

**PHOTOCOPY
PRESERVATION**

DRAFT - National Firearms Violence Reduction Strategy - A Report to the President

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Executive Summary

Every day, 89 people—including 12 children—are shot and killed in America. In 1997, 32,436 people died of gunshot wounds. For every fatal shooting, there are at least three non-fatal firearms injuries. These deaths and injuries inflict \$20 billion each year in medical care, public service and lost productivity costs. Gun violence is a national tragedy.

Virtually all these firearms-related deaths, injuries and losses are avoidable. In the last seven years, we have achieved much to stem the tide of gun violence. We have seen a dramatic reduction in firearms deaths and injuries. Between 1993 and 1998, gun-related homicides declined 36 percent. Robbery with firearms and aggravated assault with firearms also dropped 39 and 36 percent, respectively. Overall, violent crime with firearms fell 37 percent during this period. We have made a good start, but the number of firearms-related deaths and injuries remains alarmingly high. In 1998, over one-third of a million violent crimes were committed with firearms.

We know what needs to be done. Federal, state and local government, community leaders, parents, schools, the public health community and the firearms industry all must play a role in reducing firearms violence. While we are a long way from ridding America of the scourge of firearms violence, we can and must do so. This report on our national strategy explains what we are doing and sets forth an aggressive and innovative plan to stop firearms violence.

President Clinton called for the development of an integrated firearms violence reduction strategy on March 20, 1999, directing the Secretary of the Treasury and the Attorney General to build upon the proven tactics and innovative approaches that have led to the recent decline in gun violence. Because many of these initiatives are locally based, the Secretary and Attorney General instructed United States Attorneys and Bureau of Alcohol, Tobacco and Firearms Field Division Directors to submit local gun violence reduction plans. These plans were developed in close consultation with state, local, and other federal law enforcement agencies and many other stakeholders, and are the foundation of the national strategy.

The national strategy contains three interlocking and balanced parts, no one of which can succeed in isolation: prevention, intervention, and enforcement.

- *Prevention.* Gun violence must be stopped before it occurs. Many community-based programs have proven successful in preventing gun violence; these programs must continue to be deployed and expanded. Guns must be treated as an inherently dangerous consumer product that requires each owner to be aware of safe gun use and storage. We must encourage the development of promising new technologies that will improve firearms safety, such as equipping all new guns with safety devices to prevent accidental shootings. Unintentional shootings and firearms-related suicides must be systematically studied to identify ways to prevent them.

- *Intervention.* We must break the cycle of gun violence. At the community level, we must set clear standards of behavior for violent offenders and potential violent offenders, communicate those standards in a targeted way and back up our words with action by “pulling every lever” legally available when violent conduct occurs in violation of those standards. We must support this strategy of targeted deterrence by providing chronic offenders with incentives and opportunities for success. A comprehensive intervention approach requires close coordination of federal, state, and local law enforcement; probation and parole departments; and community leaders.
- *Enforcement.* Firearms criminals must receive swift, sure, and severe punishment. We must continue to vigorously prosecute and imprison those who illegally use or possess firearms. And we must aggressively prosecute and imprison those who illegally supply firearms to criminals, unauthorized juveniles, and other prohibited persons. With close coordination among federal, state, and local law enforcement and prosecutors, we are doing just that. Since 1992, the number of gun criminals going to federal and state prisons combined has risen more than 22 percent, while the number of serious firearms violators receiving federal prison sentences of five or more years has increased more than 34 percent. While we will continue to prosecute and imprison gun criminals at both federal and state levels, we must also make it as difficult as possible for criminals, unauthorized juveniles, and other prohibited persons to get their hands on guns in the first place, by shutting them out of the legal firearms market and closing down the illegal market. In this regard, we must close the many loopholes in existing laws that allow guns to flow readily from the legal to the illegal market. The Brady Act was an important first step in preventing prohibited persons from getting guns. Now, we must extend Brady’s benefits to all private firearms sales by requiring all guns to be sold only through licensed dealers who will perform Brady background checks. We must also gather systematic information, using the latest technology as well as traditional criminal investigation methods, about gun supply and gun violence and use it to shut down the illegal gun market. Finally, we must take steps to reduce firearms theft.

Attacking gun violence simultaneously on all fronts works. We can greatly reduce the deaths and injuries that result from firearms misuse and accidents. Given appropriate resources, and with all parts of the plan working together, the strategy will enable us to continue on the course charted by this Administration and help end the tragedy of firearms violence in America.

I. Gun Violence in the United States

A. A National Tragedy

Gun violence is a major threat to the health and safety of all Americans. In 1997 (the most recent year for which data are available), 32,436 people died from gunfire in the United States. More than 89 people die of gunshot wounds every day. Approximately 59 percent of all gun-related deaths resulted from suicide, 42 percent from homicide, and 3 percent were unintentional. In the last two years alone, more American civilians have died from gunfire than all the American soldiers killed during the nine years of the Vietnam War.

Firearms injuries are the eighth leading cause of death in the United States, and the third leading cause of injury-related death, behind only motor vehicle traffic-related injuries and other accidents. For every fatal shooting, there are at least three nonfatal shootings. These injuries and deaths are responsible for \$20 billion each year in medical care, public service, and work loss costs, as well as incalculable human suffering.

The impact of gun violence on young people is particularly severe. Arrest rates for young people for both murder and weapons violations are still significantly higher than they were before crack cocaine infiltrated our cities in the mid-1980s. In 1997, 4,223 children under the age of 19 died of gun-related injuries – 191 of them under age 10. Every day in America, 12 young people die of gunshot wounds.

The carnage caused by guns in the United States is unique among developed nations. From 1992 through 1996, Toronto had 100 gun homicides. During the same period, Chicago, a city of similar size only a few hundred miles away, had more than 3,000 gun homicides. The firearms homicide rate for children under 15 years of age is 16 times higher in the United States than in 25 other industrialized countries *combined*. Among those ages 15 to 24, the U.S. firearms homicide rate is five times higher than in neighboring Canada, and 30 times higher than in Japan.

Today, there are an estimated 200 million guns in America – almost one for every man, woman and child in the nation. Although a smaller proportion of households in America – 35 percent – keep firearms today than in 1994, these households possess more guns than ever before. Between 1978 and 1996, over 20 million firearms were imported into the civilian market in the United States, a majority of them handguns.

Firearms-related suicide is a critical component of the overall problem of firearms violence. In 1997, 17,566 people killed themselves with a gun – over half of all deaths caused by firearms. More people kill themselves with guns than by all other methods combined. Between 1952 and 1996, the adolescent suicide rate tripled, due largely to an increase in firearm suicide, making it the third leading cause of death in young people. Access to firearms appears to significantly increase the risk of suicide. One recent study found that in the first week after the purchase of a handgun, the rate of suicide by firearms among purchasers was 57 times higher

than in the general population, and continued to be substantially higher for the entire six-year period of the study.¹ Another study found that the presence of a gun in the home doubled the risk of suicide.²

Gun violence in America is a terrible national tragedy, but it does not have to remain part of the fabric of our society.

B. We Are Doing Something About Gun Violence

Since 1993, we have made substantial progress in confronting this problem. This Administration has worked hard to reduce crime and violence in our nation's communities, placing special emphasis on crime and violence involving guns. We have implemented a comprehensive approach to reducing violent crime, including:

- * Funding 100,000 new community police officers;
- * Increasing assistance to state and local law enforcement by 300 percent;
- * Imposing tough punishment for violent offenses;
- * Developing strategic collaboration among federal, state, local, and tribal law enforcement;
- * Instituting a wide variety of community-based crime prevention programs for youth; and
- Creating new programs to reduce domestic violence and drug-related violent crimes.

This comprehensive approach has contributed significantly to reducing overall crime rates, which are now at their lowest levels in a generation.

Gun violence has been among the most significant challenges facing this Administration. We have dealt with it by promoting efforts at the federal, state, and local levels to address the illegal acquisition, possession, and use of firearms and also by addressing the underlying causes and consequences of gun violence. Specifically, since 1993, we have:

- * Prohibited certain types of guns that have no legitimate civilian use;

¹ |Fill in source|.

² |Fill in source.|

- * Improved measures to keep guns out of the hands of those prohibited from possessing them; and
- * Collaborated with state, local and tribal law enforcement to ensure that gun criminals are vigorously prosecuted.

Our efforts have had a major impact on gun violence. Prosecutions of all gun crimes at the federal, state, and local levels have risen by 22 percent since 1992, and the number of criminals receiving federal sentences of five or more years for gun crimes has increased by 34 percent. Gun crime and violence remain unacceptably high, but they have fallen dramatically since 1993. According to the Federal Bureau of Investigation's *Uniform Crime Report*, between 1993 and 1998, gun-related homicides declined 36 percent. Robbery with firearms and aggravated assault with firearms also dropped 39 and 36 percent, respectively. Overall, violent crime with firearms fell 37 percent during this period. We have made a good start, but the number of firearms-related deaths and injuries remains alarmingly high.

C. As a Nation, We Can Do More

Our efforts to reduce gun violence are greatly hampered by the odd patchwork of firearms laws that currently exist. Despite the best efforts of the Administration to work with existing laws and create new ones where necessary, our system of gun laws is still seriously weakened by significant loopholes and limitations. For example, although everyone who buys a gun from a licensed gun dealer must undergo a criminal background check, thousands of guns are purchased from unregulated gun shows and through private sales without any background checks or recordkeeping. In addition, juveniles adjudicated delinquent for offenses equivalent to serious drug crimes or violent felonies are free to purchase firearms after they become adults, despite their past criminal behavior.

Closing the loopholes in the law is essential, but we must all do our part in the broader effort to reduce gun violence. The firearms industry must design its products to be as safe as reasonably possible and distribute them in a responsible way to ensure that they do not fall into the wrong hands. Gun owners must lock and secure their guns so that children do not gain access to them without proper supervision, and firearms theft can be reduced.

In short, America's gun violence problem has many dimensions. The problem cannot be solved through any one approach, by any one government agency, or by any one segment of society. Gun violence is a critical criminal justice and public health problem, and can only be addressed through a multi-faceted approach. Reductions in gun violence have been achieved where communities have adopted focused, comprehensive, and innovative strategies to attack their gun violence problems, using the full range of tools – legislative, programmatic, and community-based.

D. The National Strategy

This report sets forth our National Integrated Firearms Violence Reduction Strategy. It explains what we are doing and what needs to be done. Because the strategy is built upon existing laws, Part II examines how federal and state firearms laws have developed, identifies loopholes, and describes programs to address these challenges.

Part III describes the process through which the national strategy was developed. Part IV sets forth our strategy, which has three integrated components: prevention, intervention and enforcement. It identifies many critical legislative and regulatory actions that must be taken to close loopholes and effectively respond to gun violence. Many of these proposals are set forth in detail in the strategy, and a number of additional proposals are included in Appendix __. Only by attacking the problem on all fronts will we be able to rid America of firearms violence.

II. The History of Gun Violence Reduction Efforts

Recognizing that no single law or initiative will end gun violence in America, this Administration has supported a comprehensive approach to address the problem. The following brief description of the federal firearms laws and history of firearms enforcement efforts provides a context for the Administration's current gun violence reduction efforts.

A. Controlling the Firearms Market: The Gun Control Act of 1968

Following the assassinations of President John F. Kennedy, Senator Robert Kennedy, and Dr. Martin Luther King, Jr., Congress passed the Gun Control Act of 1968 (GCA). The GCA, as amended over the years, continues to be the primary vehicle for the federal regulation of firearms. The GCA's stated goals are to "keep firearms out of the hands of those not legally entitled to possess them because of age, criminal background or incompetency, and to assist law enforcement authorities in the states and their subdivisions in combating the increasing prevalence of crime in the United States."³ To achieve these goals, the GCA created the first comprehensive federal framework to investigate and prosecute firearms crimes. In particular, the GCA prohibited transfers of firearms to certain persons; required licensing of individuals engaged in the business of dealing in firearms; restricted the interstate transportation of firearms; and regulated the importation of certain firearms.

The GCA was designed to reduce firearms crime by regulating the flow of firearms across state lines, thereby permitting states to better enforce their own firearms laws. Under the GCA, licensees' recordkeeping requirements allow some crime guns to be traced. Combined with other obligations and restrictions imposed on firearms dealers, manufacturers, and importers, these requirements also provide a basis for investigating illegal firearms trafficking.

³ S. Rep. 1501, at 823.

The Enforcement Branch of the Alcohol and Tobacco Tax Division of the Internal Revenue Service initially enforced the GCA. On July 1, 1972, the Bureau of Alcohol, Tobacco and Firearms (ATF) was created as an independent Bureau within the Treasury Department.

The GCA made it unlawful for certain persons to possess firearms, and made it a felony for a federal firearms licensee (FFL), to transfer a firearm, knowing or having reasonable cause to believe that the transferee is prohibited from receiving a firearm. Subsequent amendments made it unlawful for any person to knowingly transfer a firearm to a prohibited person and expanded the categories of prohibited persons to the following:

- Felons;
- Fugitives;
- Drug addicts or unlawful drug users;
- Persons adjudicated mentally defective or committed to a mental institution;
- Persons dishonorably discharged from the armed forces;
- Persons who renounced their United States citizenship;
- Illegal or nonimmigrant aliens;
- Persons subject to certain domestic violence restraining orders; and
- Persons convicted of misdemeanor crimes of domestic violence.

The GCA also prohibits anyone under a felony indictment from receiving or transporting firearms. In addition, with certain limited exceptions, juveniles under 18 years of age may not possess handguns. Finally, the GCA makes it unlawful for an FFL to transfer a handgun to anyone under the age of 21, or a long gun to anyone under the age of 18.

1. Requiring Federal Licenses Under the GCA

One of the GCA's key provisions creates a licensing scheme that regulates the interstate movement of firearms. Persons wishing to engage in the business of manufacturing, importing, or dealing in firearms are required to obtain a license from the Secretary of the Treasury. The license entitles the holder to ship, transport, and receive firearms in interstate or foreign commerce. The FFL must maintain records of all acquisitions and dispositions of firearms and comply with applicable state and local laws in transferring firearms.

2. Controlling the Interstate Flow of Firearms Under the GCA

The GCA helps individual states enforce their own laws regulating firearms possession and transfers by generally prohibiting the transport and shipment of firearms across state lines. Before the GCA, differences among state controls over firearms commerce impaired the ability of states to enforce their own laws. The GCA's interstate prohibitions were intended to minimize the impact of different state laws, which had led to illicit commerce in guns between states with little firearms regulation and jurisdictions with strict controls. The GCA prevents gun traffickers from crossing state lines to escape state firearms restrictions.

3. Regulating Imported Firearms

When Congress passed the GCA, it was well known that the rifle used to assassinate President John F. Kennedy was a surplus Italian military rifle imported into the United States. In addition, so-called "Saturday night specials" – inexpensive and often imported handguns – were associated with rising street crime. Accordingly, the GCA established a framework for "curbing the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting and hunting."⁴ Under the Act, all imported firearms must be "generally recognized as particularly suitable for sporting purposes" before being approved for importation. Handguns are judged against "factoring criteria," which include overall length, frame construction, weight, caliber, and safety features, and have not been modified since they were established in 1968.

Domestically produced handguns do not have to satisfy the factoring criteria applied to imported handguns. If the same test were required for domestically produced handguns as for imported handguns, eight of the top 10 traced handguns in the United States in 1998 would have been barred.

B. The Early 1980s: Drugs and Guns

In the early 1980s, very high levels of gun violence were associated with the burgeoning crack epidemic. In 1984, Congress enacted the Comprehensive Crime Control Act and the Armed Career Criminal Act, which enhanced the sentences of those convicted of using firearms in crimes of violence. In 1986, Congress extended these enhanced penalties to those criminals who use or carry firearms during serious drug offenses. These amendments to the GCA imposed:

- A mandatory five-year prison term for using or carrying a firearm during a crime of violence or drug trafficking crime;
- A mandatory fifteen-year prison term for felons in possession of a firearm who had three

⁴ S. Rep. No. 1501, at 24 (1968).

prior convictions for violent felonies or serious drug offenses;

- A ten-year sentence enhancement for using a short-barreled rifle or shotgun, or a semiautomatic assault weapon, in a crime of violence or drug trafficking crime;
- A thirty-year sentence enhancement for using a machinegun, destructive device, or firearm equipped with a silencer during a crime of violence or drug trafficking crime; and
- A twenty-year prison term or life imprisonment for second or subsequent GCA offenses.

To take advantage of these stiffer penalties, in 1986 ATF developed the Achilles program (later named the Armed Violent Criminal Apprehension Program) to concentrate on enforcing these new laws. The Achilles Program made firearms possession by violent criminals their "Achilles heel" by exposing them to lengthy prison sentences under the new firearms laws. ATF worked closely with U.S. Attorneys and state and local law enforcement officials to ensure that drug dealers and violent criminals were prosecuted in the forum where they would receive the greatest punishment for their crimes. These enforcement activities continue today.

C. A Step Backward: The Firearms Owners' Protection Act of 1986

In 1986, Congress loosened several controls it had established in the GCA. The stated purpose of the Firearms Owners' Protection Act of 1986 (FOPA) was to ensure that the GCA did not "place any undue or unnecessary Federal restrictions or burdens on law abiding citizens."⁵ In FOPA, Congress:

- Allowed FFLs to temporarily conduct business away from their normal place of business, such as at organized gun shows.
- Narrowed the scope of those who "engage in the business" of dealing in firearms (and are therefore required to have a license) to include only those who devote "time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms." Significantly, FOPA excluded those who buy and sell firearms to "enhance a personal collection" or for a "hobby," or who "sell all or part of a personal collection." The complex definition effectively put gun dealers on an honor system to declare themselves, making it difficult to identify illegal dealers who claim that they are merely "hobbyists" or are trading in firearms from their personal collection.

⁵ See Pub. L. 99-308.

- Made certain recordkeeping offenses committed by FFLs, formerly felonies, now misdemeanors.
- Allowed ATF to conduct only one warrantless compliance inspection of a licensee in any 12-month period.
- Required the government to prove either a "knowing" or "willful" state of mind for all GCA violations.
- Required any forfeiture proceeding of any firearm or ammunition involved in any violation of the GCA to be commenced within 120 days of seizure.
- Prohibited ATF from centralizing or computerizing firearms purchase records.
- Permitted sales of ammunition without a license.
- Allowed a convicted felon to obtain firearms where the convicting jurisdiction automatically restored the felons' civil rights upon release from prison or completion of sentence.

On the positive side, FOPA finally banned the manufacture of machineguns for civilian use and made it unlawful for anyone, not just licensees, to sell firearms to prohibited persons.

A notable effect of FOPA was to direct ATF's enforcement efforts away from the legal and illegal firearms markets, toward creating programs that sought primarily to identify, prosecute, and punish violent criminals who used firearms in crime. For example, in the late 1980s, the Justice Department and ATF developed an intensive prosecution initiative known as "Triggerlock," which identified and prosecuted recidivist criminals under firearms laws that mandated long prison terms for repeat offenders.

D. Reducing the Illegal Supply of Guns

Despite Triggerlock efforts, firearms violence continued to escalate throughout the 1980s and early 1990s, with increasing public concern that criminals were becoming even more heavily armed. However, firearms enforcement efforts remained focused upon the criminal users of firearms, not the markets in which criminals acquired their guns.

Following President Clinton's election in 1992, the Administration and Congress again focused on the need to keep guns out of the hands of criminals and juveniles not eligible to possess firearms. In 1993, after a legislative battle that spanned seven years, Congress finally passed, and President Clinton signed, the Brady Handgun Violence Prevention Act. The Brady Act for the first time empowered FFLs and law enforcement to combat the practice of "lying and buying." Although the GCA made it illegal for felons and other prohibited persons to possess or acquire firearms, FFLs had no way to know whether a customer was lying about his background

in order to get a gun. The Brady Act changed this by requiring that FFLs check with law enforcement officials before selling a firearm. In this way, the Brady Act eliminated the "honor system" in firearms purchases, requiring verification of statements made by prospective purchasers that they are legally entitled to obtain a firearm.

From its passage in late 1993, through November 30, 1998, the Brady Act required background checks for handgun purchases only. These background checks were done by individual state or local law enforcement officials, usually the local sheriff's office or police department. With the creation of the FBI's National Instant Criminal Background Check System (NICS), a computerized background check is now conducted to determine if a would-be gun buyer is legally permitted to acquire a gun. Depending on the individual state, an FFL may contact NICS directly or through their state point-of-contact. In its first year of operation, NICS denied firearms to more than 160,000 felons, fugitives, and other prohibited persons. Overall, the Brady Act has prevented more than 470,000 prohibited persons from acquiring firearms from licensed dealers since 1993.

E. Reforming the Federal Firearms Licensing System

In a further effort to keep firearms out of the hands of criminals and regulate the illegal flow of guns, President Clinton directed a review of gun dealer licensing in August 1993. Recognizing that acquiring a gun dealer license was often easier than getting a driver's license, the directive sought to ensure that only those engaged in a legitimate firearms business be licensed. At the time, it was estimated that over 40 percent of the licensees conducted no business at all, but used their licenses to buy and sell firearms across state lines at wholesale prices, often in violation of state and local zoning or tax laws.

The Brady Act also changed the licensing procedures for FFLs by increasing the dealer licensing fee from \$10 per year to \$200 for three years. Subsequently, under the Violent Crime Control and Law Enforcement Act of 1994, licensees were required to submit photographs and fingerprints as part of their application, and to certify that their firearms business complied with all state and local laws, including zoning regulations. As a consequence of these reform efforts, the number of FFLs dropped from over 282,000 in 1993, to fewer than 104,000 in 1999.

F. The Youth Handgun Safety Act and the Youth Crime Gun Interdiction Initiative

Armed juveniles and school violence increasingly drew Congress' attention in the late 1980s. In response to several multiple school shootings, Congress enacted the Gun Free School Zones Act in 1990, which made it unlawful for anyone to possess a firearm in close proximity to

⁶ The Gun Free School Zones Act was held unconstitutional by the Supreme Court in *Lopez v. United States*, 514 U.S. 549 (1995), because the Act lacked a sufficient connection to interstate

a school.⁶ In addition, that same year, the Gun Free Schools Act conditioned state receipt of federal education grant money on agreement to expel any student found to be in possession of a firearm on school property. The Act also requires grant recipients to refer any student who brings a gun to school to juvenile justice authorities.

Youth gun homicides escalated in the early 1990s, tripling between 1985 and 1993. In 1994, President Clinton signed into law the Youth Handgun Safety Act, which generally bans possession of handguns by people under age 18, and prohibits adults from transferring handguns to juveniles. Before this amendment, FFLs were prohibited from selling handguns to anyone under age 21, but there were no federal restrictions on the possession of handguns by juveniles or the transfer of handguns to juveniles by nonlicensees.

The Youth Handgun Safety Act does not apply to long guns. Since enactment of the Gun Control Act in 1968, FFLs have been prohibited from selling long guns to persons under age 18. However, no federal law prohibits possession of long guns, including grandfathered semiautomatic assault rifles, by juveniles. Nor is it unlawful for an unlicensed individual to transfer a long gun to a juvenile.

In 1996, ATF created the Youth Crime Gun Interdiction Initiative (YCGII) to develop better information about how youthful offenders obtain firearms and to use that information to arrest illegal gun traffickers and reduce youth gun violence. YCGII provides for comprehensive crime gun tracing. The program is based in cities plagued by youth firearms violence problems. YCGII began in 17 cities and now operates in 37 cities.

G. The Assault Weapons Ban and Related Import Restrictions

In September 1994, Congress passed the Violent Crime Control and Law Enforcement Act which made it unlawful, with certain exceptions, to manufacture, transfer, or possess semiautomatic assault weapons. Congress had been presented with significant evidence demonstrating that these weapons were "the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder,"⁷ and concluded these guns were so dangerous they had no place in the civilian marketplace. The 1994 Act also made it unlawful to possess and transfer large capacity ammunition feeding devices, generally defined as a magazine, belt, drum, feed strip, or similar device that has the capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.

The 1994 ban on semiautomatic assault weapons and large capacity feeding devices has several deficiencies. It only applies to assault weapons and magazines manufactured after

commerce. Congress amended the Act to require that the firearm move in, or otherwise affect, interstate commerce.

⁷ H. Rep. No. 103-489, at 13.

September 13, 1994, thereby "grandfathering" thousands of weapons and magazines. Moreover, the ban's definition of assault weapons is too narrow and does not prohibit the manufacture, transfer, and possession of many weapons that have the ability to fire many rounds of ammunition quickly, without being reloaded.

Under the GCA, firearms can only be imported into the United States if they are generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. In 1997, members of Congress and others expressed concern that certain modified semiautomatic assault rifles being imported into the country were the same as rifles found not importable under the sporting purposes test in a 1989 study. Based on this concern, and the fact that nearly ten years had elapsed since the last comprehensive review of the importation of rifles, the Department of the Treasury conducted a study to determine if certain modified semiautomatic assault rifles met the sporting purposes test. In an April 1998 report, the Department concluded that modified semiautomatic assault rifles that had the ability to accept a large capacity military magazine were not sporting under the GCA and could not be imported into the United States.

H. Effective Prevention and Intervention

This Administration has emphasized helping communities identify and implement effective prevention strategies. School, media, and community interventions have sought to reduce the demand for guns by providing information or services in homes and schools, in the criminal justice system, or in the community. For example, in 1997, the Justice Department began the Partnerships to Reduce Juvenile Gun Violence program. This initiative provided grant funds to several demonstration sites – Baton Rouge, Louisiana; Oakland, California; and Syracuse, New York – to implement partnerships to enhance and coordinate local gun violence prevention, intervention, and suppression strategies and strengthen collaboration among law enforcement, the juvenile justice system, and in the community. The Justice Department's Youth Firearm Violence Initiative helps fund 10 police departments across the country to support targeted and focused enforcement efforts directed at combating the rise of youth firearms violence.

ATF also has supported and participated in prevention strategies to reduce gun violence and strengthen relations among law enforcement, schools, and the community. In partnership with the Phoenix Police Department, ATF developed the Gang Resistance Education and Training (G.R.E.A.T.) Program. G.R.E.A.T. trains police officers to instruct grade school and middle school children in gang prevention and anti-violence techniques. It draws on the skills of ATF, federal, state, and local law enforcement personnel, as well as individuals from the community and civic groups. Since its inception, G.R.E.A.T. has expanded to 1,499 cities, and has enabled thousands of law enforcement officers from all over the nation to teach more than one-and-a-half million schoolchildren.

I. State and Local Firearms Laws

Through their independent efforts and in collaboration with the federal government, state

and local governments play a crucial role in the effort to reduce firearms crimes and accidents. In some cases, state laws place more stringent controls on the use and possession of firearms than federal law. For example:

- In 1993, Virginia limited handgun sales to one per month per person, resulting in a significant drop in the percentage of guns that had been purchased in Virginia and used in crimes in New England.
- Maryland's ban on the production and sale of unreliable, inexpensive handguns has reduced the frequency with which the banned handguns are used in crime.
- In 1995, Nevada took a significant step toward preventing felons from possessing firearms by passing legislation that allows a private person who wishes to transfer a firearm to another person to request a background check on the transferee from the Nevada criminal history records repository.
- Connecticut recently amended its laws to provide that individuals adjudicated delinquent for committing serious juvenile offenses are not eligible to possess firearms or receive carry permits as adults.
- In 1992, Hawaii made it a misdemeanor to store or leave a firearm, loaded or unloaded, within reach or easy access of anyone younger than 16.
- California generally requires all firearms transfers to be processed through an FFL. It also recently passed other strong gun control measures, including provisions that limit handgun purchases to one every thirty days, require all assault weapons to be registered, and prohibit the sale or manufacture of unsafe handguns.

In addition to these legislative efforts, many states and localities have initiated creative enforcement programs that have been effective in reducing firearms violence. Several of these efforts involve collaboration with the federal government. For example:

- In September 1999, the Durham, North Carolina Police Department launched Operation GRIP (Gun Reduction Interdiction Program), in which the police department established driver's license checkpoints in high crime areas and confiscated numerous firearms. All recovered crime guns are sent to ATF's tracing center to try to establish the firearms' ownership history.
- The 37 cities committed to tracing all guns used in crime or illegally possessed under ATF's Youth Crime Gun Interdiction Initiative have improved their ability to identify straw purchasers and firearms traffickers.

In contrast, numerous states have enacted laws that make it easier to possess a firearm. For example, some states, such as Virginia, Washington, and Oregon, have passed "shall issue"

laws that give almost all non-felons the right to carry concealed weapons with a license, without showing a need to carry the weapon. Federal law enforcement efforts must take heed of changes in state firearms laws to make collaboration most effective.

J. Collaborative Efforts Among Law Enforcement Agencies at All Levels of Government

This Administration has continually sought to better integrate prevention and law enforcement programs at the federal, state, and local levels, and to develop comprehensive approaches tailored to a particular community's needs. By integrating traditional law enforcement efforts with other types of gun violence reduction efforts being implemented at the community level, communities throughout the nation are developing a deeper understanding of their particular gun violence problems and what works to reduce gun violence.

The Justice Department has implemented community-based programs such as the Strategic Approaches to Community Safety Initiative (SACSI), which is now in Memphis, Tennessee; New Haven, Connecticut; Indianapolis, Indiana; Portland Oregon; and Winston-Salem, North Carolina. This pathbreaking program features diverse partnerships that have identified the most serious crime problems in their cities, and designed and implemented targeted strategies to address those problems. Today, each of the partnerships is testing the success of its strategies and planning ways to further strengthen them. The Justice Department's Weed and Seed program similarly promotes federal, state, and local collaboration to combat violent crime in targeted areas and rebuild these communities through crime prevention and neighborhood restoration activities.

The Justice Department also continues to fund research to determine how juveniles acquire firearms, to evaluate the impact of the assault weapons ban, and to better understand illicit gun markets and the sources of gun violence. Through our combined efforts, the overall number of people convicted for firearms violations in this country increased by more than 22 percent since 1992. In addition, the number of high-end federal firearms offenders – those who received prison sentences of five years or more – rose by more than 34 percent since 1992.

K. The Youth Crime Gun Enforcement Act and the Columbine School Shooting

A succession of tragic shootings in 1999 focused the nation's attention on the problem of gun violence. Over the last year, Americans witnessed multiple shootings at schools in Littleton, Colorado, and Conyers, Georgia; at a Jewish Community Center Day Camp in Los Angeles; at workplaces in Atlanta, Seattle, and Honolulu; and at a Baptist Church in Fort Worth, Texas. In addition to these horrific events, a one-man shooting rampage, apparently motivated by race-hatred, occurred in Illinois and Indiana, and several planned "Columbine-copycat" school shootings were detected and prevented. In December 1999, another school shooting occurred in a middle school in Oklahoma, in which four children were wounded. These events have convinced many people that much more needs to be done to combat youth gun crime and reduce gun violence in America.

Well before the Columbine shooting, President Clinton recognized the need to strengthen our federal firearms laws as part of a comprehensive effort to reduce gun violence. The Administration developed a gun safety bill that was submitted to Congress in April 1999. The Youth Gun Crime Enforcement Act of 1999 (YGCEA) is intended to strengthen federal firearms laws and make it more difficult for juveniles and criminals to gain access to guns. Among other things, the bill would:

- * Close the gun show loophole in existing law by requiring a Brady background check on every gun transferred at a gun show;
- Ensure that persons who have been adjudicated delinquent for committing a serious drug offense or the equivalent of a violent felony would not become eligible to receive or possess firearms by reaching adulthood;
- Raise the age of eligibility for handgun possession from 18 to 21 and extend this age requirement to semiautomatic assault weapons and large capacity magazines;
- Establish a mandatory 72-hour “cooling-off” period for all handgun purchases, and extend – from 3 to 5 business days – law enforcement’s “window” to make final eligibility determinations on prospective gun purchases under the Brady Act;
- Allow ATF to suspend federal firearms licenses for GCA violations;
- Require that firearms be sold with secure gun storage or safety devices;
- Hold adults responsible for recklessly allowing a child access to firearms if the child uses the firearm to cause death or serious injury to the child or another person;
- Prevent firearms trafficking by restricting handgun purchases to one per month;
- Require FFLs to report acquisition of secondhand firearms;
- Increase federal criminal penalties for gun trafficking, serious recordkeeping offenses that aid gun trafficking, and transactions involving firearms with obliterated serial numbers;
- Strengthen the assault weapons ban by prohibiting importation of all large capacity ammunition feeding devices, i.e., devices with a capacity of more than 10 rounds;
- Make certain gang-related firearms offenses predicate crimes for the RICO statute and increase the penalties that can be imposed for a conspiracy to violate the federal firearms laws; and
- Add new predicate offenses to the Armed Career Criminal Act, which imposes a 15-year

mandatory minimum sentence on persons who are convicted of being a felon-in-possession and who have three prior convictions that are violent felonies or serious drug offenses.

If enacted, these provisions will help close a number of significant loopholes in our system of regulating firearms. In addition, federal firearms regulations can be improved to reduce gun violence even more.

III. Crafting a National Strategy: Local Planning – National Effort

In a March 20, 1999 Directive, President Clinton instructed the Secretary of the Treasury and the Attorney General to build upon the reductions in crime of the last several years by developing an integrated firearms violence reduction strategy that incorporates proven measures and innovative approaches being used throughout the country. The President requested that the strategy contain five core elements to:

- Increase investigation and prosecution of significant firearms violations;
- Expand the crime gun information available through such technologies as comprehensive crime gun tracing and ballistics;
- Strengthen the coordination of efforts to ensure compliance by FFLs and prospective gun purchasers with legal requirements;
- Implement targeted deterrence of violent offenders; and
- Employ a problem-solving analysis and innovative strategies to work closely with community members to identify gun criminals, remove weapons from the hands of juveniles, identify and seize crime guns, and increase public knowledge of the community's gun-related crime and violence problem.

The President also asked for recommendations for how federal resources should be allocated to support the strategy.

In response, on June 16, 1999, the Attorney General and the Secretary of the Treasury issued a memo to all United States Attorneys and ATF Field Division Directors, asking them jointly to develop locally-coordinated gun violence reduction plans in each of the 94 federal judicial districts across the United States. The U.S. Attorneys and ATF Field Division Directors invited the participation of other law enforcement agencies that play a significant role in responding to violent crime, such as the Federal Bureau of Investigation, the Drug Enforcement Administration, the Secret Service, the Customs Service, the Immigration and Naturalization Service, and state and local police and prosecutors. They also included elected leaders and, as appropriate, private businesses, researchers, educators, social services providers, community organizations, and members of the faith community.

Each jurisdiction assessed the nature and scope of its gun violence problem by analyzing local crime data, including statistics and maps showing the location of crime incidents. The U.S. Attorneys and ATF Field Division Directors then examined the legal tools available in their jurisdictions to address firearms violence, including federal and state firearms laws and sentencing provisions. They also inventoried the jurisdiction's existing law enforcement strategies to combat gun violence and considered other local prevention or intervention initiatives related to firearms, such as federally-supported crime prevention programs, non-profit activities, and faith- or school-based initiatives.

Finally, each jurisdiction developed additional strategies that responded to its particular gun violence problems and strengthened existing strategies. In this way, each jurisdiction incorporated a variety of enforcement, prevention, and intervention programs. These individualized, local strategies have been critical to our formulation of a nationwide integrated firearms violence reduction strategy.

Even as communities across the nation implement their individualized gun violence reduction strategies, the Administration has been working to address gun violence on a national level. Federal laws and regulations must be significantly strengthened, and loopholes that enable criminals to have easy access to guns must be closed. New enforcement strategies and other innovations of the last seven years - including systematic crime gun trace analysis and ballistics identification techniques - have highlighted gaps in our enforcement structure. In addition, many of the local gun violence reduction plans prepared by the U.S. Attorneys and ATF Field Division Directors have identified other gaps in our current legal and regulatory structure.

To close existing loopholes in the nation's firearms laws and strengthen law enforcement's ability to reduce the demand for guns, as well as their illegal supply, possession, and use, a wide variety of new measures - legislative, regulatory, and programmatic - are needed. Major proposals are presented and described throughout this report, and in Appendix A, which also lists additional proposals not described below. The proposals, together with the locally-driven enforcement plans, summarized in Appendix B, represent a comprehensive national strategy to reduce gun violence.

IV. The Common Elements of a National Strategy

In recent years, law enforcement agencies and communities throughout the nation have learned that to reduce violence generally, and gun violence in particular, they must implement integrated strategies that include prevention, intervention, and enforcement. Comprehensive strategies address the entire spectrum of gun violence - from the social, economic and environmental conditions that create a demand for illegal guns, to the illegal acquisition, possession and use of guns. By addressing both the causes and consequences of violence, these multi-faceted strategies can achieve marked and *sustainable* reductions in gun violence.

A. Prevention: Stopping Gun Violence Before It Occurs

Effective programs to prevent violence before it occurs are a critical element in any comprehensive strategy to reduce gun violence. Prevention, in its simplest form, means providing opportunities for individuals – youth and adults alike – to lead responsible, productive, safe and healthy lives. Prevention also involves designing, distributing, and storing guns safely. Prevention programs are based on the principle that front-end investment in sound education, health opportunities, and safe product design maximize an individual's chances to lead a successful, violence-free life.

Because gun violence exacts such a terrible social cost, preventing gun violence must be everybody's responsibility. Effective prevention requires the cooperation of all members of the larger community: families, educators and community leaders, the medical community, local, state and federal elected leaders and law enforcement officials, and gun manufacturers and dealers.

1. Local Innovation

Gun violence prevention occurs on both local and national levels. On the local level, communities are reducing gun violence and giving young people positive alternatives to crime, using a broad range of tools. These include mentoring, tutoring, job-readiness training and job placement, after-school programs, summer internships, conflict resolution, and peer mediation.

- In Richmond, California, and other jurisdictions, police crime data showed that much of the area's gun and other crime occurred around schools, before and just after school. Police and school authorities took several preventive measures. First, they initiated truancy enforcement, bringing dozens of students back into schools, focusing special follow-up educational, counseling, and other services on them. Second, when discussions with many of these truant youth suggested that they were afraid to walk to school, and were frequently threatened or victimized along the way, the Richmond Police Department and community organizations created the "Safe Passages Program." This program established safe houses to which children could go if they felt threatened, and trained parents and other neighborhood residents to protect and support middle school students as they walk to and from school. The program is being replicated in Oakland, California.

Many communities have also implemented highly effective public education campaigns that inform would-be criminals about the severe consequences of illegally possessing or using a gun. These campaigns can have a significant deterrent effect when backed up with swift and certain enforcement of firearms violations.

- To aggressively prosecute investigate and prosecute gun-related offenses committed by adults, Baton Rouge, Louisiana implemented Project FIST ("Firearms Interdiction Street Team"). Project FIST is comprised of representatives from the police department, sheriff's office, ATF, and the United States Attorney's Office, and combines swift and

sure federal prosecution of firearms offenses with a public education campaign that warns criminals: "Don't get caught with an illegal gun. When you do, you go to the Federal Penitentiary."

Other communities have attempted to reduce accidental shootings, particularly among children, through public education campaigns that encourage gun owners to store their guns safely and securely.

- In Seattle, Washington, the Harborview Injury Prevention and Research Center collaborated with the police department, schools, and primary care doctors to promote the use of handgun lockboxes to prevent access by children and adolescents. Among other measures, coupons for lockboxes were printed in local newspapers.

2. National Leadership

On a national level, gun violence prevention must include preventing access to guns by children and those at risk of suicide; regulating firearms' design and availability; and ensuring that owners of firearms are educated about safe firearms handling and storage.

Preventing Access to Guns by Youth and Those at Risk of Suicide

Firearms violence can be dramatically reduced by ensuring that children cannot obtain access to firearms, requiring that firearms kept in the home or sold by gun dealers are securely stored, and that individuals who desire to purchase a handgun must wait at least a reasonable period to reduce the possibility of individuals buying guns in unbalanced emotional states of extreme anger or depression.

Child Access Laws. There are an estimated 200 million guns in America today; 65 million are believed to be handguns. Many of these weapons are easily accessible to our children. Forty percent of American households contain at least one gun. Children are present in at least one-quarter of these homes. Half of all guns kept in the home are kept loaded; one third are kept loaded and unlocked. Children and young adults are the most likely victims of unintentional shootings. In the last 10 years, more than 2,300 American children fourteen and younger died from unintentional shootings and thousands more were injured.

Enactment and enforcement of Child Access Prevention (CAP) laws can reduce accidental deaths and injuries from firearms misuse by children, and juvenile firearms suicide rates. Often referred to as safe storage laws, CAP laws are designed to prevent children from obtaining unsupervised access to guns. They require adults either to store loaded guns in a place reasonably inaccessible to children, or use a lock or other device to render the gun inoperable, and make gun owners criminally liable if a child obtains an improperly stored gun and uses it in an act of violence.

CAP laws save lives. A recent study reported in The Journal of the American Medical Association demonstrated that state CAP laws reduced unintentional shooting deaths of children by an average of 23 percent. In 1989, Florida became the first State to pass a CAP law. Since then, fifteen additional states and five cities have enacted similar legislation.⁸ The time is ripe for the federal government to do the same.

Proposal: Congress should enact federal child access prevention legislation.

Secure Gun Devices. Reducing firearms violence requires not only that guns be safely designed, but that they be safely distributed all the way from manufacturer to dealer to consumer. No gun should be sold in America unless a gun safe or triggerlock is provided.

Proposal: Congress should enact legislation requiring FFLs to provide a secure gun storage safety or storage device with every firearm sold.

Firearms-Related Suicides. Over half of all firearms-related deaths in the country are caused by suicide. Strong evidence is accruing that access to guns greatly increases the risk of suicide. We need to take several steps to develop effective firearms-related prevention strategies.

First, we must develop a much greater understanding of the problem by combining the methods used to study firearms-related violence in general with those public health professionals use to study suicide prevention. In particular, we need to develop our capacity to learn about the frequency and characteristics of suicides committed with firearms, including suicide risk factors, such as a history of domestic violence, child abuse, depression, alcohol or drug abuse, arrests, and traumatic loss; the kinds of guns involved, their storage and history of ownership. We also must learn a great deal more about how firearms purchase or access is related to suicidal behavior, so that we can develop effective interventions and prevention strategies.

⁸ In addition to Florida, California, Connecticut, Delaware, Hawaii, Iowa, Maryland, Minnesota, Nevada, New Jersey, North Carolina, Rhode Island, Texas, Virginia, and Wisconsin have enacted State CAP laws. Elgin and Aurora, Illinois; Houston, Texas; Wichita, Kansas; and Baltimore, Maryland have passed laws that make it a crime for an adult to leave a loaded firearm where it is accessible by children.

Proposal: The Departments of Justice and Treasury will reach out to the Department of Health and Human Services to participate in the Surgeon General's National Suicide Prevention Initiative, as appropriate, and to develop a comprehensive understanding of firearms-related suicide and effective prevention strategies.

72-Hour Waiting Period for Handgun Purchases. Contrary to popular belief, the Brady Act does not require a waiting period before transferring a firearm. The Brady Act should be amended to impose a 72-hour waiting period before an individual can purchase a handgun. Such a "cooling off" period would be designed to prevent crimes of passion and those murders and suicides that occur in the emotion of the moment.

Proposal: Congress should amend the Brady Act to provide a mandatory 72-hour waiting period for the sale of a handgun.

Regulating Firearms Design and Availability

The federal government has played a significant role in protecting Americans from dangerous products and ensuring the safety of our transportation system and our environment. The Consumer Product Safety Commission (CPSC) regulates the safety of over 15,000 consumer products; the National Transportation Safety Board investigates air and rail accidents to better protect the traveling public; and the Environmental Protection Agency works to keep the air and water safe.

Despite the deadly impact of firearms in our society, no federal agency, including the Consumer Product Safety Commission (CPSC), has authority to ensure that firearms meet product safety or design standards and that guns are reasonably safe for their intended use. When the CPSC was established in 1972, it was specifically denied regulatory authority over firearms and ammunition. The CPSC does have jurisdiction over air and pellet guns. ATF has no authority to impose safety standards on firearms.

An important step in preventing firearms violence is to ensure that guns are designed, manufactured, marketed, and sold as safely as reasonably possible. The fact that guns do *intentional* harm does not mean that they cannot be designed to avoid *accidental* harm.

Gun Design. Gun design is not immutable. Like every product, firearms manufacturers frequently redesign their products to suit perceived consumer preferences. This often means that guns are engineered to increase firepower or ammunition capacity, or to decrease gun size or weight to render them more concealable. Manufacturers frequently change the "look" of a gun to make it appear more threatening.

While firearms manufacturers appear eager to redesign their product to appeal to perceived wants and needs of consumers, they have not been as quick to take advantage of existing safety features, nor have they made major strides in developing new safety devices. For example, not all handguns have firing pin locks that prevent them from firing if dropped.

Nor are most guns designed with magazine disconnectors, which reliably (but only temporarily) disable the weapon to help prevent accidental discharge. Loaded chamber indicators, which could prevent accidents by indicating when a gun is loaded, are not included in most gun designs. Handguns are not ordinarily designed to make it difficult for small children to activate the trigger, although such devices first appeared in firearms in the 1880s. None of these safety features are currently required before these products can be sent into the stream of commerce.

Firearms Safety Board. The federal government should take the lead in protecting Americans from these inherently dangerous products and ensure that reasonable safety devices are included in all firearms imported into, manufactured, and sold in the United States. Congress should establish an independent firearms safety board, similar to the National Transportation Safety Board, that is empowered to recommend that the Secretary of the Treasury:

- Set mandatory safety and marketing standards;
- Recall defective firearms that present a serious safety hazard;
- Take immediate action to stop the sale or distribution of firearms or ammunition found to pose an imminent hazard;
- monitor industry compliance with design standards;
- Require that manufacturers or importers furnish safety regulators with pre-marketing notification of new firearms technology and firearms products; and
- Disseminate information to the public about particular firearms.

CPSC?

One of the most important duties of the board would be to collect systematic information about the causes of firearms accidents, including the number of non-intentional shootings caused by the shooter being unaware that the gun was loaded; the number of firearms accidents that occur because a gun fired when dropped; and the number of accidental deaths or injuries that result from low trigger resistance (causing the gun to fire unintentionally or allowing a small child to pull the trigger). The systematic collection of this information will assist the effort to study the causes and possible solutions of accidental shootings.

Proposal: Congress should establish a firearms safety board to set safety and marketing standards for firearms.

Design Standards for Domestically Manufactured Firearms. Federal law requires that imported firearms, but not domestically manufactured guns, meet a "sporting purposes" test. Domestic manufacturers continue to make poorly constructed "Saturday night specials" that are not suitable for target shooting or other sporting purposes. These handguns are often the weapon of choice for youths and criminals, and are often used in crimes. The proposed firearms safety board should apply factoring criteria, including safety standards, to domestically made

handguns.

In evaluating firearms safety and design standards, the proposed firearms safety board should consider various regulatory schemes for other products, while at the same time recognizing the unique properties of firearms and the firearms industry.

Proposal: The proposed firearms safety board should recommend that the Secretary of the Treasury impose design standards on domestically manufactured handguns, which would prohibit the manufacture of unsafe “Saturday night specials.” In the alternative, Congress should amend federal law to accomplish these same results.

Large capacity ammunition feeding devices. Since 1994, federal law has banned the manufacture of large capacity ammunition feeding devices. However, current law contains a significant loophole, which allows devices manufactured on or before September 13, 1994, to be imported. Given the vast, worldwide supply of large capacity ammunition feeding devices, this loophole creates a major enforcement problem and should be closed.

Proposal: Congress should enact legislation banning the importation of all large capacity ammunition feeding devices.

“Smart” Guns. Several handgun manufacturers have begun experimenting with “smart” or “personalized” gun technologies intended to prevent anyone other than authorized individuals from firing a gun. Some technologies use a confirmation system, such as a ring that broadcasts a security code to the gun, activation of a personal ID number, or a fingerprint recognition system, to permit the gun to fire. Originally intended for law enforcement to keep criminals from seizing and using police officers’ guns, these technologies show promise as a way of childproofing firearms and preventing unauthorized misuse.

Proposal: Research on “smart gun” technology should be funded and put on the fast track for development.

Ensuring That Firearms Owners are Educated About Safe Firearms Use

Effectively reducing firearms violence requires reducing the number of injuries and deaths due to irresponsibility, ignorance or lack of training in the appropriate handling of a firearm. Despite the fact that guns are one of the most deadly products on the market, anyone not otherwise prohibited by age or background may purchase any number, and nearly any type, of firearm with no training or education whatsoever.

Many gun safety education programs have been created in cooperation with local education and public health authorities to address this problem.

- In Florida, ATF's Miami Field Division, the Broward Hospital District and the Board of Education established Communities Addressing Responsible Gun Ownership (C.A.R.G.O.), to provide public education on proper firearms handling to reduce handgun injuries and death. Volunteers from ATF and other law enforcement agencies, healthcare workers, and school district employees teach a joint class at schools throughout the area to students, parents and teachers. The program was established in Broward County in 1998 and expanded to Miami-Dade County in 1999. ATF will take steps to establish similar cooperative gun safety programs in each of its field offices around the country.

To effectively reduce the injuries and deaths that result from accidental shootings, every gun owner must be required to have sufficient knowledge and experience in the safe use and handling of a gun before being permitted to possess a gun. Consequently, every gun owner should be licensed prior to being permitted to possess a firearm. Licensing provides a host of benefits:

- Only those who have demonstrated knowledge of the safe and responsible use of a firearm may possess one, thereby reducing the number of gun accidents and crimes;
- Only those legally entitled to possess a firearm may be licensed, further ensuring that felons and other prohibited persons cannot acquire a firearm; and
- Licensing provides an ideal avenue for owners to learn the law and regulations regarding firearms and enhance cooperation with law enforcement.

Proposal: Congress should enact legislation requiring a license to possess a firearm.

B. Intervention: Breaking the Cycle of Violence

Intervention is the second critical element of an effective gun violence reduction strategy. Intervention targets those individuals who are most at risk of violence—youth who have themselves been victims of violence, or who have already been involved with the criminal justice system. The goal of intervention programs is to prevent retaliatory violence or recidivism among these groups, thereby breaking the cycle of violence once it has begun. As with many of the prevention programs described above, intervention programs can have a significant deterrent effect when they are backed up with swift and certain enforcement.

1. Targeted Deterrence

One of the most effective intervention programs is known as “targeted deterrence,” because it targets repeat offenders or offending groups, like gangs or drug organizations, and intervenes to deter them from further violent activity. The basic approach was developed in Boston as part of Operation Ceasefire, supported by the Department of Justice. Operation Ceasefire was established in order to apply a multi-faceted approach to the city’s youth homicide problem. And the approach has worked. In 1990, Boston experienced 152 murders. By 1998, the figure had dropped to 34—a 78 percent decline—with the reduction in youth homicides leading the way. Based on Boston’s success, this approach has been replicated in other cities through collaborative efforts by the Justice Department and local authorities.⁹

The main focus of a targeted deterrence strategy is to deter the relatively small number of criminals who offend at very high rates, are repeatedly arrested and sanctioned, and—if only by virtue of their continued offending—demonstrate a particular resistance to both deterrence and rehabilitation. This is a particular problem where violent offending is concerned. A large proportion of violent crimes are committed by chronic offenders, who commit not only crimes of violence but also property crimes, drug crimes, and disorder offenses. Such offenders are themselves victimized at very high rates.

Operation Ceasefire research showed that youth homicide was concentrated among a small number of serially offending gang-involved youths.¹⁰ Only about 1,300 gang members—less than 1 percent of their age group citywide—were responsible for at least 60 percent, and probably more, of all the youth homicides in the city. These gang members were well known to authorities and tended to have extensive criminal records.

The premise of targeted deterrence is that violent behavior by these individuals or groups of chronic offenders can be deterred by reaching out directly to these offenders, setting clear standards for their behavior, and backing up that message by “pulling every lever” available when those standards are violated. Law enforcement authorities have a variety of levers to pull that can impose costs on these gangs or other kinds of repeat offenders and groups. In addition to bringing firearms charges, they can disrupt street drug activity; focus police attention on low-level street crimes such as trespassing and public drinking; serve outstanding warrants; cultivate confidential informants for medium- and long-term investigations; strictly enforce probation and parole conditions; seize drug proceeds and other assets; ensure stiffer plea bargains

⁹ Substantial portions of this section are drawn from the NIJ Journal article (issue no. 236, July 1998), “Pulling Levers: Getting Deterrence Right” by David Kennedy.

¹⁰ Gangs include groups of chronic offenders such as street crews, drug dealing groups, and other similar groups.

and sterner prosecutorial attention; request and enforce tougher bail terms; and focus potentially severe federal investigative and prosecutorial attention on, for example, gang-related drug activity.

By pulling all available levers, law enforcement authorities are able to increase the costs of repeat violent activity, especially by gangs and drug organizations. Not only are individuals prosecuted under the firearms laws, but the gang faces cash-flow problems caused by street market disruption, other members are arrested under outstanding warrants or humiliated by strict probation enforcement, and the gang is susceptible to a federal investigation into its activities. Targeted deterrence imposes costs on the whole gang, not just the individual gun criminal, creating a powerful deterrent effect. Communicating the new approach to the targeted gangs establishes a fundamentally different balance of power between the authorities and the streets.

The basic process has been replicated in Minneapolis, Minnesota; Indianapolis, Indiana; Baltimore, Maryland; Stockton, California; Lowell, Massachusetts; and High Point and Winston-Salem, North Carolina. Each of these localities has followed a similar "pulling levers" structure:

- (1) Select a "target category" of behavior to be addressed, such as gang or drug-related gun violence.
- (2) Assemble an array of agencies that can be deployed in the service of the strategy. This can include, for instance, police; probation; parole; federal and local prosecutors; ATF; school police; youth corrections; gang outreach workers; clergy; the Drug Enforcement Administration (DEA); the Immigration and Naturalization Service; and neighborhood groups.
- (3) Deliver a direct and explicit "retail deterrence" message to a relatively small target audience, advising them what kind of behavior will provoke a special response and what that response will be.
- (4) Follow through. On a regular basis, assess the city's violence problem and craft necessary responses.
- (5) Continue to communicate with the target audience as the strategy unfolds.
- (6) Select, if desired, a new category of target violent activity. If the original target behavior is controlled, a new one--overt drug trafficking, domestic violence--may be selected.

The Indianapolis Violence Reduction Partnership (IVRP) brings together federal, state, and local law enforcement; the Indianapolis Mayor's Office; and community leaders in an effort to reduce gun homicides. IVRP conducts regular "lever pulling" meetings with high-risk probationers, delivering a message that: violence will not be tolerated; that

federal, state and local law enforcement agencies are working together; that individuals or groups that continue to engage in violent conduct will face swift and harsh consequences; and that probation and community leaders are prepared to help offenders who refrain from violence.

IVRP relies heavily upon close collaboration by the Indianapolis USAO, ATF, the Indianapolis Police Department and the Marion County Prosecutor's Office. A joint screening process involving all four agencies allows the USAO to compare the benefits of federal and state law and identify cases best suited for prosecution under federal statutes. A multi-agency firearms unit, spearheaded by the Indianapolis Police Department, uses ATF's Project LEAD crime gun information system to identify straw purchasers, potential illegal purchases of handguns, and illegal possessors for possible enforcement action. "Lever pulling" and enhanced cooperation among local, state and federal agencies have produced significant progress to date. In 1998, IVRP resulted in 22 defendants being federally charged and convicted of illegal possession of a firearm. In 1999, 24 defendants were charged and convicted of these federal firearms offenses. The average sentence has been approximately five years.

Proposal: We recommend widespread adoption of the "pulling levers" approach where appropriate.

2. Case Management and Intervention Services

Many communities have implemented intervention programs that provide increased services, such as counseling and coordination of health, treatment, education and employment services, for chronic, youthful offenders and their families, as well as youth that have themselves been victims of violence. In some cases, this includes extended contact with a counselor, who serves as an advocate for the youth to ensure the seamless provision of services. Such programs can support the targeted deterrence approach by providing chronic offenders with incentives and opportunities for success.

- From 1992 to 1996, Baton Rouge, Louisiana experienced a dramatic increase in the number of violent youth crimes. During this period, the number of juveniles under 16 arrested annually rose 61 percent. In 1996, juveniles were responsible for 14 homicides, as well as numerous armed robberies, aggravated assaults, and other weapons violations.

In response, law enforcement, city officials, community organizations, and others joined to form the Baton Rouge Partnership for the Prevention of Juvenile Gun Violence. The partnership targeted repeat offender youth up to age 21 from two high-crime areas of Baton Rouge for participation in Operation Eiger, a high-intensity probation and parole initiative. (Eiger is a reference to a mountain that is one of the most difficult in the world to climb). Police/probation teams have regular, intensive contacts with over 200 youths and their parents. The youth receive psychological and substance abuse evaluations and treatment, job skills training and placement, and mentoring. They also

attend chemical awareness and anger management clinics.

The initiative has helped reduce re-offending among this group. In September 1997, 44 percent of the police and probation contacts with the youth resulted in probation violations. In June 1999, the number of probation violations involving Eiger youth was down to 25 percent. In addition, within the Baton Rouge target area, the proportion of homicides involving guns has declined from over 85 percent prior to the juvenile gun violence reduction partnership program in 1997, to 65 percent to date in 1999.

- In Boston, the Streetworkers program, sponsored by the Mayor's Office, employs Streetworkers, who are often former gang members, to act as liaisons between the youth in Boston's high-crime neighborhoods and the city's justice system. By appearing in courts with young offenders and acting as advocates for them, Streetworkers help judges more fully understand the situation in which a youth's crime was committed. At the same time, Streetworkers act as mentors to the youth and help them and their families obtain critical social services. They supervise the young offenders and make sure they comply with school, curfew, or other probation requirements, increasing the judges' confidence that the youth will be adequately supervised, and helping law enforcement keep peace on the streets.
- Caught in the Crossfire is a program at Highland Hospital in Oakland, California, which sends counselors to the bedsides of youths injured by gunfire within 24 hours of their admission. Its goal is to intervene with these youths to prevent retaliatory violence. The program trains urban youth as counselors to provide peer support to recovering adolescent gunshot survivors, and to work with these victims and their families over the next 12 months to interview, counsel, and refer them to appropriate health, education, legal, employment and other services. In the year-and-a-half the program has been in operation, over 40 young people have received this service. Many have commented that the peer support helped them to change their lifestyle, including returning to school, obtaining a job, and changing friends.

C. Enforcement

While prevention and intervention strategies have proven remarkably effective, they must work in conjunction with vigorous enforcement of the law and regulations that govern the sale, possession, and use of firearms. Vigorous enforcement requires active collaboration among federal, state and local law enforcement and prosecutors to ensure that (1) enforcement resources target the specific gun violence problems in the community and (2) available state and federal laws and regulations are enforced in the most effective and efficient manner.

Every jurisdiction's enforcement efforts must focus on the two principal links in the chain of gun violence – illegal acquisition/supply on the one hand, and illegal possession/use on the other. Not surprisingly, however, each community's formula for enforcement is unique. State laws and enforcement systems vary tremendously, in terms of the nature of offenses that

can be charged, the nature of proof necessary for conviction and the length of sentence that can be imposed. Further, the nature of the crime problems and volume of criminal offenses will affect each jurisdiction's formula for firearms enforcement. By identifying the enforcement tools available to each community to address its gun violence problem, communities have been able to fashion enforcement strategies that work.

1. Collaboration: The Key to Efficient and Effective Enforcement

Any federal violent crime strategy must of course recognize the uniquely federal system of government in the United States. The vast majority of the violent crime committed in our country, including gun crime, falls within the jurisdiction of state and local agencies, and the vast majority of resources to fight such crime are provided by state and local governments. While some areas, such as multi-district trafficking in guns, are most effectively attacked primarily at the federal level, many gun offenses can be attacked at more than one level of government. To assure maximum efficiency and effectiveness, all federal agencies with jurisdiction in the area of violent crime must coordinate not only with each other, but with state and local authorities. A critical component to the federal role is providing federal assistance and support to the state and local law enforcement officers on the front lines in the fight against violent crime.

Collaboration takes many forms, and is critical in the context of firearms prosecutions. Where a jurisdiction suffers from inadequate state law or weak state enforcement, a broad and aggressive federal strategy may be necessary to target violent individuals, at least until state laws or enforcement efforts become more rigorous. However, in jurisdictions with tougher state laws and an aggressive approach to prosecutions, federal prosecutions may be needed only to fill in state law gaps and ensure that violent criminals always face the toughest prosecutions and sentences available.

Only if federal, state, and local law enforcement have agreed jointly to direct prosecutorial responsibilities to the most effective venue, however, can the appropriate prosecution strategy – emphasizing a federal, state/local or balanced approach – be pursued. Where districts have developed collaborative prosecutorial efforts, they have screening and referral processes to “capture” cases appropriate for federal prosecution, based on their determination of the types of cases and offenders that are best suited for prosecution in the state or federal system. An effective collaborative process requires that law enforcement officials be aware of the available state and federal laws and the basic intake requirements and procedures for federal prosecution. Pursuant to the March 1999 Presidential directive, United States Attorney's offices have worked to improve the understanding of federal gun laws. In Iowa, for example, the United States Attorney's Office has provided federal, state, and local law enforcement with a laminated two-sided card describing federal gun laws, providing a quick reference for officers in the field.

Screening and Referral Systems

Screening and referral systems take various forms, depending on available resources, and may involve federal, state, and local law enforcement officials.

- In Minnesota, the United States Attorney's Office has developed a close working relationship with local prosecutors, known as Project SAFETY ON. Under Project SAFETY ON, federal and local prosecutors work together to ensure that all criminals found in possession of a gun face either state or federal charges, as appropriate. In Minnesota, a state law—requiring a five year minimum prison sentence for any felon convicted of using or possessing a gun in committing a violent crime—adequately addresses many offenders. However, the United States Attorney's Office encourages local authorities to refer cases for federal prosecution where enhanced federal penalties are called for, such as cases involving repeat violent offenders, straw purchasers, gun traffickers, and the like.
- In Colorado, the USAO is working with state and local law enforcement to develop a coordinated intake mechanism to channel gun cases into the federal or state system, as appropriate. The Colorado USAO intends to more aggressively pursue felon-in-possession cases (which commonly result in probation, rather than jail time, under state law), as well as such offenses as possession of a stolen firearm, sawed-off shotgun, or firearm with an obliterated serial number; possession of ammunition by a prohibited person; gun dealer violations; and Brady false forms cases. However, the USAO will encourage local prosecutors to aggressively pursue Special Offender cases because the state's Special Offender Statute is easier to prove than its federal counterpart.
- In the Central District of California, as a part of their "Compton First!" violence reduction strategy, the U.S. Attorney's Office and the Los Angeles County D.A.'s Office developed a protocol to ensure that firearms offenses are met with the most effective and vigorous prosecution possible. As part of that protocol, when an arrest for a firearms offense is made, the case is initially processed by the District Attorney. If there is also a federal violation involved, the Deputy D.A. and an Assistant U.S. Attorney will jointly determine the appropriate jurisdiction for prosecution, based on their analysis of the applicable state and federal statutes and which jurisdiction provides the stiffest potential punishment, taking into account the nature of the crime and the defendant's criminal history.

Jump-starting Local Efforts through Intensive Federal Prosecution

In a few jurisdictions, the USAO, faced with a rising tide of gun violence and a lack of vigorous enforcement by state officials, has stepped in to jump-start a community's gun violence reduction efforts through intensive federal prosecution of gun cases. This happened in Richmond, Virginia with the establishment of Project Exile. Project Exile is a joint effort led by the United States Attorney's Office for the Eastern District of Virginia, in coordination with the Commonwealth's Attorney Office, the Richmond Police Department, and ATF. When Project Exile was initiated in 1997, Richmond had the second highest homicide rate in the country. At

the time, the existing Virginia firearms laws needed to be strengthened and the state system needed more support. State and local firearms charges were often reduced to misdemeanors or dropped altogether as part of negotiated plea agreements. Additionally, Virginia state prison sentences tended to be reduced from years of incarceration to months of incarceration.

Because of the weakness of state firearms laws, Project Exile was designed to ensure that all armed criminals in Richmond would face immediate federal prosecution and stiff federal prison sentences. Under Project Exile, whenever a Richmond police officer discovered an armed criminal, the officer contacted an ATF agent who reviewed the circumstances to determine if a federal statute applied. If so, federal criminal prosecution was initiated. Additionally, the U.S. Attorney's Office and the Virginia Commonwealth's Attorney reviewed all referrals involving felons with guns, guns in drug trafficking, and gun/domestic violence cases; confirmed whether a federal statute applies; and determined whether federal law provided stiffer sentences than state law.

Project Exile also included a campaign to convey a clear and powerful message to the community that "an illegal gun gets you five years in federal prison." Interviews with offenders suggest that this message has been effective in reaching criminal elements.

While Project Exile focuses primarily on prosecuting and incarcerating people who commit crimes with guns, other initiatives complement the basic approach of arresting and prosecuting more gun criminals. As a result, there has been a significant decrease in homicide rates. In 1997, there were 139 homicides in Richmond. This number decreased to 94 in 1998, and 53 in 1999 (as of October 5, 1999).

Project Exile's success in reducing gun violence and community fear prompted the Commonwealth of Virginia to implement its own program, "Virginia Exile." The highlights of this program include new state legislation to impose mandatory five-year sentences for carrying a firearm with a previous violent felony conviction, and a mandatory three-year sentence for possessing a firearm with a previous nonviolent felony conviction. In addition, the state law now allows prosecutors to seek pretrial detention and no bond for firearms offenders. Thus, Project Exile has not only helped reduce gun violence, but it has allowed the Commonwealth of Virginia to become more active in firearms enforcement efforts.

2. Using Technology and Strategic Information in Enforcement

Rapid advances in technology and computer-based information systems are revolutionizing our efforts to reduce firearms violence, enabling us to develop powerful new tools to identify, investigate, and prosecute illegal trafficking of firearms; better understand the illegal secondary firearms market in particular communities and regions of the country; identify, locate, arrest and prosecute violent offenders, including armed career criminals and armed narcotics traffickers; and identify and direct law enforcement efforts to violent crime "hot spots," where firearms violence and trafficking disproportionately take place.

Computers and communications technologies are critical to enforcement efforts directed against firearms crime and violence. Electronic databases contain everything from fingerprints lifted from recovered crime guns or other parts of crime scenes, to criminal history records, to ballistics information. Despite advances, however, too much information remains in paper files or on multiple, incompatible computer systems. Indeed, ATF is statutorily prohibited from electronically collecting certain types of information about firearms – information that would enhance ATF’s ability to carry out its enforcement responsibilities without in any way compromising the privacy of law-abiding gun owners.

Many of the crime fighting tools to combat firearms violence and trafficking in the 21st Century are still in the process of being developed or refined. We are committed to continuing to improve evolving technologies and information systems, and to support their widespread use by federal, state and local law enforcement authorities to combat firearms trafficking and reduce firearms violence. Also, we will continue to work to link the communication and information systems of Federal, State, and local law enforcement agencies in ways that make them significantly more efficient and effective in using information to solve firearms crimes.

Tracing

Firearms tracing provides invaluable information about the sources of illegally supplied crime guns. Tracing is the systematic tracking of the history of firearms recovered from crimes or from prohibited persons, from the manufacturer or importer through the distribution chain (wholesaler/retailer) to the first retail purchase. ATF’s National Tracing Center (NTC) is the only facility in the world that can trace recovered crime guns for federal, state, local or international law enforcement agencies.

A crime gun trace begins when a firearm is recovered from a crime scene or from the possession of a suspect, criminal, or other prohibited person, and the law enforcement agency having jurisdiction of the case submits a trace request to ATF. The trace *request contains information* pertaining to the identification of the firearm;¹¹ the individual possessing or associated with the firearm, if known; recovery location; and the offense that brought the crime gun to the attention of law enforcement authorities. This data is entered into ATF’s automated firearms trafficking information system, “Online LEAD,” at ATF’s National Tracing Center (NTC). The NTC then conducts a trace, which attempts to track the recovered crime gun from its source (manufacturer/importer) through the distribution chain (wholesaler/retailer) to the first purchaser. Results are sent back to the trace requester and made available to ATF Field Divisions and firearms task forces through Online LEAD. Trace data and analysis provides law enforcement authorities with essential investigative and strategic information.

Mapping

¹¹ A trace request identifies the firearm by serial number, firearm type, manufacturer, and caliber.

Mapping and other data analysis allows ATF to pinpoint where the majority of crime guns are being recovered within specific geographic areas, generating investigative leads and helping law enforcement understand the illegal supply of firearms so that they can focus investigatory and enforcement resources more effectively. Mapping provides valuable information about the possessor or purchaser of a recovered firearm, the dealer who sold the firearm, and other trace data. A mapping program can collect information within specific time frames and apply it to particular locations, from individual neighborhoods to multiple areas spanning several cities or states. For instance, a mapping program can identify all multiple handgun purchases made on a particular date in a particular state, or by a particular individual.

- In the Western District of North Carolina, part of the local firearms violence reduction strategy is to identify and target persistent “hot spots” through mapping active crime locations and other information. Neighborhoods with recurrent violent crime problems are identified and chronic and violent offenders in the area are aggressively investigated and prosecuted through a collaborative effort involving federal, state, and local investigators and prosecutors. Chronic offenders engaged in violence or firearms-related offenses are identified and placed on a list.

National Integrated Ballistics Information Network (NIBIN)

As with fingerprints, every firearm has unique characteristics. The barrel, breech face, extractor, and ejector each leave distinctive markings on the cartridge casing or projectile. Images of the markings can be captured, stored, and compared to other captured images.

Presently there are two systems that allow computerized ballistics imaging – ATF’s Integrated Ballistics Identification System (IBIS), and the FBI’s DRUGFIRE program. These systems allow forensic firearms examiners to electronically compare thousands of specimens in a fraction of the time it would take to compare them manually. In effect, the systems provide law enforcement agencies with the ability to link one or more seemingly unrelated shooting incidents to a single firearm. Although both systems were designed to capture, store, and compare ballistic images, they were incapable of sharing information. Together, the two systems have only 500,000 ballistics images available electronically – out of 200 million firearms in circulation in the nation, and many law enforcement agencies across the nation do not currently have access to ballistic information.

On December 2, 1999, ATF and the FBI entered into a formal agreement to operate a single jointly managed program utilizing one ballistic imaging technology. Both agencies believe that existing DRUGFIRE systems should be methodically phased out and replaced with a “unified system” over a 2-year period. Such a system would be IBIS-based and combine some of the best features of IBIS and DRUGFIRE.

Proposal: Congress should allocate the necessary resources for the establishment of a truly National Integrated Ballistics Information Network.

Criminal History Information

When the Brady Act's National Instant Criminal Background Check System (NICS) became operational in November 1998, for the first time, every background check on a prospective gun purchaser included a check of the national criminal history databases. While these databases currently contain almost 35 million records, many of these records are incomplete and merely reflect an arrest. When a background check reveals an arrest without disposition information, law enforcement needs additional time to obtain the information and complete the background check. Through the National Criminal History Improvement Program, the Department of Justice has provided over \$250 million in grants to help states update and automate their criminal history records.

Proposal: Congress should appropriate additional funds to improve the accuracy and completeness of state criminal history records reviewed through Brady criminal history checks.

3. Enforcement: Addressing Illegal Supply and Acquisition

Keeping guns out of the hands of criminals, domestic violence offenders, unauthorized juveniles, and other prohibited persons is an essential component of reducing firearms violence. The plans developed by U.S. Attorneys and ATF emphasize vigorous, strategic enforcement of laws and make reducing the illegal supply of firearms a top priority. Juveniles – age 17 and under – and youth – age 18 to 24 – present particular problems of firearms access and violence.

However, current law and law enforcement resources do not permit us adequately to address the illegal supply of firearms. In addition, we have come to recognize that government alone cannot stop the illegal flow of guns to prohibited persons. We must encourage the firearms industry, gun owners, and parents to take much more effective steps to make sure that the guns for which they are responsible do not fall into the wrong hands. Accordingly, this section contains a significant number of proposals for new legislation, resources and non-governmental action.

[Firearms trafficking is the illegal diversion of any quantity of firearms from the legal market, or any illegal commerce in firearms.] The diversion of even a single firearm into the hands of a prohibited person represents a serious threat to public safety, given a gun's potential

¹²A 1998 newspaper article tracks the path of a \$52 Jennings .22-caliber semiautomatic pistol from the legal to illegal firearms market in the Seattle, Washington area, and calculates the terrible price it exacted. After it was stolen from a residence, the gun was used to rob a gun shop. It cost the gunshop owner, who was shot with it, his life; put the three young perpetrators in prison (one for life); put an enormous quantity of handguns, rifles, shotguns and assault rifles, stolen in the gun shop robbery, into the hands of violent gang members; and cost nearly \$3 million in taxpayer money. See "The Life of a Gun," *The*

to be used in an act of deadly violence.¹² Illegal firearms trafficking can take a wide variety of forms. One trafficking case may involve an unlicensed individual who buys firearms in a state with lax firearms laws, transports them to an urban area in another state with strict firearms laws, and sells them to criminals, gang members, unauthorized juveniles and other individuals who cannot or do not wish to purchase firearms through legal sources. Another trafficking case may involve an FFL selling firearms to prohibited persons without maintaining required records. A convicted felon may use straw purchasers or false identification documents to purchase firearms for trafficking to other criminals. A gang member may traffic firearms by stealing guns from licensees or common carriers and then transferring them to fellow gang members. Our interdiction efforts must address each of these types of illegal firearms trafficking, as appropriate.

Firearms trafficking poses a serious law enforcement issue throughout the nation. Recent scholarship in advanced gun tracking technology indicate that as many as 75 percent of all guns used in crimes were obtained through illicit trafficking. *Interstate* firearms trafficking is so prevalent along the eastern seaboard that Interstate 95 has been dubbed "The Iron Highway" as gun traffickers buy guns in southern states with few firearms purchase restrictions and transport them north, into states with greater restrictions, where they can be sold at a profit.

Efforts to stop the illegal supply of firearms have long been impeded by insufficient information about how criminals, unauthorized juveniles and other prohibited persons acquire guns. Absent systematic data, it was generally assumed that such persons obtained firearms primarily by borrowing or stealing guns for their own personal use, and that firearms trafficking, when it did occur, commonly involved large quantities of firearms transported across state lines.

Since 1996, ATF, in cooperation with state and local authorities, has been developing a more precise picture of the illegal firearms market that allows law enforcement authorities to target firearms trafficking more effectively. Crime gun tracing and trace analysis, together with traditional investigative work, reveal that there are multiple illegal sources of firearms, varying by specific locality, that a successful supply interdiction effort must address.

We have also learned that trafficking often involves smaller quantities of firearms than had been assumed, and that intrastate trafficking in firearms is even more of a problem than interstate trafficking. The use of new, increasingly sophisticated information to attack the illegal flow of guns more effectively represents a major development in firearms law enforcement.

To address firearms trafficking in a comprehensive manner, law enforcement must act vigorously and strategically to regulate the legal market and close down the illegal market.

Preventing Diversion from the Regulated Market: Federal Firearms Licensees

Strict regulation of the firearms industry is essential to stop the flow of firearms from legal to illegal markets. There are nearly 104,000 federally licensed firearms licensees (FFLs) in the United States today, including dealers, pawnbrokers, importers, collectors, and manufacturers. As the Federal agency charged with primary responsibility for enforcing the nation's firearms laws, ATF regulates and monitors FFLs.

Regulatory Enforcement. The Gun Control Act of 1968 requires those engaged in the firearms business to obtain a federal firearms license, which entitles an FFL to ship, transport and receive firearms in interstate or foreign commerce.

FFLs must: maintain accurate records of their firearms sales and dispositions, including the name, age and place of residence of purchasers; identify and check a purchaser's background before transferring any firearm; report multiple sales of handguns; respond to ATF trace requests within 24 hours; keep detailed acquisition and disposition records; and conform to all applicable state and local regulations and laws, including zoning ordinances.

In addition, FFLs may not knowingly transfer firearms to prohibited or underage persons, or knowingly transfer handguns to persons who do not reside in the state where the FFL is licensed. These requirements are intended in part to prevent firearms diversion and to enable ATF to trace firearms recovered from crimes.

To ensure the integrity of the firearms industry and help prevent trafficking by FFLs, ATF conducts criminal background investigations of all new and renewal applicants. ATF educates applicants and current FFLs about their obligations under federal firearms laws and how to identify suspicious firearms transactions, and encourages FFLs to voluntarily report suspect activity. A loophole, however, allows an FFL convicted of a felony to continue to conduct business until appeal rights are exhausted.

Proposal: Congress should amend the Gun Control Act to terminate automatically the license of any FFL convicted of a felony.

Compliance Inspections. Regulatory enforcement of FFL record keeping requirements is a critical component of our illegal supply reduction strategy. However, under current law, ATF can conduct only one warrantless compliance inspection a year, which effectively gives an FFL a regulatory "bye" for the next twelve months. Multiple compliance inspections are often necessary to ensure adequate regulatory oversight, particularly if an FFL has a poor compliance record.

Proposal: Congress should enact legislation allowing ATF to conduct up to three compliance inspections of an FFL per year.

If ATF finds regulatory violations, it initiates corrective measures. Depending on the severity and frequency of the violations, ATF will issue a warning letter; hold a warning conference with the dealer; strongly encourage the dealer to voluntarily surrender the license; initiate revocation procedures; deny license renewal; or, if the infractions suggest that the FFL or

its customers are engaged in illegal firearms activity, refer the matter to ATF special agents for possible criminal investigation. Regulatory compliance inspections are often the first step in identifying corrupt FFLs or purchasers engaged in illegal firearms trafficking. ATF does not presently have authority to suspend an FFL's license or impose civil fines, which means it often must choose between regulatory sanctions that are either too heavy or too light.

Proposal: Congress should enact legislation authorizing ATF to impose additional administrative remedies to address FFL violations, including license suspension and civil monetary penalties.

Obtaining Information about the Illegal Supply of Firearms. To effectively address firearms trafficking on both local and national levels, we must have operational and strategic information that helps us both prosecute particular traffickers and thoroughly understand the illegal firearms markets we seek to shut down. We are rapidly expanding our capacity to obtain this information from a wide range of criminal investigatory and intelligence methods, crime gun tracing, and ballistics.

Regulatory referrals from compliance inspections provide valuable information about the illegal market in firearms. We also obtain useful information from traditional criminal investigatory and intelligence methods, such as undercover operations and the use of confidential informants; debriefing arrestees and cooperating witnesses; and conditioned plea bargains, which require a defendant arrested with a firearm to provide information about the source of the weapon as a condition of law enforcement authorities agreeing to accept the plea.

Proposal: Federal and state prosecutors should strengthen current efforts to obtain information from criminal defendants about the source of illegal firearms, including use of the plea bargain process where appropriate.

In a number of districts, ATF has prepared debriefing forms, to be used by local law enforcement authorities, and is taking steps to encourage systematic debriefing by local and state law enforcement agencies. ATF is also in the process of designating agents in each field division to debrief armed career criminals, armed narcotics traffickers, and persons identified as particularly violent offenders, whenever they are arrested with a gun, in an effort to determine the source of illegally supplied firearms. Leads obtained in this manner are referred to ATF special agents and state and local law enforcement authorities for further investigation.

The Philadelphia Firearms Trafficking Task Force, consisting of Federal agents, the Philadelphia Police Department, the U.S. Attorney's Office, and the Philadelphia District Attorney's Office, has had great success in identifying, apprehending, and incarcerating numerous firearms trafficking organizations in the region. As part of the task force's efforts, the Philadelphia Police Department, using forms developed in cooperation with ATF, has implemented a policy of systematically debriefing all persons arrested with a firearm about the source of their guns, contributing significantly to gathering and distributing trafficking information. In FY 1999, the task force referred 74 suspects, believed responsible for trafficking more than 500 firearms, for federal prosecution. To date, 67 of the trafficked firearms have been recovered at crime scenes.

The Firearms Addendum to the Justice Department's Arrestee Drug Abuse Monitoring (ADAM) system is another critical means for gathering firearms supply information. It explores accessibility and availability of firearms in the arrestee population in eight ADAM sites across the United States, and provides valuable information at the local level about gun markets, why people carry guns, how people obtain guns, and how new gun laws influence patterns.

Federal and state investigators, prosecutors, and policymakers would be well served by an expansion of this valuable component of the ADAM program. A regular, timely reporting of findings from the firearms addendum to ATF field divisions would be of significant use to ATF and state and local police investigations of the criminal use of firearms and illegal firearms markets.

Proposal: The Firearms Addendum to the ADAM survey should be extended to additional ADAM sites.

Comprehensive Crime Gun Tracing. Traditionally, law enforcement agencies in the United States have made crime gun trace requests to help solve specific crimes by tying a recovered gun to a suspect. Recently, however, we have come to realize that comprehensive tracing, which involves tracing all recovered crime guns in a particular area, is key to understanding and attacking firearms trafficking. Comprehensive tracing maximizes the number of investigative leads and gives a more accurate picture of the illegal firearms market in particular areas than does tracing of isolated crime guns.

In 1996, ATF began an effort to introduce comprehensive tracing in a number of communities as part of the Youth Crime Gun Interdiction Initiative (YCGII). The program expanded from 17 communities in its first year to 27 cities in the second year. Ten more YCGII communities will begin comprehensive tracing in FY2000. In addition, a growing number of local police departments have expressed interest in implementing comprehensive tracing, independent of YCGII.

The number of crime gun traces has risen every year since ATF began its comprehensive tracing effort, from 79,777 in FY 1995 to 209,127 in FY 1999. Through OnLine Lead, the ATF National Tracing Center's (NTC) automated firearms trafficking information system, the NTC compiles and analyzes trace information to identify recurring trends and patterns, including patterns involving particular FFLs or first purchasers, which may indicate illegal trafficking. Trafficking indicators include:

¹³ Time-to-crime is the time between the initial retail sale of a firearm by an FFL and its recovery as a crime gun or as the subject of a trace request. Time-to-crime of three years or less is considered an important trafficking indicator because it suggests that the firearm was rapidly diverted to the illegal market. Since identifying information, such as the original purchaser's

- short time-to-crime;¹³
- large numbers of crime guns traced to a particular FFL or first purchaser;
- unsuccessful trace results;¹⁴
- frequently reported firearms thefts;
- frequent multiple sales or multiple purchases of firearms;¹⁵ and
- recovery of firearms with obliterated serial numbers.

ATF provides the resulting investigative leads to its field offices, local trafficking task forces, and state and local law enforcement authorities. This information assists those authorities in targeting the most active firearms traffickers.

- In the Middle District of Tennessee, every gun taken off the street by the Metro Nashville Police Department is traced through ATF's gun trace system. Tracing has been extremely successful in Nashville in identifying illegal sources of firearms. In one case, a former FFL, who continued to sell firearms after surrendering his license, purchased cheap (\$20-\$50) street guns and then resold them through intermediaries to convicted felons for \$250-\$500. As the guns surfaced in crimes, including the killing of a police officer, they were traced back to the ex-FFL. Undercover buys from the ex-FFL and his associates solidified the case. The former FFL was convicted of dealing without a license and of knowingly transferring a firearm to a felon, and sentenced to five years in prison. His associate, who testified that he and the ex-FFL had trafficked approximately 400 firearms, was convicted of unlicensed dealing and sentenced to one year in prison.

address, is more likely to still be accurate, short time-to-crime traces generally offer the most productive investigative leads.

¹⁴ Trace results are unsuccessful when the serial number of the firearm cannot be tracked from the manufacturer to an individual retail purchaser. Multiple unsuccessful trace results are considered a trafficking indicator because they may indicate that (a) the firearm was stolen from interstate shipment (and thus never reached the retailer); (b) the FFL is not telling the truth about not receiving the firearm; or (c) the wholesaler is not telling the truth about who the wholesaler shipped the firearm to. If a pattern of unsuccessful traces is established for a particular FFL or wholesaler, ATF will investigate to determine at what point firearms are being diverted.

¹⁵ An FFL must file a multiple sales report (MSR) whenever the licensee sells two or more handguns to a single purchaser within five consecutive business days. ATF experience has shown that multiple sales or purchases are a significant trafficking indicator. Crime guns recovered with obliterated serial numbers are frequently purchased in multiple sales.

We are also beginning to use computerized mapping programs and other analyses of national, regional and local trace data to develop valuable strategic information about the illegal market for firearms. This information includes: what kinds of guns are being used by what kinds of criminals in a particular community; who is selling guns on the street; what firearms dealers are involved; crime gun recovery locations (indicating violent crime hot spots); and whether the source of the illegal firearms market is primarily in a particular city, in-state or out of state. Repeat sources of crime guns to certain age groups or locations can be pinpointed, thus illuminating the relationship of local trafficking problems and enforcement strategies to those in other communities.

- Through the New York Regional Crime Gun Center, ATF, in cooperation with state and local law enforcement authorities in New York and New Jersey, collects and analyzes comprehensive local crime gun traces to target the illegal firearms supply in high-crime neighborhoods in the New York Metropolitan area. The first of its kind in the country, the Gun Center was established on January 1, 1999, and became fully operational in April. It uses Online LEAD and a variety of other NTC information systems. It records daily firearms trace data from area crime incident reports, transfers firearms trace data to the NTC, responds to regional trace requests, physically examines guns, including conducting ballistics tests, and analyzes a broad range of firearms crime and trace data to identify gun traffickers, trafficking patterns, violent crime hot-spots, and trends. To date, the Gun Center has identified 180 suspected firearms traffickers. ATF plans to establish five more regional gun centers, as resources permit.

Proposal: **The Attorney General and the Secretary of the Treasury will issue a directive requiring comprehensive crime gun tracing by all federal agencies under their authority, and will recommend that similar directives be issued by all other cabinet officers having jurisdiction over federal agencies that recover crime guns.**

*hmm
where?*

Proposal: **Congress should fund Bureau of Justice Assistance grants to state and local law enforcement agencies to enable them to establish**

comprehensive tracing, and should provide ATF with funds to expand its training of state and local law enforcement personnel in firearms trafficking investigative techniques, including use of trace data.

Secondhand Guns. The limited recordkeeping required of FFLs, and the fact that no records are required for secondary market sales by private individuals, generally make it impossible for the NTC to trace crime guns beyond the first retail purchase. The first retail purchaser may no longer own the gun by the time the gun is recovered in connection with a crime, and to trace a gun beyond the first retail purchaser, law enforcement authorities must conduct an *investigative trace*, using traditional investigatory methods, such as interviews and use of informants. Trace information identifying a crime gun's first retail purchaser provides only the starting point for this resource-intensive investigation. Because guns continue to function for many, many years, and can be sold numerous times by individuals who are not required to retain records of their sales, steps must be taken to assure that secondhand guns used in crimes can be traced.

Proposal: Congress should enact legislation requiring FFLs to provide ATF with limited information about their acquisition of secondhand guns, including make and model, but not any purchaser information.

Obliterated Serial Numbers. The intentional obliteration of firearms serial numbers poses a serious and growing threat to illegal supply interdiction measures based on tracing. Since serial numbers are the principal means by which firearms are identified, the obliteration of serial numbers makes it difficult to trace recovered crime guns. Knowing possession of a firearm with obliterated serial numbers (an "oblit") violates federal firearms laws.

ATF restores obliterated serial numbers at its three national firearms laboratories. Over the past two years, ATF has also increased its efforts to train other law enforcement laboratories to restore obliterated serial numbers on crime guns. Currently, the success rate for restoring obliterated serial numbers is approximately 85 percent. In addition, ATF has begun to trace restored "oblits" and analyze this data to identify where obliteration is a problem and generate investigative leads. The technology exists, however, to make serial numbers that cannot be readily obliterated.

Reducing Illegal Trafficking by FFLs. ATF investigative and crime gun trace information shows that the firearms used in crimes can be traced to a relatively small number of dealers. Beginning in 1998, ATF began a program of conducting focused compliance inspections of FFLs who have a large number of trafficking indicators associated with their business. These indicators suggest potential violations, including: falsification of records; knowingly selling firearms to prohibited or underage persons; missing firearms inventory; inventory and bound book discrepancies; handgun sales to out-of-state residents; noncompliance with Brady Act requirements; and unreported multiple sales.

ATF's limited resources do not permit it to conduct as many focused compliance

inspections as the agency believes are necessary to ensure regulatory compliance and stop the illegal flow of firearms from corrupt FFLs. To supplement the number of focused inspections its Field Divisions can conduct, ATF has developed a national Focused Compliance Inspection Project, in which national inspection teams are detailed to individual field offices to conduct as many focused inspections as possible within a two-week time frame. ATF plans to deploy inspection teams to each of its twenty-three field divisions within this fiscal year.

When ATF finds serious violations, it takes appropriate action, including license revocation or criminal investigation.

- In September 1999, ATF's Louisville Field Division conducted 18 inspections in a 2-week period, targeting firearms dealers in the Bowling Green, Kentucky, area on the basis of crime gun trace data, stolen and missing firearms reports, previous compliance history, and intelligence information from the law enforcement community. Inspection teams found 35 GCA violations, including 17 unreported stolen or missing firearms. To date, ATF has made 8 referrals for possible criminal investigation of firearms trafficking violations and identified seven potential traffickers, believed to have purchased a total of 275 firearms. At ATF's urging, three dealers surrendered their licenses and five dealers have been scheduled for warning conferences or will receive warning letters.
- In August 1999, four ATF teams inspected 17 firearms dealers in the New Orleans area. ATF found that twelve dealers had some type of discrepancy or violation involving NICS background checks, such as failing to maintain NICS records. One inspection revealed two sales to a prohibited person, in which the FFL falsified the NICS results. To date, ATF has issued three warning letters, scheduled one warning conference, and initiated an action to revoke one dealer's license.

Enforcing the Brady Act. The Brady Act is an effective tool to keep criminals and other prohibited persons from obtaining firearms from licensed dealers. It put an end to the honor system by requiring background checks on all purchasers buying firearms from FFLs. During the Brady Act's first five years, state and local law enforcement officials performed background checks and stopped over 300,000 criminals, fugitives, and other prohibited persons from getting guns from FFLs.

Pursuant to the permanent Brady Act provisions, on November 30, 1998, the FBI launched NICS to conduct automated background checks. NICS conducts electronic searches of almost 35 million criminal records, as well as records pertaining to other prohibited person categories. Under NICS, a prospective gun buyer generally may not take possession of a firearm until the FFL requests a NICS background check and receives a green light from the system to transfer the weapon. Approximately 95 percent of all NICS background checks are completed within two hours, and most are completed instantly. However, if necessary, NICS may take *up to* three business days to notify an FFL whether a prospective purchaser is prohibited from receiving a firearm. If an FFL does not receive a NICS denial within three business days, the Brady Act does not prohibit the transfer.

NICS has been remarkably successful in stopping the illegal flow of firearms from FFLs to prohibited persons. During its first seven months of operation, the system processed over 8.6 million inquiries and prevented more than 160,000 felons, fugitives, and other prohibited persons from illegally receiving firearms from FFLs. Overall, since President Clinton signed the Brady Act, more than 400,000 prohibited persons have been stopped from walking into gun shops and buying guns.

Prohibited purchasers identified through Brady Act background checks are referred to ATF for investigation, and appropriate cases are referred to U.S. Attorneys for possible prosecution. U.S. Attorneys are bringing cases against dangerous individuals who lie about their criminal histories as they try to buy guns. Between November 30, 1998 and July 31, 1999, ATF initiated over 1000 criminal investigations based on NICS denials, and referred over 200 of these cases to United States Attorneys for prosecution.

- To take advantage both of the federal and state laws outlawing firearms possession by criminals and other prohibited persons, the Southern District of Florida established “Operation Denial,” a district-wide initiative in which federal and state prosecutors work with the FBI, ATF, and police to identify and prosecute serious felons who attempt to obtain firearms and are denied by a Brady background check. “Operation Denial” cases are prosecuted at the federal or state level, depending on careful screening and coordination by federal and state prosecutors. The referral process established through Operation Denial has led to numerous indictments for Brady violations.

Although the Brady Act has been remarkably successful in stopping the flow of firearms from FFLs to prohibited persons, in some instances NICS cannot complete a background check within the statutory period of three business days. In fact, approximately three percent of background checks remain unresolved after ten calendar days. Usually, the delay occurs because the system locates a felony arrest, but cannot determine – based on available electronic files – whether the individual was actually convicted. If state or local law enforcement officials do not provide disposition records to the FBI within three business days, the firearm may be transferred. If NICS thereafter determines that the purchaser was in fact prohibited, the FBI contacts the FFL with a “delayed denial” and determines whether the firearm was transferred. If the transfer has occurred, the FBI immediately refers the matter to ATF for verification of the purchaser’s prohibited status and prompt action to retrieve the firearm. Because of public safety considerations, ATF gives delayed denials top priority.¹⁶ Obviously, reliance on the retrieval mechanism is a poor substitute for preventing a prohibited person from acquiring a firearm in the first place.

¹⁶ As of August 31, 1999, the FBI has referred over 2,000 delayed denials to ATF. ATF must investigate each referral to confirm the person’s prohibited status, which is a resource-intensive process.

Proposal: Congress should amend the Brady Act to give law enforcement additional time to complete Brady background checks.

In addition, the Brady Act has a state permit loophole that allows FFLs to transfer a firearm to anyone holding certain types of state firearms permits, without running a NICS check at the time of sale. Since state permits may qualify for exemption for up to five years, firearms can be transferred to individuals who have become prohibited – for example, by committing a felony – between the time the permit was issued and the time of sale. Under existing law, the dealer has no way of knowing that the state permit holder is a prohibited person. State permits that are not immediately and effectively revoked when a person becomes prohibited should not substitute for a Brady check.

Proposal: Congress should amend the Brady Act to eliminate the state permit loophole.

The Distribution Chain. The gun industry, as well as law enforcement, must take steps to stop firearms trafficking. In many industries, such as the alcohol, fertilizer, and explosives industries, manufacturers impose extensive controls on their dealers and distributors. Gun manufacturers and importers could substantially reduce the illegal supply of guns by taking similar steps to control the chain of distribution for firearms.

Specifically, gun manufacturers and importers should: identify, and refuse to supply, dealers and distributors that have a pattern of selling guns to criminals, including straw purchasers; develop a continuous training program for dealers and distributors covering compliance with firearms laws, identifying straw purchase scenarios and securing inventory; and develop a code of conduct for dealers and distributors, requiring them to implement inventory, store security, and recordkeeping measures and to postpone all gun transfers until NICS checks are completed.

Proposal: The firearms industry should voluntarily institute measures to ensure greater control over the distribution chain to reduce the flow of firearms from the legal to the illegal market. Alternatively, Congress should require these steps.

Confronting the Unregulated Secondary Market

NICS background checks, as well as FFL record keeping requirements, apply only to firearms transactions conducted by FFLs. Throughout the United States, thousands - and probably millions - of guns are sold each year at gun shows, trade shows, flea markets, and in individual private transactions by unlicensed individuals. Nonlicensees cannot initiate a NICS check and have no obligation to find out whether a purchaser is a felon, fugitive, or other prohibited person. They also are not required to keep any record of their firearms transactions.

As a result, huge numbers of guns are sold anonymously, creating a ready supply of firearms for criminals and firearms traffickers. Moreover, guns entering this unregulated market cannot be traced if they are later recovered from a crime.

In the Youth Gun Crime Enforcement Act of 1999, the President proposed to require all firearms transactions *at gun shows* to go through FFLs and be subject to Brady Act background checks and FFL recordkeeping requirements. However, gun shows are only the most visible manifestation of a much larger problem – the unregulated, anonymous sale of firearms by unlicensed sellers who have no obligation to perform background checks or keep any records of sales. So long as criminals and other prohibited persons who would be prevented by the Brady Act from getting guns from FFLs can get them in the secondary market, our ability to keep guns out of the wrong hands will be limited. Nor can law enforcement readily trace guns sold in the secondary market if they are used in crime.

Proposal: Congress should amend the GCA to require that *all* firearms transactions go through FFLs and be subject to NICS background checks and FFL recordkeeping requirements.

Reducing Trafficking by Unlicensed Sellers. Unlicensed dealers obtain firearms to supply the illegal market by various means. They buy guns directly from FFLs (including pawnbrokers); buy firearms at gun shows (from FFLs and other nonlicensees); use straw purchasers; steal, or receive firearms stolen from, gun shops, common carrier shipments, or residences; and purchase firearms from newspapers and trade publications, or from the Internet. ATF is taking aggressive steps to reduce trafficking by individuals who are dealing in firearms without a license. Using trace analysis, multiples sales reports,¹⁷ compliance inspections, and traditional investigative techniques, we are identifying and prosecuting individuals who are trafficking guns to criminals, unauthorized juveniles, violent gang members, and others.

However, our efforts to curtail the illegal supply of guns through the secondary market are hampered by the statutory definition of "engaged in the business" of dealing in firearms, which is needlessly complex and often makes it difficult to prosecute unlicensed traffickers. Under FOIA, to be "engaged in the business" of dealing in firearms, and thus required to have a federal firearms license, a firearms dealer must be shown to "devote time, attention and labor to dealing in firearms as a regular course of trade or business with the principal objective of

¹⁷ Stacking firearms sales to avoid multiple sales reports is an emerging problem that we need to address. Some FFLs are beginning to structure firearms sales by directing purchasers to come back however many times is necessary for them to obtain the quantity of guns sought, without triggering multiple sales report requirements. Structuring firearms sales with intent to avoid multiple sales reports is not currently a violation of the law. ATF is attempting to address the problem by requiring FFLs suspected of stacking to file frequent firearms sales reports.

¹⁸ 18 U.S.C. § 921(a)(21)(C).

livelihood and profit through the repetitive purchase and resale of firearms."¹⁸ The term, "principal objective of livelihood and profit," requires proof that the dealer's intent in selling or disposing of firearms is predominantly to obtain livelihood and pecuniary gain, and not to improve or liquidate a personal firearms collection or sell firearms as a hobby.

In many cases, investigations show that an unlicensed individual is selling firearms to criminals, unauthorized youth, and violent gang members, but do not provide sufficient proof that the sales were principally for livelihood or profit. In addition, it is often difficult to establish conclusively that an unlicensed dealer is not selling guns to liquidate or improve a personal collection, or as a hobby. As a stopgap measure, this has forced law enforcement to resort to other firearms charges to attack firearms trafficking by unlicensed vendors.

Proposal: Congress should amend the GCA to provide a more straightforward and realistic definition of when an individual is engaged in the business of dealing in firearms. Alternatively, ATF could amend the applicable regulations.

In addition, current law allows an individual to purchase an unlimited number of firearms, including handguns, from a licensed dealer, making it easy for the retail purchaser to turn around and illegally traffic large quantities of firearms to criminals, unauthorized juveniles, and other prohibited persons. Handguns are a favorite weapon of gun traffickers and criminals, due to their relatively small size, low cost, and ease of concealment.

When the citizens of South Carolina and Virginia recognized that traffickers stocked up on handguns in their states and shipped them elsewhere, the state legislatures moved to limit handgun purchases to one a month. Virginia has reported success with its one-handgun-a-month law. Since enactment, Virginia has dropped from first to eighth in the ranking of states that serve as a source of guns seized at crime scenes in the Northeast. According to a 1996 study published by the American Medical Association, the percentage of guns traveling from Virginia to the Northeast fell from approximately 35 percent to approximately 15 percent. 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 to obtain in every community.

Proposal: Congress should enact legislation limiting individuals to one handgun purchase per month.

Keeping law enforcement guns and seized weapons off the civilian market is also critical to reducing the illegal supply of firearms. Pressed by budgetary concerns, law enforcement agencies often trade in outdated or used guns purchased for the use of police officers. Once

¹⁸ 18 U.S.C. § 921(a)(21)(C).

traded in to the manufacturer, these firearms often find their way into the hands of criminals, who are looking for the same types of weapons used by law enforcement agencies. This creates a tragic irony - guns originally purchased for the use of law enforcement agencies may actually be used *against* police officers.

Proposal: State and local law enforcement agencies should be strongly encouraged to keep law enforcement guns and seized weapons off the civilian market by destroying such weapons once they are no longer useful to the agency.

Reducing Illegal Trafficking at Gun Shows. More than 4,000 gun shows are held each year in this country. These, together with countless other public markets at which firearms are freely sold or traded, such as flea markets, provide a ready forum for illegal firearms sales, and constitute a major source of supply for subsequent firearms trafficking.

Between 25-50 percent of sellers at gun shows are unlicensed, as are almost all firearms vendors at flea markets. As noted above, unlicensed firearms sellers are not required to perform NICS background checks or keep any firearms sales records. These sellers can thus claim to have no idea – and are under no obligation to find out – whether the purchaser is a felon, fugitive, or other prohibited person. Moreover, because unlicensed sellers are not required to keep firearms sales records, there is virtually no way to trace the guns they sell if they are later recovered in connection with a crime. In the casual atmosphere of gun shows, FFLs often sell firearms without conducting Brady background checks and recording the sale.

ATF is using regulatory compliance inspections, multiple sales reports and crime gun trace information to identify, investigate and prosecute FFLs who are either illegally selling large numbers of guns at gun shows, or selling large quantities of firearms to unlicensed dealers, who then resell them at gun shows and flea markets. ATF also uses this information to target unlicensed vendors who are trafficking at gun shows.

- In Florida, ATF's Miami Field Division and the Miami U.S. Attorney's Office established a Gun Show Task Force in September 1996 that targets unlicensed vendors who are trafficking firearms at guns shows. Many of these unlicensed sellers have criminal records and are disposing of large quantities of firearms. The task force has seized 519 firearms and conducted investigations that have led to the prosecution of 21 defendants. To date, 10 defendants have been convicted.

Proposal: As noted above, we believe that all firearms transactions should go through FFLs. At a minimum, however, Congress should complete its work on the juvenile justice bill and enact the legislation to close the gun show loophole that was passed by the Senate in May 1999.

Reducing Illegal Trafficking by Straw Purchasers and Straw Purchasing Rings

Through straw purchases, illegal traffickers attempt to circumvent the federal firearms laws and create a secondary, illegal market in firearms. A "straw purchase" occurs when the actual buyer of a firearm uses another person, the "straw purchaser," to execute the paperwork necessary to purchase a firearm from an FFL. Specifically, the actual buyer uses the straw purchaser to execute the firearms transaction record, purporting to show that the straw purchaser is the actual purchaser of the firearm. Often, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm because of a felony conviction or another disability. Prohibited persons and violent gang members often use straw purchasers to acquire guns from FFLs and at gun shows.

- Gary, Indiana established a firearms trafficking task force in 1998 that combined federal, state, and local law enforcement resources to target firearms traffickers illegally supplying guns to violent criminals in and around Gary, and particularly firearms trafficking to juveniles. The task force has referred 77 cases, involving 99 defendants believed responsible for trafficking a total of 792 firearms, for prosecution. Fifty-one of the cases from October 1998 through October 1999 involve straw purchasers.

Our current gun laws make enforcement against straw purchasers very difficult. At this point, no federal law makes it a crime for an FFL who knows or has reason to know that a transaction is a straw purchase to transfer the firearm to the straw purchaser. Instead, law enforcement authorities must rely on charges of aiding and abetting a false statement, or recordkeeping violations. The firearm transaction record that all gun buyers must complete at the time of purchase requires the transferee of the firearm to certify that he or she is the actual buyer of the gun. Although "lie and buy" violations are committed by straw purchasers who buy from licensed dealers upon providing false information, there is no specific federal offense for purchasing a firearm with the intent to transfer that firearm to another.

- In "Operation TARGET" ("Taking Aim to Reduce Gun Violence and End Trafficking") the Western District of Pennsylvania is including a focus on straw purchasers. In cooperation with ATF, the United States Attorney's Office is using trace data and other statistical information to identify FFLs who have a pattern of selling to straw purchasers and individuals whose gun purchasing record reveals that they may have made straw purchases on behalf of felons. This data, as well as other investigative information, is being used to identify and prosecute straw purchasers. Recently, the U.S. Attorney's office separately indicted five individuals for trafficking a total of 40 illegal guns. One of the guns was used to commit a murder, two were used in shootings, and one was seized during a drug probe.
- In St. Louis, Missouri, ATF investigated the city's largest firearms dealer after approximately 300 crime guns were traced back to it between 1989 and 1996. The U.S. Attorney successfully prosecuted the gun shop owner and an employee for willfully aiding and abetting straw purchasers in knowingly and willfully falsifying a material fact.

One of the guns straw purchased from the gun shop was used to kill a police officer during a local attempted bank robbery.

Preventing and disrupting the use of straw purchasers to supply firearms to criminals and other prohibited persons will be critical to our success in further reducing gun violence. Our proposal to require all firearms transactions to be conducted through an FFL will facilitate the prosecution of straw purchasers and ensure that Brady background checks are conducted with every transaction.

Proposal: Congress should enact legislation making it unlawful for FFLs to transfer a firearm to a straw purchaser with knowledge or reason to know that the purchase is a straw purchase.

In addition, recordkeeping violations by FFLs that aid and abet the unlawful transfer of a firearm are treated like other recordkeeping violations, as misdemeanors, with a maximum penalty of one year in prison.

Proposal: Congress should enact tougher criminal penalties for licensee recordkeeping offenses that aid gun trafficking.

Reducing Illegal Trafficking in Stolen Firearms

Preventing firearms theft and loss and reducing trafficking in stolen weapons are an important part of our supply reduction strategy. Firearms are stolen from a variety of sources – including dealers and pawnbrokers, common carriers, manufacturers, commercial buildings, residences, and vehicles – and are subsequently trafficked both by persons specializing in firearms, and by those fencing a variety of stolen goods.

Between 1996 and October 1999, FFLs reported 50,618 firearms lost or stolen, almost three-quarter of them handguns. Over the same period, common carriers voluntarily reported over 10,000 firearms lost or stolen. In all likelihood, actual losses were far greater. In addition, in 1994, approximately 600,000 guns were stolen from more than a quarter of a million households.

Federal firearms laws require currently do not require common carriers, shippers, or private individuals, to report firearms thefts to ATF. And although FFLs are required to report all stolen, lost, and missing firearms to ATF, they are not presently required to conduct annual inventories to detect shortages, nor are they generally required to report firearms lost in shipment. Lack of FFL inventory reports and theft reporting by common carriers and private individuals hinders law enforcement efforts to solve thefts and recover stolen firearms, and also prevents us from determining the full extent to which theft and loss feed the illegal market for firearms.

ATF works closely with local law enforcement and actively investigates and prosecutes firearms thefts from FFLs and common carriers. The NTC maintains a Stolen Firearms Database, which provides ATF and other law enforcement authorities with a description of

reported stolen, lost or missing firearms, FFL and interstate carrier theft trends, similarities in theft methods; FFL theft reporting patterns, and recovery locations.

Current regulations do not specifically require FFLs to report firearms that are lost or stolen while in transit from one licensee to another. This creates a gap in tracing crime guns. Licensees should be required to report the loss or theft of firearms while in transit to another FFL.

Similarly, although firearms theft from common and contract carriers is a growing problem, federal law does not impose a reporting requirement upon carriers. This creates yet another gap in tracing crime guns.

Proposal: Congress should enact legislation requiring common and contract carriers to report firearms theft or loss to law enforcement authorities. In addition, ATF will amend its regulations to require FFLs to report the loss or theft of firearms while in transit to another FFL.

4. Enforcement: Illegal Possession and Use

When guns fall into the wrong hands and are used in crime, the full force of the law must be brought to bear. The intentional misuse of a firearm must be met with swift, sure, and severe punishment. Felons and other prohibited persons must know that the mere possession of a firearm will be prosecuted vigorously. The Administration has worked closely with state and local law enforcement to make this a reality. Since 1992, the number of gun criminals going to federal and state prisons has risen by more than 22 percent, while the number of serious firearms violators receiving federal prison sentences of five or more years has risen by more than 34 percent. The plans submitted by the districts all provide for the vigorous prosecution of those who illegally possess or use firearms.

Violent Offenders

We have and will continue to prosecute – to the fullest extent of the law – individuals who use firearms to commit violent crimes.

- In Detroit, Michigan, the U.S. Attorney's Office and ATF Field Division Director collaborated with state and local law enforcement to develop a gun violence reduction strategy focused on reducing the city's homicide problem. Although most categories of violent crime were down – consistent with national trends – homicides were increasing. A working group was formed to develop an integrated firearms violence reduction strategy focused on homicides. The strategy contains a range of initiatives and programs, including a task force to address drug-related homicides; referrals of firearms cases that meet specified criteria for federal prosecution; apprehension of violent fugitives; forensics enhancement; and expanded data collection efforts (e.g., more extensive use of

ballistics). Funding for several of the initiatives has been provided by the Southeast Michigan High Intensity Drug Trafficking Area (HIDTA). Long-range plans for the strategy include the development of a Regional Crime Gun Center that can provide law enforcement with all information related to recovered firearms.

- In Indianapolis, analysis of crime data led to the recognition that an overwhelming proportion of violent crime was committed by individuals with extensive criminal histories. As part of its firearms violence reduction strategy, the Southern District of Indiana developed a VIPER (Violence Impact Program Enhanced Response) Program, designed to reduce the level of violence by removing chronic violent offenders through increased arrest, prosecution, and incarceration. These offenders were identified in an intelligence database and subsequently targeted for arrest or for heightened supervision if they were on probation or parole.

Gang-related Offenders

One of the most pervasive gun violence problems identified by districts – and central to our National Strategy – is gang-related gun violence. Prosecuting gang members who possess firearms or use them in criminal activities is, without doubt, one of the central challenges that law enforcement faces in implementing the strategy. Many of the firearms violence reduction plans developed in communities across the country have designed customized approaches to dealing with the problem of gang-related violence.

- To address its gang problem, as well as problems involving juvenile and chronic violent offenders – many of whom appear to be getting firearms through straw purchases – the U.S. Attorney's Office in Minnesota joined forces with ATF and state and local law enforcement to form the Minnesota Criminal Gang Strike Force. In the last three years, this strike force has investigated and prosecuted a number of violent gangs throughout the District. In addition, ATF and the U.S. Attorney's Office work closely with the Weapons Unit of the Minneapolis Police Department to investigate and refer for prosecution all cases involving the use of firearms. From 1996 to 1997, the number of homicides in Minneapolis, the state's largest city, were reduced from 83 homicides, nearly half of which were gang-related, to only 58 homicides, eight of which were gang-related.

- In the District of Columbia, the U.S. Attorney's Office created a new Gang Prosecution and Intelligence Section, where experienced prosecutors specialize in identifying and targeting for investigation and prosecution the most significant violent gangs in the District of Columbia. Through aggressive enforcement of conspiracy, Continuing Criminal Enterprise and RICO statutes – some of the most powerful legal tools available to federal prosecutors – the gang prosecution section expects to be able to dismantle the District's most violent gangs.

Felons-in-Possession

Under federal law and under many states laws, convicted felon are prohibited from possessing firearms. When law enforcement officials apprehend dangerous persons who are in violation of those laws, prosecution is warranted. Often, federal prosecution of dangerous felons is appropriate. Apprehending, investigating, and prosecuting felons in possession is therefore a significant part of our strategy to reduce gun violence.

- Philadelphia has taken action to address its per capita firearms homicide rate, which had been the highest in the country. In 1998, the United States Attorney created a new Firearms Unit, staffed by two Assistant United States Attorneys and two cross-designated Assistant District Attorneys. The Unit is supported by an investigatory Task Force, consisting of ATF, U.S. Marshal's Service, and state and local police. The Firearms Unit focuses primarily on felon-in-possession cases involving armed career criminals, felons with significant prior records, firearms traffickers, and those who lie in the attempted acquisition of a firearm. The Unit increased federal firearms prosecutions, resulting in a 250 percent increase in the U.S. Attorney's Office's firearms docket, and a 30 percent increase in its annual indictment total.

The U.S. Attorney's Office and the District Attorney now plan to implement a local/federal "alternative prosecution program," whereby the District Attorney's Office will offer some firearms offenders the opportunity to plead guilty and receive a two-year sentence (which is considerably more than ordinarily imposed by the state courts). If the defendant refuses to plea bargain, the case will be referred for federal prosecution. This will allow the Philadelphia city system to dispose of a far greater number of firearms cases for stiffer sentences than are now imposed.

Domestic Violence

When domestic disputes arise, firearms all too often bring about fatal consequences. To reduce the supply of firearms to individuals who have a history of domestic violence, Congress amended the GCA to prohibit possession of firearms by persons subject to a domestic violence restraining order, as well as persons convicted of misdemeanor crimes of domestic violence. A number of districts have identified the use of firearms in domestic violence cases as a significant

component of their gun violence problem, and have developed enforcement plans to attack the problem.

- In the Northern District of Iowa, a largely rural district, the number of firearms homicides rose by 40 percent from 1994 to 1998, in large measure due to domestic violence. Because federal law provides tougher penalties than current state law for domestic violence offenses involving firearms, two attorneys in the state Attorney General's office have been assigned to prosecute domestic violence cases in federal court.

Reducing Illegal Access to Firearms by Juveniles and Youth

Juveniles (age 17-and-under) and youth (age 18-24) present distinctive problems of firearms access and violence. When guns replace fists and knives to settle disputes or commit crimes, the chance of a fatality increases manyfold. While overall and violent crime rates have dropped in recent years, the juvenile firearms homicide rate tripled from 1985-1994, and youth violence remains unacceptably high.

Despite legal restrictions on acquisition and possession, juveniles are getting and using handguns. One out of ten traced crime guns is recovered from a child under 18 years old. More crime guns were recovered from 14-year-olds than from any age older than 50; 15-year-olds had as many crime guns recovered from them as any age older than 31. A large portion of these recovered juvenile crime guns are new (bought less than 3 years before recovery), signaling direct diversion from the legal market by illegal street corner sales, straw purchasers, theft from FFLs, or some combination of these.

Under current federal law, youth between the ages of 18 to 20 can legally possess handguns and buy them from unlicensed sellers or at gun shows. The ease with which 18- to 20-year-olds can get guns is very troubling, given the fact that:

- Eighteen, nineteen and twenty year olds ranked first, second and third in the number of gun homicides committed in 1997;
- For non-lethal violent crimes, 18 to 20 year-old offenders were more likely to use a firearm than offenders in other age groups; and
- More recovered crime guns were traced to 19 year olds than any other age group; crime guns possessed by 18-year-olds ranked second.

Under federal law, children cannot legally possess or acquire handguns. However, no federal age restriction prohibits children from or possessing long guns (rifles and shotguns), or acquiring these weapons from nonlicensees. Children can even legally acquire from nonlicensees semiautomatic assault weapons manufactured before 1986, and large capacity ammunition feeding devices. Youth between the ages of 18 and 21 can legally acquire and

possess handguns, as well as those other types of weapons.

Proposal: Congress should amend the Youth Handgun Safety Act to make it unlawful for anyone under the age of 21 to possess a handgun, semiautomatic assault weapon, or large capacity ammunition feeding device.

We are giving special priority to addressing juvenile and youth firearms crime and violence through programs that specifically target this age group. The Youth Crime Gun Interdiction Initiative focuses federal, state and local law enforcement resources on juvenile and youth firearms-related violence and, in particular, seeks to stop the illegal flow of guns to juveniles and youth. The program brings together law enforcement agencies at all levels to improve information about illegal sources of guns and use that information to identify firearms traffickers and develop new methods to reduce firearms trafficking to juveniles and youth. Comprehensive tracing is a key part of YCGII and enables law enforcement officials to detect patterns of firearms trafficking.

- YCGII has been particularly effective in Atlanta, where the Atlanta Field Division participates through YCGII in FACE 5 (Firearms in Atlanta Could Equal 5 Years), a comprehensive program involving federal, state, and local enforcement agencies, the Atlanta housing and transportation authorities, community organizations, and businesses. The project seeks to reduce assaults, murders, and other criminal activity associated with gun crime, and increase community confidence in public safety, in part by interdicting the illegal gun supply to criminals and unauthorized youth. FACE 5 traces all recovered crime guns through YCGII and develops investigative intelligence that is shared among the partner agencies. Public service notices on buses warn criminals of harsh gun violation penalties. In FY 1999, 11 YCGII investigations were initiated, and 26 suspected traffickers were recommended for prosecution. To date, five defendants have been convicted; two have been sentenced; two are awaiting sentencing; and one has been indicted.

The penalties for juveniles who unlawfully possess handguns, and persons who unlawfully transfer handguns to juveniles, should be increased. Current federal penalties for these crimes are inadequate. A juvenile who unlawfully possesses a handgun is subject only to probation for a first offense, and a person who unlawfully transfers a handgun to a juvenile is punished only by a misdemeanor penalty.

Proposal: Congress should enact legislation to enhance existing penalties for transferring handguns to, and possession of handguns by juveniles.

V. Conclusion

Firearms violence continues to exact a terrible price in the United States. There are far too many firearms-related deaths and injuries, due – in significant part – to the ease with which criminals and other prohibited persons can acquire guns in the unregulated, secondary market.

This Administration has made significant progress in reducing firearms violence through its successful implementation of the Brady Act; its close collaboration with state and local law enforcement in investigating and prosecuting gun criminals; and its focused effort to keep kids away from guns. But we can and must do more.

Our national strategy to end the scourge of firearms violence builds on our successes and seeks to close the legislative loopholes that hinder our efforts. Our strategy features three complementary elements. Prevention, because gun violence should be stopped before it occurs. Intervention, because targeted deterrence breaks the cycle of gun violence. And enforcement, because gun criminals must be held accountable and subjected to swift, sure and certain punishment.

Working together as a nation, and with the proper resources and tools at our disposal, we will end the culture of gun violence in America.

Appendix A - Proposals

Throughout this report, we have made concrete proposals to further reduce firearms violence. In some cases, the proposals would require legislative action. In other cases, the proposals involve actions that can be taken by the Federal government - through regulations or enforcement action. Finally, some proposals encourage actions by private industry to take needed steps toward more effective self-regulation.

The following represents a brief summary of the proposals presented in this document (those marked with ¶), as well as additional proposals that were not specifically set forth in the text of the report.

Prevention

- ¶ *Enact federal child access prevention legislation.* Many states currently have child access prevention laws, which have proven successful in saving children's lives. Adults should be held responsible for knowingly or recklessly allowing children access to firearms if the children use firearms to cause death or serious bodily injury to themselves or others. Federal child access prevention legislation would help prevent accidental shootings and juvenile suicides that can result when children obtain access to firearms, and save the lives of numerous children and adults.
- ¶ *Enact legislation requiring licensees to provide gun storage or safety devices with every firearm sold.* Under current law, FFLs are required to have gun storage or safety devices available for sale at their premises, but are not required to provide them with each firearm. Licensees should be required to provide a secure gun storage or safety device with every firearm sold to an individual. Use of these devices would help prevent misuse of guns by children and other unauthorized persons.
- ¶ *The Departments of Justice and the Treasury will reach out to the Department of Health and Human Services to participate in the Surgeon General's National Suicide Prevention Initiative, as appropriate, to develop a comprehensive understanding of firearms-related suicide and effective suicide prevention strategies.* Over half of all firearms-related deaths in the country are caused by suicide. Strong evidence is accruing that access to guns greatly increases the risk of suicide. We therefore need to take several steps to develop effective firearms-related suicide prevention strategies.
- ¶ *Mandatory waiting period for all handgun sales.* Federal law does not require a waiting period before transferring a firearm. The Brady Act should be amended to impose a three-day waiting period before an individual can purchase a handgun. The "cooling off" period is designed to prevent crimes of passion and

suicides that occur in the emotion of the moment.

- ❖ *Establish a Firearms Safety Board.* Congress should establish an independent firearms safety board, similar to the National Transportation Safety Board, that is empowered to recommend that the Secretary of the Treasury set mandatory safety and marketing standards for firearms. The Board would also have the authority to recommend that the Secretary of the Treasury recall defective firearms that present a serious safety hazard. One of the Board's most important duties would be to collect systematic information about the causes of firearms accidents. Currently, this information is not systematically collected, which hampers the effort to study the causes and possible solutions of many accidental shootings.
- ❖ *Design Standards for Domestic Handguns.* Current law does not provide any standards for the manufacture of domestic handguns. Accordingly, some domestic manufacturers continue to make poorly constructed "Saturday night specials" that are not suitable for target shooting or other sporting purposes. These handguns are often the weapon of choice for youths and criminals, and are often used in crimes. The Firearms Safety Board should be given authority to recommend that the Secretary impose design standards on domestic handguns and prohibit the manufacture of poorly constructed, unsafe "Saturday night specials."
- ❖ *Congress should ban the importation of all large capacity ammunition feeding devices.* Since 1994, Federal law has banned the manufacture of large capacity ammunition feeding devices. However, current law contains a significant loophole, which allows the importation of those devices which were manufactured abroad on or before September 13, 1994. Given the vast worldwide supply of large capacity ammunition feeding devices, this loophole creates a major enforcement problem, and should be closed.
- ❖ *Congress should fund further research into "smart guns" and personalized firearms technology.* "Smart gun" technology has the potential to help ensure that firearms are used only by persons legally entitled to possess them. However, the research on such technology is not complete, and there are still many questions to be answered before the utility and safety of such technology can be determined. "Smart gun" research should be put on the fast track through federal funding.
- ❖ *Congress should enact legislation requiring a license for the possession of a firearm.* It is unlawful to drive a car without a driver's license; it should similarly be unlawful to possess a gun without a firearms license. The licensing requirement provides a mechanism to require persons who wish to possess guns to be trained in safe, responsible firearms use and storage as a condition of obtaining a license, without imposing an undue burden on law-abiding gun owners.

- * *The federal government should explore with the insurance industry ways to encourage the safe storage of firearms. We need to work with the insurance industry ways to develop measures that support and reward responsible storage of firearms by individual gun owners.*

Intervention and Enforcement

- ❖ *We recommend widespread adoption of the "pulling levers" approach where appropriate. Violent behavior by individuals or groups of chronic offenders can be deterred by reaching out directly to these offenders, setting clear standards for their behavior, and backing up that message by "pulling every lever" available when those standards are violated. "Lever pulling" and enhanced cooperation among local, state, and federal agencies have produced significant progress in a number of jurisdictions around the country.*
- ❖ *Congress should allocate the necessary resources for the establishment of a truly National Integrated Ballistics Information Network (NIBIN). The Federal government needs adequate resources to expand national ballistic databases and the use of existing ballistic technology by state and local law enforcement agencies.*
- ❖ *Congress should appropriate additional funds to improve the accuracy and completeness of state criminal history records reviewed through Brady criminal history checks. While the national criminal history databases currently contain almost 35 million records, many of these records are incomplete and reflect merely an arrest. In addition, many criminal history records have not been entered into the national history criminal databases at all.*
- ❖ *Congress should amend the GCA to provide for the automatic termination of the licenses of FFLs who have been convicted of a felony. Under current law, a licensee convicted of a felony may continue to conduct business under his or her license until appeal rights are exhausted. This loophole jeopardizes public safety by allowing convicted felons to continue buying and selling firearms pending the resolution of their appeals. Federal firearms licenses should be automatically terminated upon the FFL's felony conviction.*
- ❖ *Congress should enact legislation allowing ATF to conduct up to three compliance inspections of an FFL in the course of a year. Current law significantly impedes ATF's ability to inspect and regulate FFLs. The Firearms Owners' Protection Act of 1986 amended the GCA to limit ATF to no more than one warrantless recordkeeping inspection within a 12-month period. Multiple compliance inspections of an FFL within a one-year period are often necessary for adequate ATF supervision, particularly if a licensee has a poor compliance record.*

- 21 *Congress should amend the federal firearms laws to give ATF additional administrative remedies to deal with violations by licensees, including license suspension and civil monetary penalties. Under current law, the only administrative remedies available to deal with FFL violations are revocation and denial of licenses, or the issuance of a warning letter or warning conferences. There may be certain minor violations of the GCA, such as failure to timely record information in required records, that may not warrant license revocation or denial, but that merit stronger action than a mere warning. The law should be amended to provide new administrative sanctions that allow ATF to impose sanctions on all violations by FFLs, even relatively minor infractions, and help deter licensees from further violations.*
- 21 *Federal and state prosecutors should strengthen current efforts to obtain information from criminal defendants about the source of illegal firearms, to include using the plea bargain process where appropriate. Many federal prosecutors refuse to accept plea bargains in narcotics cases unless the defendant agrees to disclose the source of the drugs. We recommend that federal and state prosecutors consider using similar approaches with respect to firearms cases in their various jurisdictions.*
- 21 *The Firearms Addendum to the Justice Department's Arrestee Drug Abuse Monitoring (ADAM) system should be expanded. The Firearms Addendum to the ADAM system is a critical means for gathering firearms supply information. It provides valuable information at the local level about gun markets, why people carry guns, how people obtain guns, and how new gun laws influence trafficking patterns.*
- 21 *The Attorney General and Secretary of the Treasury will issue a directive requiring comprehensive crime gun tracing by all federal agencies under their authority, and will recommend that similar directives be issued by all other cabinet officers having jurisdiction over federal agencies that recover crime guns. Comprehensive crime gun tracing maximizes the number of investigative leads available to law enforcement and provides an accurate picture of the illegal firearms market.*
- 21 *Congress should fund Bureau of Justice Assistance grants to state and local law enforcement agencies to enable them to establish comprehensive tracing. Congress should also provide ATF with funds to expand its training of state and local law enforcement personnel in firearms trafficking investigative techniques, including use of trace data. A growing number of local police departments have expressed interest in implementing comprehensive tracing but lack the expertise and resources to do so.*
- 21 *Congress should enact legislation requiring FFLs to report limited information*

about acquisitions of secondhand guns to facilitate crime gun tracing. When FFLs sell secondhand firearms, these guns are often not traceable because they have passed through several non-licensed purchasers before the FFL acquires and resells them. Licensees should be required to submit limited information to ATF about secondhand guns that they acquire from nonlicensees. This would not include identifying information about gun purchasers.

- ❖ *Amend the Brady Act to give law enforcement additional time to complete background checks.* The Brady Act allows law enforcement only three business days to advise a dealer whether a prospective firearms purchaser is prohibited from possessing firearms. In most cases, the FBI does not require this much time - 95 percent of all checks are completed within two hours. However, in some cases, the FBI or state point of contact is unable to obtain necessary court records in time to determine if the individual is actually prohibited. If the check is not completed, then current law allows the dealer to transfer the firearm at the end of three business days, regardless of whether the purchaser turns out to be a felon. Law enforcement should have at least five business days to complete criminal background checks.
- ❖ *Close the state permit loophole in the Brady Act.* A major loophole in the Brady Act allows FFLs to transfer a firearm to anyone holding certain types of state firearms permits without running a NICS check at the time of sale. Permits may qualify for exemption for up to five years. The state permit loophole allows firearms to be transferred to individuals convicted of a felony between the time the permit was issued and the time the firearm is purchased. The Brady Act should be amended to eliminate the state permit exception.
- ❖ *The firearms industry should voluntarily institute measures to ensure greater control over the distribution chain to reduce the flow of firearms from the legal to the illegal market.* Alternatively, Congress should require these steps. Manufacturers and importers should implement measures that require wholesalers and retailers to make sure that the firearms that pass through their hands are not sold to underage purchasers, gang members, or criminals. The industry should also review the way firearms are marketed and advertised, which often emphasizes lethal power.
- ❖ *Require all transactions to go through FFLs.* The success of the Brady Act has made it more difficult for criminals to get their guns from licensed dealers because a criminal background check is now required before a sale can be completed. As a result, many criminals, gang members, and youths seek firearms from traffickers or individual sellers. Under current federal law, transactions by private individuals are not regulated, and private sellers cannot initiate a NICS check before selling a firearm to an individual. Requiring all transactions to go through FFLs would extend the benefits of the Brady Act to all firearms transactions, and enhance the ability of law enforcement authorities to trace crime guns.
- ❖ *Amend the definition of "engaged in the business".* The GCA makes it unlawful to engage in the business of dealing in firearms without a federal firearms license.

In 1986, Congress amended the law to provide an extremely narrow definition of "engaged in the business." This narrow definition makes it considerably more difficult to convict gun traffickers, who often argue that they are merely buying and selling large quantities of firearms to enhance a personal collection. Congress should amend the GCA to provide a more objective and realistic definition for "engaged in the business." Alternatively, ATF could amend the applicable regulations.

- ❖ *Restrict handgun purchases to one per month.* Handguns are a favorite weapon of gun traffickers and criminals, due to their relatively small size, low cost, and ease of concealment. Under current law, an individual may purchase an unlimited number of firearms, including handguns, from licensed dealers, making it easy for the retail purchaser to turn around and illegally traffic large quantities of firearms to criminals, unauthorized juveniles, and other prohibited persons. The GCA should be amended to allow the purchase of no more than one handgun per month, allowing law-abiding persons to obtain handguns, while curtailing handgun trafficking.
- ❖ *Encourage state and local law enforcement agencies to keep law enforcement guns and seized weapons off the civilian market.* Law enforcement agencies, pressed by budgetary concerns, often trade in used or outdated guns purchased for the use of police officers. Once these firearms are traded in to the manufacturer, they often find their way into the hands of criminals, who are looking for the same type of firearms used by law enforcement agencies. This creates a tragic irony - guns originally purchased for the use of law enforcement may actually be used against police officers. The federal government should encourage state and local law enforcement agencies to adopt a policy that prevents the sale or trade-in of law enforcement weapons or seized crime guns, so that these guns are not returned to the commercial market.
- ❖ *Close the gun show loophole.* All firearms transactions should go through FFLs. At a minimum, however, Congress should close the gun show loophole by requiring Brady background checks through FFLs for all gun show sales. Unlike licensed dealers, unlicensed individuals selling firearms at gun shows do not have to conduct any criminal background checks on gun buyers. Consequently, the country's 4,000 annual gun shows serve as a haven for criminals and other prohibited persons who wish to buy - with no questions asked - any number of handguns, shotguns, semiautomatic assault weapons, or large capacity magazines. Not surprisingly, research has suggested a link between gun shows and crime guns.
- ❖ *Create new "straw purchase" violation for FFLs.* Under existing law, it is a felony for an individual to certify that he is the actual purchaser of a firearm when in fact he is purchasing the firearm as a "straw purchaser" for the actual purchaser, who is often either a prohibited person or a gun trafficker. In many cases, the firearms dealer knows that a transaction is actually a straw purchase, but nonetheless transfers the firearm. There is currently no specific "straw purchase" violation for FFLs. The GCA should be amended to make it unlawful for any FFL to transfer a firearm, knowing or having reasonable cause to believe

that the person completing the Form 4473 is not the actual purchaser of the firearm.

- *Congress should enact tougher criminal penalties for serious FFL recordkeeping violations that aid gun trafficking.* Under existing law, recordkeeping violations by FFLs are generally punished as misdemeanors, with a maximum penalty of one year in prison. This is insufficient where the FFL's recordkeeping violations aid and abet the unlawful transfer of a firearm. Accordingly, the GCA should be amended to increase the punishment for the most serious recordkeeping violations committed by FFLs and make them punishable by up to 10 years imprisonment.
- *Extend current requirements to report the loss or theft of a firearm.* Congress should enact legislation requiring common and contract carriers to report firearms theft or loss to law enforcement authorities within 48 hours of discovery. In addition, ATF will amend its regulations to require FFLs to report the loss or theft of firearms while in transit to another FFL. These new reporting requirements would enhance law enforcement's ability to recover and trace stolen firearms.
- *Congress should amend the Youth Handgun Safety Act to make it unlawful for anyone under age 21 to possess a handgun, semiautomatic assault weapon, or large capacity ammunition feeding device.* Existing law makes it unlawful for individuals under age 18 to possess handguns, but not semiautomatic assault weapons or large capacity ammunition feeding devices. Youth age 18-21 can lawfully possess handguns, as well as semiautomatic assault weapons and large capacity ammunition devices. Statistics show that crime guns are more likely to be traced to 18- and 19-year-olds than any other two age groups. Individuals under the age of 21 should not be allowed to possess any of these dangerous weapons.
- *Congress should enact legislation to enhance the existing penalties for transferring handguns to and possession of handguns by juveniles.* Given the dramatic increase in youth gun violence, the current misdemeanor penalty for transferring a gun to a juvenile is woefully inadequate. The current penalty structure for juveniles who unlawfully possess handguns is similarly inadequate - for a first offense, juveniles receive probation. The penalties for these serious violations should be strengthened.
- *ATF will expand its training of state and local law enforcement agencies in investigative techniques, including use of trace data, for use in firearms trafficking cases.* ATF needs to share its expertise in this area with more state and local law enforcement agencies, and to address issues that may arise when state firearms cases are adopted by ATF for federal prosecution.
- * *Congress should allocate resources for federal funding programs that enable state and local law enforcement agencies to conduct ballistics testing.* The federal government needs adequate resources to expand national ballistics databases and the use of existing ballistics technology by state and local law enforcement agencies.
- *Enact legislation requiring manufacturers and importers to test fire cartridges*

and enter the gunprints into NIBIN. When a gun is fired, an identifiable “gunprint” is left upon the fired cartridge. Under the new ballistic information system, expelled ammunition can be matched with the firearm. The current federal ballistics system contains only 500,000 images out of an estimated 200 million guns. Manufacturers and importers should be required to test fire their guns and provide the results to NIBIN.

- * *Congress should enact legislation to increase the tax imposed by the National Firearms Act . The National Firearms Act (NFA) imposes a \$200 tax upon making and transferring "gangster-type" weapons such as machineguns, short-barreled shotguns, and destructive devices. The tax has not been increased since the NFA's enactment in 1934. Although the tax was originally intended to deter people from making or transferring such weapons, it has clearly not kept up with inflation and now has minimal deterrence value.*
- * *The federal government should take steps to ensure that existing federal rules governing firearms sales apply to firearms sales through the Internet. Convicted felons and other prohibited persons seeking firearms can go on the Internet and order a firearm from one of many websites devoted to firearms sales. Many of these websites are run by law-abiding FFLs, who comply with federal, state and local laws. In some cases, however, the website is not run by a licensee, but by a “promoter” who brings together individual sellers and purchasers. In these cases, firearms are sold through the Internet with no Brady background check, no transfer records, and no questions asked. Enforcement mechanisms should be established to make sure that both FFLs and unlicensed sellers follow existing law when conducting sales through the Internet.*
- * *Require licensees to check license status before shipping firearms to other licensees. Prior to shipping a firearm to another licensee, FFLs are currently required to verify the fact that the transferee has a valid license. The regulations require the transferor to obtain a copy of the transferee’s license. However, in some cases, licensees whose licenses have been revoked, as well as unlicensed individuals with fraudulent licenses, have been able to obtain firearms from FFLs. ATF will propose an amendment to its regulations to require licensees to verify the status of transferee licensees by checking a website that ATF will establish and operate. This will prevent individuals with fraudulent or revoked licenses from misleading FFLs about their status.*
- * *The GCA should be amended to require licensees to submit a multiple sales report to ATF whenever a person buys 2 or more handguns from a single licensee within a 30-day period. Current law requires a licensee to submit a multiple sales report to ATF whenever a person buys 2 or more handguns from a single licensee within a 5-day period. This data provides useful intelligence in the fight against illegal gun trafficking. However, traffickers can easily circumvent this requirement by buying one handgun from a given dealer in 6-day intervals. The GCA should be amended to more accurately capture multiple purchase information.*
- * *Congress should amend the GCA to provide a criminal penalty for structuring*

transactions to avoid reporting multiple handgun sales. In some cases, firearms dealers assist illegal traffickers by advising them how to structure firearms sales to avoid the multiple sales reporting requirement. Structuring handgun transactions to avoid the multiple sales report requirement impedes ATF's ability to combat illegal trafficking of handguns, and should be made unlawful.

- * *Allow dealers voluntarily to submit old records to ATF's National Tracing Center.* Under current law, once a licensee's records are more than 20 years old, the licensee can either retain the records or destroy them. However, the law does not allow the licensee to transfer these old records to ATF. Some licensees would prefer not to destroy old records -- which would make the guns identified in them untraceable if the guns were later used in a crime -- and would prefer to transfer them to ATF. The law should be amended to allow FFLs voluntarily to submit old business records to ATF.
- * *Congress should remove the existing restrictions on centralization of ATF records.* Legal restrictions in the Treasury Department's appropriations acts, as well as a provision added to the GCA in 1986 by FOPA, prohibit ATF from consolidating or centralizing FFL firearms acquisition and disposition records. These statutory restrictions hinder ATF's ability to trace crime guns through licensee records, and should be repealed.
- * *Congress should authorize additional resources for ATF to train state and local law enforcement agencies in raising obliterated serial numbers.* Although the techniques to recover obliterated serial numbers are well established, not every state or local law enforcement agency has the expertise or resources to take advantage of this technology. Congress should provide ATF with sufficient resources to expand its training of state and local law enforcement agencies in raising obliterated serial numbers and in firearms and toolmark examination.
- * *Increase criminal penalties for transactions involving firearms with obliterated serial numbers.* The current maximum penalty for knowingly transporting, shipping, possessing or receiving a firearm with an obliterated or altered serial number is five years imprisonment. Like stolen guns, firearms with obliterated or altered serial numbers indicate an intent to use the weapon for a criminal purpose. Congress should enact legislation strengthening the criminal penalties for transactions involving firearms with obliterated serial numbers, and increase the maximum penalty for such offenses to ten years imprisonment - the same as for transactions involving stolen guns.
- * *Congress should enact legislation requiring a second, "hidden" serial number on all firearms.* ATF recently proposed a regulation that would prescribe minimum height (3/32 inch) and depth (.005 inch) requirements for serial numbers. These new requirements would make it more difficult to obliterate serial numbers. However, further legislation is needed to require manufacturers to include a second "hidden" serial number on all firearms.
- * *Encourage voluntary measures by FFLs.* We will encourage the firearms industry to institute voluntary measures to ensure compliance by dealers and

distributors and to establish a code of conduct for dealers that, among other things, requires them to wait until NICS checks are complete before transferring firearms, regardless of whether the three-day period has expired. (See p. 44)

- *Provide instant notification to state and local law enforcement agencies when a criminal attempts to purchase a firearm unlawfully.* The Brady Act provides valuable information to federal law enforcement about attempts by felons and other prohibited persons to purchase firearms from FFLs. The FBI also provides more limited information to state and local law enforcement agencies about NICS denials - for example, when a fugitive illegally attempts to purchase a firearm from a dealer, NICS immediately notifies the agency that issued the warrant, so that the fugitive can be apprehended. Notification should be expanded so that state and local law enforcement agencies are informed every time a felon, fugitive, or other prohibited person unlawfully attempts to purchase a firearm from an FFL. Immediate notification provides valuable intelligence to law enforcement agencies, and may also save lives.
- * *States should be encouraged to enact legislation requiring gun owners to report thefts.* Nearly 600,000 firearms are stolen from private homes each year. Some gun owners report these thefts to local police departments, however, many thefts go unreported, making it more difficult for law enforcement to trace stolen firearms. While this issue is appropriately dealt with at the state or local level, the federal government should encourage states to require gun owners to report firearms thefts.
- * *Federal and state sentencing guidelines should be amended to provide penalty enhancements for gun thefts and for crimes committed with a stolen gun.* Firearms theft is a serious crime problem and should be punished accordingly.
- * *ATF will propose amending its regulations to require FFLs to conduct an inventory of firearms in stock at least once a year.* Existing law requires FFLs to report the theft or loss of a firearm within 48 hours of discovery. However, current regulations do not require licensees to conduct an inventory of firearms on an annual (or more frequent) basis, so that they can learn when a firearm is missing from inventory. This requirement is implicit in an FFL's obligation to keep accurate records of acquisitions and dispositions of firearms.
- * *Congress should enact legislation requiring FFLs to securely store their inventories.* The theft of firearms from dealers is a growing problem and contributes to the number of firearms available to juveniles, youth gangs and criminals. While FFLs are required to report thefts to ATF, federal law does not establish standards for safe firearms storage by licensees. FFLs should be required to securely store their firearms inventories.
- *Penalize individuals who transfer firearms when they have reasonable cause to believe the gun will be used to commit a crime of violence or drug trafficking crime.* Current law makes it illegal to transfer a firearm "knowing" that the firearm will be used to commit a crime of violence or drug trafficking crime.

This crime should not be limited to instances in which the transferor has *actual* knowledge that a crime of violence or drug trafficking crime will be committed, but should also apply to individuals who have “reasonable cause to believe” that this gun will be used in such a crime. Congress should amend the GCA to clarify that it is a felony to transfer a firearm if the transferor has reasonable cause to believe that the firearm will be used in a crime of violence or drug trafficking crime.

- *Expand criminal penalties for armed career criminals.* The Armed Career Criminal Act (ACCA) imposes a minimum 15-year prison term for felons found in unlawful possession of a firearm who have three prior convictions for violent felonies or serious drug trafficking offenses. Congress should amend the ACCA to allow up to two violations of the felon-in-possession law to be included as predicate offenses for sentence enhancement under the ACCA. Persons who have been convicted of a single violent felony or serious drug offense, and twice convicted of violating the felon-in-possession statute, have demonstrated a propensity for violence that justifies enhanced sentencing under the ACCA. The ACCA should also be amended to include a predicates acts of juvenile delinquency that, if committed by an adult, would constitute serious drug trafficking offenses.
- *Increased penalties for firearms conspiracies.* Since criminals working together generally do more harm than criminals working alone, persons who conspire to violate the firearms laws should be punished by the same maximum term that applies to the substantive offense that was the object of the conspiracy. Congress should enact legislation to increase the penalties for firearms conspiracies.
- *Include certain gang-related offenses as RICO predicates.* The Racketeer Influenced and Corrupt Organizations (RICO) statute provides an important tool for combating criminal enterprises. Congress should enact legislation including certain gang-related firearms offenses as RICO predicates.
- *Extend the statute of limitations for National Firearms Act (NFA) prosecutions.* Because the National Firearms Act (NFA) is included within the Internal Revenue Code of 1986, the statute of limitations for prosecutions of criminal violations of the NFA is 3 years. This period is much shorter than the general statute of limitations applicable to federal criminal violations, which is five years. Congress should enact legislation extending the statute of limitations for NFA violations (such as the unlawful transfer of explosive bombs or short-barreled shotguns) from three to five years.
- *Congress should strengthen the criminal penalties for gun kingpins.* Existing criminal penalties for gun traffickers are inadequate - engaging in the business of dealing in firearms without a license carries a maximum penalty of five years imprisonment. Given the seriousness of the offense, the maximum penalty should be increased to ten years imprisonment.
- *Congress should enact legislation prohibiting possession of firearms by any*

person who has been adjudicated a juvenile delinquent for a serious drug offense or offense equivalent to a violent felony. Under current law, any person adjudicated a juvenile delinquent, even for a violent crime such as murder, may possess firearms when he or she reaches adulthood. Individuals who have been dangerous juvenile offenders should not be allowed to possess or receive firearms when they become adults.

- * *Congress should amend the CGA to close the loophole allowing dangerous felons to possess firearms.* Current law contains a significant loophole that allows potentially dangerous individuals who have been convicted of felonies to possess firearms. For purposes of the GCA, a felon is no longer considered to have been "convicted" if his or her civil rights, as well as the right to possess firearms, have been restored under state law. Several states have laws that automatically restore civil rights, as well as firearms rights, immediately upon completion of a felon's sentence, or within a fixed time period thereafter. These state laws may allow even dangerous felons convicted of crimes of violence or drug offenses to have their firearms rights restored. Federal law should not recognize a restoration of civil rights under state law for purposes of the GCA unless the state has made an individualized determination that the convicted felon no longer poses a danger to society.
- * *Congress should enact legislation to prohibit anyone convicted of a violent misdemeanor from receiving or possessing a firearm.* Since 1996, it has been unlawful for persons convicted of misdemeanor crimes of domestic violence to possess firearms. However, there are many violent misdemeanors that do not meet the definition of a "misdemeanor crime of domestic violence," but that clearly establish the defendant's propensity for violence and criminal behavior. Persons convicted of such violent misdemeanors should not be allowed to receive or possess firearms.
- * *Congress should enact legislation that would allow law enforcement authorities to use the forfeiture laws to combat gun trafficking.* Current forfeiture laws offer only limited assistance in combating gun trafficking. Congress should enact legislation that would provide for forfeiture of vehicles used to commit gun trafficking crimes, and the proceeds of such offenses. The law should also be amended to authorize civil forfeiture of firearms used to commit or facilitate the committing any crime of violence or felony under Federal law.
- * *Congress should enact legislation to prohibit anyone under indictment on felony charges from possessing a firearm.* Under current law, it is unlawful for any person under felony indictment to ship, transport, or receive a firearm, but it is not unlawful for such a person to continue to possess firearms that he or she received prior to being indicted. This is true even if the person has been indicted for committing a violent felony, including murder. Individuals who have been indicted on felony charges should not be allowed to continue to possess firearms unless and until they have been acquitted of felony charges.
- * *Congress should reinstate controls on the sale of ammunition.* The GCA should be amended to reinstate the controls on ammunition sales that were repealed in

1986. Persons engaged in dealing in ammunition should be required to get a federal license, keep transfer records, and check a purchaser's ID to ensure that he or she is of legal age. Children should not be allowed to purchase ammunition.