is not enough. We need to prosecute criminals who want guns--not send them elsewhere. In 1992, the Federal government prosecuted over 7,000 gun crimes. This number has declined each year--down to less than 4,000 in 1998.

We did not fight for the passage of the Brady Law so that this Administration could ignore it and other firearms laws.

The President has not failed to capitalize on tragedy, to use it as a backdrop from which to call for more Federal laws, especially firearms laws. Programs like Project Exile in Richmond and a similar program in Philadelphia demonstrate that Federal firearms laws can work if public safety personnel coordinate their investigative and prosecution efforts. Chairman Hatch is to be strongly commended for his leadership on Project Exile and CUFFS--these are programs that work and his commitment to seeing them implemented will reduce the threat of armed criminals.

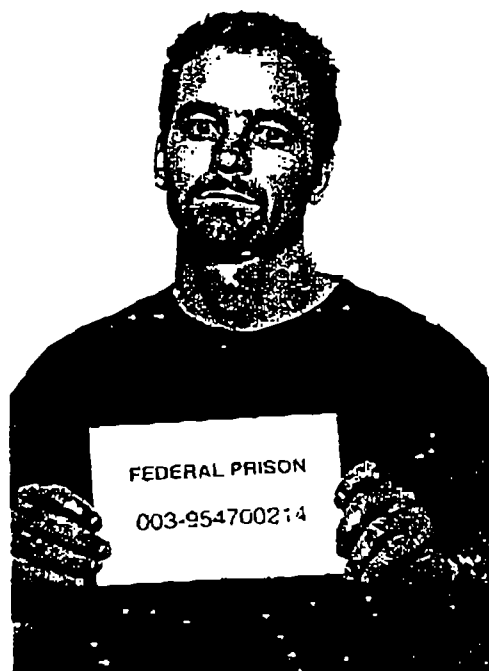
Prosecutions of firearms offenses sent to Federal prosecutors by the Bureau of Alcohol, Tobacco and Firearms are down 44% from a peak of 9,885 to 5,510 in 1998. One of the major contributing factors to the drop in ATF enforcement has been cutbacks in its staff. Give ATF the money and manpower they need to do the job!

Chairman Hatch, you should also be commended for your efforts on a recently released report, "Crimes Committed with Firearms." This report demonstrates what the F.O.P. and Chairman Hatch have been saying about gun crimes in our country today--we don't need more gun control, we need smarter crime control and a commitment to better enforcement priorities.

This Administration has been seduced once again--this time by poll numbers and the politics of gun control. There is too much concern about posturing and not enough prosecuting. Let's untie the hands of our Federal agents and get them back to work putting criminals behind bars.

CRIMES COMMITTED WITH FIREARMS

A Report for Parents, Prosecutors, and Policy Makers



Senate Committee on the Judiciary
Senator Orrin G. Hatch, Chairman

Prepared by
Majority Staff
September 15, 1999

EXECUTIVE SUMMARY

The Problem: Law-Abiding Citizens being Killed and Wounded by Criminals Using Firearms

- Over the past 12 months, the national media has reported mass shootings at the Columbine High School, a Los Angeles Jewish Community Center, two Atlanta brokerage firms, Illinois communities, and the Mormon Family History Library in Utah. These high-profile shootings and others cost the lives of several dozen law-abiding citizens, many of them children.
- Annually, criminals cause approximately 13,000 deaths by illegally using firearms to murder or to commit non-negligent manslaughter.
- Criminals use firearms to commit approximately 440,000 total violent crimes each year. Available data indicates that many of these crimes are committed by repeat offenders.
- Approximately 60% of criminals who had been imprisoned for violent offenses are rearrested within three years for another felony or serious misdemeanor.
- Over 90% of criminals age 18 to 24 who had a substantial arrest record prior to being imprisoned are rearrested within three years for another felony or serious misdemeanor.
- Ninety-four percent of prisoners have, at some point, been convicted of a violent crime or have been previously incarcerated. Thus, longer sentences for criminals will prevent those criminals from committing future crimes.

Proven, Effective Steps for National Reform: Enforcement of Existing Firearms Laws

- In 1991, the Department of Justice initiated Project Triggerlock, under which violent repeat offenders who violated federal firearms laws were targeted for federal prosecution. Eighty-four percent of Triggerlock defendants were felons, drug dealers, or violent criminals in possession of a firearm. The average sentence received by an armed career criminal under Triggerlock was 18 years without parole.
- Despite the success of Project Triggerlock, the Clinton Administration has sharply reduced the number of prosecutions of criminals who violated firearms statutes. In 1992, there were 7,048 federal prosecutions of federal firearms violations. In 1998, there were only 3,807 of such prosecutions.

- For the past three years, the Justice Department's total, nationwide prosecutions of criminals for specific firearms violations include the following:

<u>Prosecutions for:</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
Possession by a Person convicted of a Domestic Violence Crime	-0-	21	56
Possession of a handgun or handgun ammunition by a Juvenile	27	3	8
Transferring a handgun or handgun ammunition to a Juvenile	9	5	8
Possession/Discharge of a firearm in a School Zone	4	5	8
Brady Act (background check) violations	-0-	-0-	1

- Over the same period, the budget of the Department of Justice, which is responsible for prosecuting criminals who violate firearms statutes, increased by 54%, (excluding major grant programs).
- In addition, the Bureau of Alcohol, Tobacco and Firearms ("BATF"), which is responsible for investigating criminals who violate the firearms laws, has reduced the number of referrals for prosecution of firearms violations by 44% from 1992 to 1998. This substantial drop in referrals cannot be explained by the mere 14% drop in the number of BATF investigators over the same period.
- Since November 1998, when the National Instant Check System ("NICS") became operational, there have been approximately 100,000 denials of attempted firearms purchase because the purchaser was disqualified (e.g., a felon or a person convicted of a domestic violence misdemeanor). To date, the BATF has referred only 200 cases for prosecution.
- Although the Department of Justice has drastically reduced the number of prosecutions of criminals who use firearms illegally, local U.S. Attorneys in Richmond and other cities have continued an enhanced Project Triggerlock with great success. Under the new version of the program, Project Exile, the number of homicides in Richmond's has fallen by more than 30% each year since the program was introduced in 1997.
- The State of Virginia has been so impressed with the results from Project Exile in Richmond that it recently adopted Project Exile on a statewide basis.

Referred to in report
Starting - cooperative

- After public debate brought to light the Clinton Administration's failure to prosecute criminals who use firearms illegally, the Administration first argued that States were handling the prosecution burden and that the Department of Justice did not have the resources to prosecute large numbers of criminals for firearms violations.
- However, a close examination of Project Exile revealed that it was instituted because: (1) federal laws generally provide longer prisons sentences for criminals that commit firearms offenses; and (2) federal prosecutors often have greater resources to devote to the enforcement of firearms statutes than their state counterparts. Further, the budget for the Department of Justice has increased dramatically since 1992.
- The Administration has finally reversed course and now states that it supports an increase in prosecutions of criminals who use firearms in violation of federal law.
- Any comprehensive solution to the problem of criminals using firearms to commit crimes of violence must include the reinstatement of an aggressive national policy to prosecute criminals who violate existing federal firearms statutes. Specifically, this must include the reversal of the Administration's current reluctance to prosecute firearms offenses, including:
 - Possession of a firearm with a prior misdemeanor conviction for domestic violence.
 - Possession of a handgun or handgun ammunition by a juvenile.
 - Transfer of a handgun or handgun ammunition to a juvenile.
 - Possession or discharge of a firearm in a school zone.
 - Attempted purchase of a firearm in violation of the Brady background check law.
- To ensure passage of legislation that produces real reductions in violent crime committed with firearms, the Administration should join with Congress to:
 - Restore a national program to prosecute criminals who violate federal firearms laws by enacting Project CUFF ("Criminal Use of Firearms by Felons"), contained in the Senate Juvenile Justice Bill.
 - Fund Project CUFF with at least \$50 million to ensure the active and thorough investigation and prosecution of criminals who violate firearms laws and to provide for an advertising campaign to deter firearms violations.

- Create an office within the Department of Justice to coordinate and oversee the national prosecution program.
- Designate at least one prosecutor in each U.S. Attorney's office to prosecute firearms offenses.
- Prohibit juveniles who are convicted of a violent crime from ever possessing a firearm—Juvenile Brady.
- Increase penalties for criminals who transfer handguns or semiautomatic assault weapons to juveniles while having reasonable cause to know that the juvenile intends to commit a violent felony.
- Increase mandatory minimum sentences for possession of a firearm during the commission of a crime of violence or drug trafficking crime.

INTRODUCTION

Several high-profile mass shootings at schools, a community center, and a workplace have shocked Americans in the past year. These incidents have energized a well-deserved and beneficial debate about the criminal use of firearms.

After the natural and appropriate outpouring of grief and sympathy for the families of the victims, the growing outrage at these crimes of violence has fostered a public desire to stop future shootings. Americans have recognized that the criminal use of firearms is caused by a variety of factors including a lenient criminal justice system, disintegrating traditional families, drug and alcohol abuse, a lack of constructive values, pervasive media violence, and a lack of discipline in public schools.¹

One focal point of the national debate has been limiting access to firearms. Since the NICS background check program began operation in November 1998, the system has denied approximately 100,000 disqualified persons (e.g., felons and persons convicted of a domestic violence misdemeanor), have been denied the opportunity to purchase a firearm.² In addition, in the last year, approximately 6,000 juveniles were expelled from school for the possession of a firearm.³

Another focal point of the national debate has been the Clinton Administration's sharp reduction in the number of prosecutions of criminals who violate existing firearms laws. In 1992, the Department of Justice filed over 7,000 charges in federal court for firearms violations.⁴ By 1998, the number of firearms charges filed by the Department of Justice had fallen to approximately 3,800.⁵

The available data concerning tested prosecution programs, like Project Triggerlock and Project Exile, has shown that these programs are dramatically successful in reducing the number

¹See Children, Violence, and the Media: A Report for Parents and Policy Makers 6 (Maj. Staff of Jud. Comm., Sept. 14 1999).

²Fox Butterfield, "Instant Check on Gun Buyers Has Halted 100,000 of Them," The New York Times, Sept. 9, 1999, at A25.

³Carey Goldberg, "Shootings in a Schoolhouse: The Debate," The New York Times, May 23, 1999, at A9 (stating that the Department of Education reported that approximately 6,000 students were expelled from school during the 1996-97 school year for carrying a firearm).

⁴Executive Office of United States Attorneys.

⁵Id.

of violent crimes committed with a firearm. Thus, expansion of prosecution programs targeting criminals who violate existing firearms laws will produce a significant reduction in violent crime. In short, any comprehensive approach to reducing the level of criminal violence in our society should include a national policy to increase prosecutions of and sentences for criminals who illegally obtain and use firearms.

THE PROBLEM: Law-Abiding Citizens being Killed and Wounded by Criminals Using Firearms

During the past twelve months, the national media has reported several mass shootings. On April 20, 1999, two students shot and killed thirteen people at the Columbine High School in Colorado before killing themselves.⁶ Also in April, a gunman shot and killed two persons at the Mormon Family History Library in Salt Lake City, Utah.⁷ Over the Fourth of July weekend, a man went on a shooting spree in Illinois and Indiana that left two dead and nine wounded before he killed himself.⁸ Later in July, a man murdered his wife and two children with a hammer and then used a firearm to kill nine people at two different stock trading firms in Atlanta before committing suicide.⁹ In August, a man shot and wounded several children and a woman at the North Valley Jewish Community Center in the Los Angeles area before killing a nearby postman.¹⁰

While not often reported by the national media, criminals use firearms to commit approximately 13,000 murders and non-negligent manslaughters per year.¹¹ Criminals use firearms to commit approximately 440,000 total violent crimes (i.e., murders, non-negligent manslaughters, forcible rapes, robberies, and aggravated assaults) each year.¹²

⁶Dan Luzadder, et al., "Killers Stayed in Small Area of School," The Denver Rocky Mountain News, June 16, 1999, at 5A.

⁷Michael Vigh, "Floral Memorial Draws Mourners to Library: Bouquets Pay Tribute to Those Slain in Shooting Spree," The Salt Lake Tribune, April 18, 1999, at C2.

⁸Christopher Thorne, "Spree Gun Seller Facing Charges," The Atlanta Constitution, July 8, 1999, at 3A; "Weapons for a White Supremacist," The Buffalo News, July 18, 1999, at 2H.

⁹Blanca Mo Vinca-Quintanilla, et al., "Into the Mind of a Murderer/Day Trader's Feelings of Rage Fueled By Hopclessness," Newsday, July 31, 1999, at A4.

¹⁰Matt Krasnowski, "Postman Described as 'Target of Opportunity'; U.S. Attorney Details Confession of Suspect in Shooting Rampage," The San Diego Union-Tribune, Aug. 13, 1999, at A-1.

¹¹See Uniform Crime Reports for the United States-1997 15-16 (FBI, 1998) (stating that 18,209 murders and non-negligent manslaughters occurred in 1997 and that 70% of these crimes were committed by criminals using firearms).

¹²Id. at 11-12 (stating that 11,634,773 violent crimes were committed in 1997 and that 27% of these crimes were committed by criminals using firearms).

Violent crimes are often committed by criminals with prior records of criminal activity. Approximately 60% of criminals who had been imprisoned for violent offenses are rearrested within three years of release for another for a felony or serious misdemeanor.¹³ Over 90% of criminals age 18 to 24 who had an substantial arrest record prior to being imprisoned are rearrested within three years for a felony or serious misdemeanor.¹⁴ Ninety-four percent of criminals in prison have, at some point, been convicted of a violent crime or have been previously incarcerated.¹⁵ To reduce these alarming numbers with respect to the criminal use of firearms, a reasoned and balanced approach must be created and implemented to prosecute, convict, and incarcerate violent repeat offenders who use firearms.

¹³Allen J. Beck & Bernard E. Shipley, Recidivism of Prisoners Released in 1983 5 (U.S. Dept. of Justice, revised 1997).

¹⁴*Id.* at 2 ("[a]n estimated 94.1% of prisoners age 18 to 24 with 11 or more prior arrests were rearrested within 3 years [of release from prison]").

¹⁵Survey of State Prison Inmates 11 (Bureau of Justice Statistics, 1991).

PROVEN, EFFECTIVE STEPS FOR NATIONAL REFORM:

Prosecution of Criminals Under Existing Laws

The prosecution of criminals who violate existing firearms laws is not merely a theoretical approach to reducing violent crimes committed with firearms. In 1991, the Bush Administration initiated Project Triggerlock that established a national policy for the Department of Justice to prosecute felons who possess a firearm and who commit other firearms violations.¹⁶ Project Triggerlock recognized that multiple federal firearms laws that were not being enforced did not combat crime. Further, state firearms laws often resulted in significantly less prison time for offenders than did federal law.¹⁷ Finally, state law enforcement authorities often had insufficient resources to prosecute criminals who committed firearms violations. Project Triggerlock brought federal resources to bear on criminals who violated federal firearms statutes.

In the first full year of operation, Project Triggerlock resulted in the prosecution of 6,454 defendants for firearms violations.¹⁸ Eighty-four percent of these defendants were felons, drug dealers, or violent criminals in possession of a firearm.¹⁹ Under the federal law, unlike the laws of most states, convicted firearms offenders are not eligible for parole.²⁰ The average sentence received by a convicted Triggerlock defendant was 7 years and the average sentence for an armed career criminal under Triggerlock was 18 years.²¹ Thus, Project Triggerlock took violent repeat offenders who had broken the federal firearms laws off the streets for long periods of time.²²

In Oklahoma, Project Triggerlock resulted in the tripling of sentences for criminals who committed firearms offenses and who were prosecuted and convicted under federal law instead

¹⁶ "Project Putting Away Armed Felons: Authorities Use Federal Gun Laws to Imprison Repeat Criminals for Lengthy Terms," Milwaukee Journal Sentinel, Jan. 4, 1999, at 1 (quoting Attorney General Dick Thornburgh as stating "'Triggerlock will target the worst crimes, the crimes the public fears most, violent crimes committed at gunpoint'").

¹⁷ Project Triggerlock Year One Report May 1991- April 1992 4 (1992).

¹⁸ Id. at 1.

¹⁹ Id.

²⁰ Id. at 4.

²¹ Id. at 9.

²² See id. at 8-10.

of state law.²³ Because state law allowed for parole, while federal law did not, actual time served was substantially greater under Project Triggerlock prosecutions than under state prosecutions.²⁴ In short, the program took a number of violent repeat offenders out of a revolving door state system and put them in federal prisons for substantial terms.²⁵

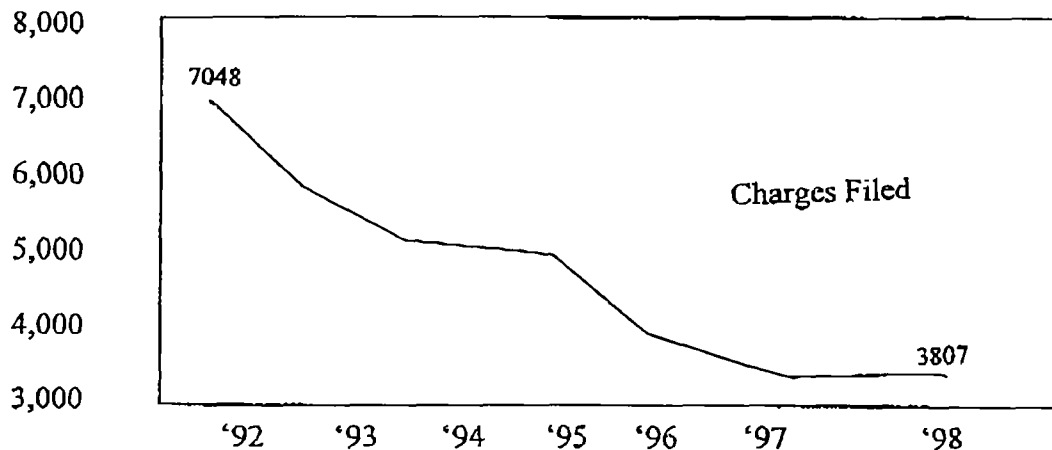
²³Ed Godfrey, "Triggerlock Success Criticized, Praised," The Sunday Oklahoman, Feb. 16, 1992, at 1 (stating that Operation Triggerlock resulted in substantially longer sentences and noting that defense lawyers and some judges criticized the severity of the punishments).

²⁴Id.

²⁵Id.

Despite the success of Project Triggerlock, the Clinton Administration sharply reduced the number of prosecutions of criminals for firearms violations. From their peak of 7,048 in 1992, firearms prosecutions dropped by almost half to just 3,807 by 1998, as the chart shows:

FEDERAL PROSECUTION OF CRIMINALS USING GUNS



The statistics cause more concern when prosecutions for specific crimes are analyzed. Despite 6,000 students being expelled for carrying a firearm to school, the following chart shows that the Department of Justice prosecuted a total of only 17 individuals for possession of a handgun in a school zone and a total of only 38 cases of juvenile possession of a handgun in the last three years:

	<u>Clinton Administration Record</u>		
	<u>1996</u>	<u>1997</u>	<u>1998</u>
Prosecutions for :			
Possessing a handgun in a School Zone (18 U.S.C. § 922(q))*	4	5	8
Possession of a handgun by a Juvenile (18 U.S.C. § 922(x)(2))*	27	3	8

* Source: Executive Office of the United States Attorneys

Despite the need to protect juveniles from the illegal transfer of handguns, the Clinton Administration prosecuted only 20 such violations in the last three years:

	<u>Clinton Administration Record</u>		
	<u>1996</u>	<u>1997</u>	<u>1998</u>
Prosecutions for :			
Transfer of a Handgun to a juvenile (18 U.S.C. § 922(x)(1))*	9	5	6

* Source: Executive Office of the United States Attorneys

Despite the call for more Brady background checks, the Administration has only prosecuted 1 Brady background check violation in the last three years:

	<u>Clinton Administration Record</u>		
	<u>1996</u>	<u>1997</u>	<u>1998</u>
Prosecutions for :			
Violation of Brady Background Check Requirements (18 U.S.C. § 922(s) and (t))*	-0-	-0-	1

* Source: Executive Office of the United States Attorneys

In the first seven months after the NICS became operational in November 1998, the system denied approximately 100,000 attempted purchases of firearms by disqualified persons (e.g., felons and persons convicted of domestic violence misdemeanors).²⁶ When NICS denies a purchase of a firearm, it sends a notice to the BATF of the attempted transaction.²⁷ This notice

²⁶Fox Butterfield, "Instant Check on Gun Buyers Has Halted 100,000 of Them," The New York Times, Sept. 9, 1999, at A25.

²⁷Interview with Kevin Wilkerson, Federal Bureau of Investigation, in Washington, D.C. (Aug. 26, 1999); accord Implementation of the Brady Law 12 (Dep't of the Treas. & BATF, Sept. 1999)

gives the BATF a made-to-order lead that a disqualified person has violated federal firearms law in his attempted purchase of a firearm. Nonetheless, the BATF recently reported that it has referred only a small fraction of the 100,000 denials for prosecution.²⁸

Clinton Administration Record

Number of NICS Denials because of Disqualification	100,000	100%
Referrals for prosecution (18 U.S.C. § 922(a)(6))	200 ²⁹	.2%

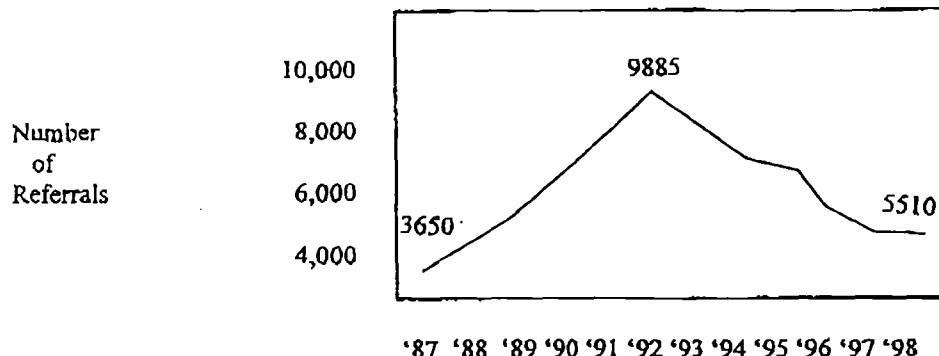
Furthermore, a 1999 study by the Transactional Records Access Clearinghouse ("TRAC") at Syracuse University also confirms that the BATF, which is responsible for investigating firearms offenses, has reduced the numbers of firearms cases that it refers for federal prosecution by 44% since 1992.³⁰

²⁸Implementation of the Brady Law 16 (Dep't of the Treas. & BATF, Sept. 1999) (stating that "over 200" NICS denial cases have been referred for prosecution).

²⁹The Treasury Department recently reported that it has formed a task force to deal with approximately 2,000 cases in which a firearm was transferred to a disqualified person after the 3-business-day Brady period for resolving inconclusive background checks expired. *Id.* at 12-13. With respect to the 100,000 instant denials where a firearm was not transferred, the Treasury Department is not forming an investigatory task force, but stated that it is investigating up to 1% of these denials. *Id.* at 16. This is disconcerting given that such instant denials indicate (1) that the attempted purchaser committed a federal crime by stating that he was not a disqualified person (e.g., a felon or a person convicted of a misdemeanor crime of domestic violence) on the Form 4473 that he completed for the NICS check; and (2) that the disqualified person is actively attempting to obtain a firearm.

³⁰Transactional Records Access Clearinghouse, New Findings (visited Sept. 7, 1999) <<http://trac.syr.edu/tracatf/findings/aboutAFT/newFindings.html>>.

ATF Referrals for Prosecution Peak in 1992



In response to public questioning of its reluctance to investigate and prosecute, the Administration has stated that the sharp decrease in prosecutions of criminals who commit firearms violations is due to a lack of federal resources and the general decrease in crime.³¹ Deputy Attorney General Eric Holder has acknowledged that there have been few prosecutions for violation of the Brady law and that there "needs to be more," and he has indicated that "federal prosecutors were reluctant to devote large amounts of resources prosecuting" gun crimes, some of which have short sentences.³² Mr. Holder also stated that the drop in overall violent crimes shows that the Department of Justice is "clearly doing something right."³³

However, the TRAC study also reveals that, while BATF's referrals for federal prosecution have decreased 44% from 1992 to 1998, the number of BATF criminal investigators decreased by only 14% over the same period.³⁴ Moreover the overall budget of the Department of Justice, which is responsible for prosecuting criminals who violate federal firearms statutes,

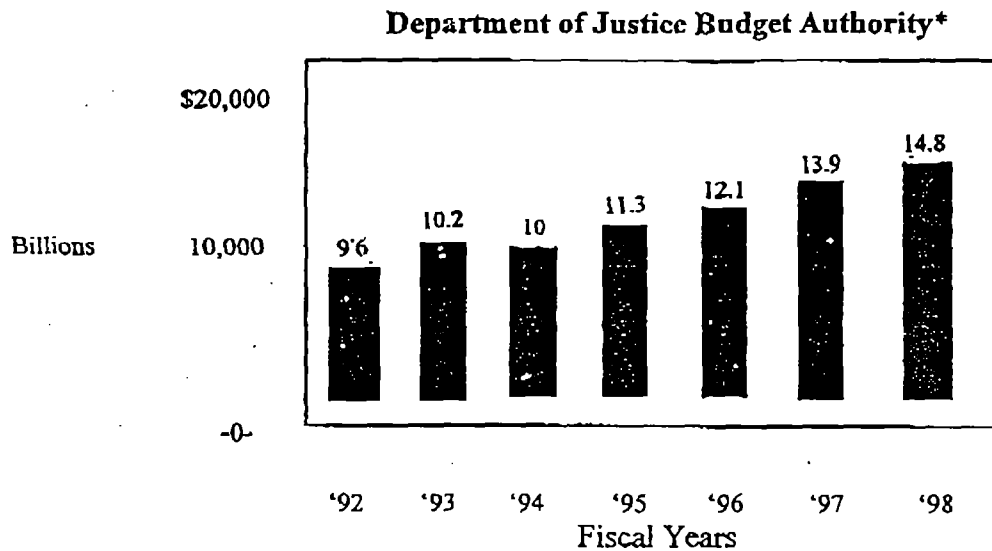
³¹See Edward Walsh, "GOP Faults Enforcement of Gun Laws; Need for New Curbs Questioned; Justice Official Defends Prosecutors," The Washington Post, May 28, 1999, at A12; Attorney General Janet Reno, Answers to Questions from Senator Hatch after May 5, 1999 Oversight Hearing (Aug. 3, 1999) (on file with Senate Committee on the Judiciary) (stating that the Administration is relying on partnerships with State and local law enforcement agencies for prosecuting criminals who commit firearms violations and noting that violent crime has decreased overall).

³²Edward Walsh, "GOP Faults Enforcement of Gun Laws; Need for New Curbs Questioned; Justice Official Defends Prosecutors," The Washington Post, May 28, 1999, at A12.

³³Id.

³⁴Transaccional Records Access Clearinghouse, New Findings (visited Sept. 7, 1999) <<http://trac.syr.edu/tracatf/findings/aboutAFT/newFindings.html>>.

has increased by 54 percent from 1992 to 1998.³⁵



*Does not include OJP, Community Oriented Policing Services, or the Crime Victims Fund.

Thus, the Clinton Administration cannot claim that it has insufficient resources to prosecute criminals who commit firearms offenses.

Further, the TRAC study concluded that "the pattern of ATF declines in referrals of firearms violations for prosecution doesn't mirror crime trends, nor explain why ATF's level of activity has fallen relative to weapons enforcement by other federal agencies."³⁶ Thus, the Administration cannot reasonably claim that a reduction in overall crime is responsible for its reduction in firearms prosecutions.

Instead, the decline of investigations and prosecutions of criminals who commit federal firearms violations may indicate a lack of priority by the Administration on enforcing firearms laws. Indeed, Attorney General Reno has publicly stated, "The prosecution by [the] Federal Government of small gun cases that can be better handled by the State court ... doesn't make such good sense."³⁷ However, the greater resources of federal prosecutors and the greater length

³⁵Budget Staff Justice Management Division, Department of Justice Budget Trend Data-1975 Through the President's 2000 Request to the Congress 1 (Spring 1999).

³⁶Transactional Records Access Clearinghouse, New Findings (visited Sept. 7, 1999) <<http://trac.syr.edu/tracatf/findings/aboutAFT/newFindings.html>>.

³⁷145 Cong. Rec. S5214, S5248 (1999) (Sen. Sessions quoting Attorney General Reno).

of federal sentences has proven that federal prosecution does make sense as shown in Project Triggerlock.

Despite the lack of a national policy from the Administration, the United States Attorney in Richmond, Virginia revived and enhanced Project Triggerlock under the name "Project Exile."³⁸ In addition to federal prosecution, Project Exile includes an advertising campaign to deter crime.³⁹ The results of Project Exile have been dramatic—homicides have dropped by more than 30% each year since the program began in 1997.⁴⁰ Other cities and the State of Virginia have adopted Project Exile.⁴¹ All of these state and local governments have recognized that prosecuting criminals who use firearms illegally directly reduces the number of violent crimes involving firearms.

When Congress presented evidence of the successes of Project Triggerlock and Project Exile, the Administration, to its credit, finally and slowly began to reverse course. President Clinton directed the Department of Justice and the Treasury Department to increase prosecutions of criminals who commit firearms offenses.⁴² And the United States Attorney in Los Angeles is

³⁸The U.S. Attorney's report on Project Exile states:

"In 1997, the U.S. Attorney's Office in Richmond developed and carried out an aggressive, innovative, and creative approach to this violence called 'Project Exile.' Taking advantage of stiffer bond rules and sentencing guidelines in federal court, all felons with guns, guns/drug cases, and gun/domestic violence cases in Richmond are federally prosecuted, without regard to numbers or quantities."

United States Attorney's Office for the Eastern District of Virginia, Project Exile 1 (July 15, 1998).

³⁹See id.

⁴⁰Margot Williams, et al., "Federal-Local Gun Control Venture Stymied by Success," The Washington Post, Sept. 11, 1999, at A1; Kim Cobb, "Tougher Firearms Laws Put Convicted Felons Under Gun; State Law Enforcement Officers, Feds Cracking Down on Criminals," The Houston Chronicle, Sept. 5, 1999, at A1.

⁴¹See id. (stating that Rochester, New York and Fort Worth Texas were starting Project Exile programs); Governor James S. Gilmore, III, "Exile Criminals Now," Investor's Business Daily, Aug. 31, 1999, at A22 (stating that Virginia has passed statutes to adopt Project Exile statewide).

⁴²"Clinton Cites Bid to Curb Illegal Gun Sales," The Boston Globe, March 21, 1999, at A7.

reportedly working on a firearms law enforcement plan for submission to the Department of Justice in Washington.⁴³

⁴³Matt Lait & Eric Lichtblau, "U.S. to Be More Aggressive on Gun Violations," The Los Angeles Times, Sept. 2, at B1 (stating that U.S. Attorney Alejandro Mayorkas is working on a firearms prosecution program that he will submit to the Department of Justice).

CONCLUSION

Given the nearly universal acknowledgment that the aggressive prosecution of criminals who use firearms illegally produces a substantial drop in violent crime, the Administration should concentrate its efforts on increasing the prosecution of criminals who commit firearms violations. Specifically, the Administration should reverse its current reluctance to prosecute criminals who commit firearms offenses, including: (1) criminals with a prior conviction for a domestic violence misdemeanor who possess firearms;⁴⁴ (2) criminal juveniles who possess handguns or handgun ammunition;⁴⁵ (3) criminals who transfer handguns or handgun ammunition to a juvenile⁴⁶; (4) criminals who possess or discharge a firearm at a school zone⁴⁷; and (5) criminals who attempt to purchase a firearm in violation of the Brady Act background check provisions.⁴⁸

Further, to ensure passage of legislation that produces real reductions in violent crime committed with firearms, the Administration should join with Congress to: (1) restore a national program to prosecute criminals who violate federal firearms laws—Project CUFF;⁴⁵ (2) fund Project CUFF with at least \$50 million to ensure the active and thorough investigation and prosecution of criminals who violate firearms laws;⁴⁶ (3) create an office within the Department of Justice to coordinate and oversee the national prosecution program; (4) designate at least one prosecutor in each U.S. Attorney's office to prosecute firearms offenses;⁴⁷ and (5) fund an advertising campaign to deter criminals from committing firearms violations.⁴⁸

With an agreement to restore an effective national prosecution policy in place, Congress

⁴⁴18 U.S.C. § 922(g)(9).

⁴⁵18 U.S.C. § 922(x)(2).

⁴⁶18 U.S.C. § 922(x)(1).

⁴⁷18 U.S.C. § 922(q).

⁴⁸18 U.S.C. § 922(a)(6).

⁴⁵Violent and Repeat Juvenile Offender Accountability Act of 1999, S. 254, 106th Cong. §§ 801 to 805 (1999). The House bill contains similar provisions. Juvenile Justice Reform Act of 1999, H.R. 1501, 106th Cong. §§ 301 to 303 (1999).

⁴⁶S. 254, § 805.

⁴⁷Id. at § 803(b)(3).

⁴⁸Id. at § 803(c).

and the Administration should also: (1) prohibit juveniles who are convicted of a violent crime from ever possessing a firearm—Juvenile Brady;⁴⁹ (2) increase penalties for criminals who transfer handguns or semiautomatic assault weapons to juveniles while having reasonable cause to know that the juvenile intends to commit a violent felony;⁵⁰ and (3) increase mandatory minimum sentences for possession of a firearm during the commission of a crime of violence or drug trafficking crime.⁵¹

To be sure, reasonable steps to prevent criminal access to firearms may be part of a comprehensive program to combat violent crime. However, prosecuting those criminals who violate access requirements will be crucial to such a provision's success. In the long run, focusing law enforcement activities on the criminals who commit firearms crimes will prove to be even more effective means of reducing violent crime and increasing the safety of our streets, our schools, and our homes.

⁴⁹Id. at § 841.

⁵⁰Id. at § 601(b).

⁵¹Id. at § 903.

Participants in the Press Conference

September 15, 1999

Sen. Orrin Hatch, R-UT, Chairman of the Senate Judiciary Committee

Sen. Jeff Sessions, R-AL, Chairman, Subcommittee on Youth Violence

Rep. David Vitter, (R-LA)

Rick Castalto, father of Rich Castalto, a student wounded in the Columbine High School shootings

Gil Gallagos, President of the National Fraternal Order of Police

Fred Russell, Deputy Police Chief, Richmond, Virginia where Project Exile started

Peggy Landry, New Orleans, Louisiana, member of several parole boards in Louisiana, victim of an attempted gun crime



News Release

JUDICIARY COMMITTEE

United States Senate • Senator Orrin Hatch, Chairman

September, 15, 1999

Contact: Jeanne Lopano, 202/224-5225

Remarks of Senator Orrin G. Hatch

Press Conference on Release of

"Crimes Committed With Firearms"

Working Towards a Comprehensive Solution: Over 13,000 murders and non-negligent manslaughters a year are committed with firearms. Too many of the crimes involve juveniles. According to the Justice Department, the number of juvenile arrests for violent crime, including crimes committed with a firearm, exceeded the 1988 level by 48%. Our violent crime problem, and youth violence in particular, are complex problems that demand comprehensive solutions. The Hatch-Sessions youth violence bill, which is being considered in conference, presents the Congress and the Administration with an opportunity to give the American people a comprehensive response to violent crime.

Our bill makes our schools safer; it empowers parents; it recognizes the importance of prevention; and it emphasizes enforcement. It is this last component of our strategy which we are here to discuss with you today.

Part of any comprehensive solution to deal with crime must be a commitment to enforcing the firearms laws on the books. Actions speak louder than words, whether we're talking about how the government deals with gun offenders or how it deals with terrorists.

Today, I am joined by representatives of the law enforcement and victims communities. We are here to talk about the need to restore a national policy to enforce our firearms laws. I am also releasing a report entitled *Crimes Committed With Firearms- A report for Parents, Prosecutors, and Policy Makers* prepared by the majority staff of the Judiciary Committee.

Our report makes some interesting findings, reviews proven, effective enforcement policies of the past; and offers some promising suggestions for the future. For example, we found:

Criminals use firearms to commit approximately 440,000 total violent crimes each year. Available data indicates that many of these crimes are committed by repeat offenders.

Our report also found that proven enforcement programs and policies of the past have been de-emphasized by the Justice Department:

In 1991, the Department of Justice initiated Project Triggerlock, under which violent repeat offenders who broke federal firearms laws were targeted for federal prosecution. The average sentence received by an armed career criminal under Triggerlock was 18 years without parole. Yet, Triggerlock was effectively dumped. In 1992 there were 7,048 federal prosecutions of federal firearms violations. In 1998, there were only 3,807 such prosecutions.

Over the same time period, the budget for the Department of Justice, excluding some large new grant programs, increased some 54%. Thus, we appear to be paying more and getting less.

For the past three years, the Committee found that the Justice Department's total, nationwide prosecutions of criminals for transferring a handgun or handgun ammunition to a Juvenile amounted to at total of 22. For possession or discharge of a firearm in a school zone -- 17. And for violations of the Brady background check provisions -- 1 in the last three years.

- The Committee also learned that the Bureau of Alcohol Tobacco and Firearms ("BATF") has reduced the number of referrals for federal prosecution of all firearms violations by 44%, from 1992 to 1998.

The Administration recently reported 100,000 disqualified persons--a large portion of which have a serious criminal record--were prevented from purchasing a gun since November 1998 by the National Instant Check System--NICS background checks. This means that tens of thousands of criminals may have broken existing federal law in attempting to purchase a firearm. And these criminals may be still be trying to obtain a firearm. However, the BATF has referred only 200 of these illegal attempted purchases for prosecution. That is just .2%--POINT 2 PERCENT who MAY be prosecuted.

This movement away from prosecution needs to be reversed and, despite a lack of national-level leadership, efforts are underway to do so. Local U.S. Attorneys in Richmond and other cities have continued an enhanced, localized version of Project Triggerlock with great success. Under the new version of the program, Project Exile, Richmond's homicide rates has fallen by more than 30% each year. That is what prosecution of criminals who use firearms to violate federal law can accomplish.

Project Exile was instituted because: (1) federal laws generally provide longer prisons sentences for criminals that commit firearms offenses; and (2) federal prosecutors often have greater resources to devote to enforcement of firearms statutes than their state counterparts.

CONCLUSION

Any serious, comprehensive strategy to deal with the problem of criminals using firearms must include the reinstatement of an aggressive national policy to prosecute criminals who violate firearms statutes. The report I have issued today recommends - among other things - that we do exactly what Sen. Sessions - and our other speakers - are advocating - prosecute criminals. The report recommends that we:

1. Restore a national program to prosecute criminals who violate federal firearms laws by enacting Project CUFF ("Criminal Use of Firearms by Felons"). CUFF will expand Project Exile nationally and will ensure active and thorough investigation and prosecution of criminals who violate firearms laws.
2. Fund Project CUFF with at least \$50 million to ensure the active and thorough investigation and prosecution of criminals who violate firearms laws and provide for an advertising campaign to deter firearms violations.
3. Create an office within the Department of Justice to coordinate and oversee the national prosecution program.
4. Designate at least one prosecutor in every U.S. Attorney's office to prosecute firearms offenses.
5. Prohibit juveniles who are convicted of a violent crime from ever possessing a firearm-Juvenile Brady.

The Congress cannot arrest or prosecute a single violent offender. But we can take steps to insure that the Executive Branch does so. We must act because the Administration has failed to do so.

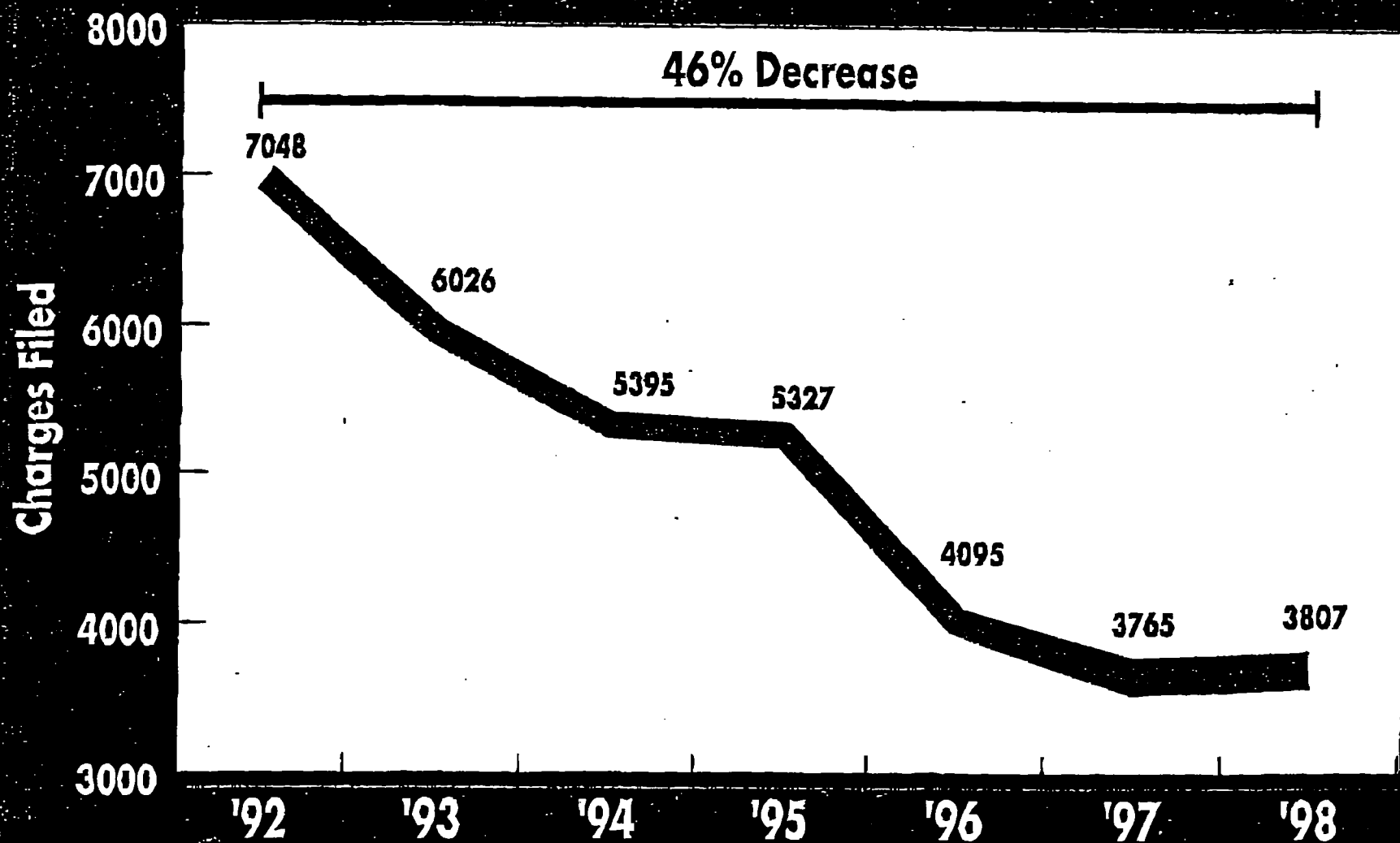
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Prosecutions of Federal Firearm Laws

Cases Reported, Executive Office, U.S. Attorney
Requested Firearms Sections Counts Charged, Calendar Years 1996-1998

Title 18 U.S.C.		1996	1997	1998
922(d)	Providing a firearm to a prohibited person, unspecified category	17	25	10
922(d)(1)	Providing a firearm to a felon	20	13	24
922(g)(2)	Possession of a firearm by a fugitive	30	30	23
922(g)(3)	Possession of a firearm by a drug addict or illegal drug user	46	69	129
922(g)(4)	Possession of a firearm by a person committed to a mental institution or an adjudicated mental incompetent	1	4	5
922(g)(5)	Possession of a firearm by an illegal alien	72	96	107
922(g)(6)	Possession of a firearm by a person dishonorably discharged from the Armed Forces	0	0	2
922(g)(8)	Possession of a firearm by a person under a certain kind of restraining order provision	3	18	22
922(g)(9)	Possession of a firearm by a person convicted of a domestic violence misdemeanor	0	21	56
922(q)	Possession or discharge of a firearm in a school zone	4	5	8
922(s)	All violations under the Brady Act, first phase	0	0	1
922(t)	All violations under the Brady Act, Instant Check phase	0	0	0
922(u)	Theft of a firearm from a Federal Firearms Licensee	52	51	25
922(v)(1)	Manufacturing, transferring, or possessing a non-grandfathered "assault weapon"	16	4	4
922(x)(1)	Transfer of a handgun or handgun ammunition to a juvenile	9	5	6
922(x)(2)	Possession of a handgun or handgun ammunition by a juvenile	27	3	8
Brady Act	Unspecified violations	46	26	21
924(c)(1)	Enhanced penalty: Use of a firearm or destructive device during crime of violence or drug-related crime prosecutable in federal court	1987	1885	1763
922(g)	Possession of a firearm by a prohibited person, unspecified category	683	752	603
922(g)(1)	Possession of a firearm by a felon	1213	1366	1550

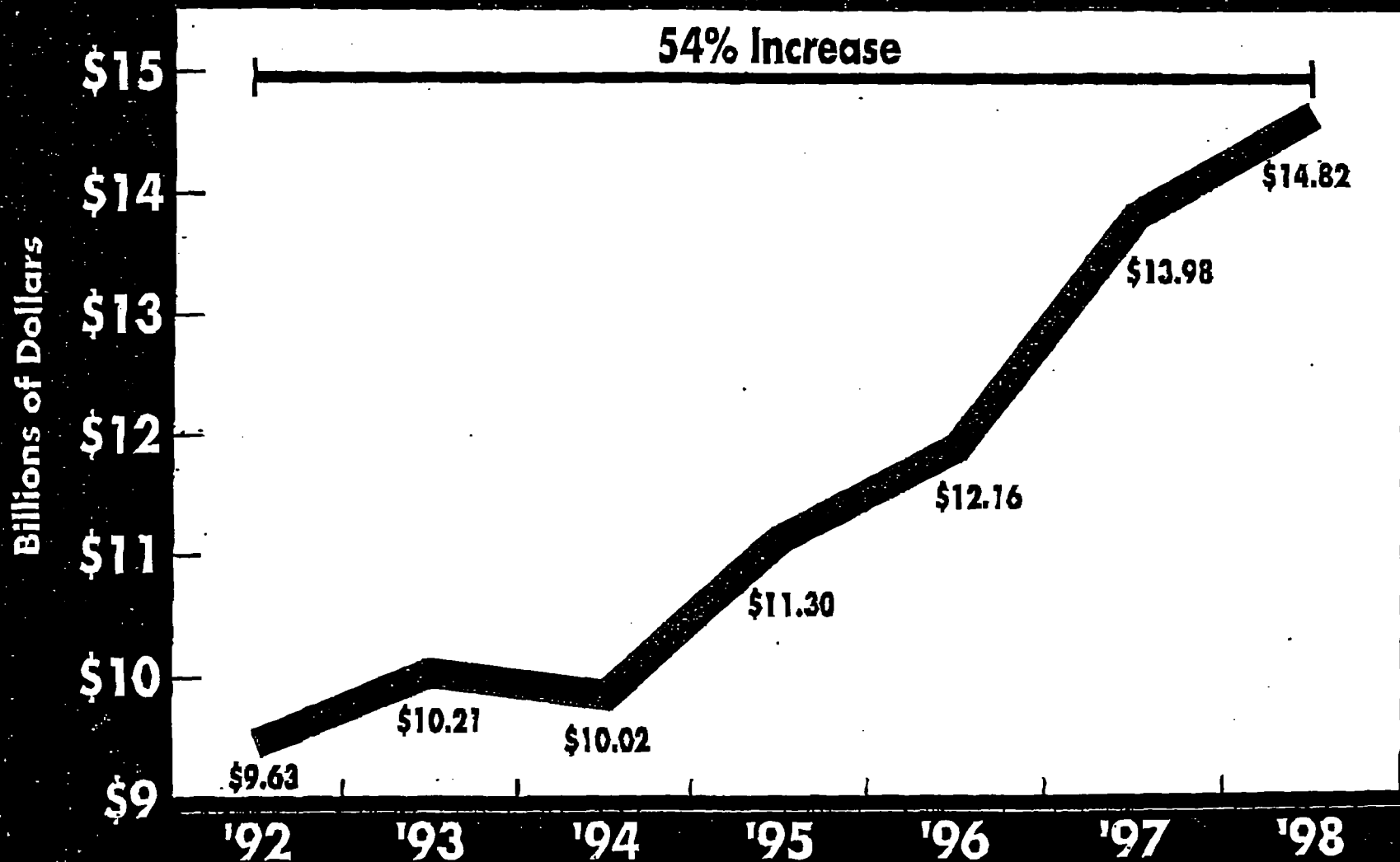
Clinton-Gore Administration Decrease In Prosecutions of Criminal Use of Firearms FY 1992-1998



Source: United States Attorneys Annual Statistical Report

Clinton-Gore Administration Increase in Department of Justice Budget*

FY 1992-1998



*Does not include OJP, Community Oriented Policing Services, or the Crime Victims Fund

Source: DOJ Budget Trend Data, Spring 1999

Republican Project CUFF

Criminal **U**se of **F**irearms by **F**elons

- **Restores a national program to prosecute criminals who violate Federal firearms laws.**
- **Funds program with at least \$50 million to ensure active and thorough investigation and prosecution of criminals who violate firearms laws.**
- **Designates at least one prosecutor in each U.S. Attorneys office to prosecute firearms offenses.**
- **Provides for advertising prosecution program to increase deterrence of firearms violations.**

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Senator Backs Stricter Gun Laws

By Matt Kelley
Associated Press Writer
Wednesday, September 15, 1999; 4:57 p.m. EDT

WASHINGTON (AP) -- The Senate Judiciary Committee chairman released a staff report Wednesday indicating a steep decline of federal firearm prosecutions during the Clinton administration.

Sen. Orrin Hatch, the Utah Republican who is running for president, said the figures show President Clinton is "soft on crime." He urged stricter enforcement of current gun laws rather than new restrictions.

But a Justice Department official said federal prosecutors are focusing on the most dangerous armed criminals. The combined number of state and federal gun prosecutions is up, said Bea Witzleben, a top official on gun policy.

Hatch's committee staff report showed federal gun prosecutions dropped from 7,048 in 1992, when George Bush was president, to 3,807 last year.

"It's nice to mouth off about gun control, but we've got lots of laws on the books that aren't being enforced," Hatch said at a news conference that also included one of the students injured during the Columbine High School shootings in Littleton, Colo.

"Passing any law will not stop any criminal from getting a gun if he knows the violation won't be prosecuted," said Rick Castaldo, whose son, Rich, was shot eight times and paralyzed.

Witzleben said the Justice Department figures used for Hatch's report may not reflect all gun cases filed by federal prosecutors. She said the number of criminals serving federal prison terms of more than five years for gun crimes is up more than 25 percent since 1992.

"Our combined state and federal effort has resulted in more criminals going to jail for guns than was true in 1992," Witzleben said. "At the same time, violent crime with firearms has gone down, so we think it's working."

Hatch said the Justice Department should crack down on gun crimes and designate one prosecutor in each U.S. Attorney's office to focus exclusively on firearms offenses. A juvenile crime bill passed by the Senate includes \$50 million for this kind of effort, he said.

The report also said the number of gun cases referred to prosecutors by the Bureau of Alcohol, Tobacco and Firearms dropped by 44 percent from 1992 to 1998, though the agency's staff of investigators



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dropped 14 percent during that period.

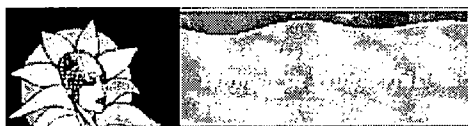
Hatch and Sen. Jeff Sessions, R-Ala., also criticized the Clinton administration for not prosecuting more felons who illegally try to buy guns. While computerized background checks stopped 100,000 people from buying guns illegally during the system's first seven months, only 200 of those cases were referred to prosecutors, the senators said.

Witzleben said that although it is a federal crime to lie on a gun application, those cases are often difficult and time-consuming to prove.

"We can never do every violation of the law," she said. "What we try to do is take the most dangerous criminals off the streets."

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Firearms Enforcement in America: Increased Coordination and More Prosecutions

Crime is down. In the past six years, there has been an historic reduction in crime in America. Violent crimes committed with guns – including homicides, robberies and aggravated assaults – fell by 27% between 1992 and 1997, and the nation's violent crime rate has dropped by nearly 20% during the same period. Preliminary figures from the FBI's Uniform Crime Report show that in 1998 serious crime dropped for the seventh straight year. The streets of America are safer than they have been in over three decades.

We've kept guns out of the hands of criminals. The Brady Law has stopped more than 250,000 felons, fugitives, and other prohibited people from getting guns, preventing untold crimes and violence. Under the Brady Law's National Instant Check System (NICS) the vast majority of the background checks are completed within minutes.

Firearms prosecutions are up. Since 1993, funding for state and local law enforcement has increased by nearly 300% – due in large part to the resources provided in the 1994 Crime Bill. Federal, state and local law enforcement authorities are now working more closely than ever to combat gun violence through comprehensive strategies.

- ▶ Nationally, firearms convictions are up dramatically and, in 1996, 22% more criminals were incarcerated for either state or federal weapons offenses than in 1992 (from 20,681 to 25,186).
- ▶ The number of federal prosecutions of high-level firearms offenders (those sentenced to 5 or more years) is up by more than 25 % since 1992 (from 1,049 to 1,345).
- **Despite the good news, reducing gun violence remains a top priority.** Although violent crime is down, tragedies like the shootings in Littleton, Colorado, and Conyers, Georgia – and the fact that 13 young people in America die every day from gunshot wounds – remind us that we must do more to reduce firearms violence even further. We must build upon our success in reducing crime to provide greater protection for our children and all of our citizens. This requires keeping guns out of the hands of criminals and children, and enforcing the law effectively when gun crimes are committed.
- **We're working together.** The Clinton Administration's firearms enforcement strategy has two main parts. First, we have committed substantial federal resources to both prevent access to firearms by prohibited persons and incarcerate violent gun offenders. Second, we have forged partnerships with state and local authorities, who make the vast majority of arrests and undertake the vast majority of prosecutions.
 - ▶ These partnerships are effective and make sense. They allow each community to identify their unique firearm and other violent crime problems and implement the strategies that are most likely to have a positive impact on these local problems.

- ▶ They also build on the reality that state and local law enforcement have responsibility for combating the vast majority of violent crime in our country, and have the lion's share of the resources to do so.
 - ▶ Efforts not based on this coordination -- like efforts to require wholesale federalization of firearms offenses by bringing all cases into the federal system -- will shift cases that can be handled effectively at the local and state level to the federal level. This will prevent federal law enforcement officials from targeting their resources effectively to investigate and prosecute uniquely federal crimes such as interstate gun trafficking and gang violence.
 - ▶ It has long been recognized that federal violent crime resources need to be used against those offenders who do the most damage. As the Bush Administration's Project Triggerlock said it, federal firearms enforcement should not be used to "compete with or supplant" local efforts, but should "target the most dangerous violent criminals in the community."
- **Results speak for themselves.** The increased collaboration among federal, state, and local law enforcement has resulted in: (1) a more efficient distribution of prosecutorial responsibilities, (2) a steady increase in total firearms prosecutions and, most importantly, (3) a sharp decline in the number of violent crimes committed with guns.
- ▶ By closely cooperating with state and local law enforcement, ATF has been able to trace 200,000 crime guns annually, and provide information about potential traffickers to state and local police and prosecutors.
 - ▶ Coordinated law enforcement efforts in Boston, Massachusetts, Richmond, Virginia, and elsewhere, involving all levels of law enforcement and community leaders, have produced very dramatic drops in the cities' violent crime rates.
 - ▶ We are building on these and other successful strategies by developing a coordinated firearms violence reduction strategy in response to President Clinton's Directive of March 1999. The strategy will draw on the proven measures and other innovative approaches being demonstrated by communities throughout the country.