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**WEST'S REVISED CODE OF WASHINGTON ANNOTATED
TITLE 9. CRIMES AND PUNISHMENTS
CHAPTER 9.41. FIREARMS AND DANGEROUS WEAPONS**

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Current through End of 1998 Reg. Sess.

9.41.070. Concealed pistol license--Application--Fee--Renewal

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

- (a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;
- (b) The applicant's concealed pistol license is in a revoked status;
- (c) He or she is under twenty-one years of age;
- (d) He or she is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070;
- (e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;
- (f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or
- (g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2) The issuing authority shall check with the national crime information center, the Washington state patrol electronic data base, the department of social and health services electronic data base, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm and therefore ineligible for a concealed pistol

license. This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(2)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, not more than two complete sets of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall meet the additional requirements of RCW 9.41.170 and produce proof of compliance with RCW 9.41.170 upon application. The license shall be in triplicate and in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

- (b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;
 - (c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
 - (d) Three dollars to the firearms range account in the general fund.
- (6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
 - (b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
 - (c) Three dollars to the firearms range account in the general fund.
- (7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible

for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

CREDIT(S)

1998 Main Volume

[1996 c 295 § 6; 1995 c 351 § 1. Prior: 1994 sp.s. c 7 § 407; 1994 c 190 § 2; 1992 c 168 § 1; 1990 c 195 § 6; prior: 1988 c 263 § 10; 1988 c 223 § 1; 1988 c 219 § 1; 1988 c 36 § 1; 1985 c 428 § 3; 1983 c 232 § 3; 1979 c 158 § 1; 1971 ex.s. c 302 § 2; 1961 c 124 § 6; 1935 c 172 § 7; RRS § 2516-7.]

HISTORICAL AND STATUTORY NOTES

1998 Main Volume

Finding-Intent-Severability-1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date-1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability-1992 c 168: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 168 § 4.]

Severability-1985 c 428: See note following RCW 9.41.290.

Severability-1983 c 232: See note following RCW 9.41.010.

Severability-1971 ex.s. c 302: See note following RCW 9.41.010.

Laws 1961, ch. 124, § 6, in the first paragraph, rewrote the first sentence, which previously read: "The judge of a court of record, the chief of police of a municipality, the sheriff of a county, shall upon the application of any person issue a license to such person to carry a pistol in a vehicle or concealed on or about his person within this state for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed."; and inserted the second sentence. (See 1971 amendment note, post, for applicable text).

Laws 1971, Ex.Sess., ch. 302, § 2, in the first paragraph, in the first sentence, substituted "two years" for "not more than one year"; in the second sentence, inserted "he is ineligible to own a pistol under the provisions of RCW 9.41.040 as now or hereafter amended or"; in the second sentence, added the proviso; in the third sentence, preceding "and signature" inserted ", fingerprints"; and substituted subds. (1) and (2) for a former second paragraph, which read:

"The fee for such license shall be one dollar which shall be paid into the state treasury."

Following amendment the section read:

"The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his person within this state for two years from date of issue, for the purposes of protection or while engaged in business, sport or while traveling. Such citizen's constitutional right to bear arms shall not be denied to him, unless he is ineligible to own a pistol under the provisions of RCW 9.41.040 as now or hereafter amended or there exists a record of his prior court conviction of a crime of violence or of drug addiction or of habitual drunkenness or of confinement to a mental institution: Provided, That such permit shall be revoked immediately upon conviction of a crime which makes such a person ineligible to own a pistol. The license shall be in triplicate, in form to be prescribed by the state director of motor vehicles, and shall bear the name, address, and description, fingerprints and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of motor vehicles and the triplicate shall be preserved for six years, by the authority issuing said license.

"(1) The fee for the original issuance of a two-year license shall be five dollars: Provided, That the fee shall be distributed as follows:

"(a) Two dollars shall be paid to the state general fund;

"(b) One dollar fifty cents shall be paid to the agency taking the fingerprints of the person licensed; and

"(c) One dollar fifty cents shall be paid to the issuing authority for the purpose of enforcing this chapter.

"(2) The fee for the renewal of such license shall be three dollars: Provided, That the fee shall be distributed as follows:

"(a) One dollar shall be paid to the state general fund; and

"(b) Two dollars shall be paid to the issuing authority for the purpose of enforcing this chapter."

Laws 1983, ch. 232, § 3, rewrote the section (See 1971 amendment note, ante for former text).

Laws 1979, ch. 158, § 1, in the first paragraph, in the third sentence, substituted "director of licensing" for "director of motor vehicles" in two places. (See 1971 amendment note, ante, for applicable text).

Laws 1985, ch. 428, § 3, in subsec. (1), at the end of the paragraph following subd. (e), added the last sentence, the "caution" paragraph, and the unindented paragraph following the caution; in subsec. (4), added the last sentence, and subds. (a) and (b); and rewrote subsec. (6), which previously read:

"(6) A political subdivision of the state shall not modify the requirements of this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license. The prevailing party is entitled to reasonable costs, including attorneys' fees."

Laws 1988, ch. 36, § 1, in subsec. (6)(a), substituted "wildlife fund" for "game fund".

Laws 1988, ch. 219, § 1, in subsec. (1), in the introductory paragraph, in the third sentence, substituted "applicant's" for "citizen's"; in the first paragraph following the "CAUTION" paragraph, added the last five sentences; inserted subsec. (5); and, in subsec. (6)(a), substituted "wildlife" for "game".

Laws 1988, ch. 223, § 1, in subsec. (1), inserted subd. (f); designated subsec. (2); in subsec. (2), added the first paragraph; redesignated the subsequent subsections and corrected internal references accordingly; and, in subsec. (6)(a) substituted "wildlife" for "game".

Laws 1988, ch. 263, § 10, in provisions contained in subsec. (3), increased the original issuance fee from \$20 to \$23; added subsec. (3)(d); in provisions contained in subsec. (4), increased the renewal fee from \$12 to \$15; and added subsec. (4)(c).

Laws 1990, ch. 195, § 6, in subsections (3)(d) and (4)(c), substituted "general fund" for "wildlife fund"; and neutralized gender.

Laws 1992, ch. 168, § 1, in addition to nonsubstantive changes, inserted subsec. (1)(g) and subsec. (2) relating to persons whose firearms rights have been restricted and who have been granted relief from disabilities under certain circumstances; and inserted the third and fourth sentences of subsec. (3)(c) relating to the issuing authority notifying the department of licensing upon revocation of a license and the recording by the department of the revocation.

Laws 1994, ch. 190, § 2, in subsec. (5), in the second paragraph, deleted "and if not a citizen whether the applicant has declared the intent to become a citizen" following "whether the applicant is a United States citizen,"; deleted a sentence which provided "An applicant who is not a citizen shall provide documentation showing resident alien status and the applicant's intent to become a citizen." following the sentence which provides that applicants are not required to provide evidence of citizenship; deleted ", or has not declared his or her intention to become a citizen" following "A person who is not a citizen of the United States"; and made other nonsubstantive changes.

Laws 1994, 1st Sp.Sess., ch. 7, § 407, rewrote the section which formerly read:

"(1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his or her person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. Such applicant's constitutional right to bear arms shall not be denied, unless he or she:

"(a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or

"(b) Is under twenty-one years of age; or

"(c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or

"(d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or

"(e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

"(f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d) within one year before filing an application to carry a pistol concealed on his or her person; or

"(g) Has been convicted of any of the following offenses: Assault in the third degree, indecent liberties, malicious mischief in the first degree, possession of stolen property in the first or second degree, or theft in the first or second degree. Any person who becomes ineligible for a concealed pistol permit as a result of a conviction for a crime listed in this subsection (1)(g) and then successfully completes all terms of his or her sentence, as evidenced by a certificate of discharge issued under RCW 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has not again been convicted of any crime and is not under indictment for any crime, may, one year or longer after such successful sentence completion, petition the district court for a declaration that the person is no longer ineligible for a concealed pistol permit under this subsection (1)(g).

"(2) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored.

"(3) The license shall be revoked by the issuing authority immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years.

"(4) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the issuing authority shall:

"(a) On the first forfeiture, revoke the license for one year;

"(b) On the second forfeiture, revoke the license for two years;

"(c) On the third or subsequent forfeiture, revoke the license for five years.

"Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period. The issuing authority shall notify, in writing, the department of licensing upon revocation of a license. The department of licensing shall record the revocation.

"(5) The license shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and description, fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. The license application shall contain a warning substantially as follows:

"CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

"The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's place of birth, whether the applicant is a United States citizen, and if not a citizen whether the applicant has declared the intent to become a citizen and whether he or she has been required to register with the state or federal government and any identification or registration number, if applicable. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. An applicant who is not a citizen shall provide documentation showing resident alien status and the applicant's intent to become a citizen. A person who makes a false

statement regarding citizenship on the application is guilty of a misdemeanor. A person who is not a citizen of the United States, or has not declared his or her intention to become a citizen shall meet the additional requirements of RCW 9.41.170.

"The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing said license.

"(6) The fee for the original issuance of a four-year license shall be twenty-three dollars: Provided, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: Provided further, That the fee shall be distributed as follows:

"(a) Four dollars shall be paid to the state general fund;

"(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;

"(c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

"(d) Three dollars to the firearms range account in the general fund.

"(7) The fee for the renewal of such license shall be fifteen dollars: Provided, That no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license: Provided further, That the fee shall be distributed as follows:

"(a) Four dollars shall be paid to the state general fund;

"(b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

"(c) Three dollars to the firearms range account in the general fund.

"(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

"(9) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (7) of this section. The fee shall be distributed as follows:

"(a) Three dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

"(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

"(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

"(11) A political subdivision of the state shall not modify the requirements of this section or

chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action."

Laws 1995, ch. 351, § 1, in subsec. (1), inserted "He or she" throughout; in subsec. (1), in the first paragraph, in the first sentence deleted "judge of a court of record, the" preceding "chief of police" and substituted "five" for "four"; in subsec. (1), in the second paragraph, deleted "he or she" from the end; in subsec. (1)(a), inserted "or 9.41.045"; inserted subsec. (1)(b), and redesignated former subsecs. (1)(b) to (1)(g) as subsecs. (1)(c) to (1)(h), respectively; in subsec. (1)(g), substituted "9.41.098(1)(e)" for "9.41.098(1)(d)"; in subsec. (1)(h)(ii), substituted "(h)(iii)" for "(g) (iii)", and twice substituted "(h)(i)" for "(g)(i)"; in subsec. (2), in the first sentence inserted "or 9.41.045" and substituted "firearm" for "pistol"; in subsec. (4), in the first paragraph, in the first sentence substituted "bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, not more than two complete sets of" for "be in triplicate, in form to be prescribed by the department of licensing, and shall bear the full name, street address, date and place of birth, race, gender, description", inserted the second paragraph, in the third paragraph inserted "and" following "The license", and, in the fourth paragraph, in the first sentence deleted "application" following "The license", in the second sentence deleted "and whether he or she has been required to register with the state or federal government and has an identification or registration number" from the end, in the fourth sentence inserted "and produce proof of compliance with RCW 9.41.170 upon application", and added the fifth sentence; in subsec. (5), rewrote the first paragraph, which previously read:

"The fee for the original issuance of a four-year license shall be fifty dollars. No other branch or unit of government may impose any additional charges on the applicant for the issuance of the license.";

in subsec. (5)(b), substituted "Four" for "Ten"; in subsec. (5)(c), substituted "Fourteen" for "Fifteen"; in subsec. (5)(d), substituted "Three" for "Ten"; in subsec. (6), in the introductory paragraph, in the first sentence substituted "thirty-two" for "fifty"; in subsec. (6)(a), substituted "Fifteen" for "Twenty"; in subsec. (6)(b), substituted "Fourteen" for "Twenty"; in subsec. (6)(c), substituted "Three" for "Ten"; inserted subsec. (7) and redesignated former subsecs. (7) to (12) as subsecs. (8) to (13), respectively; in subsec. (9), in the introductory paragraph, in the third sentence substituted "ten" for "twenty"; in subsec. (9)(a), in the first sentence substituted "Three" for "Ten"; and, in subsec. (9)(b), substituted "Seven" for "Ten".

Laws 1996, ch. 295, § 6, in subsec. (1), in subd. (e), substituted "felony" for "serious", and, rewrote a former subd. (h) as the present last paragraph; in subsec. (4), in the fifth paragraph, following "be sent" deleted "by registered mail"; in subsecs. (6) and (7), inserted "nonrefundable"; and, in subsec. (10), added the second and third sentences. Former subd. (1)(h) read as follows:

"(h)(i) He or she has been convicted of any crime against a child or other person listed in RCW 43.43.830(5).

"(ii) Except as provided in (h)(iii) of this subsection, any person who becomes ineligible for a concealed pistol license as a result of a conviction for a crime listed in (h)(i) of this subsection and then successfully completes all terms of his or her sentence, as evidenced by a certificate of discharge issued under RCW 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has not again been convicted of any crime and is not under indictment for any crime, may, one year or longer after

such successful sentence completion, petition a court of record for a declaration that the person is no longer ineligible for a concealed pistol license under (h)(i) of this subsection.

"(iii) No person convicted of a serious offense as defined in RCW 9.41.010 may have his or her right to possess firearms restored, unless the person has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040(3) or (4) applies."

Source:

RRS § 2516-7.

West's RCWA 9.41.070

WA ST 9.41.070

END OF DOCUMENT

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CHAPTER 9.41. FIREARMS AND DANGEROUS WEAPONS**

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Current through End of 1998 Reg. Sess.

9.41.090. Dealer deliveries regulated--Hold on delivery

(1) In addition to the other requirements of this chapter, no dealer may deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (5) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;

(b) The dealer is notified in writing by the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or

(c) Five business days, meaning days on which state offices are open, have elapsed from the time of receipt of the application for the purchase thereof as provided herein by the chief of police or sheriff designated in subsection (5) of this section, and, when delivered, the pistol shall be securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty days.

(2)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, shall check with the national crime information center, the Washington state patrol electronic data base, the department of social and health services electronic data base, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

(b) Once the system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms. However, a chief of police or sheriff, or a designee of either, shall continue to check the department of social and health services' electronic data base and with other agencies or resources as appropriate, to determine whether applicants are ineligible under RCW 9.41.040 to possess a firearm.

(3) In any case under subsection (1)(c) of this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an

offense other than an offense making a person ineligible under RCW 9.41.040 to possess a pistol.

(4) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol beyond five days up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

(5) At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the dealer an application containing his or her full name, residential address, date and place of birth, race, and gender; the date and hour of the application; the applicant's driver's license number or state identification card number; a description of the pistol including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of a pistol. If the manufacturer's number is not available, the application may be processed, but delivery of the pistol to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides; and a statement that the purchaser is eligible to possess a pistol under RCW 9.41.040.

The application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The dealer shall, by the end of the business day, sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol to the purchaser following the period of time specified in this section unless the dealer is notified of an investigative hold under subsection (4) of this section in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to possess a pistol under RCW 9.41.040 or 9.41.045, or federal law.

The chief of police of the municipality or the sheriff of the county shall retain or destroy applications to purchase a pistol in accordance with the requirements of 18 U.S.C. Sec. 922.

(6) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a pistol is guilty of false swearing under RCW 9A.72.040.

(7) This section does not apply to sales to licensed dealers for resale or to the sale of antique

firearms.

CREDIT(S)

1998 Main Volume

[1996 c 295 § 8. Prior: 1994 sp.s. c 7 § 410; 1994 c 264 § 1; 1988 c 36 § 2; 1985 c 428 § 4; 1983 c 232 § 4; 1969 ex.s. c 227 § 1; 1961 c 124 § 7; 1935 c 172 § 9; RRS § 2516-9.]

HISTORICAL AND STATUTORY NOTES

1998 Main Volume

Finding-Intent-Severability-1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date-1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability-1985 c 428: See note following RCW 9.41.290.

Severability-1983 c 232: See note following RCW 9.41.010.

As enacted, this section read:

"No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence. The seller shall within six hours after such application, sign and attach his address and forward by registered mail one copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven days be sent by him with his address to the director of licenses; the triplicate he shall retain for six years. This section shall not apply to sales at wholesale."

Laws 1961, ch. 124, § 7, rewrote the section to read:

"Sales by dealers shall be regulated as hereinafter provided."

Laws 1969, Ex.Sess., ch. 227, § 1, rewrote the section to read:

"In addition to the other requirements of RCW sections 9.41.010 through 9.41.150 as now or hereinafter amended, no seller shall deliver a pistol to the purchaser thereof until seventy-two hours shall have elapsed from the time of the application for the purchase thereof as provided herein, and, when delivered, said pistol shall be securely wrapped and shall be unloaded.

"At the time of applying for the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller an application containing his full name, address, occupation, place of birth, and the date and hour of the application; and a description of the weapon including, the make, model, caliber and manufacturer's number; and a statement that he has never been convicted in this state or elsewhere of a crime of violence, drug addiction or habitual drunkenness, or is legally judged to be

of unsound mind. The seller shall, by the end of the business day, sign and attach his address and deliver the original of such application to the chief of police of the municipality or the sheriff of the county of which the seller is a resident. The seller shall deliver the pistol to the purchaser following seventy-two hours thereafter unless the seller is notified in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser has been convicted in this state or elsewhere of a crime of violence, drug addiction, or habitual drunkenness, or is legally judged to be of unsound mind. The chief of police of the municipality or the county sheriff shall maintain a file containing the original of the application to purchase a pistol."

Laws 1983, ch. 232, § 4, rewrote the section (See 1969 amendment note, ante, for former text).

Laws 1985, ch. 428, § 4, in subsec. (1)(a), substituted "triplicate" for "duplicate"; in subsec. (4), near the beginning, following "shall sign" substituted "in triplicate" for "in duplicate" and following "address" deleted "occupation,"; inserted the last sentence of subsec. (4), including the caution and the unindented paragraph following the caution.

Laws 1988, ch. 36, § 2, in subsec. (4), substituted "wildlife" for "game".

Laws 1994, ch. 264, § 1, in subsec. (4), in the last sentence of the first paragraph, substituted "department of fish and wildlife" for "department of wildlife".

Laws 1994, 1st Sp.Sess., ch. 7, § 410, rewrote this section which formerly read:

"(1) In addition to the other requirements of this chapter, no commercial seller shall deliver a pistol to the purchaser thereof until:

"(a) The purchaser produces a valid concealed pistol license and the commercial seller has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (4) of this section; or

"(b) The seller is notified in writing by the chief of police of the municipality or the sheriff of the county that the purchaser meets the requirements of RCW 9.41.040 and that the application to purchase is granted; or

"(c) Five consecutive days including Saturday, Sunday and holidays have elapsed from the time of receipt of the application for the purchase thereof as provided herein by the chief of police or sheriff designated in subsection (4) of this section, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty days.

"(2) In any case under subsection (1)(c) of this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the seller shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the seller so that the hold may be released if the warrant was for a crime other than a crime of violence.

"(3) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on

the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for a crime of violence, or (e) an arrest for a crime of violence if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol beyond five days up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. An applicant shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

"(4) At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the seller an application containing his or her full name, address, place of birth, and the date and hour of the application; the applicant's driver's license number or state identification card number; and a description of the weapon including, the make, model, caliber and manufacturer's number; and a statement that the purchaser is eligible to own a pistol under RCW 9.41.040. The application shall contain a warning substantially as follows:

"CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

"The purchaser shall be given a copy of the department of wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

"The seller shall, by the end of the business day, sign and attach his or her address and deliver the original of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the seller is a resident. The seller shall deliver the pistol to the purchaser following the period of time specified in this section unless the seller is notified in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser fails to meet the requirements specified in RCW 9.41.040. The chief of police of the municipality or the county sheriff shall maintain a file containing the original of the application to purchase a pistol."

Laws 1996, ch. 295, § 8, in subsec. (1)(a), added the second sentence; in subsec. (2)(b), in the first sentence, inserted "state system and"; substituted "Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.)" for "Brady Handgun Control Act (H.R. 1025, 103rd Cong., 1st Sess. (1993))"; in subsec. (4), in the last sentence, substituted "A dealer" for "An applicant"; and rewrote subsec. (5), which formerly read:

"At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the dealer an application containing his or her full name, street address, date and place of birth, race, and gender; the date and hour of the application; the applicant's driver's license number or state identification card number; a description of the pistol including the make, model, caliber and manufacturer's number; and a statement that the purchaser is eligible to possess a pistol under RCW 9.41.040.

"The application shall contain a warning substantially as follows:

"CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may

be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

"The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

"The dealer shall, by the end of the business day, sign and attach his or her address and deliver the original of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident. The dealer shall deliver the pistol to the purchaser following the period of time specified in this section unless the dealer is notified in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to possess a pistol under RCW 9.41.040.

"The chief of police of the municipality or the sheriff of the county shall retain or destroy applications to purchase a pistol in accordance with the requirements of 18 U.S.C. Sec. 922."

Source:

RRS § 2516-9.

West's RCWA 9.41.090

WA ST 9.41.090

END OF DOCUMENT

**WEST'S WISCONSIN STATUTES ANNOTATED
POLICE REGULATIONS
CHAPTER 175. MISCELLANEOUS POLICE PROVISIONS**

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Current through 1999 Act 3, published 5/12/1999

175.35. Waiting period for purchase of handguns

(1) In this section:

(ag) "Criminal history record" includes information reported to the department under s. 938.396(8) that indicates a person was adjudicated delinquent for an act that if committed by an adult in this state would be a felony.

(ar) "Firearms dealer" means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer issued by the U.S. department of the treasury.

(at) "Firearms restrictions record search" means a search of department of justice records to determine whether a person seeking to purchase a handgun is prohibited from possessing a firearm under s. 941.29. "Firearms restriction record search" includes a criminal history record search, a search to determine whether a person is prohibited from possessing a firearm under s. 51.20(13)(cv), a search to determine whether the person is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12(1)(e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 806.247(3), and a search to determine whether the person is prohibited from possessing a firearm under s. 813.125(4m).

(b) "Handgun" means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.

(c) "Working day" means each day except Saturday, Sunday or a legal holiday under s. 895.20.

(2) When a firearms dealer sells a handgun, he or she may not transfer possession of that handgun to any other person until all of the following have occurred:

(a) The transferee has provided identification as required by rule under sub. (2g)(a).

(b) The transferee has completed the notification form described in sub. (2g)(b).

(c) The firearms dealer has conveyed the information from the completed notification form to the department of justice as required by rule under sub. (2g)(b) and requested a firearms restrictions record search.

(d) Forty-eight hours, subject to extension under sub. (2g)(c)4.c., have elapsed from the time that the firearms dealer has received a confirmation number regarding the firearms restrictions record search under sub. (2g)(c) from the department of justice and the firearms dealer has not been notified that the transfer would be in violation of s. 941.29.

(2e) When a transferee completes the notification form described in sub. (2g)(b), the transferee shall provide truthful information.

(2f) When a firearms dealer requests that the department of justice provide a firearms restrictions record search under sub. (2g), he or she shall provide truthful information about his or her status as a firearms dealer and shall provide an accurate firearms dealer identification number obtained under sub. (2h). A person may request that the department provide a firearms restrictions record search under sub. (2g) only if he or she is a firearms dealer.

(2g)(a) The department of justice shall promulgate rules prescribing procedures for a transferee to provide and a firearms dealer to inspect identification containing a photograph of the transferee.

(b) The department of justice shall promulgate rules prescribing a notification form for use under sub. (2) requiring the transferee to provide his or her name, date of birth, gender, race and social security number and other identification necessary to permit an accurate firearms restrictions record search under par. (c)3. and the required notification under par. (c)4. The department of justice shall make the forms available at locations throughout the state.

(c) The department of justice shall promulgate rules for firearms restrictions record searches regarding transferees under sub. (2), including procedures for all of the following:

1. A firearms dealer to convey the information from a completed notification form to the department using a toll-free telephone number provided by the department.

2. The department to provide the firearms dealer with a confirmation number confirming the receipt of the information under subd. 1.

3. The department to conduct the firearms restrictions record search regarding the transferee. The rules shall include, but not be limited to, a requirement that the department use the transaction information for management of enforcement system and the national crime information center system.

4. The department to notify the dealer, either during the initial telephone call or as soon thereafter as practicable, of the results of the firearms restrictions record search as follows:

- a. If the search indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique nonapproval number. The department may not disclose to the firearms dealer the reason the transferee is prohibited from possessing a firearm under s. 941.29.

- b. If the search indicates that the transferee is not prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique approval number.

- c. If the search indicates a felony charge without a recorded disposition, the deadline under sub. (2)(d) is extended to the end of the 3rd complete working day commencing after the day on which the finding is made. The department shall notify the firearms dealer of the extension as soon as practicable. During the extended period, the department shall make every reasonable effort to determine the disposition of the charge and notify the firearms dealer of the results as soon as practicable.

(2h) Upon the request of any firearms dealer, the department of justice shall provide that firearms dealer with a unique firearms dealer identification number for use under this section.

(2i) The department shall charge a firearms dealer an \$8 fee for each firearms restrictions record search that the firearms dealer requests under sub. (2)(c). The firearms dealer may collect the fee from the transferee. The department may refuse to conduct firearms restrictions record searches for any firearms dealer who fails to pay any fee under this subsection within 30 days after billing by the department.

(2j) A firearms dealer shall maintain the original record of all completed notification forms and a record of all confirmation numbers and corresponding approval or nonapproval numbers that he or she receives regarding firearms restrictions record searches under sub. (2g). The firearms dealer shall mail the duplicate copy of each completed notification form to the department of justice.

(2k)(ag) In this subsection:

1. "Law enforcement agency of a physically adjacent state" has the meaning given in s. 175.46(1)(b).

2. "Wisconsin law enforcement agency" means a governmental unit of one or more persons employed by this state or a political subdivision of this state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(ar) Except as provided in pars. (b) to (j) and as necessary to administer this section, the department of justice shall do all of the following:

1. Deny access to any record kept under this section.

2. Check each duplicate notification form received under sub. (2j) against the information recorded by the department regarding the corresponding request for a firearms restrictions record search under sub. (2g). If the department previously provided a unique approval number regarding the request and nothing in the duplicate completed notification form indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall destroy all records regarding that firearms restrictions record search within 30 days after receiving the duplicate form.

(b) Notwithstanding par. (ar), the department of justice may maintain all of the following:

1. Records necessary to comply with federal law.

2. a. Except as provided in subd. 2.b., a log of dates of requests for firearms restrictions record searches under sub. (2g) together with confirmation numbers, unique approval and nonapproval numbers and firearms dealer identification numbers corresponding to those dates.

b. Within 3 years after the department issues a unique approval number, the department shall destroy all corresponding information contained in the log under subd. 2.a.

3. Records necessary to administer this section.

(c) Notwithstanding par. (ar), the department of justice shall provide access to any record under this section under all of the following circumstances:

1. The department of justice receives a record request that is submitted in writing by a Wisconsin law enforcement agency.

2. The request submitted under subd. 1. appears on the Wisconsin law enforcement agency's

letterhead and contains all of the following:

a. A statement that the Wisconsin law enforcement agency is conducting an investigation of a crime in which a handgun was used or was attempted to be used or was unlawfully possessed.

b. A statement by a division commander or higher authority within the Wisconsin law enforcement agency that he or she has a reasonable suspicion that the person who is the subject of the information request has obtained or is attempting to obtain a handgun.

c. The signature of a division commander or higher authority within the Wisconsin law enforcement agency.

(d) Whenever a Wisconsin law enforcement agency makes a request for information under par. (c), the agency shall report to the subject of the information request the fact that a request has been made and the name of the Wisconsin law enforcement agency that made the request. The agency shall make the report whenever the earliest of the following occurs:

1. The person who is the subject of the information request under par. (c)2.b. is no longer material to the investigation conducted under par. (c)2.a.

2. The Wisconsin law enforcement agency has completed its investigation under par. (c)2.a.

3. One year after the date that the Wisconsin law enforcement agency made the request under par. (c).

(e) A Wisconsin law enforcement agency may disclose information that is provided by the department of justice under par. (c) to another law enforcement agency. If there is a request for information from a requester other than a law enforcement agency, the Wisconsin law enforcement agency shall not disclose information to the requester that is provided by the department of justice under par. (c). If there is a request by a requester other than a law enforcement agency to copy or inspect any record of the Wisconsin law enforcement agency that contains that information, the agency, acting under s. 19.36(6), shall delete any portion of the record that relates to that information before release.

(f) A Wisconsin law enforcement agency that is provided access to a record under par. (c) shall destroy all corresponding information contained in the record when the earliest of the following occurs:

1. The person who is the subject of the information request under par. (c)2.b. is no longer material to the investigation conducted under par. (c)2.a.

2. The Wisconsin law enforcement agency has completed its investigation under par. (c)2.a.

3. One year after the date the Wisconsin law enforcement agency made the request under par. (c).

(g) If a search conducted under sub. (2g) indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has attempted to obtain a handgun.

(h) If a search conducted under sub. (2g) indicates a felony charge without a recorded disposition and the attorney general or his or her designee has reasonable grounds to believe the transferee may pose a danger to himself, herself or another, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has obtained or has attempted to obtain a handgun.

(i) The department of justice may not charge a fee for any services that the department provides under pars. (c) to (j).

(j) If a law enforcement agency of a physically adjacent state makes a request under par. (c), the department shall comply with the request under all of the following circumstances:

1. The law enforcement agency of the physically adjacent state agrees to comply with all the requirements under this subsection.

2. The physically adjacent state allows Wisconsin law enforcement agencies similar or greater access to similar information from that physically adjacent state.

(2L) The department of justice shall promulgate rules providing for the review of nonapprovals under sub. (2g)(c)4.a. Any person who is denied the right to purchase a handgun because the firearms dealer received a nonapproval number under sub. (2g)(c)4.a. may request a firearms restrictions record search review under those rules. If the person disagrees with the results of that review, the person may file an appeal under rules promulgated by the department.

(2t) This section does not apply to any of the following:

(a) Transfers of any handgun classified as an antique by regulations of the U.S. department of the treasury.

(b) Transfers of any handgun between firearms dealers or between wholesalers and dealers.

(c) Transfers of any handgun to law enforcement or armed services agencies.

(3) Any person who intentionally violates sub. (2), (2e), (2f) or (2j) shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

< < For credits, see Historical Note field. > >

HISTORICAL AND STATUTORY NOTES

1998 Main Volume

Source:

L.1975, c. 167, eff. March 16, 1976.
1991 Act 11, §§ 5 to 19, eff. Dec. 1, 1991.
1993 Act 16, § 2720m, eff. Aug. 12, 1993.
1993 Act 195, §§ 6, 7, eff. April 21, 1994.
1993 Act 196, §§ 4 to 19, eff. April 21, 1994.
1995 Act 71, §§ 2 to 15, eff. April 1, 1996.
1995 Act 77, § 507, eff. July 1, 1996.
1995 Act 159, §§ 1 to 4, eff. April 4, 1996.
1995 Act 306, § 1, eff. May 16, 1996.

1991 Act 11, §§ 5 to 19 renumbered and amended subsec. (1) as (1)(b); created subsecs. (1)(intro.), (a) and (c) and (2e) to (2t); repealed and recreated subsec. (2); and amended subsec. (3).

1991 Act 11, § 20 provides:

"Initial applicability. This act first applies to handgun sales on the effective date [December 1,

1991] of this section.

1993 Act 16 amended subsec. (2i).

1993 Act 16, § 9336(6e) provides:

"Firearms dealers; record search fee. The treatment of section 175.35(2i) of the statutes first applies to handgun sales on the effective date [Aug. 12, 1993] of this subsection."

1993 Act 195 renumbered subsec. (1)(a) as (1)(ar) and created subsec. (1)(ag).

1993 Act 196 created subsec. (1)(bg); amended subsecs. (2)(c) and (d), (2f), (2g)(b) and (c)(intro.) and 3 and 4(intro.) and a to c, (2i), (2j), (2k)(a)2 and (b)2.a and (2L).

1995 Act 71 created subsec. (1)(at); repealed subsec. (1)(bg); and amended subsecs. (2)(c) and (d), (2f), (2g)(b), (c)(intro.), 3 and 4, (2i), (2j), (2k)(a)2 and (b)2.a and (2L).

1995 Act 71, § 27(2) provides:

"Firearms restrictions record searches. The treatment of section 175.35(1)(at) and (bg), (2)(c) and (d), (2f), (2g)(b) and (c)(intro.), 3. and 4., (2i), (2j), (2k)(a)2. and (b)2.a. and (2L) of the statutes first applies to the sale of a handgun on the effective date [April 1, 1996] of this subsection."

1995 Act 77 amended subsec. (1)(ag).

1995 Act 77, § 9300(1g) provides:

"Except as otherwise provided in Section 9310 of this act, this act first applies to violations committed on the effective date [July 1, 1996] of this subsection."

1995 Act 159 renumbered subsec. (2k)(a) as (2k)(ar), amending subsec. (2k)(ar)(intro.) as renumbered; created subsec. (2k)(ag); amended subsec. (2k)(b)(intro.); and created subsec. (2k)(c) to (j).

1995 Act 306 amended subsec. (1)(at).

W. S. A. 175.35

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END OF DOCUMENT

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May 29, 1999, Saturday, FIVE STAR LIFT EDITION

SECTION: EDITORIAL, Pg. 34

LENGTH: 579 words

HEADLINE: TO REDUCE GUN VIOLENCE ENFORCE THE LAWS THAT EXIST NOW

BYLINE: Leon E. McKinney

BODY:

PEOPLE who feel as I do about the Second Amendment know that, while the Post-Dispatch likes to position itself as a "reasonable," "moderate" advocate of a "sensible gun policy," its real goal is, as editor Christine Bertelson blurted out in a candid moment, to "get rid of all the damn guns." But if the Post-Dispatch acted on my suggestions, it could at least claim to be consistent.

First, the Post-Dispatch should hold the Clinton administration accountable for not enforcing existing gun laws such as the Brady Act. In February 1997 the Department of Justice estimated that 130,000 handgun purchase applications out of 9 million had been rejected because the applicant had a felony conviction or felony warrant for their arrest. Yet during the Brady Act's first 17 months, only seven individuals were convicted of illegal attempts to buy handguns, and four got probation. Of 250 cases referred for federal prosecution during the Brady Act's first year, 217 were rejected.

Second, the Post-Dispatch should pay more attention to the Clinton administration's habit of flat-out violating other gun laws. The law authorizing the National Instant Check System for background checks on gun buyers clearly directs that all information submitted on a fire-arm purchaser be destroyed once the instant check system determines the purchase is legal. Attorney General Janet Reno, explaining in federal court why she's willfully ignoring that law, claims retention of purchase records is necessary and that FBI computers "are not capable" of destroying the records because fixing them would shut them down for six months and cost \$ 2 million. To gun owners worried about this illegal FBI gun owner registry, Reno says, "Just relax." Yeah, right. Now, belatedly, the Democrats are offering as a "compromise" a new law allowing the FBI to keep records on legal gun buyers "for only 90 days."

Third, the Post-Dispatch should criticize Democrats for kowtowing to Hollywood as vigorously as it abuses Republicans for defending the NRA. It could start with Rep. Dick Gephardt, who told a Hollywood crowd, "I believe in the First Amendment. ... We can't set up censorship boards and censor everything and decide what people are going to see and read." He sang a different song in 1997, when Democrats, under the guise of "campaign finance reform," were trying to emasculate conservatives' ability to get their message out: "What we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. We can't have both." Does Gephardt think the First Amendment rights of Hollywood liberals - big Democrat donors -



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St. Louis Post-Dispatch, May 29, 1999

are somehow broader than conservatives' First Amendment rights?

Finally, the Post-Dispatch should criticize liberals who say "one standard for me, another for everyone else." In 1979, Sen. Dianne Feinstein, then mayor of San Francisco, due to death threats, received a permit to carry concealed weapons. California law says conceal-carry permits must be renewed annually, and if the original reason for having the permit changes, the permit is almost never renewed. Is Sen. Feinstein, a vocal proponent of all gun control laws, still receiving death threats? Her office hasn't replied to my queries. The Post-Dispatch, which opposes conceal-carry permits, should urge Feinstein to set a good example and surrender her permit, trusting the police to protect her, as the Post-Dispatch says we should.

LANGUAGE: English

LOAD-DATE: June 1, 1999

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The Hotline

May 17, 1999

SECTION: NATIONAL BRIEFING

LENGTH: 1105 words

HEADLINE: GUNS: SUNDAY SHOW SHOOTOUTS

BODY:

Sen. Orrin Hatch (R-UT), on Dems and the heated debate over gun control on the Senate floor last week: "They don't do anything about gun control but they try and make a political issue of it. ... And I like Chuck (Schumer), he's a very bright guy and he's serious on these things." More Hatch: "It's hypocritical for the president to be popping off about this when look at this, prosecutions under the Brady Act ... zero in 1996, zero in 1997, one in 1998. That's what you call hypocrisy, to be making this the central issue when there are a lot more things than just guns that are involved in having a true juvenile justice bill. We've got a chance at having it. We've got a chairman who's trying to work with the Democrats, meaning me, and they know it and yet they would rather play political advantage than do what's right" ("Fox News Sunday," FNC, 5/16). Hatch, on Clinton's criticism of last week's GOP-sponsored legislation: "President Clinton doesn't even know what in the world is in here. He doesn't know what he's talking about. And to be honest with you -- I don't like to say this about my President -- but he hasn't told the truth on this from word one, and we all know it" ("IP," CNN, 5/14). Hatch, on the possibility that the juvenile justice bill will be "taken down": "There's nobody who wants this bill to be not taken down more than I, but look ... for two years we've asked this Administration to help us with this bill ... Not one word until this last week, after we had the debate. Secondly, we asked the Attorney General to help us with this bill. Not one word" ("This Week," ABC, 5/16).

RENO REPLIES

AG Janet Reno: "Listen to Senator Hatch carefully. He said, we're never going to solve the juvenile justice issue by just focusing on guns. I agree with him. I think we've got to focus on prevention, on intervention programs, on enforcement programs that go far beyond the gun issue. I couldn't agree with you more. But what we need to do is to work together to come up with a piece of legislation that is clear and clearly written that says 'you don't sell guns to people who are not legally authorized to have them.'" Reno, on the GOP bill passed by the Senate: "It does not close the gun show loophole. It still permits the sale of guns at gun shows without a background check. It leaves open a big category of flea markets where a large number of guns can be sold without the background check and it



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reduces the time for doing the check from three days -- three working days to 24 hours, where most gun shows are held on weekends, and you're not going to have the chance to check it. I don't think anybody should object to checking to see whether a person can legally own a gun" ("Late Edition," CNN, 5/16).

Sen. Charles Schumer (D-NY), on the gun bill passed by the Senate: "What (Republicans) did in the bill is sort of try to please the American public, but give three little winks to the NRA. I don't think they really made progress, and if the Republicans in the Senate really want to close the gun show loophole, they should support the Lautenberg bill, which does it no questions asked. They didn't do that" ("Face the Nation," CBS, 5/16).

Sen. Dianne Feinstein (D-CA), holding up a rifle clip: "If I could write the law, I would require universal registration of all firearms, period. Close all the loopholes. That everyone who has a weapon be registered so that there is some knowledge that these weapons are in the hands of law-abiding citizens. I've concentrated my efforts in the Senate ... on assault weapons with the legislation in '94 and this past week, to really plug a major loophole, which allowed the importation of these large-capacity ammunition feeding devices that look like this. These are two 30-round clips that fit an AK-47, taped together exactly the way it was just used about a month ago to kill an Oakland police officer" ("This Week," ABC, 5/16).

LOOKING TOWARD 2000

Roll Call's Mort Kondracke: "I see nothing coming out of this and the Democrats having a campaign issue for whatever it is worth" ("Special Report," FNC, 5/14).

ABC's Stephanopoulos: "A lot of Democrats may secretly hope that the bill does go down ... they hope that the NRA prevails on the Republicans to kill it. Because this is an issue the Democrats now need" ("This Week," ABC, 5/16).

Fortune's Jeff Birnbaum: "The Democrats I think, have the whip hand here because of Colorado. ... I think in the end ... my guess is the Republicans will need to pass something that can be labeled as gun control in order to shield them from this issue" ("Special Report," FNC, 5/14).

Standard's Tucker Carlson, on the WH gun control proposals: "Nothing that's happened in the Clinton era is ever very major. You see it today when you get the attorney general of the United States talking about the pawnshop provision. I mean, this is really Clintonism at its most tiny; it's almost microscopic. These are initiatives, these are policy ideas that nobody, even the supporters of them, believe would have an effect on really anything. But they make people feel better, they reassure the Clinton base, that's the point of them" ("Late Edition," CNN, 5/16).

FNC's Dick Morris: "Republicans are not stupid, all they are is scared to death of the NRA and they've finally figured out that maybe they don't have to be so scared" ("Hannity & Colmes," FNC, 5/14).

National Review's Kate O'Beirne: "Democrats were delighted with this display this week. They hope to continue it next week.

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They care far more about dividing Republicans than they do about passing laws and their job is made a little bit easier by Republicans like Elizabeth Dole. She didn't just change her position on gun control, which she's free to do. She then attributed bad motives to fellow Republicans, talking about her party in the throes of special interests, a Dole aide accusing George W. Bush of pandering to the gun lobby. As long as some Republicans are willing to do that, it makes the Democrats' job all too easy" ("Capital Gang," CNN, 5/15).

FNC's Fred Barnes: "The truth is that in the year 2000, I will bet you right now that not a single Republican will lose office because he voted against gun control" ("Beltway Boys," FNC, 5/15).

LANGUAGE: ENGLISH

LOAD-DATE: May 17, 1999



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OJJDP FACT SHEET

Shay Bilchik, Administrator

February 1999 #93

Strategies To Reduce Gun Violence

by David Sheppard, Ph.D.

Gun violence in the United States is both a criminal justice and public health problem. Gun-related crime peaked in the late 1980's and early 1990's. In 1997, the national homicide rate declined to a 30-year low of 7 murders per 100,000 U.S. residents. Despite this decline, however, homicide rates remain unacceptably high, and firearms are still the weapons most frequently used for murder (Federal Bureau of Investigation, 1998). Firearms were the weapons of choice in nearly two-thirds of all murders, and handguns accounted for over half the gun-related homicides in 1997.

The impact of gun violence is even more pronounced on juveniles and young adults. For persons between the ages of 15 and 24, the homicide rate of 15.2 per 100,000 U.S. residents is higher than the combined total homicide rate of 11 industrialized nations (Peters, Kochanek, and Murphy, 1998). Between 1984 and 1993, the firearm homicide rate for this age group increased 158 percent, which contrasts with a 19-percent decline in murders among those age 24 years and older for the same time period. In 1997, about 2,100 murder victims were below the age of 18. This level was 27 percent below that of the peak year, 1993, when 2,900 juveniles were murdered (Snyder, 1998).

As previously noted, gun violence is a public health problem. Firearm injuries, suicides, and unintentional gunshot injuries claim the lives of some 38,000 Americans each year. Firearm injuries are the eighth leading cause of death and the fourth leading cause of years of potential life lost before age 65. A teenager today is more likely to die of a gunshot wound than of all natural causes of disease (Fingerhut, 1993).

Promising Strategies

In response to this national crisis, the U.S. Department of Justice (DOJ) has developed *Promising Strategies To Reduce Gun Violence*. This report describes 60 strategies and programs that jurisdictions can use to address gun violence. *Promising Strategies* is the product of an extensive national survey of more than 400 local programs to reduce firearm violence. From that survey, 89 programs were identified as promising or innovative. In July 1998, DOJ assembled a focus group of more than 40 experts on gun violence (including mayors, researchers, police officials, and prosecutors) to review these 89 programs and strategies and

provide input on the development of this report. Followup interviews and site visits were conducted to identify those programs using promising or innovative gun violence reduction strategies and those demonstrating an impact on reducing firearm violence.

The strategies and programs featured in the report focus on three points of intervention:

- ◆ Interrupting sources of illegal guns.
- ◆ Deterring illegal possession and carrying of guns.
- ◆ Responding to illegal gun use.

Strategies focusing on sources of guns include Federal and local initiatives that disrupt the flow of illegal firearms through gun tracing and monitoring of both licensed and illegal gun dealers. Strategies limiting gun sources also include educational initiatives to prevent at-risk youth from accessing firearms.

Strategies focusing on illegal possession and carrying of guns include interventions designed to take guns from adults, juveniles, and others at risk for violence, such as probationers, gang members, and drug traffickers.

Strategies focusing on illegal gun use include criminal and juvenile justice interventions designed to aggressively prosecute and sentence those who commit gun violence and those who illegally sell weapons to juveniles and adults. These strategies include court-related programs encompassing sentencing and educational options for gun-involved youth.

Communities Implementing Comprehensive Strategies

Promising Strategies describes how several communities are implementing comprehensive gun violence reduction strategies that address multiple risk factors associated with the illegal use of firearms. These communities include Atlanta, GA; Baltimore, MD; Baton Rouge, LA; Birmingham, AL; Boston, MA; Buffalo, NY; Indianapolis, IN; Minneapolis, MN; Oakland, CA; and Richmond, CA. These jurisdictions have developed comprehensive plans that focus on reducing sources of illegal guns, limiting possession and carrying of illegal firearms by those at risk for

violence, and providing appropriate sanctions for those using guns illegally.

Comprehensive gun reduction strategy sites have developed partnerships through which the community, law enforcement, prosecutors, courts, and social service agencies:

- ◆ Identify where gun violence occurs and by whom it is being perpetrated.
- ◆ Develop a comprehensive vision and plan, grounded in an understanding of the risk factors associated with gun violence.
- ◆ Create strategies to convince those who illegally possess, carry, and use guns that they can survive in their neighborhoods without being armed.

For Further Information

To obtain a copy of *Promising Strategies To Reduce Gun Violence*, call the Office of Juvenile Justice and Delinquency Prevention's Juvenile Justice Clearinghouse, 800-638-8736.

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David Sheppard is a Program Manager with the COSMOS Corporation, which is supported by an OJJDP grant.

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Monday, July 19, 1999

U.S. Crime Plummets for 5th Straight Year

■ Survey: Justice Dept. says violent offenses dropped 7%, thefts 12%. Numbers are at an all-time low, but law enforcement officials warn of complacency.

By ERIC LICHTBLAU, Times Staff Writer

WASHINGTON--Crime plummeted nationwide last year, for the fifth straight year, to its lowest levels since the government began keeping records a quarter-century ago, the Justice Department said Sunday.

Violent crime dropped 7%, according to the Justice Department survey of crime victims, while burglaries, car theft and other property crimes declined 12%.

Altogether, according to the Justice Department's annual survey of crime victims, there were about 31 million crimes last year, from rape to purse-snatching. The count in 1997 was nearly 35 million. Because the report is based on interviews with victims, it does not include homicides.

"This is obviously very good news," said Deputy Atty. Gen. Eric H. Holder Jr. "To see that we have the lowest numbers we've ever had in the history of the survey and to see these kinds of drops across the board, across ethnic and racial lines, is very encouraging."

But Holder and other law enforcement officials warned against complacency.

The teenage population, which is responsible for a disproportionate share of crime, has reached a plateau in recent years but is expected to grow substantially over the next decade, said Jim Pasco, executive director of the National Fraternal Order of Police, the nation's largest police labor group. Unless anti-crime efforts are intensified, he said, "we're going to be in for a horribly rude awakening."

Already, Pasco said, some members of Congress are proposing sharp cuts in money available to local police for discretionary gang and drug programs. "There are those who are inclined to declare victory over crime and move on, and it's way too early to do that," he said.

The new report is based on interviews conducted last year in 43,000 households with 80,000 people. Researchers found that

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only about 38% of the crimes discovered in the surveys had been reported to police--a figure consistent with rates for previous years.

Of every 1,000 people interviewed, about 38 said they had been victims of rape, robbery, assault or other crimes. Just five years earlier that figure stood at 52.

About 217 of every 1,000 people said they had been victims of burglary or theft, down from 319 in 1993.

"Crime just keeps going down," said Justice Department statistician Callie Marie Rennison, author of the report. "I was really surprised by just how much."

Among the survey's other findings:

- * Cities, while still more dangerous than rural or suburban neighborhoods, experienced a sharper drop in crime than other areas.

- * Residents in the western United States, at a rate of 47 per 1,000 people, were the most likely to be victims of violent crimes. The steepest drop in crime was in the South.

- * Men were 30% more likely than women to be the victim of a violent crime, while blacks were somewhat more likely than whites to be victimized. There was virtually no difference between Latinos and non-Latinos.

- * Offenders were armed with a firearm or other type of weapon in about a quarter of the violent crimes, while victims knew their attackers in 54% of the episodes.

The Justice Department report also noted that the overall decline in violent crime was triggered by a drop in aggravated assaults. From 1993 to 1998, the survey found, every major type of crime measured--rape or sexual assault, robbery, aggravated assault, simple assault, burglary, theft and motor vehicle theft--saw a significant decrease.

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News



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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 reinforced. 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

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

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

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.

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.

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

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

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

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

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

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

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

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,

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,

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

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.

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

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.

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,

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

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

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

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

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

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.

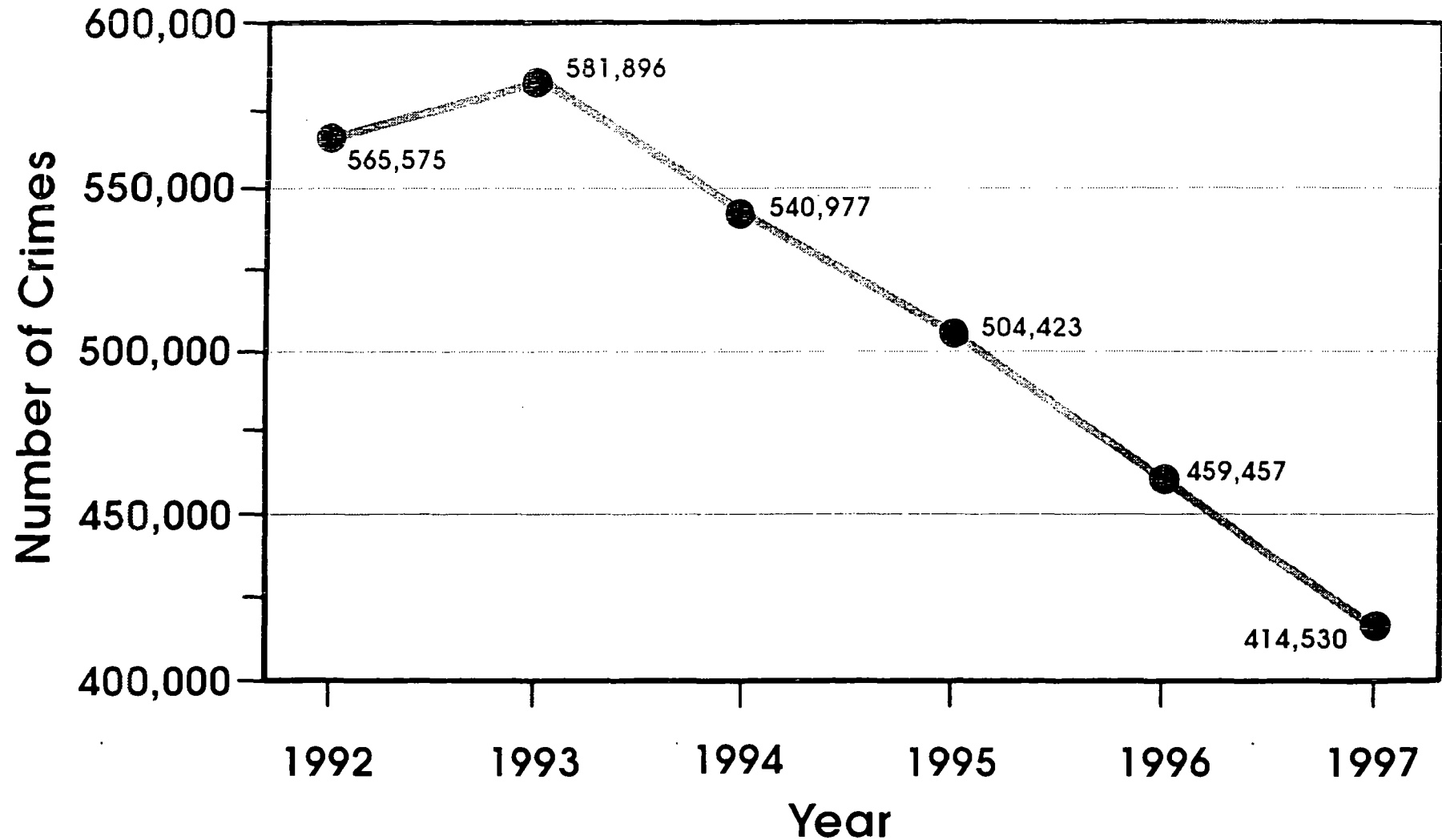
CONCLUSION

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

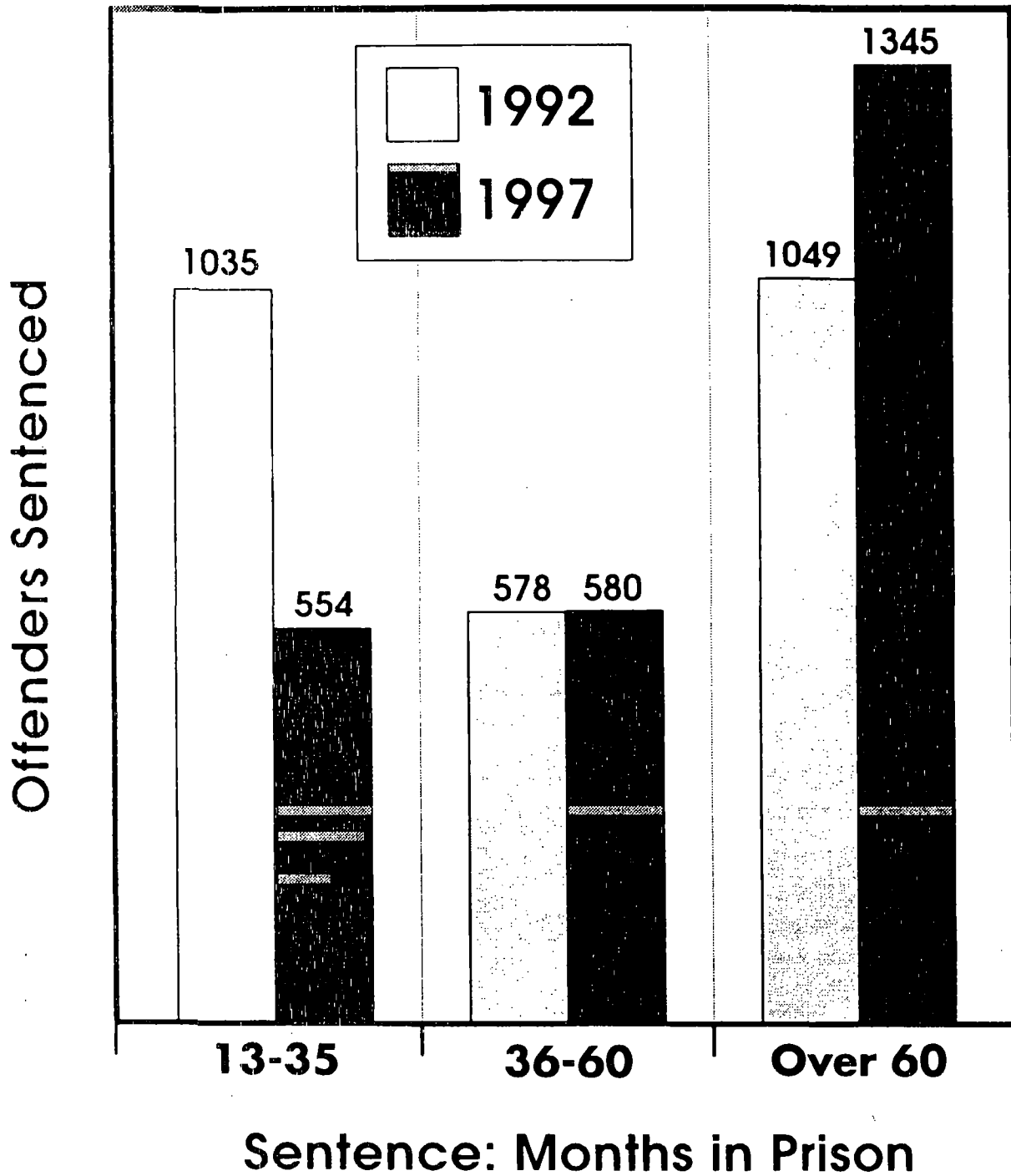
Violent Crimes With Firearms*



* Excluding Rape

Source: FBI/Uniform Crime Report Data

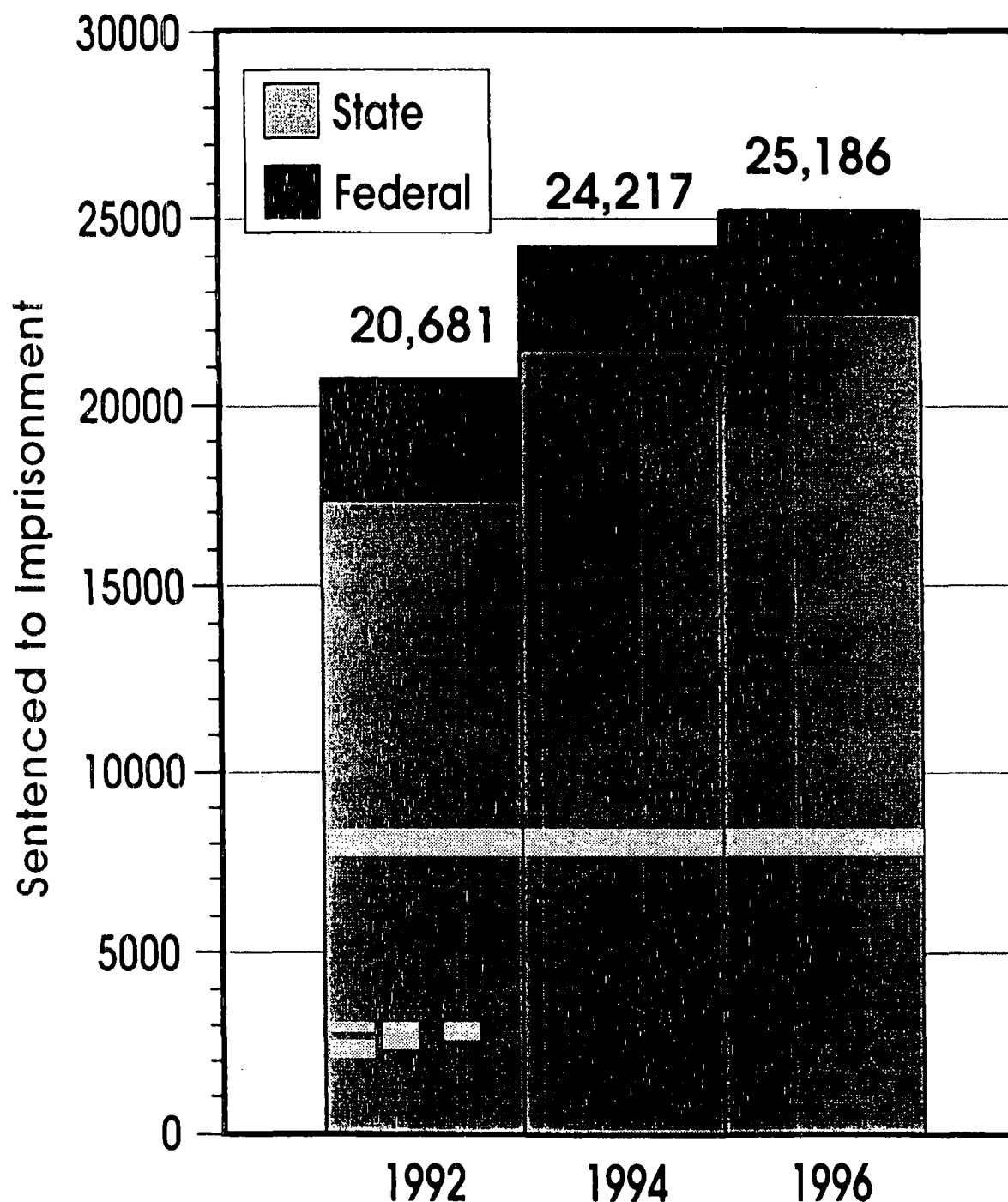
Federal Weapons and Firearms Offenders Convicted & Sentenced, 1992 vs.1997*



**Excluding Sentences One Year or Less*

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

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



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

PROJECT EXILE

A comprehensive, multi-dimensional program by the United States Attorney's Office, B.A.T.F., U.S. Marshal, and F.B.I., in coordination with the Richmond Commonwealth's Attorney's Office, Richmond Police Department, the Virginia Attorney General, the Virginia State Police, and the business community and citizens of Richmond to reduce gun violence and remove armed criminals from Richmond streets.



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March 22, 1999

PROJECT EXILE EXECUTIVE SUMMARY

For more than a decade the newspaper headlines have read the same: Another Murder in the City of Richmond; Murder Rate Rises; Gun Violence Continues. It was stark reality that the capital of the Commonwealth of Virginia was routinely among the five cities with the worst per capita murder rates in the country. In 1997 alone, 140 people were murdered, 122 of them with firearms. Even while homicide rates were dropping in many areas of the country, they were actually increasing in Richmond. The use of guns by drug dealers, the willingness of many to flaunt the law and carry weapons, and a high incidence of domestic violence, fueled this high and ever increasing murder rate.

In 1997, the U.S. Attorney's Office for the Eastern District of Virginia developed and initiated Project Exile in Richmond, aimed at reducing the senseless and unbridled violence which was plaguing the city. Project Exile is an aggressive, innovative, and creative approach to reducing the murder rate, by changing the culture of violence in Richmond through a comprehensive, multi-dimensional strategy. This strategy includes both law enforcement and prosecution components aimed at deterrence, as well as community outreach and education programs focusing on prevention.

Project Exile is simple and straightforward in its execution, and requires relatively limited prosecution and law enforcement resources. The program's focus and message is clear, concise, easily understood, and most importantly, unequivocal: **"AN ILLEGAL GUN GETS YOU FIVE YEARS IN FEDERAL PRISON."** For criminals carrying guns, the consequences have been swift, certain, and severe. For the citizens of Richmond, the results have been dramatic. They have taken back their neighborhoods, and now live in safer communities where houses can become homes, and neighbors can truly become friends.

The law enforcement and prosecution components of our strategy take full advantage of stiffer bond rules and sentencing guidelines available in federal court. In every case in Richmond where it is appropriate, felons with guns, drug dealers who use or possess firearms, and those using guns during domestic violence, are prosecuted federally. The project has fully integrated and coordinated local, state and federal (BATF/FBI) law enforcement agencies, and local and federal prosecutors. This widely-based task force accomplishes prompt identification of a potential Project Exile defendant through the use of an expedited reporting system, which has decreased processing time from several months to several days. In court, bond is routinely and successfully opposed, defendants receive speedy trials and mandatory minimum sentences are imposed. The average sentence for a Project Exile defendant is an impressive 53.6 months. With swift and certain justice, the project has deterred violent crime in the City of Richmond by changing the culture of violence and criminal behavior.

As of March 14, 1999, in Richmond;

1. 438 individuals have been indicted for federal gun violations;
2. 512 guns have been seized;
3. 331 persons have been arrested or are in state custody;
4. 236 arrestees (approx. 74%) have been held without bond;
5. 302 have been convicted;
6. 215 have been sentenced and the average sentence is 53.6 months.

The other major and essential component of the project addresses prevention. Project Exile has been an innovative community outreach and education initiative, using various media to get the message to the criminals that illegal guns are unacceptable, and will not be tolerated.. More importantly, it has built a community alliance directed at the problem. A coalition of business, community and church leaders, and organizations such as the Retail Merchant's Association and the Chamber of Commerce, has been assembled to promote the project. The coalition, operating as the Project Exile Citizen Support Foundation, has funded a creative advertising campaign, including TV and radio commercials, billboards, a city bus completely painted black bearing the logo "**An Illegal Gun Gets You 5 Years in Federal Prison,**" 15,000+ business cards with the same message distributed on the street by local police, and a print advertising campaign. This outreach program has been extremely successful, increasing citizen reports about guns, and energizing the community to support police efforts.

Through these efforts, hundreds of armed criminals have been removed from Richmond's streets. One violent gang, responsible for many murders, has been dismantled, its members now in prison. The rate of gun carrying by criminals has been significantly reduced, protecting not only the public but our police officers as well. Officers now report seeing drug dealers throwing down weapons before running from police, instead of taking the risk of being caught with a weapon. Information obtained from Project Exile defendants has been crucial to solving a large number of homicides. Most importantly, these efforts appear to be stemming the tide of violence. Homicides in 1998 were approximately 33% below 1997, for the lowest number since 1987. In the same period, armed robberies declined 30%. So far in 1999, homicides are down an additional 9% from 1998. As a result, the citizens not only feel safer, they are safer.

Because of the demonstrated results in Richmond, the U.S. Attorney's Office in the Eastern District of Virginia has expanded Project Exile to the Tidewater area of Virginia, and is committed to continuing Project Exile as long as the need exists. Other cities have taken note of Project Exile's impact on the City of Richmond. Project Exile's concepts have been fully implemented in Rochester, New York, which is already seeing success similar to that in Richmond. Other cities, such as Philadelphia, PA, Oakland, CA, Birmingham, AL, Baton Rouge, LA, and Camden, NJ, are in the process of implementing projects based on the Richmond model.

Project Exile has proven that a comprehensive, multi-dimensional strategy can and will work. It can be a vital tool in accomplishing one of President Clinton's top priorities - reducing the gun violence on our streets.

PROJECT EXILE

Project Exile is a comprehensive, multi-dimensional program by the United States Attorney's Office, B.A.T.F., U.S. Marshal, and F.B.I., in coordination with the Richmond Commonwealth's Attorney's Office, Richmond Police Department, the Virginia Attorney General, the Virginia State Police, and the business community and citizens of Richmond to reduce gun violence and remove armed criminals from Richmond streets. The project has made significant strides since it was announced on February 28, 1997, but reducing gun violence requires a coordinated community response to ensure continued success.

1. The Problem.

Gun violence has plagued Richmond for the last ten years, with Richmond consistently ranking in the top five murder per capita rates for the country. Thus, while homicide rates were dropping across the country, in Richmond they were actually increasing. In 1997, 140 people were murdered, 122 of them with firearms. Ordinary citizens live in fear, held hostage in their own homes by the gun violence on the streets. The drain on the business community is real and economic development opportunities are lost. Business employees are in danger of being murdered in robberies. Brave police officers face this danger every day. The toll this places on us all is simply incalculable.

Different causes play a role in the grim statistics. It is a fact that criminals in this city are regularly armed and willing to use weapons. By 1997, the link between drug dealing and guns had escalated to the point that almost every drug dealer was fully armed with high powered, readily accessible firearms, and they frequently used guns to steal from competitors, deter stealing, and carry out revenge. Even without the drug connection, for a variety of reasons, the police report a greater willingness of many on the street to carry weapons. This obviously contributes to the violence.

Behind the total statistics is also an important picture. Those being killed are not just criminals. In fact, while a large percentage of the homicide toll is connected to drugs, there is more to that story. In 1998, 80% of all homicide victims were African-American, which places a grievous toll on one particular segment of the community. Half of the victims had no prior criminal record, which demonstrates that many persons killed were unlikely to have been involved in criminal activity leading to the homicide. Finally, the average age of homicide victims in 1998 was 28.2 years.

The city also suffers direct, quantifiable economic losses from armed criminal violence. The drain on business development is real. Every survey done in the last ten years listed violent crime as a major factor slowing Richmond's economic growth. This is all the more serious because any long term solution to crime and drugs must be based on having sufficient numbers of decent paying jobs. The success of Project Exile has helped counteract the negative impact violent crime has had on Richmond's public image.

2. The Response - Project Exile.

a) Law Enforcement

Project Exile is named for the idea that if the police catch a criminal in Richmond with a gun, the criminal has forfeited his right to remain in the community. The criminal will face immediate federal prosecution and stiff mandatory federal prison sentences (often five to ten years), and will be "exiled" to federal prison.

The innovative organizational aspects for the investigation/apprehension/ prosecution parts of the project include:

1. full coordination from the officer on the beat to the federal prosecutor;
2. full coordination with the local Commonwealth Attorney's Office and the Virginia Attorney General's Office, with each office detailing a staff prosecutor to the U.S. Attorney's Office to assist in prosecutions;
3. active coordination of all police agencies (Richmond Police Department, Virginia State Police, Bureau of Alcohol, Tobacco and Firearms, and the Federal Bureau of Investigation), a simplified reporting system; and,
4. coordinated use of innovative and aggressive policing methods such as traffic checkpoints to locate drugs and guns.

When a police officer finds a gun during the officer's duties, the officer pages an A.T.F. agent (24 hours a day). They review the circumstances and determine whether a federal statute applies. If so, federal criminal prosecution is initiated.

To enhance the investigative process, Project Exile has obtained increased manpower from two Richmond Police Department officers, and two Virginia State Troopers detailed to the FBI and A.T.F. offices.

b) Prosecutions

The United States Code contains a series of statutes that can be used against the armed criminal. In summary, felons, drug users, fugitives, illegal aliens, and those convicted of domestic violence are prohibited from possessing firearms. Similarly, carrying a firearm in

connection with drug dealing in violation of 18 U.S.C. § 924(c) carries a mandatory five year jail term.¹

Federal prosecution is particularly effective for a number of reasons. First, the project entails taking an aggressive position against bond, and this approach has been successful in taking defendants off the street. The federal bond statutes provide for holding a defendant without bond when the defendant poses a danger to the community. In this regard, for example, armed drug dealers are *presumed* to be dangerous and bear the burden of justifying release on some form of bond. Shifting this burden concerning bond has resulted in the vast majority of Exile defendants being held without bond.

Second, the federal system applies a mandatory sentencing guideline system in which a court's sentencing discretion is limited. Therefore, for a given type of firearm violation, the penalty is clear, substantial, and served in full without parole. Thus, an armed criminal is truly "exiled" from the community. In plea discussions, the federal prosecutor insists on the mandatory minimum sentences for armed criminals. If a plea agreement is not reached, the case is tried in federal court. In both jury and bench trials, the prosecution has prevailed and lengthy prison sentences have been imposed.

Finally, defendants know that a federal jail term will likely be served elsewhere in the country. This has a major impact because serving a jail sentence among friends and acquaintances is seen by the defendants as much less onerous than serving time in a prison out of state. Anecdotaly, defendants have expressed more concern about where they serve their time than whether they will be going to prison.²

Experience since Project Exile was announced demonstrates that federal prosecutors can undertake a large scale prosecution effort of gun crimes with relatively limited personnel resources, and with a quick disposition of cases. It is estimated that an average of approximately 3 Assistant United States Attorneys and Special Assistant United States Attorneys have been utilized on Project Exile, including prosecutors detailed at various times from the Richmond Commonwealth Attorney's Office, Virginia Attorney General's Office and the Department of Justice. As of March 14, 1999,

- a. 438 individuals have been indicted for firearm violations;
- b. 512 guns have been seized in these cases;
- c. 331 have been arrested on the federal charges;

¹ In addition, this provision was amended in October 1998 to broaden its applicability to mere *possession* of a firearm in furtherance of a drug trafficking crime or crime of violence. The amendments signed into the law also increase the mandatory prison term where the weapon is either brandished (7 years), or discharged (10 years). These amendments will substantially increase the effectiveness of the statutory tools available to prosecutors of armed criminals.

² The media outreach effort has been using this concern to increase the effectiveness of the project. For example, the July 1998 copy for the radio traffic report sponsorships addresses the prospect of serving a prison term "way out in the country" in California, Minnesota or Texas. On the street, this is a very effective advertising line.

- d. 236 (approx. 74%) have been held without bond;
- e. 302 have been convicted;
- f. 215 have been sentenced with an average sentence of 53.6 months.

c) law enforcement training

To enhance the investigative effort, the U.S. Attorney's Office has conducted several training programs. Specifically, all Richmond police officers have twice attended hour long lectures on federal firearm statutes and the procedures followed in Project Exile. Beginning in March 1998, a more extensive lecture program was conducted with every police officer. Training also covered related search and seizure issues.

From June - August, 1998, in connection with the Department of Justice, a new Gun Recovery Initiative which included training, enforcement, and organizational measures was completed at the Richmond Police Department's Police Academy for over 100 selected officers. The Gun Recovery Initiative is aimed at improving the ability of the police to detect firearm violations and apprehend the perpetrators.

3. Public Outreach/Education

The community must understand that armed criminals are not a "police problem"; they are the community's problem. Armed drug dealers in particular terrorize parts of our city. Only if the community gets involved, and assists, will the homicide and violent crime rates be reduced.

But we cannot stop here. What is needed is greater citizen involvement and support. If only one citizen on each block called to report an illegal gun, that would double the effect of the police force at no cost to the taxpayers, and would go a long way toward making their own streets safe. The leaders and organizations which have begun this effort have done great work. But continued success will require much more outreach and education. Substantial support from the business community is necessary to achieve the results we know are possible.

a) Project Exile Citizen Support Foundation

To this end, it was announced in July 1997 that several civic leaders and community groups had formed the "Project Exile Citizen Support Foundation" to support Project Exile with a variety of public outreach and education efforts through various media. The Foundation was created by Stanley Joynes, Esq., a prominent Richmond attorney who has embraced the purposes and goals of Project Exile. Mr. Joynes and his law firm, LeClair Ryan, provided free legal work to create the support Foundation, registered it as a tax exempt organization, and handled the contracting issues for the various media contracts. Primarily through Mr. Joynes' contacts, tens of thousands of dollars have been raised for the media effort, and thousands more were raised in the form of donated media time and support.

i) Media efforts

The Foundation has been instrumental in the affirmative use of the media carrying the message "An Illegal Gun Gets You Five Years in Federal Prison," and asking citizens to

anonymously report guns on the street to the Metro Richmond Crime Stoppers telephone number. The Martin Agency, a prominent national advertising agency located in Richmond, provided substantial creative and production assistance at no cost to develop ways to get the message out to the community. The message has been distributed through 15 billboards (Enclosure 1), a fully painted city bus which covers the entire city by changing routes each day (Enclosure 2), TV commercials, Metro Richmond traffic reports, over a million supermarket bags urging support of Project Exile (Enclosure 3), and 15,000+ business cards with the message distributed on the street by local police (Enclosure 4), and print advertising.

The media outreach effort has substantially reduced street carrying rates. In addition, primarily as a result of the citizen outreach through the media/advertising effort, more citizens are reporting guns on the street, and a large number of gun cases result from citizen calls. In the beginning of 1997, that was the exception. There is no doubt that the use of aggressive media/advertising has significantly increased the deterrent effect of the firearms prosecutions.

For 1998-99, because of its demonstrated success, we developed a much larger media effort with a six figure budget with different creative methods/means and a spot public relations campaign, including op/ed pieces and media appearances by law enforcement officials. Funding has been provided by corporations, associations, law firms and individuals.

4. Richmond Public Schools/Firearm safety programs

Recognizing the need for a broader program to teach children about gun safety, the U.S. Attorney's Office also attempted to address the problem of firearm violence through education in the public schools. As part of Project Exile, the U.S. Attorney's Office, in cooperation with the Richmond Public Schools, arranged for a gun safety program, built around the cartoon character "Eddie Eagle," be provided to all elementary school students (K-5) **at no cost**.

The Eddie Eagle Gun Safety Program is an accident prevention program for children in pre-school through grade six that teaches children what to do if they see a gun in an unsupervised situation. Recognized by the National Safety Council, and the American Legion in granting its National Education Award, the program has been presented to approximately 10 million children nationwide since its inception in 1988. Beginning March 2, 1998, the 15,600 elementary students in Richmond's schools were given instructions that if they discovered or confronted a firearm that they were to **"Stop. Don't touch. Leave the area. Tell an adult."** The message, the equivalent of "don't play with matches," and similar safety programs, enables children to avoid becoming victims. This professional program, developed with teaching and law enforcement professionals, includes a fast paced video, fun-filled activity books, brochures, stickers, posters, and a parent's guide to teach a plain, simple safety message. The materials, plus training assistance, were provided free of charge by the National Rifle Association. The program is scheduled to be repeated for several years. In April 1998, the Richmond City Public School Board issued a Certificate of Appreciation to the U.S. Attorney's Office for helping to bring this program to the school system. In addition, A.T.F. agents are also conducting firearm safety and awareness programs in Richmond Public Schools.

5. Metro Richmond Crime Stoppers

In many Richmond communities, the armed criminal element has so terrorized the citizens that crimes and suspicious activity go unreported. The Metro Richmond Crime Stoppers program provides a telephone number for citizens to anonymously report criminal activity with the possibility of a reward up to \$1,000. Project Exile has utilized the number, and extensively publicized it, as the most efficient method to allow citizens to report armed criminals without fear of identification. The staff of the Metro Richmond Crime Stoppers will then send the report to the police department for prompt police response. In addition, the U.S. Attorney's Office participates in the monthly board meetings and has requested certain drug forfeiture proceeds to be used through the police department to enhance its operations. The U.S. Attorney's Office also made a presentation at the Virginia Crime Stoppers Association 29th Semi-Annual Training Conference on October 16, 1998 at Staunton, Virginia. This is just one illustration of how Project Exile is coordinating existing programs to maximize the deterrent effect of the prosecutions.

6. City of Richmond's commitment to Project Exile

The goal of Project Exile is simply to make Richmond's streets safe for all of its citizens. Any Richmonder knows what a great city Richmond is to live, work, own and operate a business, raise a family, and enjoy all the community has to offer. Unfortunately, the city's image has been tarnished with regular stories in the national media about the city's high per capita murder rate. Recognizing the potential of Project Exile, the City of Richmond government has strongly supported the effort in several ways.

a) Richmond Police Department

Any law enforcement effort directed at homicides on the street relies first on the full commitment of the local police force. From its inception, Project Exile has been fully supported by Police Chief Jerry Oliver, and Deputy Chiefs Theresa Gooch and Fred Russell. The project was conceived and developed with their direct input and ideas. Without their full support in several aspects, the project could not have been successful. First, the Richmond Police Department assigned three officers full-time to the Exile task force. This has led to quick preparation of investigative reports and facilitated information exchange.

Second, the Richmond Police Department has organized several training programs for all of its officers to educate the officers regarding federal laws and involve the officers in the project. In August 1998, the Richmond Police Department completed a week long gun interdiction training program for over 100 selected officers to improve gun detection on the streets. Each Richmond Police Officer also carries a laminated card which summarizes the federal firearm statutes and provides a 24 hour pager number if questions on firearms violations arise in the field. Finally, every officer in the department has received training regarding firearms law three times at roll call meetings. A new round of roll call training began in December 1998.

Third, the department has improved its procedures for the handling and tracing of firearms. Through its Firearms Administrator, Mr. John Brooks, the Richmond Police Department insures that all firearms are traced in coordination with ATF. Mr. Brooks also insures that all firearms seizures are considered for inclusion in Project Exile.

Fourth, the Richmond Police Department has actively participated in the public outreach

effort. For example, on October 27, 1997, the Police Department conducted a "Crime Prevention Expo" at which home security and safety companies, neighborhood watch organizations, and police officials presented information concerning crime prevention and protection. Project Exile provided information and the keynote speaker, as another means to distribute the anti-armed criminal message of the project. The department has actively assisted in Project Exile's participation in various community events in order to provide additional opportunities to ensure the project's message gets out to the community.

Project Exile is not just a "federal initiative." Rather, Project Exile is a true team effort in which the Richmond Police Department plays a large and key role. Project Exile could not be successful without the full commitment of the Richmond Police Department.

7. Commonwealth of Virginia's commitment to Project Exile

The Commonwealth of Virginia has supported Project Exile in a number of important respects. This support is indicative of the team approach taken throughout the project.

i) Richmond Commonwealth Attorney's Office

Project Exile has been a cooperative program with the Richmond Commonwealth Attorney's Office since the beginning. David Hicks, the Commonwealth Attorney, has provided a prosecutor from his office to assist in the prosecution of Exile cases.

ii) Virginia State Police

Since the beginning of the project, the Virginia State Police have been a partner in the effort. The Virginia State Police have assigned state troopers to the task force of agents to expedite the preparation of investigation reports, and assist in the apprehension of armed criminals. The importance of this contribution cannot be overstated.

iii) Virginia Attorney General

In October 1998, Virginia Attorney General Mark Earley announced that an attorney from the Attorney General's Criminal Division would be detailed to serve in the U.S. Attorney's Office as a full-time prosecutor for gun related crimes under Project Exile.

iv) Virginia Governor

In 1998, Virginia's Governor, Jim Gilmore, also endorsed and lent his support to Project Exile. In particular, in September Gov. Gilmore hosted a dinner for many of Richmond's business and political leaders, at the governor's mansion to encourage support for Project Exile. Support by Richmond's business community has been a critical part of the success of the media outreach effort.

8. Metro Networks traffic report sponsorship

In January 1998, Project Exile began a traffic report sponsorship campaign on twenty four local radio stations through Metro Networks to increase understanding in the community about Project Exile, and send out the message that armed criminals will be prosecuted federally and removed from our community, that the citizens can help protect their own communities by reporting armed criminals through the Metro Richmond Crime Stoppers telephone number, and that the project is working. In this campaign, each traffic report has a message that the report is sponsored by Project Exile, and following the report the announcer gave a message explaining the basic premise of the project. Subsequent messages provide a phone number which can be used to anonymously report armed criminals. This campaign has helped get the message out that armed criminals will be prosecuted federally, detained without bond, and receive mandatory sentences.

In April 13, 1998, a new traffic report sponsorship program began with the assistance of Metro Networks. The program included approximately 125 announcements per week on 24 radio stations which ran for one month. An expanded sponsorship program, including funding from the Chamber of Commerce, has enabled the program to continue.

9. Fox-35 Support

a) Black Achievers' program

For the last three years, Fox-35 T.V. News at Ten has sponsored a "Black Achievers" month in which members of the African-American community are recognized for their personal efforts to assist in community activities and organizations for the betterment of Richmond. Project Exile is a sponsor of this program. The U.S. Attorney's Office participated on the selection panel to review nominations for the awards. Each person selected was featured in segments on Fox-35 throughout March 1998, with the Project Exile message given as sponsor approximately 190 times. The program presents an excellent means of distributing the project's message that the community must assist in combating armed criminals, and also stresses that law enforcement is not an end in itself but a means by which our community can be substantially improved.

b) Fox-35 Corporate Invitational Golf Tournament

Richmond's local Fox Network affiliate, Fox 35, has found great value in Project Exile and has done much to promote it, including a good deal of free and discounted air time for the outreach television spots. On September 1, 1998, Fox-35 held a Corporate Invitational Golf Tournament to benefit Project Exile. Through the tournament, approximately \$100,000 in commercial air time was obtained.

10. Community Pride Food Stores

On July 30, 1998, Mr. Johnny Johnson, President/CEO/Owner of the Community Pride Food Stores chain announced Community Pride's sponsorship of Project Exile. As a corporate citizen serving the needs of the communities most directly affected by armed criminal violence, Community Pride is well positioned to assist in the outreach effort. Community Pride began reaching the community through a series of ads, with slogans such as "Bag A Crook, Support Project Exile," placed on its grocery bags. It is estimated that these messages reach over 75,000 customers per week.

11. Other media coverage

Experience in Project Exile has demonstrated that getting the message out to both the criminals and the community is a continuing requirement to ensure success. As part of this effort, Project Exile has received various other news media coverage explaining the project and its success.

a) Richmond Times Dispatch/Richmond Free Press/"Hard Times"

The Richmond Times Dispatch has played a central role, through its coverage of federal court proceedings, in publicizing the project and its purposes. The coverage of Project Exile related matters has been extensive, balanced, and has informed the public of the project's purposes and success. The project would not be the success it has been without professional and detailed reporting in the paper.

Similarly, the Richmond Free Press, a newspaper directed toward the African-American community, has provided important coverage of the project's success. This coverage is important because the African-American community has been particularly victimized by armed criminal violence. Full page ads were run in early 1999 regarding the project.

Finally, the Virginia Coalition for the Homeless' bi-weekly newspaper ran full page ads in January and February 1999 in support of the project. These ads reached many of those most affected by the problem of criminal violence.

b) National News

In July 1998, the Fox Network national news division produced a report which aired nationally on July 15, 1998. The report commented favorably on the project and its success. As a result, the U.S. Attorney's Office received inquiries from cities around the country about the project and whether it could be emulated in their localities. Such reports serve to alert other areas to the approach and possibilities for dealing with firearm violence.

As a result of the creative approach taken in Project Exile, CBS and ABC have highlighted the program in their broadcasts. The reports gave national exposure to the "good news" that Richmond's criminal violence is being substantially reduced.

c) Local T.V.

The United States Attorney conducted a series of interviews on April 9, 1998 with reporters from each of the local T.V. stations to discuss Project Exile and its success. These interviews served to continue the high public visibility of the project.

d) National print media coverage

In June 1998, the project began receiving national attention through various media including the Washington Post, New York Times, the Philadelphia Inquirer, U.S. News and World Report, U.S.A. Today, Crime Prevention News, the Wall Street Journal, the Washington Times, as a program that is working in dealing with violent crime. As a result, the U.S. Attorney's Office has received numerous inquiries from jurisdictions around the country and is providing information to replicate the project in those areas.

12. National organization endorsements

The coordinated approach to removing the armed criminal from Richmond's streets has received national attention beyond the electronic media. National groups crossing the political spectrum have reviewed and endorsed the project's approach.

On March 5, 1998, the U.S. Attorney's Office received a letter of endorsement from Mr. Wayne LaPierre and Ms. Tanya Metaksa on behalf of the National Rifle Association, and on March 12, 1998, from Mrs. Sarah Brady on behalf of Handgun Control, Inc. As their letters makes clear, no matter what one's views are regarding the myriad issues involved in the ongoing gun control debate, all parties can agree that vigorous prosecution and sentencing of the armed criminal is not only appropriate, but also the first step in eliminating this modern terrorist from our streets. The NRA has also made substantial donations to the Project Exile Citizen Support Foundation.

13. Success

Recent academic studies, comparing crime and punishment rates in various countries, have made clear that swift, sure, and substantial prosecution punishment of violent crime will result in a reduction of those crime rates. By any measure, applying this principle, Project Exile has been an unqualified success. In a very brief time period, the project has removed a large number of criminals predisposed to violence from the streets of Richmond. The project has also demonstrated substantial reductions in gun carrying by criminals. In Richmond, the homicide rate has been significantly reduced. While many factors have contributed to the reduction, there is no doubt that project Exile has been a major factor. Homicides in 1998 were down 33% from 1997 and for 1999 through 18 March, homicides are down 97% from the same date in 1998. The homicide rate in 1998 was the lowest in the city since 1987.

Any one of numerous anecdotes tells the story as well:

1. In the Spring 1998, in the execution of a search warrant, a defendant was caught with substantial quantities of drugs. What was unique was that no guns were found in the search. This was the first time anyone could remember a defendant with so much narcotics not being armed. The defendant was questioned extensively about where the guns were, with the defendant vehemently denying having any guns. Finally, somewhat exasperated, the defendant looked at the prosecutor and said "Haven't you heard man? Five years." It was clear that the advertising message, "An illegal gun gets you five years in federal prison", had gotten through to its primary target audience.

2. In another case, again in an interrogation, a drug/gun defendant patiently explained how he understood the “feds” had a special T.V. channel going into the projects to spread the message that the feds were cracking down on guns. He was referring to the T.V. commercials run at the end of 1997 on Fox-35 and several cable channels. He got the message even while overestimating the degree of the advertising.
3. In a recent case concerning the sentencing of a defendant, the defendant wrote to the U.S. Attorney complaining that the sentence he would be getting under the federal sentencing guidelines was too harsh in that it was based in part on his juvenile convictions. It was clear he had seen the outreach media message because he wrote in his letter,
I’m writing to you in reference to my Presentence Investigation Report. My charge is possession of a firearm by a convicted felon. My sentence guideline is 77 -96 months. In reaching my sentence guideline, the probation officer used 3 charges from my juvenile record on page 4 of my Presentence Investigation. in all do respect, I think going back to my juvenile record is a little too much. *Even the bus and the billboard says five years.* ... (emphasis added)
4. In April 1998, a probation officer advised the United States Attorney’s Office that he had been talking with a supervised defendant who had been engaged in drug dealing for many years. The defendant gestured to a poster on the wall with the Exile campaign message (“An Illegal Gun Gets You Five Years In Federal Prison”) and said “you got that right”. He explained to the probation officer that the word on the street now is that if you sell drugs, then “sell drugs but don’t be carrying no gun”. He said the message had gotten to the criminal element. Breaking the gun/drug link is the single most important factor in reducing street violence and murders.
5. In June 1998, a plainclothes detective reported stopping three individuals on the street who met the radioed description of three individuals wanted for a recent crime. The detective detained the three and did a safety patdown for weapons. He asked one of the three if he had any weapons. The person responded, “Are you crazy. That Exile thing will put you away for five years. I’d be an old man when I got out.” None of the individuals were in fact carrying firearms.

The criminal element is clearly getting the message.

13. Future Efforts

a) Commitment to the comprehensive effort in Richmond.

Recent statistics show that the U.S. Attorney’s Office for the Eastern District of Virginia now ranks second among federal districts in prosecuting federal firearm violations. The U.S. Attorney is proud of this long term commitment to addressing the problem of violent crime in the District and intends to continue the Office’s focus on armed criminals.

Because success requires a sustained commitment, the federal and local authorities have

pledged to continue the program as long as the need exists. Additional manpower has been assigned by the Richmond Police Department and the Virginia State Police, along with additional FBI and ATF resources requested by Deputy Attorney General Eric Holder. Richmond Commonwealth's Attorney, David Hicks, has detailed an experienced prosecutor to the U.S. Attorney's Office from the beginning of Project Exile to assist with the trial workload of the project, and in October, 1998, the Virginia Attorney General also detailed an attorney to the Richmond U.S. Attorney's Office through October 1999 to assist on trials. In addition, the Department of Justice, thru Deputy Attorney General Eric Holder, a strong supporter of Project Exile, has detailed attorneys on a temporary basis to assist with Project Exile cases.

b) Expansion of Project Exile to other areas

In January 1998, the U.S. Attorney's Office announced the expansion of the project to the Norfolk area. Certain areas in the Tidewater area also have high homicide rates, and it is expected that significant reductions can be achieved there as well. Since Project Exile began in the Tidewater area, 112 indictments have been brought, 43 individuals have been convicted and the average sentence is 64.4 months. To date, 279 guns have been seized.

CONCLUSION

It is not an exaggeration to say that armed criminals can and do terrorize our cities. Senseless violence tears at the very fiber of our community, and we cannot allow that to continue. We must deal with these criminals swiftly and firmly, so that our citizens can return to a level of normalcy, where decent, law abiding people can live, work, and most importantly raise this nation's next generation of young adults.

However, federal prosecutions alone cannot put an end to the tragedy of violence in our cities. A sustained and comprehensive community effort is critical to our ultimate success. With the leadership of community-based organizations, such as those mentioned above, and with the support of those living in the community, we can overcome both the cause and the effect of the unbridled and unprecedented violence we have all seen.

While Project Exile is only be part of the solution, it can send and enforce a very important message to the criminal element: an illegal gun will get you five years in federal prison--there will be no bond, no deal, no parole. There will only be federal prison.

This is a proven strategy, and it is making a difference.

DONALD K. STERN
UNITED STATES ATTORNEY
DISTRICT OF MASSACHUSETTS

TESTIMONY BEFORE THE UNITED STATES SENATE, JUDICIARY COMMITTEE'S
YOUTH VIOLENCE SUBCOMMITTEE AND CRIMINAL JUSTICE OVERSIGHT
SUBCOMMITTEE

MARCH 22, 1999

Chairman Thurmond, Chairman Sessions, Senator Biden, Senator Schumer, and other Members of the Subcommittees. Thank you for inviting me to testify this afternoon on gun prosecutions. I have spent a good deal of the last 5½ years as the United States Attorney for the District of Massachusetts, focusing on this issue, as part of the effort to reduce youth violence. I have also served as the Chair of the Attorney General's Advisory Committee of United States Attorneys. And, I am pleased to report that Federal prosecutors' partnerships with federal, state and local law enforcement agencies, as well as with others in Boston, have achieved considerable success. Indeed, over 200 different jurisdictions have come to Boston to learn about what some have referred to as the "Boston model."

First, please let me briefly set the scene -- describing what things were like in the early 90's in Boston and what they are like now. Then, I will identify three basic reasons for this success. After that, I would be pleased to respond to whatever questions members of the Committees might have.

In 1990, homicides were at an all time high in Boston. Drive-by shootings were commonplace. Parents were afraid to let their children play outside. There was a real question about the viability of the City.

These problems were symbolized by two events, now etched in the memory of Boston. The first occurred in December, 1992, when fourteen gang members invaded the Morning Star Baptist Church during the funeral of a young murder victim, who had been shot in a drive-by killing. A 21-year old man was beaten and stabbed in the Church. Then, in December of 1993, Louis Brown was murdered. Louis was a 15 year old honor student, who attended West Roxbury High School. His dream was to be this Nation's first African-American President. While on his way to an afternoon anti-gang meeting, Louis was murdered in the cross-fire between two gangs.

Things have dramatically changed. Between 1995 and 1998, homicides dropped by 64%. In 1998, there were 35 homicides in Boston, as compared with 152 in 1990. This year, thus far, there have been four murders in Boston, down another 56% from this time last year. Indeed, serious crime across the board is at its lowest level in 30 years.

And then there was that period from July 1995 through December, 1997, when not one juvenile in Boston was murdered by a gun. I repeat, not one juvenile in Boston was murdered by a gun. While we knew that this could not last forever, this time of peace underscored that we were on to something successful.

In 1990, 51 Boston young people, ages 24 and under, were murdered by a firearm. Last year, there were 16 such murders and this year, thus far, zero.

I attribute this remarkable success to three things:

1. The creation of true partnerships between local, county, state and federal officials as well as community leaders, the faith community and business leaders.
2. A willingness for those people to step out of traditional roles; and
3. A focused and targeted law enforcement strategy.

1. Build Partnerships

There is no question that the law enforcement community in Boston has its act together -- we are co-operating in ways unthinkable in years past. While we shouldn't get medals for this -- taxpayers should expect it -- you are probably not

surprised to hear that turf battles among law enforcement agencies can be fierce, even if counterproductive. For the past several years, the relationships among local, state and federal law enforcement has been a model for the country.

But this co-operative law enforcement effort would have fallen short unless there was an equally important component of developing a community-based justice system. Some of this is what's known as community policing. Helped by the additional COPS provided under President Clinton's Crime Bill, Boston, and many other communities in Massachusetts, have reoriented policing to solve problems, rather than simply react to 911 calls.

But, in Boston, the concept of community policing has been expanded to include other parts of the criminal justice system, in particular the prosecutors. Prosecutors, even federal prosecutors, now see their role as pro-actively solving problems and making things safer in the community, not just handling a conveyor belt of cases. As you know, President Clinton has asked for \$200 million in his FY 2000 budget to fund the hiring of tough-on-crime prosecutors who can work on key community crime problems such as guns, gangs and drugs. Deputy Attorney General Eric Holder - who pioneered such a project in Washington, DC when

he was U.S. Attorney - is spearheading that effort for the Department.

The final part of building partnerships, and perhaps the most important, is creating working-relationships with the community -- whether it be the religious community, street workers, crime watch groups, or public housing tenant organizations. The success of Boston is due as much to these community based efforts as it is to anything law enforcement has done or can do.

2. Rethink Roles

The second reason for Boston's success is that people have been willing to step outside of their traditional roles and in some cases blur what were often thought to be bright line distinctions. Police have gotten out of patrol cars and are listening at community meetings. Prosecutors are in the neighborhoods and the schools. Probation officers have come out from behind their desks and are making home visits. They ride along in police cars so that the people they supervise know that they are out there -- watching.

Community groups are actively cooperating with the police. Ministers have descended from the pulpit and are walking the streets. And the list goes on.

3. Focus and Targeted Law Enforcement Strategy

If some of this talk of co-operation and community based justice sounds vague and soft, let me clear that up right now. The third and essential leg of the Boston strategy is aggressive, focused and targeted prosecution and law enforcement. This means determining who are the relatively small number of violent criminals in Boston and going after them with the combined fire power of local, state and federal law enforcement.

While in many cases, this will mean state prosecution, a critical part of the strategy is federal prosecution -- with long sentences and no parole. In Boston, the federal priorities in this area are three-fold.

First, we are targeting gun traffickers, those who illegally sell guns, seemingly oblivious to the deadly consequences.

Secondly, we are going after repeat violent offenders -- criminals who have racked up many convictions and seem to re-cycle through the state system.

Third, we are picking off organized violent gangs, usually for drug and fire arms offenses, but sometimes for murder.

This approach is premised on a few simple facts. Youth homicides are concentrated in neighborhoods that have probably less than 75 gangs, involving approximately 1,300 youth. . Although gang turfs constitute less than four percent of the city, they account for 25 percent of Boston's serious crime.

Most youth living in these "hot spots" are well known to the criminal justice system. Indeed, 75 percent of known homicide offenders and victims had been arraigned for at least one offense.

We have made no secret of this strategy -- dubbed Operation Ceasefire. In fact, a key component is that the entire law enforcement community -- local, state and federal -- deliver a unified, clear message that unless the violence stops, gang members will be subject to an intense level of scrutiny. Gang members are explicitly told, often in face-to-face meetings, that they have a basic choice -- stop the flow of guns and stop the violence or face rapid, focused and comprehensive enforcement.

In certain instances, it means long federal sentences. One such case involved a 24 year old man who, as an adult, had 15 prior state felony convictions, almost half of which were for crimes of violence or drugs. He was stopped by a Boston officer, after handing off a gun to a juvenile. He still had a single bullet which he was brazenly tossing in his hand.

What he didn't realize is that, as a felon, the possession of ammunition violates federal law. After conviction, he was sentenced to 20 years in federal prison. At sentencing, the judge made clear that this long sentence was imposed because he was a career violent criminal. The result was widely publicized by the Boston Police Department, through word of mouth and handbills. This informal but direct publicity is important.

As David Kennedy, a researcher at Harvard's Kennedy School who helped craft Operation Ceasefire, wrote, "gang members do not read about three strike laws or armed career criminal statutes in the *New York Times*; if they are to be reached, enforcement agencies must be forthcoming about the sanctions and consequences that result from criminal behavior and be ready to back these words with action."

So, what has worked for Boston is a balanced and comprehensive approach -- one that uses data collection, information sharing and strategic allocation of law enforcement resources. It relies on very aggressive law enforcement. Yet, at the same time, we have emphasized prevention.

Indeed, this same collaboration is now working to find jobs for those who want an alternative to gangs.

This effort, known as the Boston Jobs Project, is attempting to make youth job ready and then help them actually get a job. It is critical to the continued success and momentum we have achieved in Boston. If we trust our judgment and believe that we can identify the hard core, violent youth and prosecute them to the fullest -- then we should also be able to identify those who have shown that they are willing to pursue an alternative course. This is one way in which we can insure that the reduction in violence in Boston is not a temporary phenomenon.

Thank you and I'll be happy to answer any questions you may have at this time.