



STATEMENT

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BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

CONCERNING

FIREARMS LEGISLATION AND ENFORCEMENT

PRESENTED ON

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**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.

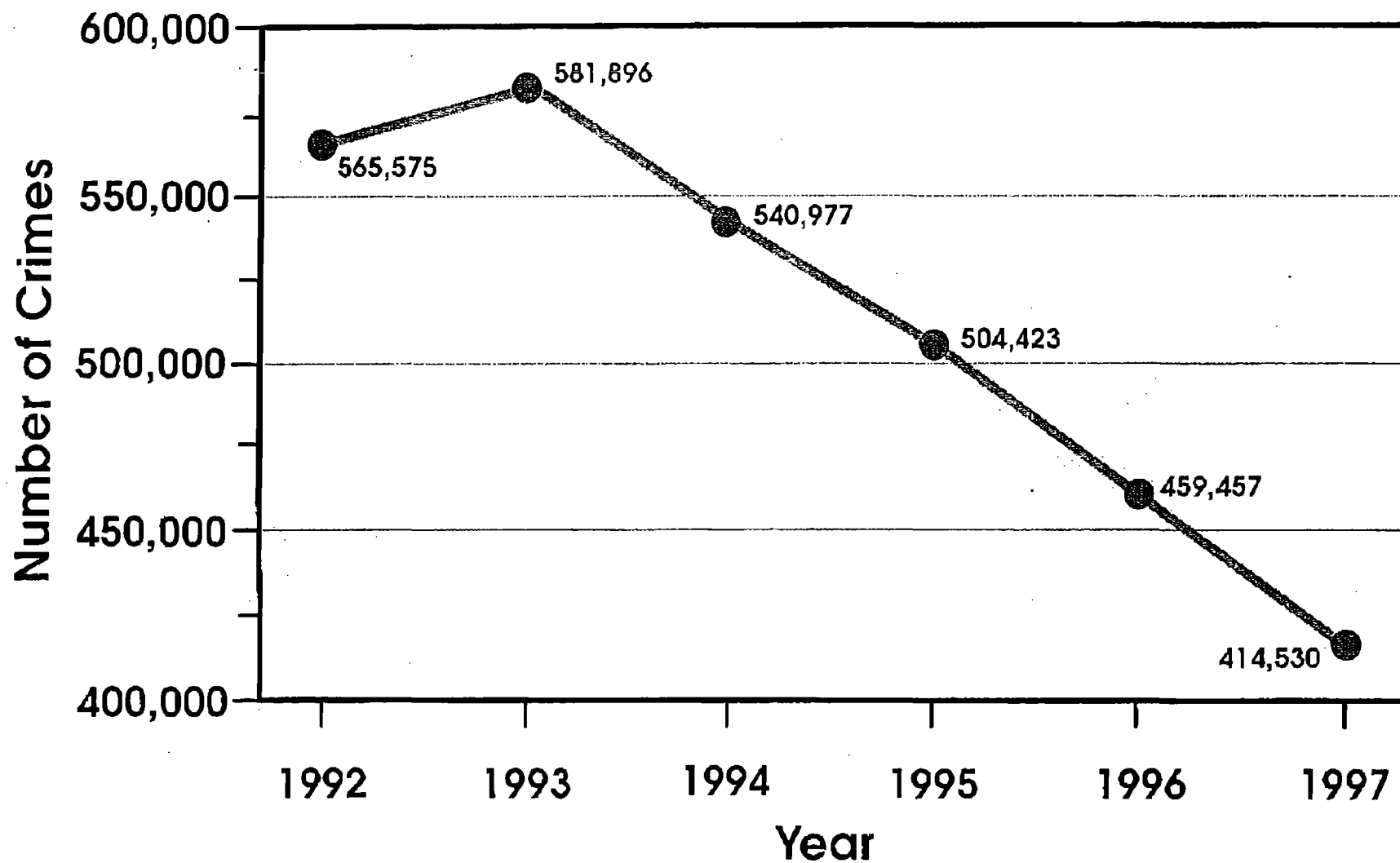
CONCLUSION

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*

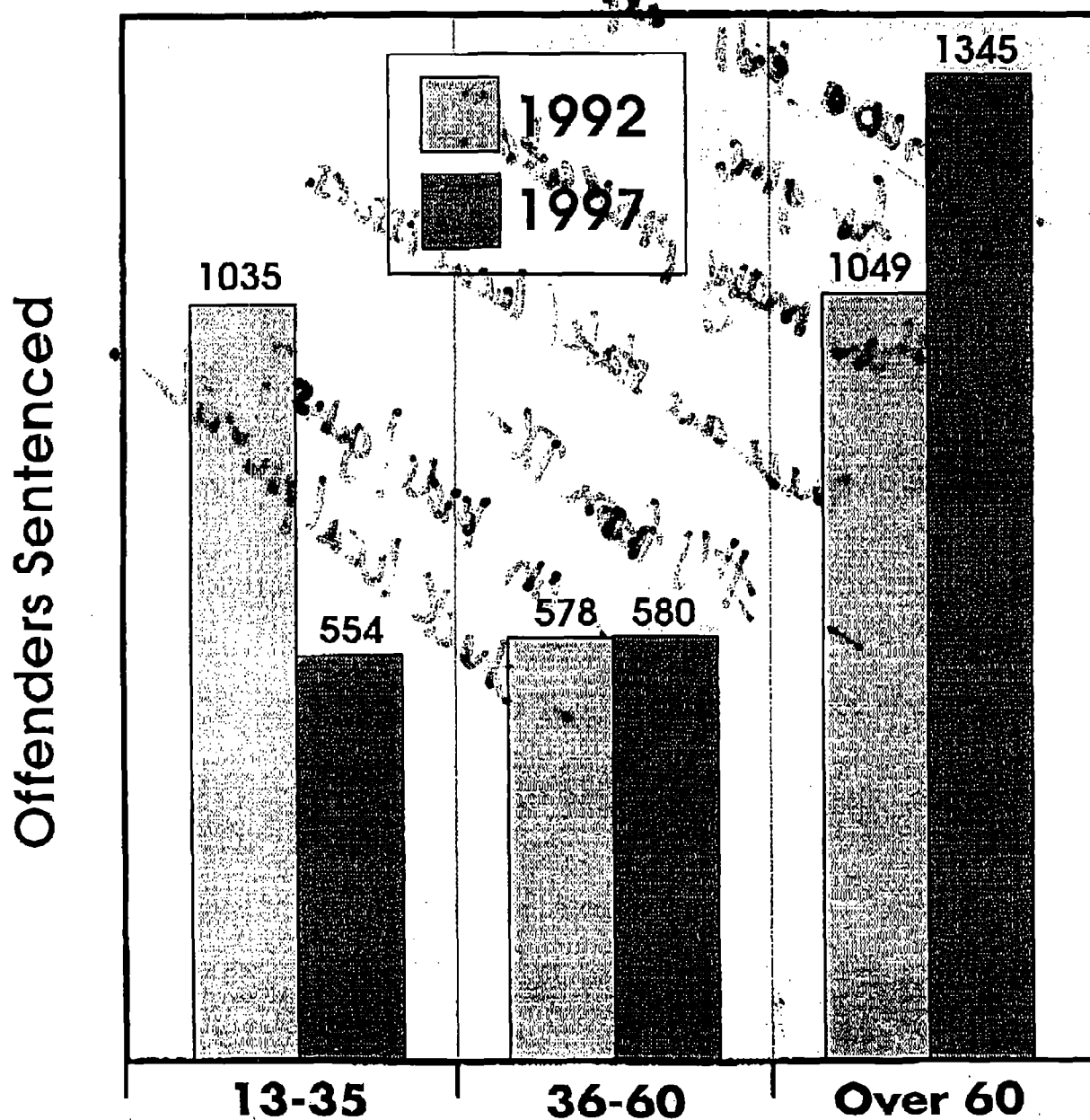


* Excluding Rape

Source: FBI/Uniform Crime Report Data

GRAPH 2

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



Sentence: Months in Prison

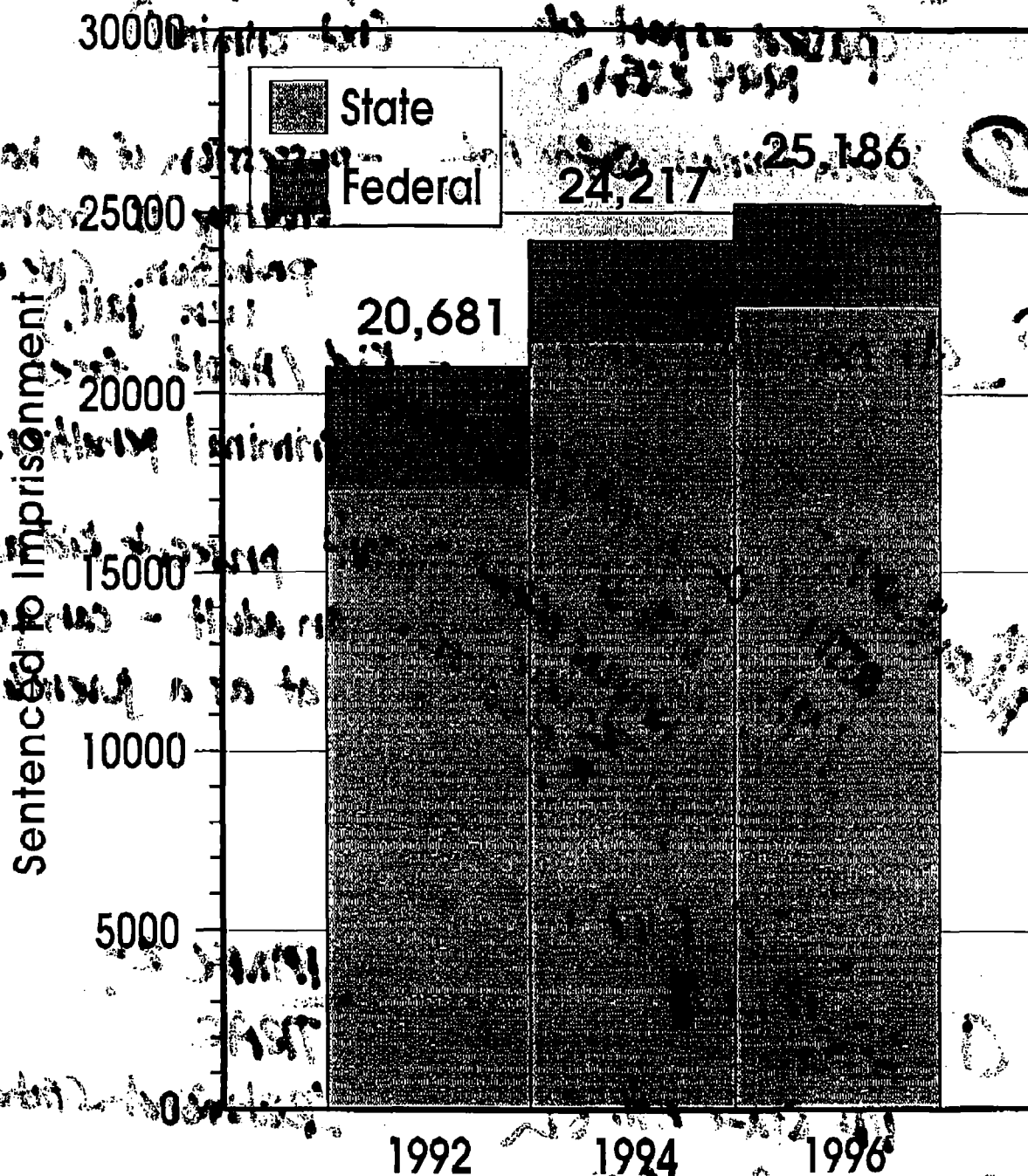
*Excluding Sentences One Year or Less

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

- 6000 kids expected for gms
- How many prosecuted?
- These are state/local issues.
- #15 from TX
 - on kids/guns?
 - check local prosec.

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=cy)

~~Picki - 54-5929~~

- ① Exports
- ② Refused to load elements for appropriate actions

- ① Gun Free Schools Act - Req. expulsion or suspension (not criminal)
(passed as part of 1994 ESEA)
- ② Youth Handgun Safety Act - possession of a handgun underage is mandatory probation. (no wait 1 yr. jail.)
- ③ Gun Free School Zones - Kid / Adult faces criminal penalties.
(cases vary by state)

Barbara Adkins -
1996 - 61% of weapons cases in juv. courts
cases were adjudicated.

Don't prosecute kid as
an adult - can go
at as a juvenile.

THURSDAY

PANEQ

- ① History - VA State Att. Gen

PATNEL 2-

TRAC

(Robertson Gray)

Panel 3 -

Fahy

* 1977-1996
1989. ~~1990~~
increase in
formal processing
of W

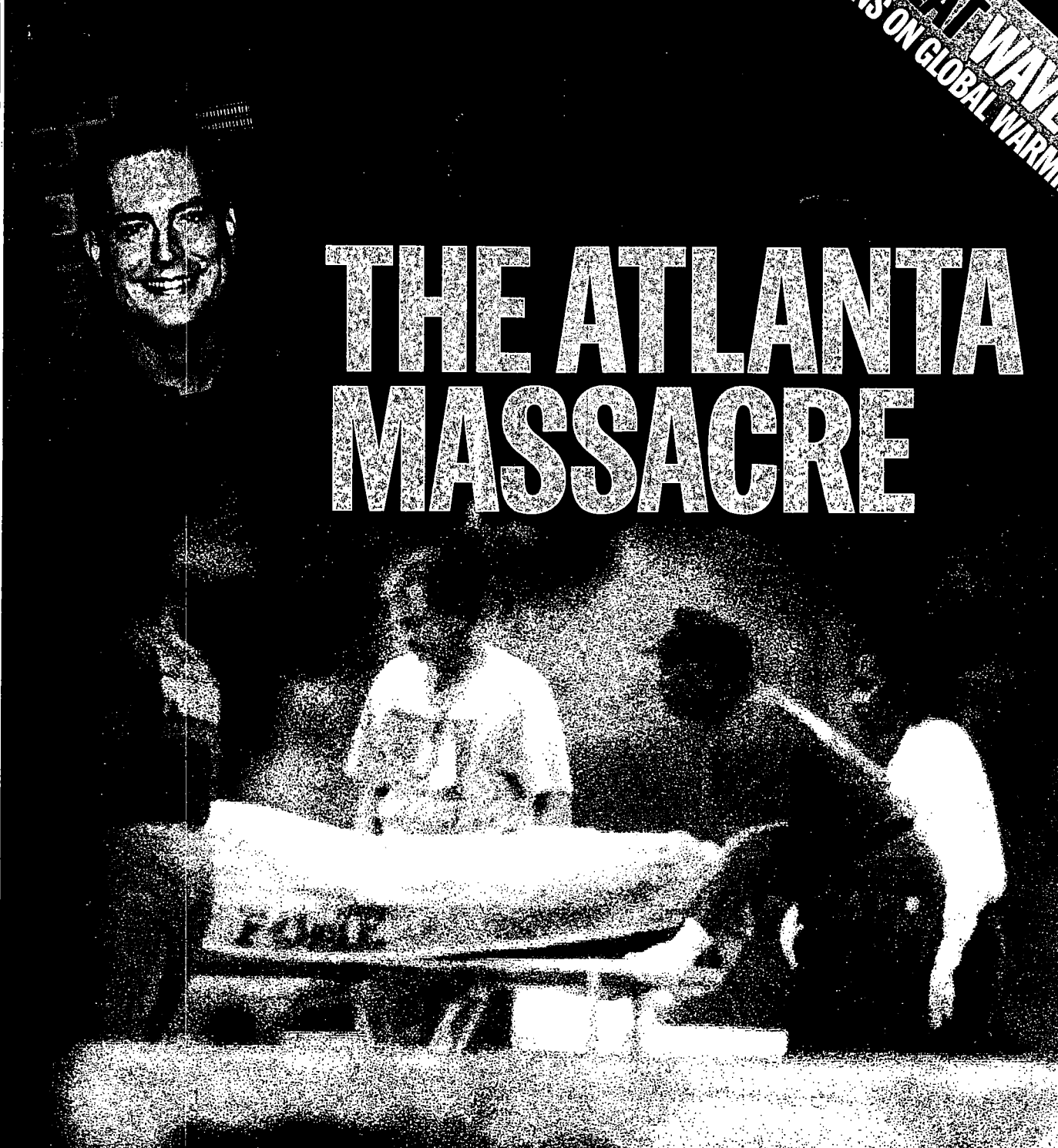
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To: Deanna Benos From: CS
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Phone: _____ Date: 10-6-99
Re: _____ CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

W- 10am
Has the Ed. Govt. asked
the threat of terrorism?
down. / den. / 6/10/1

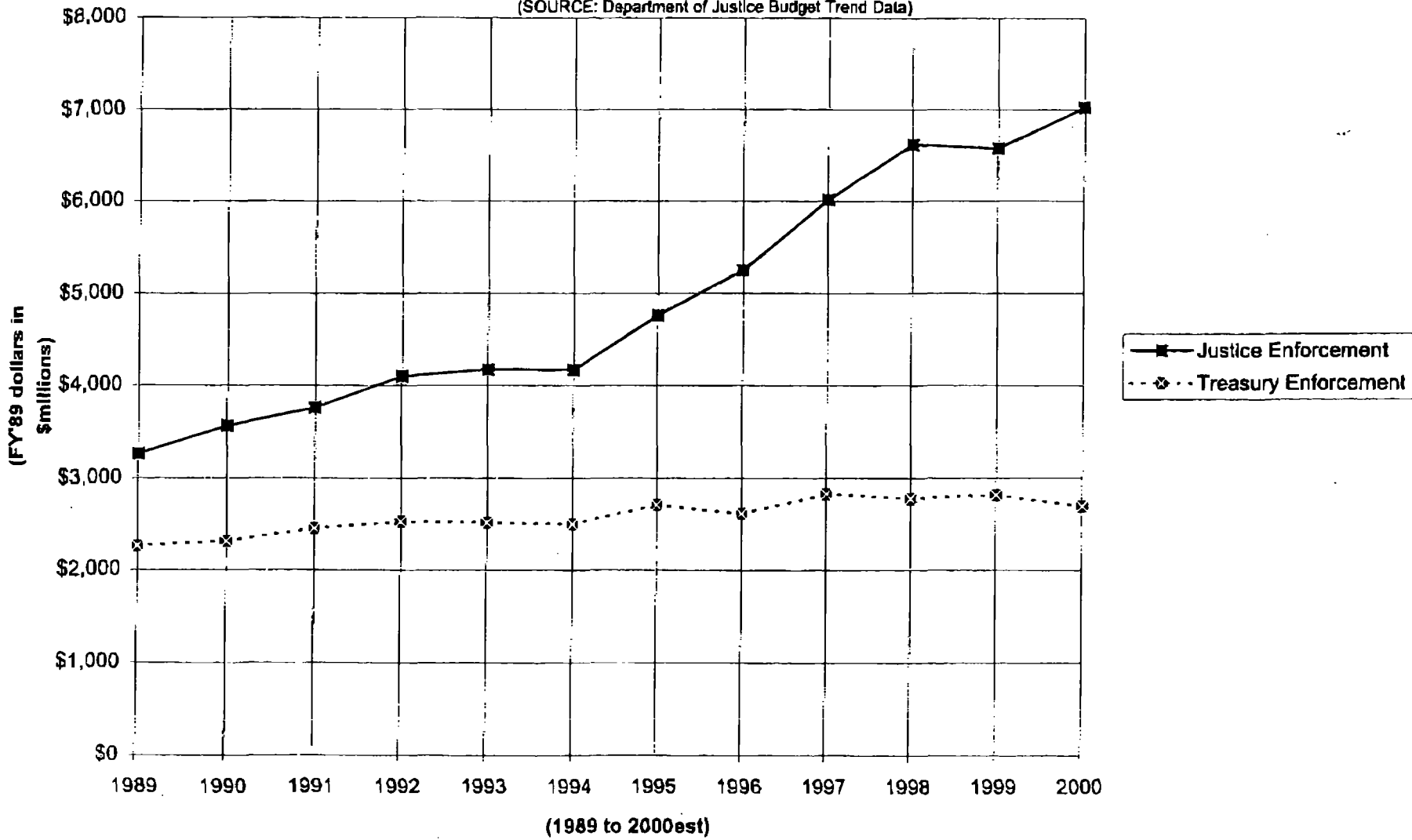
[CIA - Foreign
CB - domestic

- 400KHS
\$ 200 million
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1

11 year Funding History (Real \$\$\$)
JUSTICE vs. TREASURY Law Enforcement Agencies with Arrest Powers

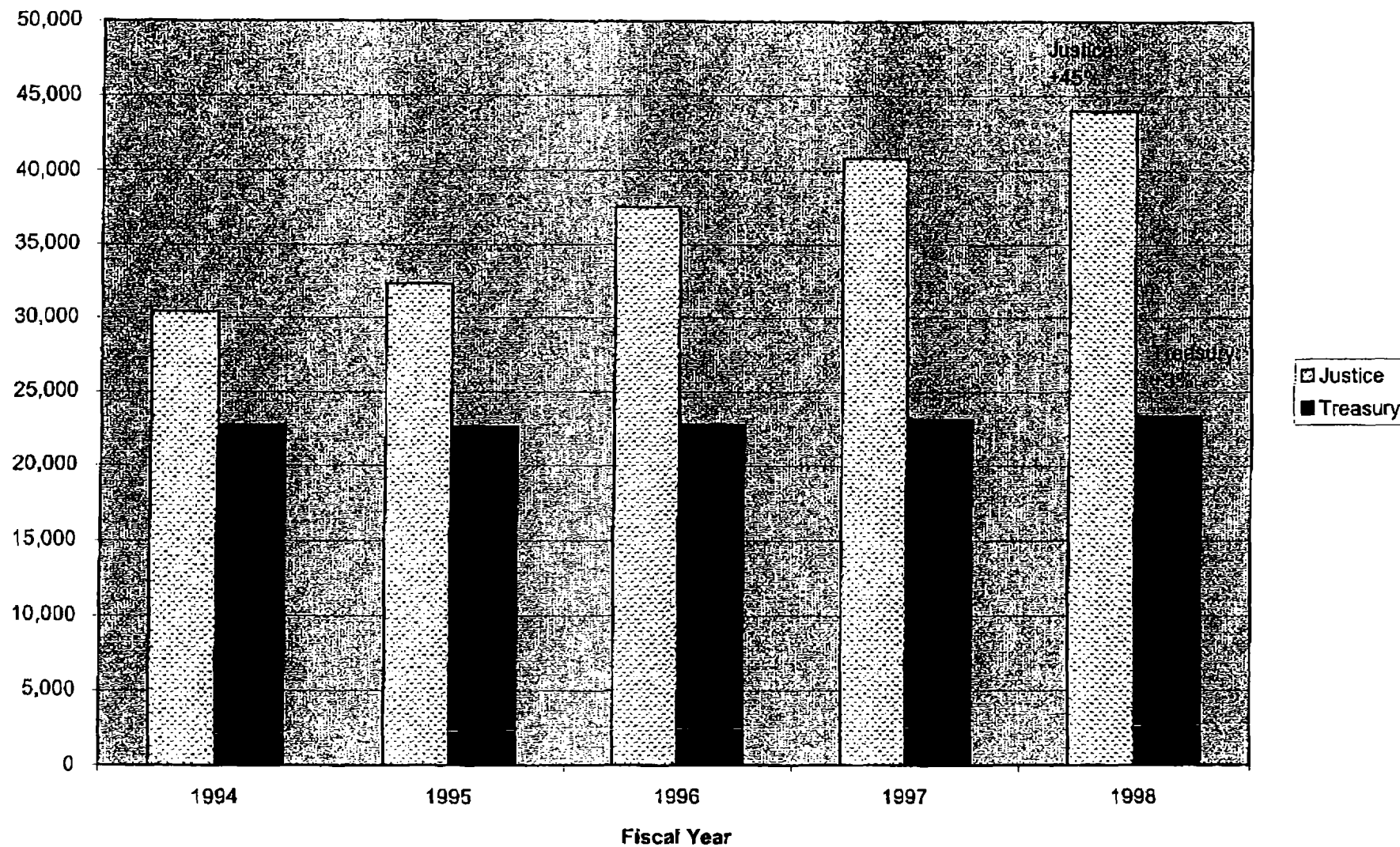
(SOURCE: Department of Justice Budget Trend Data)



Includes user fees and super surplus

2

Justice vs. Treasury, Law Enforcement Employment FY 1994-98



Source: Office of Personnel Management
Central Personnel Data File
September 30, 1998

HISTORY OF ATF

- THE BUREAU'S HISTORY EXTENDS BACK TO THE EARLIEST DAYS OF THE UNITED STATES.
- CONGRESS IMPOSED THE FIRST FEDERAL TAX ON DISTILLED SPIRITS ON MARCH 3, 1791. THE UNPOPULARITY OF THIS TAX LED TO THE VIOLENT RESISTANCE KNOWN AS THE WHISKEY REBELLION OF 1794.
- BETWEEN THE WHISKEY REBELLION AND CIVIL WAR, TAXES ON DISTILLED SPIRITS WERE ALTERNATELY REPEALED AND ENACTED TO MEET REVENUE NEEDS. ON JULY 1, 1862, CONGRESS PASSED A LAW CREATING THE OFFICE OF INTERNAL REVENUE AND IMPOSED A TAX ON DISTILLED SPIRITS THAT HAS BECOME A PERMANENT PART OF THE FEDERAL REVENUE SYSTEM.
- IN 1863, CONGRESS AUTHORIZED THE HIRING OF "THREE DETECTIVES TO AID IN THE PREVENTION, DETECTION AND PUNISHMENT OF TAX EVADERS." THESE LAWS ARE THE TRUNK OF A FAMILY TREE THAT INCLUDES BOTH ATF AND THE INTERNAL REVENUE SERVICE.
- IN 1919, RATIFICATION OF THE 18TH AMENDMENT TO THE CONSTITUTION USHERED IN THE PROHIBITION ERA. THIS, ALONG WITH PASSAGE OF THE

VOLSTEAD PROHIBITION ENFORCEMENT ACT, GAVE THE COMMISSIONER OF INTERNAL REVENUE, THROUGH THE NEWLY CREATED PROHIBITION UNIT, JURISDICTION OVER THE ILLICIT MANUFACTURE, SALE, OR TRANSPORTATION OF INTOXICATING LIQUORS FOR BEVERAGE PURPOSES.

● THE DECADE OF THE "ROARING TWENTIES" SPAWNED ORGANIZED CRIMINAL MOBS. SYNDICATES LED BY RACKETEERS, SUCH AS AL CAPONE, WAXIE GORDON AND OTHERS, BECAME FRONT-PAGE FIGURES. CORRUPTION, GANG SLAYINGS, BOOTLEGGING, AND MOONSHINING FLOURISHED. IN RESPONSE TO THE GROWING PROBLEM, THE PROHIBITION UNIT BECAME THE SEPARATE BUREAU OF PROHIBITION. SPECIAL SQUADS WERE FORMED TO GO AFTER THE MERGING CRIMINAL EMPIRES. ONE OF THE BEST KNOWN WAS HEADED BY ELIOT NESS IN CHICAGO. TODAY'S ATF SPECIAL AGENTS ARE THE SUCCESSORS TO THOSE "UNTOUCHABLES."

● THE PROHIBITION ERA ENDED WITH PASSAGE OF THE 21ST AMENDMENT IN 1933. WITH REPEAL, ON MARCH 10, 1934, THE BUREAU OF PROHIBITION TURNED OVER ITS RESPONSIBILITIES TO THE NEWLY CREATED ALCOHOL TAX UNIT WITHIN THE BUREAU OF INTERNAL REVENUE.

● ONE OF THE OFFSHOOTS OF PROHIBITION WAS AN UNPRECEDENTED WAVE OF CRIMINAL VIOLENCE. THE MOBS AND GANGS MADE WAR ON EACH OTHER AND THE PUBLIC. IN REACTION, THE NATIONAL FIREARMS ACT (NFA) WAS PASSED IN 1934, CONTROLLING WHAT CONGRESS TERMED "GANGSTER TYPE WEAPONS" SUCH AS MACHINE-GUNS AND SAWED-OFF SHOTGUNS.

● THE NFA, AMERICA'S FIRST FEDERAL GUN CONTROL LAW, WAS FOLLOWED IN 1938 BY THE FEDERAL FIREARMS ACT WHICH ESTABLISHED LIMITED REGULATION OF THE FIREARMS INDUSTRY AND MADE IT A FEDERAL CRIME FOR FELONS AND FUGITIVES TO RECEIVE FIREARMS IN INTERSTATE COMMERCE.

IN 1942, RESPONSIBILITY FOR ADMINISTERING THESE LAWS WAS GIVEN TO ATF, WHOSE EXPERIENCE IN BOTH LAW ENFORCEMENT AND INDUSTRY REGULATION ESPECIALLY SUITED IT FOR THESE NEW RESPONSIBILITIES.

● IN 1951, TOBACCO TAX DUTIES WERE ALSO DELEGATED TO ATF AND THE UNIT TITLE WAS CHANGED IN 1952 TO THE ALCOHOL AND TOBACCO TAX DIVISION OF THE INTERNAL REVENUE SERVICE (ATTD). THE DIVISION NOW ENFORCED THE LAWS FOR ALCOHOL, TOBACCO AND FIREARMS.

● IN 1968, AGAINST THE BACKGROUND OF RISING CRIME RATES, AND THE

ASSASSINATIONS OF PRESIDENT KENNEDY, SENATOR ROBERT KENNEDY AND MARTIN LUTHER KING, JR., CONGRESS PASSED THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AND THE GUN CONTROL ACT OF 1968, WHICH REPLACED THE FFA AND THE NFA OF THE 1930'S.

- BOMBS AND OTHER DESTRUCTIVE DEVICES WERE ADDED TO THE LIST OF RESTRICTED ITEMS, AND THE ATTD WAS GIVEN THE FIRST DIRECT FEDERAL JURISDICTION DIRECTED AT CRIMINAL USE OF EXPLOSIVES. THE GCA ALSO CREATED STRICTER LICENSING AND REGULATION OF THE FIREARMS INDUSTRY AND ESTABLISHED NEW CATEGORIES OF OFFENSES INVOLVING FIREARMS. THE ATTD WAS RENAMED ALCOHOL, TOBACCO AND FIREARMS DIVISION OF THE INTERNAL REVENUE SERVICE (ATFD).

- IN 1970, THE ORGANIZED CRIME CONTROL ACT WAS PASSED, WHICH INCLUDED SECTIONS KNOWN AS THE EXPLOSIVES CONTROL ACT (ECA). THE ECA CONTAINED PROVISIONS FOR BOTH STRICT INDUSTRY REGULATION AND ESTABLISHED CERTAIN BOMBINGS AND ARSONS AS FEDERAL CRIMES. ATTD WAS CLEARLY THE AGENCY WITH PRIMARY EXPERIENCE AND ORGANIZATION TO ADMINISTER THE NEW LAW.

- ON JULY 1, 1972, ATF WAS SEPARATED FROM THE INTERNAL REVENUE

SERVICE AND GIVEN FULL BUREAU STATUS IN THE TREASURY DEPARTMENT.

● IN 1978, IN RESPONSE TO THE MILLIONS OF DOLLARS BEING LOST TO THE STATES BY CIGARETTE SMUGGLING, ATF WAS CHARGED WITH ENFORCING A NEW CONTRABAND CIGARETTE ACT AND WITH HELPING STATE ENFORCEMENT AGENCIES IMPROVE THEIR ENFORCEMENT AND REVENUE COLLECTION CAPABILITIES.

● AT THE SAME TIME, ATF WAS DEVELOPING AN ENTIRELY NEW FEDERAL EFFORT AGAINST AN EMERGING CRIME PROBLEM -- ARSON. BY THE MID-1970'S, ATF'S WORK IN THIS AREA LED TO ATF BRINGING MAJOR ARSON CASES INTO FEDERAL COURT. IN 1982, THAT EFFORT WAS RECOGNIZED WITH PASSAGE OF THE ANTI-ARSON ACT, WHICH AMENDED THE ECA TO INCLUDE DESTRUCTION OF PROPERTY BY FIRE ALONG WITH DESTRUCTION BY EXPLOSIVES.

● IN 1935, THE FEDERAL ALCOHOL ADMINISTRATION ACT (FAA) WAS PASSED, CREATING LICENSING AND PERMIT REQUIREMENTS AND ESTABLISHING REGULATIONS DESIGNED TO ENSURE AN OPEN AND FAIR MARKETPLACE. UNTIL 1940, A SEPARATE FEDERAL ALCOHOL ADMINISTRATION IN TREASURY ENFORCED THE FAA ACT.

ATF'S JURISDICTION OVER TERRORIST OFFENSES

I. Statutory Authority of the Department and ATF to Investigate Crimes Committed by Terrorists

A. Gun Control Act

1. 18 U.S.C. § 922(l)-unlawful importation of a firearm, e.g., destructive device, into the United States.

2. 18 U.S.C. § 924(b)-interstate transportation or receipt of a firearm, e.g., destructive device, knowing it will be used to commit a crime punishable by imprisonment for a term exceeding one year.

3. 18 U.S.C. § 924(c)-use or carrying of a firearm in the commission of a crime of violence.

4. 18 U.S.C. § 924(g)-travelling from any State or foreign country into a State and acquiring a firearm, e.g., a destructive device, with intent to commit a crime of violence.

5. 18 U.S.C. § 924(h)-transferring a firearm, e.g., destructive device, knowing it will be used to commit a crime of violence.

6. 18 U.S.C. § 924(j)-smuggling or bringing a firearm, e.g., destructive device, into the United States with intent to commit a crime of violence.

B. National Firearms Act

1. 26 U.S.C. § 5861(e) and (f)-the making and transfer of firearms, e.g., destructive devices, without an approved application and payment of making and transfer tax.

2. 26 U.S.C. § 5861(d)-possession of a firearm, e.g., destructive device, not registered to the possessor.

3. 26 U.S.C. § 5861(k)-receipt or possession of a firearm, e.g., destructive device, which was imported in violation of 26 U.S.C. § 5844.

C. Arms Export Control Act, the import provisions of which are enforced by the Secretary. Section 2778, Title 22, U.S.C., makes it an offense to import defense articles, including destructive devices, without a permit.

D. Title XI of the Organized Crime Control Act of 1970

- 2 -

1. 18 U.S.C. § 842(a)(3)-importing explosive materials into the United States without a license or permit.

2. 18 U.S.C. § 842(m) and (n)-importing, transporting, receiving, or possessing unmarked plastic explosives into the United States (not effective until April 24, 1997).

3. 18 U.S.C. § 844(h)-carrying or using explosives in the commission of a Federal felony.

4. 18 U.S.C. § 844(o)-transfer of explosive materials knowing that such materials will be used to commit a crime of violence.

5. 18 U.S.C. § 844 also covers, among other things, damaging or destroying by means of an explosive or fire Federal properties or property affecting commerce. The Secretary and the Attorney General have concurrent investigative jurisdiction over these offenses. Pursuant to a 1973 memorandum of understanding (MOU), Treasury has primary investigative jurisdiction over crimes committed against property affecting commerce, while Justice generally has jurisdiction over offenses against Federal property. However, the MOU gives Justice primary investigative jurisdiction over terrorist acts. The MOU further provides that Treasury would not exercise investigative jurisdiction over violations of the National Firearms Act involving destructive devices in conflict with the MOU. Further, the Antiterrorism and Effective Death Penalty Act of 1996 gave the Attorney General investigative responsibility for "Federal crimes of terrorism," which is defined to include 18 U.S.C. §§ 842(m) and (n) and 844(e), (f), and (i). Under the definition, these crimes must also be calculated to affect or retaliate against government conduct.

II. ATF's Role in the Investigation of Terrorist Offenses

As shown above, ATF has primary investigative jurisdiction over terrorist acts in violation of Federal firearms and explosives laws, except where the Attorney General has jurisdiction pursuant to the MOU or the 1996 Antiterrorism Act. Thus, ATF has exclusive jurisdiction over terrorist acts in violation of the Gun Control Act, such as interstate transportation of a destructive device knowing it will be used to commit a felony in violation of 18 U.S.C. § 924(b); transferring a destructive device knowing it will be used to

- 3 -

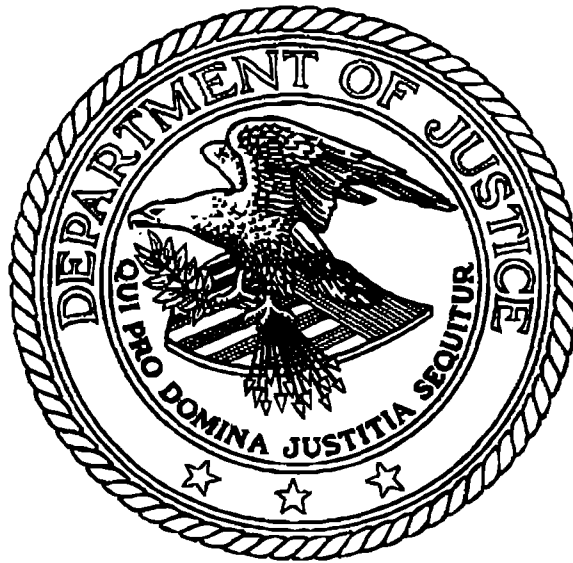
commit a crime of violence in violation of 18 U.S.C. § 924(h); or smuggling a destructive device into the United States with intent to commit a crime of violence in violation of 18 U.S.C. § 924(j). ATF would also have exclusive jurisdiction to investigate violations of the National Firearms Act by terrorists that involve weapons other than destructive devices. An example would be the transfer, receipt, or possession of unregistered machineguns in violation of 26 U.S.C. § 5861.

ATF would also have primary investigative jurisdiction over terrorists' violations of Federal explosives laws other than those covered by section 844. These include violations of 18 U.S.C. § 842 such as the importation or interstate transportation of explosive materials without a Federal license or permit.

Even in those instances where FBI has primary jurisdiction, ATF maintains concurrent jurisdiction and plays a substantial role. Even though FBI may take the lead in investigating bombing incidents involving terrorism on Federal property, ATF routinely provides assistance in major investigations. For example, ATF special agents, bomb experts, and laboratory personnel worked closely with the FBI in the bombings involving the World Trade Center, the Oklahoma City Federal Building, the Unabomber, and Federal Judge Robert Vance. ATF is also working with the FBI in the investigation of the TWA disaster.

While FBI has superior expertise in matters of international terrorism, ATF is the leading Federal expert in the tools of terrorism -- firearms and explosives -- acquired by years of experience. ATF responds to and investigates the vast majority of explosives incidents that occur in the United States and has done so since enactment of the Federal explosives laws in 1970. As a practical matter, ATF's involvement in the investigation of terrorist bombings is unavoidable since the motives behind these incidents may be unknown at the time they occur.

-----▽-----▽-----▽-----▽-----▽-----▽-----▽-----
in instances where FBI has exclusive statutory jurisdiction to investigate bombings, it would be appropriate for FBI to rely upon ATF for technical assistance. For example, FBI has the responsibility of enforcing 18 U.S.C. § 2332a, which makes it unlawful to use a weapon of mass destruction against persons or property within the United States. These weapons include destructive devices as defined in the Gun Control Act. In these cases, ATF should be consulted concerning the classification of weapons as destructive



Office of Policy Development
United States Department of Justice

950 Pennsylvania Avenue, NW
Washington, D. C. 20530

TO:	Deanne Benos	FAX:	(202) 456-7028
FROM:	Mathew S. Nosanchuk Senior Counsel	VOICE:	(202) 514-2456
		FAX:	(202) 307-3137
DATE:	September 29, 1999		

Total Pages (excluding this cover):14

Additional Message: Firearms strategy stuff for your review.

Matt.



U.S. Department of Justice

Executive Office for United States Attorneys
Office of the Director

Main Justice Building, Room 2244A
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

(202) 514-2121

MEMORANDUM - Sent via Broadcast Facsimile

DATE: JUN 17 1999

TO: ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL CRIMINAL CHIEFS


FROM: Donna A. Bucella
Director

SUBJECT: Development of an Integrated Firearms
Violence Reduction Strategy

ACTION REQUIRED: Please (1) provide a point of contact;
(2) conduct a district gun violence analysis;
and (3) provide a gun violence reduction
action plan.

DUE DATES: June 30, 1999 - provide point of contact
name and telephone
number;
July 16, 1999 - conduct district gun
violence analysis;
August 30, 1999 - provide gun violence
reduction action plan.

CONTACT PERSON: Mark Lane (questions and comments only)
Counsel to the Director
Phone: (202) 514-6267
E-mail: aex15.po.mlane

REPLY TO: Linda Gray
Special Assistant
Counsel to the Director Staff
Phone: (202) 514-4646
E-mail: aex15.po.lgray

As you know, the President issued a March 20, 1999,
Directive asking the federal law enforcement community to build
on success in reducing violent crime across the country by

-2-

helping to develop a nationwide, integrated firearms violence reduction strategy. A copy of the President's Directive is attached. To support the Directive, the Attorney General and United States Treasury Department Secretary Robert E. Rubin issued a memorandum on June 16, 1999, also attached, asking United States Attorneys and Special Agents in Charge, Bureau of Alcohol, Tobacco and Firearms, to work with other agencies and community organizations to prepare gun violence assessments and develop comprehensive firearms violence reduction strategies and action plans.

The attached memorandum from the Attorney General and Secretary Rubin describes elements to consider in preparing an analysis of the gun violence problem in your district and enforcement mechanisms available to address it. Also included are suggested processes for developing your district's firearms violence reduction action plan.

The requested district gun violence action plans should ultimately be part of the overall crime-reduction district initiatives United States Attorneys' offices will be asked to submit at a later date. I should note that presentations and discussions concerning district initiatives, including gun violence reduction strategies, are a prominent part of the agenda at June 28-July 1, 1999, United States Attorneys' Conference in Tucson.

As a first step, please e-mail the name and telephone number of your district's gun violence reduction strategy point of contact to Linda Gray at aex15.po.lgray by June 30, 1999. Your district action plan, including your gun violence analysis, should be e-mailed to her by August 30, 1999.

If you have questions or need to discuss this matter, please call Mark Lane at (202) 514-6267, or email him at aex15.po.mlane.

As always, we appreciate your cooperation and thank you for your support.

Attachments

cc: United States Attorneys' Secretaries



June 16, 1999

MEMORANDUM FOR UNITED STATES ATTORNEYS
ATF SPECIAL AGENTS IN CHARGE

FROM: ROBERT E. BURTIN, SECRETARY *R. E. Burtin*
JANET BENO, ATTORNEY GENERAL

SUBJECT: Development of an Integrated Firearms Violence
Reduction Strategy

Reducing violent crime, including firearms violence, has been a central focus of our work over the last few years. Federal Bureau of Investigation (FBI) Uniform Crime Report statistics show that violent crime is down 20% since 1992, and the number of violent crimes committed with firearms nationwide has decreased by 27 percent. At the same time, state and local gun convictions have increased more than 20% since 1992, and federal weapons offenders receiving more than 5 years in prison have increased by more than 25%. This impressive reduction is due in no small measure to your leadership and innovation. We commend you and your staffs for your hard work and achievements.

President Clinton also commended these successes in a Directive issued March 20, 1999. In that directive, he instructed us to build upon these successes by developing an integrated firearms violence reduction strategy that incorporates proven measures and innovative approaches being adopted throughout the country. A copy of the President's Directive is attached. We request your immediate assistance in complying with the Directive.

In March of 1994, the Department of Justice, together with the Department of the Treasury, implemented the Anti-Violent Crime Initiative, under which federal, state and local law enforcement have worked together to identify violent crime in their districts and to develop together plans to address it. We are in the process of expanding this initiative to cover all types of crime.

Through the work we have undertaken in the past to reduce violent crime, we have learned that the most effective efforts are based on coordinated and comprehensive plans tailored to

Memorandum for United States Attorneys

Page 2

ATF Special Agents in Charge

Subject: Development of an Integrated Firearms Violence
Reduction Strategy.

individual communities, supported by strong national programs. Because firearms used in local crimes are often transported into a community from outside the immediate jurisdiction, or even out of state, effective local strategies also take into account the need for cooperation with law enforcement officials in different cities and states. Close work among federal, state, and local law enforcement and community leaders is required, as well as a strategy that includes both targeted law enforcement and innovative prevention components. As the recent tragic events in Littleton, Colorado, have made clear, there is much yet to be done to eliminate gun violence.

We are therefore asking you to exercise your leadership roles in your community to develop and implement comprehensive, coordinated plans to reduce gun violence. These plans will be critical to our formulation of a nationwide integrated firearms violence reduction strategy. As you work together to develop your plans, please identify those individuals, at every appropriate level of government and in your community, who can contribute to a local or regional discussion of the firearms violence reduction strategy. You should seek the participation of other law enforcement agencies that play a significant role in a response to violent crime, such as the Federal Bureau of Investigation, the Drug Enforcement Administration, and, of course, state and local police and prosecutors. You should also include elected leaders, and you may wish to include private businesses, researchers, educators, social services providers, members of the medical community, community organizations, and members of the faith community. Once you have identified these persons, please invite them to participate in discussions devoted to developing and implementing a comprehensive strategy.

In particular, in order to comply with the President's Directive, please undertake the following tasks:

First, identify a point of contact for the Directive in each of your respective offices. (At the United States Attorneys' Offices, this may or may not be the same person you have designated as your Triggerlock Coordinator, but it should be a senior Assistant United States Attorney.) This point of contact will coordinate with regional counterparts, as well as with the Departments of Justice and the Treasury. Please provide the name and telephone number of this contact person to Mark Lane of the Executive Office for United States Attorneys at the Department of Justice and to Deputy Assistant Directors Mark Logan (West), Malcolm Brady (Central), and Donnie Carter (East) at the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, by June 30, 1999.

Memorandum for United States Attorneys Page 3
ATF Special Agents in Charge
Subject: Development of an Integrated Firearms Violence
Reduction Strategy.

Second, together with other community leaders, assess the nature and scope of the gun violence problem in your jurisdiction. This inquiry should include, but is not limited to, identifying: the communities and specific locations that are most distressed by gun violence; the prevalence and types of firearms offenses; and the predominant sources of gun violence and those of special community concern. Such sources may include criminal street gangs and drug-related organizations, juvenile offenders, crime syndicates, or domestic offenders.

Third, examine the legal tools and firearms-related information resources available in your jurisdiction for addressing firearms violence. This should include at least an informal evaluation of the relative strengths and weaknesses of federal, state, and local laws and regulations with respect to firearms offenses. Your assessment might consider information on the types of crimes and regulatory offenses established by laws governing acquisition, sales, possession, carrying, and use; the maximum penalties; the categories of cases prosecuted at the federal and state level, as well as the range of sentences typically imposed for those cases; and the proportion of the sentence that a firearms defendant typically serves before being released into the community. Consideration of firearms-related information resources should include the availability of databases for comprehensive crime gun tracing and arrestee debriefing information in your district.

We ask that you complete the initial analysis described above by the middle of July.

Fourth, once you have evaluated the firearm violence problems within your district, survey the strategies that currently exist within your district to reduce gun violence, and identify and develop any additional strategies that you believe would be appropriate for use in particular localities within your district.

You may wish to develop both short- and long-term strategies, such as immediate enforcement efforts, followed by a targeted and related outreach effort, and long-term improvement in firearms-related information gathering, such as crime gun tracing, serial number restoration, and analytical techniques. Many successful firearms violence reduction programs already in place in communities across the country are described in a report entitled *Promising Strategies To Reduce Gun Violence*, which was referred to in the President's radio address announcing the Directive, and which each United States Attorney's Office received last month. As you will note, the President's Directive

Memorandum for United States Attorneys

Page 4

ATF Special Agents in Charge

Subject: Development of an Integrated Firearms Violence
Reduction Strategy.

outlined several elements common to these successful strategies that should be considered for inclusion in a comprehensive gun violence reduction strategy, such as increased investigation and prosecution of firearms violations and targeted deterrence of offenders, and you should carefully evaluate these elements in developing your strategy.

Fifth, by August 30, 1999, provide us with a copy of an action plan, describing the problem of firearms violence in your district, summarizing the legal tools and firearms-related information resources available in your jurisdiction, and describing the strategies you have in place, and those strategies you intend to pursue. Consistent with the President's directive, you may also wish to offer your recommendations on how best to allocate federal resources to support the goals of this initiative. These action plans should be delivered to the contact persons noted above at each Department. From your input, we will develop a nationwide integrated firearms violence reduction strategy.

We recognize that the development and implementation of an effective gun violence reduction strategy will require significant analysis, planning, and coordination. There are few more pressing law enforcement concerns today than gun violence in our country, however, and your participation in this endeavor is essential. By expanding the type of community-based responses and coordinated efforts that already have been effective in a number of communities, we can further reduce gun violence throughout the nation. Thank you for your assistance.

Attachment

723426

THE WHITE HOUSE
WASHINGTON

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.

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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:

(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;

• NIN
• RESOURCES
• AG directives
MP/ DOT

(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;

• \$ for IBIS
• more YOCIE atx

(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;

• more inspectors,
• allow more inspections

(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 knowledge of their community's gun-related crime and violence problem.

• AHA Awareness

Cops
Index
reports

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.

- bolster community needs
- strike balance between state/fed.
- allocate resources

William J. Clinton

- Tracing ~~IBIS~~ maps
- Resource - FPZ
- Awareness - Prosech - Trust



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC 20226

AUG 12 1999

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Mark
FYI
Judy
8/20

MEMORANDUM TO: All Assistant Directors
Deputy Assistant Directors (FO)
All Division Directors

FROM: Assistant Director
(Field Operations)

SUBJECT: Meeting with the Attorney General's
Advisory Committee of U.S. Attorneys

The purpose of this memorandum is to inform you of a series of discussions we have had with DOJ personnel.

On July 21, 1999, Under Secretary (Enforcement) James Johnson and I addressed the Attorney General's Advisory Committee of U.S. Attorneys concerning gun prosecutions generally and the investigation and prosecution of Brady cases. Our presentation was a continuation of topics I presented as a participant on the investigative agency panel moderated by the Attorney General at the recent U.S. Attorneys National Conference.

We discussed Administration priority strategic goals the Department is working on with ATF in the area of firearms enforcement. In particular, we discussed:

- (1) Developing and reporting new information about the flow of guns that supports strategic enforcement and operations in the area of illegal gun trafficking, particularly to juveniles and youth,
- (2) building a firearms enforcement strategy that addresses both illegal trafficking and criminal misuse of firearms,

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All Assistant Directors
Deputy Assistant Directors (FO)
All Division Directors

- (3) restoring ATF law enforcement resources,
- (4) implementing phase two of the Brady law, the NICS System, and
- (5) developing the joint Justice-Treasury gun violence reduction strategy.

Regarding information about crime guns and illegal trafficking, we described how Treasury and ATF have worked essentially since 1993 to improve the available information about guns used in crimes building on ideas developed by ATF in the previous years. This effort has provided better opportunities for investigation and prosecution, for more strategic regulatory and criminal enforcement, and a factual foundation for discussion about enforcement policy and needed regulations and legislation. The combination of trace and investigative information has led to a much greater understanding of how guns flow illegally, how criminals obtain them, and who those criminals are.

In the 1980's, most of the focus of gun enforcement was on prosecuting criminal misuse of guns. The so-called "Triggerlock" cases or as we know them "Achilles" cases, which focused on the convicted felon, and preferably the multiple convicted felon and armed drug trafficker. However, by the end of the 1980's, ATF had begun an internal reevaluation of our enforcement strategies and developed a National Firearms Strategy that called for more complex cases and a renewed focus on trafficking. These efforts were incorporated in ATF's Strategic Plan, and we shifted focus to include more illegal trafficking cases.

Over the past 5 years, we have approached the problem of firearms violence, particularly among juveniles and youth, by expanding our illegal market disruption

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activity, while remaining focused on serious violent offenders where State laws or policies were not as effective as the Federal alternative.

We said, that as a general matter, we believe that one gun felon in possession cases should be made where they are in the context of a crime reduction strategy relevant to that community and where the case would significantly impact public safety. Our view is that focusing on deterring and incarcerating recidivists and active shooters while also reducing the illegal supply of firearms holds more promise as a general approach to reducing violent crime.

The question of what gun enforcement strategy should be in any local district is now the focus of intense interest. We welcome that interest and believe that ATF is well situated to actually make a difference, especially in the context of integrated gun violence reduction strategies that include deterrence of active shooters combined with the reduction of the illegal supply of guns.

In discussing ATF resources there is no way to get around the fact that most U.S. attorneys' offices and police chiefs want more ATF agents and inspectors locally. With approval of the FY 2000 request, ATF expects to achieve a level of close to 1,900 special agents. For FY 2001, we are developing a request that will continue to build agent and inspector strength. We'd like to see ATF grow to at least 2,500 or 2,600 agents.

Re NICS: prosecution guidelines/declinations. ATF's field guidance was that every ATF SAC was to meet with their respective U.S. attorney(s) and develop prosecution guidelines. Only cases within these guidelines would routinely be referred for prosecution. We have recently become aware of a significant NICS related issue. The law only permits

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the FBI 3 business days to check a background, however, the FBI continues to investigate for up to 20 days following an inquiry. If the FBI finds during those 20 days that the person is prohibited, the FBI passes the information to ATF. ATF refers to these as "delayed denials". In such circumstances the FFL may or may not have transferred a firearm to a prohibited person. ATF has received over 1,600 delayed denials from the FBI. ATF has made delayed denials a top priority for investigation. The number of delayed denials represents a significant public safety issue and drain on ATF investigative resources.

The U.S. attorneys clearly expressed a need for more ATF agents in their districts. We agreed to provide ATF office personnel projections to the Executive Office of U.S. Attorneys (EOUSA) for better coordination of attorney staffing.

Throughout our presentation we made every effort to highlight our national priorities. The U.S. attorneys want more felon in possession cases, straw purchaser cases, and they want more "adoptive" type cases. They want all such cases, if initiated by State, local or other Federal agencies, to come through ATF review, VCC's or other ATF oversight.

A number of U.S. attorneys expressed concern about how our trace analysis and trafficking initiatives translate into criminal prosecutions coming into their offices for prosecution. To address this concern, I ask you to meet with your respective U.S. attorneys who express such concern and explain how this is occurring in your districts, including the role of industry regulation.

Another issue that a U.S. attorney raised was the need to obtain cooperation from out-of-State ATF offices in trafficking cases involving interstate illegal trafficking. We will offer to make a presentation on

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tracing, trafficking, and industry regulation to the U.S. attorneys at their next annual conference. We will also work toward the development of case and program reporting that makes the efficacy of our national priorities clearer.

The U.S. attorneys expressed concern about any "blanket declination policy" that may exist in relation to NICS referral cases. We emphasized that we will only be referring cases for prosecution that comply with existing guidelines agreed to by their office and ATF.

We recognize that the U.S. attorney interest in felon in possession cases may not always take into account all of ATF's available tools to reduce violent crime with firearms, and we ask you to engage in a dialogue with U.S. attorneys about these opportunities as you develop local violence reduction strategies. We will address this issue with the Department of Justice as we develop the nationwide Integrated Violence Gun Reduction Strategy.

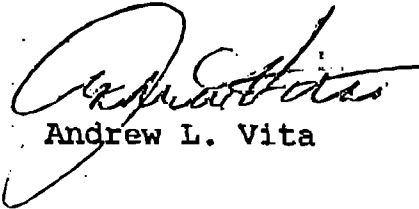
Individual conversations initiated by various Committee Members were all positive about our personnel and their cases. They clearly want more of both.

We provided each Committee Member and the EOUSA personnel in attendance a copy of our current strategic planning document and copies of our procedure directives concerning Brady law enforcement and the Integrated Gun Violence Reduction Strategy as well as a set of newspaper clips on major trafficking cases.

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All Assistant Directors
Deputy Assistant Directors (FO)
All Division Directors

Any questions regarding this memorandum should be directed to the Assistant Director (FO).

A handwritten signature in black ink, appearing to read "Andrew L. Vita", is written over the printed name.

Andrew L. Vita

Attachment