

HANDGUN CONTROL

ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.

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FIREARMS PROSECUTIONS IN AMERICA: INCREASED COORDINATION AND MORE PROSECUTIONS

Crime is down. Violent crimes committed with guns -- including homicides, robberies, and aggravated assaults -- fell by an average of 27% between 1992 and 1997, and the nation's violent crime rate has dropped by nearly 20% since 1992.

Overall firearms prosecutions are up. Criticisms of federal prosecution statistics ignore the basic fact that both federal and state authorities prosecute gun cases, and federal authorities generally focus on the worst types of offenders.

- Although the number of federal prosecutions for lower-level offenders (persons serving sentences of three years or less) is down, the number of higher-level offenders (those sentenced to five or more years) is up by nearly 30% (from 1,049 to 1,345).
- At the same time, the total number of federal and state prosecutions is up sharply -- about 25% more criminals are sent to prison for state and federal weapons offenses than in 1992 (from 20,681 to 25,186).

We're working together. The Clinton Administration has pursued a strategy of collaborative partnerships between federal, state, and local law enforcement agencies in order to bring all resources to bear on violent crime, including gun crime.

- These partnerships are effective and make sense. They allow each community to identify their unique firearm and other violent crime problems and to implement the techniques that are most likely to have a positive impact on these local problems.

Results speak for themselves. In short, the increased collaboration among federal, state, and local law enforcement has resulted in:

- (1) a more efficient distribution of prosecutorial responsibilities;
- (2) a steady increase in firearms prosecutions on a cumulative basis, and most importantly;
- (3) a sharp decline in the number of violent crimes committed with guns.

Stay focused on the real issue. Since more gun criminals are going to jail, it's clear that the gun lobby's attack on federal law enforcement efforts are meant to take attention away from the real issue -- namely, reducing gun violence and stopping children and criminals from getting guns.

Attachment C

U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention



OJJDP FACT SHEET

Shay Bilchik, Administrator

February 1999 #93

Strategies To Reduce Gun Violence

by David Sheppard, Ph.D.

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

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

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

Promising Strategies

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

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

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

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

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

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

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

Communities Implementing Comprehensive Strategies

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

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

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

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

For Further Information

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

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

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Fact Sheet

Office of Juvenile Justice and Delinquency Prevention

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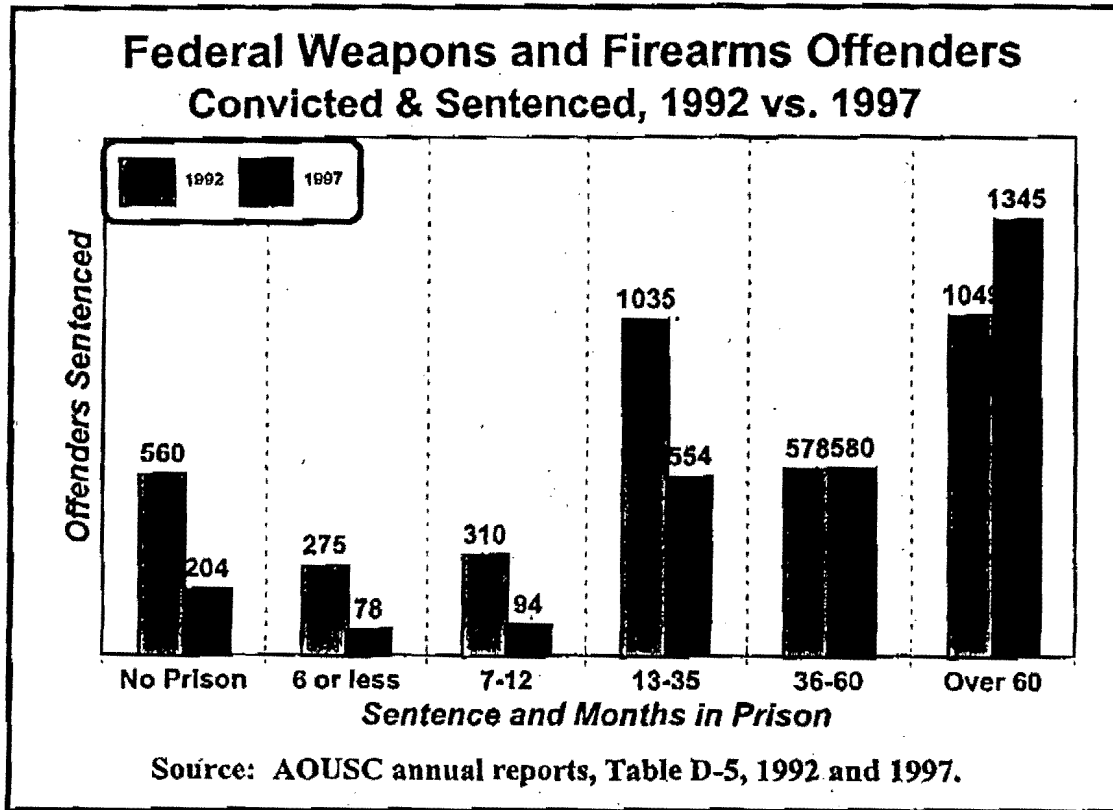
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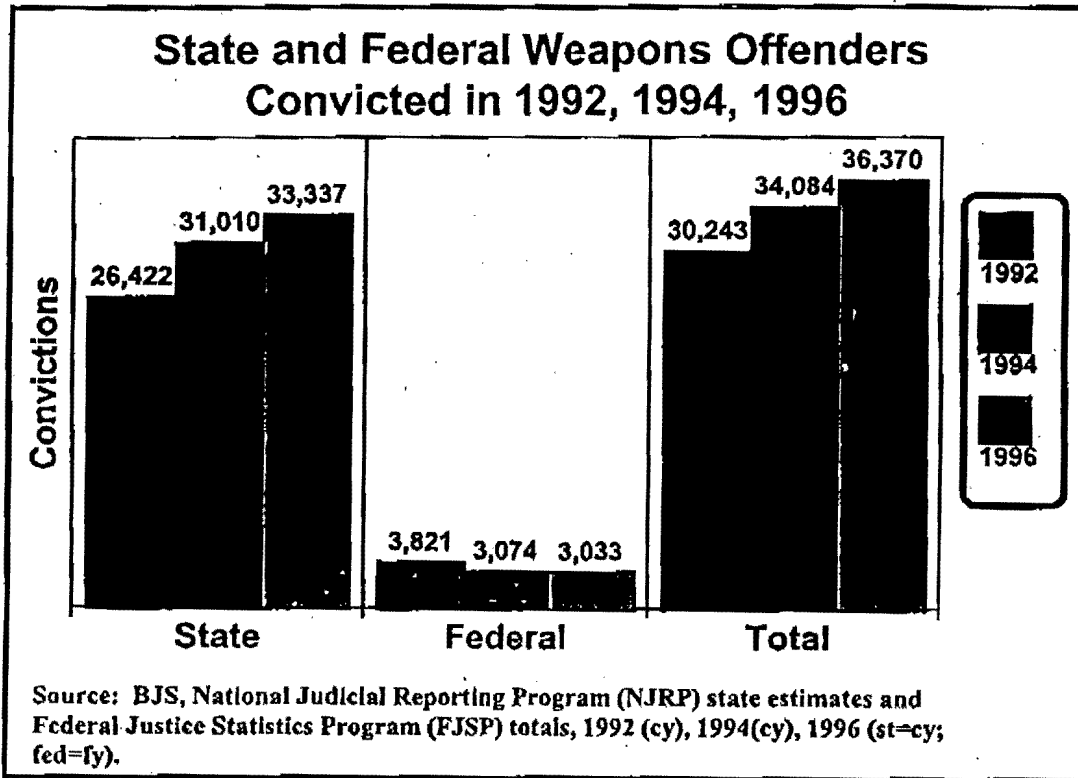
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Graph 4



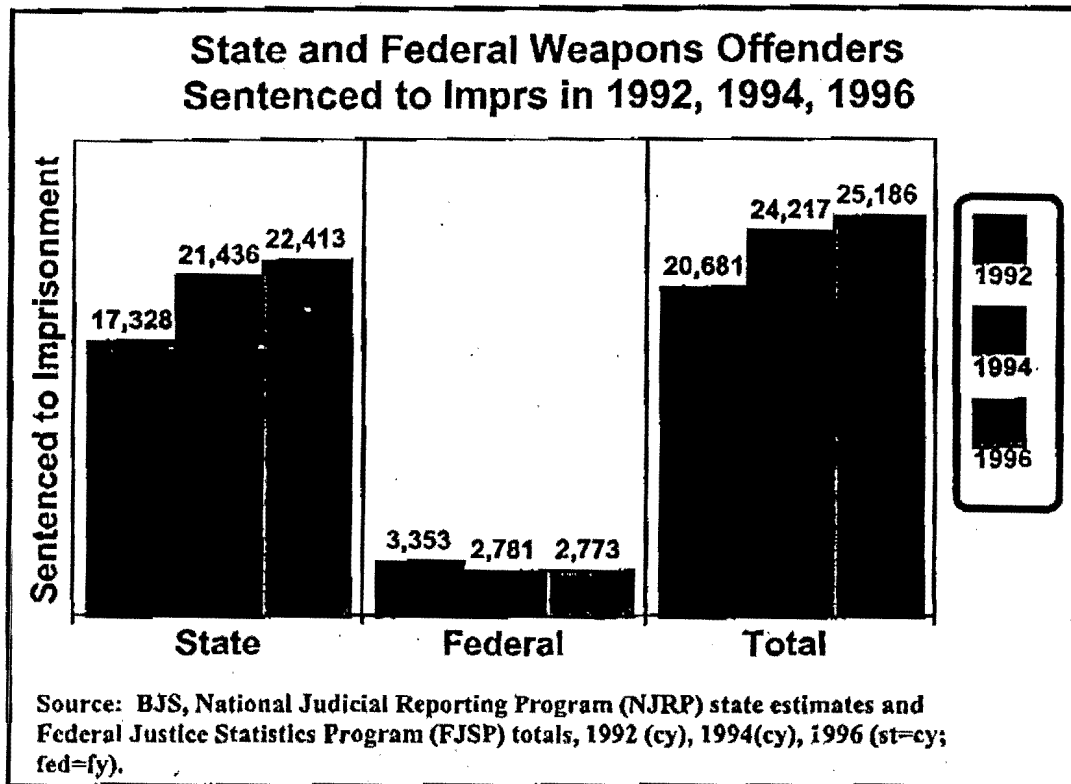
Attachment H

Graph 5: 1996 data are preliminary and subject to revision



Attachment I

Graph 6: 1996 data are preliminary and subject to revision



NATION

Have Gun? Will Travel

Criminals are afraid to arm themselves in a Virginia city that simply enforced the law

By ELAINE SHANNON RICHMOND

NOT LONG AGO, EDWARD SOLD CRACK cocaine for a living. He considered himself a businessman and made businesslike calculations of risk and reward. He was afraid rival dealers might try to rob him of his drugs or the wad of cash in his wallet. So he carried a 9-mm handgun. "Everybody had a gun," he says, "for defense." But now he has a bigger fear: if he gets caught with a weapon while committing a crime in his hometown of Richmond, Va., he faces at least five years without parole in a distant federal prison. That's why Edward, 25, doesn't pack a pistol anymore.

It's a calculation many criminals and would-be criminals are making these days in Richmond and other cities that have emulated Project Exile, the Virginia capital's innovative program to combat gun crime. It is credited with helping cut in half the number of murders in Richmond over the past two years.

Gun-control groups point to Project Exile as evidence that Congress—which last week postponed action again on modest new gun regulations—is out of step with states and cities that are moving aggressively against gun crime. But the National Rifle Association endorses Project Exile for another reason, saying it proves that vigorous enforcement of existing laws can thwart criminals without new controls on law-abiding gun owners.



Two years ago, Richmond's homicide rate was second only to that of Gary, Ind. Gun toting had become pervasive in the city's poorer neighborhoods. Says James Comey, criminal-division chief in the local U.S. Attorney's office: "People carried guns because gun-possession crimes were not treated as anything more than a misdemeanor. What might have been a fistfight or stabbing 20 years ago was a shootout because everybody had a gun in his pocket."

In response, Comey and his boss, U.S. Attorney Helen Fahey, launched Project Exile in partnership with Richmond police chief Jerry Oliver and the U.S. Bureau of Alcohol, Tobacco and Firearms. The new procedure: anytime Richmond police found a gun on a drug dealer, user, convicted felon or suspect in a violent crime, the case would be tried under federal statutes that carry mandatory sentences of at least five years without parole—and

longer for repeated or aggravated offenses.

To spread the word in high-crime neighborhoods, the slogan AN ILLEGAL GUN GETS YOU 5 YEARS IN FEDERAL PRISON was emblazoned on billboards, flyers and city buses. The Martin Agency, an advertising firm based in Richmond, designed a slick TV campaign aimed at changing the psychology of the underworld. "It was niche marketing to the bad guys," says Oliver. "They all know the name Exile. We hit on a label that explains what it does, which is get them out of the community."

It worked. Murders

RICHMOND POLICE work to trace an illegal gun seized at the home of a drug suspect

in Richmond dropped sharply, from 140 in 1997 to 94 in 1998 and 32 in the first six months of 1999. Armed robberies showed a similar decline. As of June 18, the Exile task force had won long prison sentences for 279 gun-carrying criminals. Says Fahey: "We've taken them off the streets."

The Richmond initiative is being adopted in Atlanta; Birmingham, Ala.; Fort Worth, Texas; New Orleans; Norfolk, Va.; Philadelphia; Rochester, N.Y.; and San Francisco. President Clinton has touted Exile in a radio address. And the N.R.A., which donated more than \$100,000 to Richmond's Project Exile ad campaign, is urging Washington to spend \$50 million to apply the concept nationwide.

In Richmond today, young toughs still deal and steal because they're not afraid of a stint in the local jail. Most, however, are leaving their guns at home. When Sergeant Steve Ownby recently frisked a suspected robber, the perp shot him a don't-think-I'm-stupid look and said scornfully, "Hell, no, I don't have no gun. Project Exile'll get you five years. I'll be an old man when I get out." Ownby observed later that "I've seen a lot of programs come and go, but Exile has made a difference."

Edward, the former pistol packer, agrees: "All my friends started going away to prison [on multiple drug and gun charges]." One got 16 years, another 20. "And then I had a son. He's three. That's why I straightened up. I couldn't leave him." Edward says he drifted into crime because his dad wasn't around, and he doesn't want that to happen to his boy. Police confirm that Edward has not only laid down his arms but has also stopped dealing drugs and taken a construction job. He often works overtime late at night, and that has helped make him an Exile booster: "It's made the neighborhood a lot safer."

What They're Doing

■ **FEDERAL, STATE AND LOCAL** law-enforcement agencies work closely together in Project Exile
 ■ **GUN CRIMINALS**, even when arrested by city police, are prosecuted under federal laws that carry mandatory five-year sentences
 ■ **A CREATIVE ADVERTISING** agency, taking up a novel challenge, has been able to market fear to local criminals

**An illegal gun gets you
5 years in Federal Prison.**

PROJECT EXILE. REMOVING ILLEGAL GUNS 780-1000



Project Exile

CRIMESTRIKE

A Division of the National Rifle Association

"Project Exile"

Banishing Armed Criminals from City Streets

In 1997, Richmond, Virginia, suffered the second highest per capita homicide rate in the nation. Today, the U.S. Attorney's Office in Richmond reports that in the first six months of implementation of a new program, the city's homicide rate has been cut in half. The program: Project Exile.

A Special Report on Project Exile from the U.S. Attorney's Office

What is Project Exile?

Project Exile is a federal, state, and local effort led by the United States Attorney's Office in Richmond that prosecutes felons in possession of guns. When law enforcement apprehend a criminal with a gun, he is "exiled" to federal prison for a minimum of five years.

Under Project Exile, Richmond Police Department officers and Virginia State Troopers are equipped with a laminated card that lists the types of criminals targeted for Project Exile prosecution under federal law. That list includes a person who has a gun and is a "convicted felon (state or federal), drug user or addict, fugitive who has fled another state, [or] is under indictment for a felony." When an officer makes an arrest and one of these crimes may be involved, the officer calls the 24-hour pager number listed on that laminated card to determine if federal law may have been broken. If so, Project Exile initiates federal prosecution immediately.

The U.S. Attorney for the Eastern District of Virginia, whose office initiated Project Exile, told the Newport News *Daily Press* on January 23, 1998, that "officials were shocked ... at the extent of [Project Exile] suspects' criminal records. Several had between four and eight convictions for offenses as serious as robbery, abduction and murder."

The U.S. Attorney reports that publicity is essential to the program's success. More than 15,000 business cards printed with the slogan "An illegal gun gets you 5 years in Federal Prison" have been distributed, and the message is repeated on billboards and in advertising on radio, television, and even a city bus. Funding has come from contributions and in-kind donations from business and civic leaders. In a letter to the U.S. Attorney, one Project Exile criminal complained that the 6 to 8 year sentence recommended for him was unfair because "even the bus and the billboard says [sic] five years."

The National Rifle Association has endorsed and given financial support to Project Exile.

Why Focus on Federal Law?

Project Exile officials say the federal system offers the advantages of prompt indictments, no bond (therefore no pretrial release), and far-away prisons less accessible to family and friends. Press reports show that a felon-in-possession case in state court would take about a year to prosecute, during which time most defendants are on the streets, free on bond. The same case in federal court would take about 70 days, and bond is denied in 80% of Project Exile cases.

Project Exile

Page 2 of 2

Additionally, breaking federal gun laws carries a heavy penalty. For example, for possessing a gun or ammunition, a felon can be sent to prison for 10 years and fined \$250,000. Moreover, the federal law requires a mandatory minimum five years in prison for this offense, and under Project Exile, prosecutors will not plea bargain to a sentence below the mandatory minimum. If a plea agreement is not reached, the case proceeds to trial. (The federal penalty of 5-10 years compares to a Virginia state penalty of 1-5 years for the same crime.)

Project Exile In Action

Under Project Exile, as of June 30, 1998:

- 311 suspects have been indicted for firearm violations
- 200 (approx. 80%) have been held without bond
- 202 have been convicted
- 144 have been sentenced to an average 56.7 months (4 years) in a federal penitentiary

Project Exile can assist law enforcement in other ways, too. For example: *"When Newport News [VA] police arrested a convicted felon a few months ago for injuring a person with a gun, witnesses refused to testify The charges against him seemed to be going nowhere. But a program called 'Project Exile' breathed new life into the case. Instead of dropping it, officials charged the man with federal offenses [being a felon in possession of a gun]. Last month, he was indicted by a federal grand jury and faces up to 10 years in prison 'We don't need the witnesses now,' said Newport News Detective Rick Reid.... 'Without the federal charges, he might have just walked.'"* -- Newport News Daily Press, 1/23/98

Is More Manpower Required?

No. Under Project Exile, the Virginia Commonwealth's Attorney assigned one of his state prosecutors to the U.S. Attorney's Office to assist in the federal prosecutions. Additionally, the Richmond Police Department and Virginia State Troopers each assigned two members of their staff to the Richmond office of the BATF to assist in Project Exile investigations. The U.S. Attorney's Office reports that "(t)he project requires a minimal amount of prosecutorial and investigative resources."

Can Project Exile Be Implemented Elsewhere?

Yes. According to the July 14, 1998 Project Exile report, "(e)xperience ... demonstrates that federal prosecutors can undertake a large scale prosecution effort of gun crimes with relatively limited personnel resources The program is highly replicable. Frankly, all it takes is the will to implement it."

The Clinton Administration's Law Enforcement Strategy:

Fighting Gun Violence and Keeping Guns Away from Criminals and Our Children



Taking Back Our Neighborhoods
One Block at a Time

May 1999

"Over the last 6 years we've worked hard to fight crime, putting in place a strategy of more prevention, stricter enforcement, tougher punishment. . . . Slowly but surely, neighborhoods once abandoned at the crack of gunfire and the wail of ambulance sirens are coming alive with the sounds of children playing freely in the streets. This is indeed encouraging news. But we must do more. . . . [T]he proliferation of guns in our streets, of criminals packing pistols instead of switchblades, have made crime deadlier than ever. That is why disarming criminals has been and must continue to be a top crime-fighting priority. Let none of us rest until every American is safe from gun violence."

— President William J. Clinton

"We have a responsibility to the victims of crime and violence. It is a responsibility to think not only of our own convenience but of the tragedy of sudden death. It is a responsibility to put away childish things — to make the possession and use of firearms a matter undertaken only by serious people who will use them with the restraint and maturity that their dangerous nature deserves — and demands. For too long we have dealt with these deadly weapons as if they were harmless toys. Yet their very presence, the ease of their acquisition, and familiarity of their appearance have led to thousands of deaths each year. . . . It is past time that we wipe this stain of violence from our land."

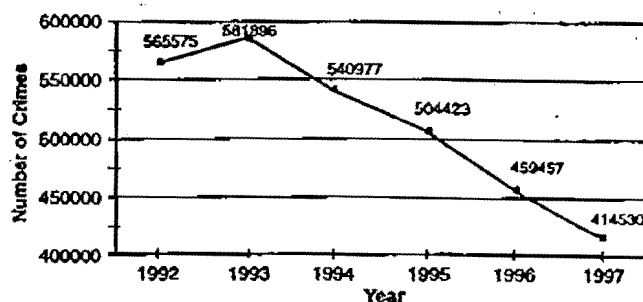
— Attorney General Robert F. Kennedy

President Clinton, Vice President Gore, Attorney General Reno, Treasury Secretary Rubin, and others have led an historic effort to reduce crime and violence in our Nation's communities with a strong focus on crime and violence involving guns. With funding for 100,000 new community police officers, tougher punishment for violent offenders, the Brady Act and other laws to keep guns out of the hands of criminals, the Violence Against Women Act, crime prevention programs for youth, and an unprecedented drive to join the forces of federal, state, local, and tribal law enforcement, the Administration's crime program is proving effective. Crime rates have dropped to their lowest level in a quarter of a century.

Gun crime and violence have fallen dramatically. The Federal Bureau of Investigation's *Uniform Crime Report* for 1997 shows that gun homicides have declined by 24 percent since 1993; robbery with firearms, by 27 percent; and aggravated assault with firearms, by 26 percent. (See Figure 1).

Figure 1

Violent Crimes With Firearms FBI / UCR Data



Nonetheless, we cannot afford to become complacent. Gun violence remains a serious national problem. In 1996, 34,040 Americans died of gunfire. Firearm injuries are the eighth leading cause of death in the United States, and for every fatal shooting, there are close to 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. In 1996, 4,643 children under the age of 19 died of gun-related injuries. This means that every day in America, 13 young people die of gunshot wounds. As a nation, we have grieved the senseless loss of young lives in the spate of school shootings that has occurred in recent years — including the most recent tragedy in Littleton, Colorado, which cost the lives of 14 students and a teacher. We lose as many young lives due to guns every day. A teenager in the United States today is more likely to die of a gunshot wound than from all the natural causes of death combined. And the firearm homicide rate for children under 15 years of age is 12 times higher in the United States than in 25 other industrialized countries combined.

The Clinton Administration's Record on Guns

For the past six years, the Clinton Administration has made it a priority to reduce the number of firearms crimes and gun-related injuries and deaths.

Recognizing that no single law or initiative will end such violence, the Administration has supported a comprehensive approach that addresses the illegal acquisition, possession, and use of firearms, as well as the underlying causes and consequences of violence.

- ☐ The Clinton Administration has increased dramatically the effectiveness of current federal laws that are designed to prevent guns from falling into the hands of felons, fugitives, stalkers, and those who are under a restraining order or have been convicted of a domestic violence misdemeanor. Until 1993, gun sales operated on the "honor" system. A licensed dealer would sell guns if the buyers certified that they did not fall into any prohibited category, and no one checked to see if they were telling the truth. The Clinton Administration recognized that when it came to buying a gun, the honor system was not good enough and won passage of the Brady Bill to require background checks on gun purchasers. By imposing a minimal inconvenience on gun purchasers and requiring them to go through a background check, the Brady Law has kept guns out of the hands of more than 250,000 felons and other prohibited people, preventing untold crimes and violence.
- ☐ In 1994, the Administration successfully fought for the Assault Weapons Ban, which prohibits the manufacture and importation of the 19 deadliest assault weapons, copies of those weapons, and large capacity ammunition feeding devices that hold more than 10 rounds of ammunition.
- ☐ In 1994, President Clinton signed into law the Youth Handgun Safety Act, which bans possession of handguns by juveniles under the age of 18, and prohibits adults from transferring handguns to juveniles.
- ☐ When people violate our federal firearms laws, the Clinton Administration has been committed to bringing them to justice. Federal, state, and local law enforcement have worked together closely, and have significantly increased the overall number of firearms prosecutions in this country. Since 1992, the combined number of federal and state firearms convictions is up sharply – and about 25 percent more criminals are sent to prison for state and federal weapons offenses than in 1992. The number of federal cases in which the offender gets five or more years in prison is also up by more than 25 percent. This increased collaboration among federal, state, and local law enforcement has resulted in: (1) a more efficient distribution of prosecutorial responsibilities, (2) a steady increase in firearms prosecutions on a cumulative basis, and most important, (3) a sharp decline in the number of violent crimes committed with guns.
- ☐ The Administration has launched the Youth Crime Gun Interdiction Initiative, a national program to disrupt the illegal supply of firearms to juveniles and youth, by tracing the guns that are used in crimes through the Bureau of Alcohol, Tobacco and Firearms' (ATF's) National Tracing Center to assist in identifying, investigating, and arresting illegal suppliers of guns, especially to juveniles and youth. Comprehensive crime gun tracing enables law enforcement to detect patterns of illegal trafficking in guns.
- ☐ The Administration has pursued a strategy of collaborative partnerships between federal, state, and local law enforcement agencies to bring all resources to bear on violent crime, including gun crime. These effective and sensible partnerships allow each community to identify its unique firearm and other violent crime problems and to implement the techniques that are most likely to have a positive impact on these local problems. Because of these efforts, gun crime and violence have dropped by up to 70 percent in cities such as Boston, Massachusetts, Richmond, Virginia, and Minneapolis, Minnesota.

- The Administration has helped communities identify and put in place smart, effective prevention strategies that are tailored to each community's particular needs. To this end, the Department of Justice has closely examined innovative gun violence reduction programs across the country, and is providing training and technical assistance to communities to implement such programs.
- The Administration also has emphasized gun violence issues as a priority for the Justice Department's research and justice assistance branches. For example, the Department has implemented community-based programs such as Partnerships to Reduce Juvenile Gun Violence, the Youth Firearms Violence Initiative, and the Strategic Approaches to Community Safety Initiative. The 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.

The nationwide, historic drop in crime and the persistent scourge of gun violence constitute both an opportunity and a responsibility. We can and we must proceed to build on our existing laws and programs to close loopholes in the existing structure that have allowed guns to fall into the wrong hands and further strengthen our hand and our partnership with communities against gun violence. The Administration's Youth Gun Crime Enforcement Act starts us on this path.

THE YOUTH GUN CRIME ENFORCEMENT ACT OF 1999

"We've got to keep working until people start thinking about [guns] the same way they think about X-rays and metal detectors at airports. That's the goal. We have to redefine the national community so that we have a shared obligation to save children's lives. And we've got to get out of this crazy denial that this won't make a difference. . . Just because it won't make all the difference doesn't mean it won't make a difference. It will make a difference."

- President William J. Clinton

The Administration has worked for common sense measures such as the Brady Act and the Assault Weapons Ban that have contributed significantly to the reduction in crime. The success of these measures has in turn led to a broader recognition among law enforcement, the American public, gun manufacturers, and gun owners that sensible measures to regulate firearms can and will make a difference in reducing gun crime and violence and saving lives.

The Administration has carefully examined our federal gun laws to fill critical gaps and respond to the need for additional firearms regulations. The Youth Gun Crime Enforcement Act builds on this country's recent successes against gun violence without interfering with those sportsmen, hunters, and other law-abiding Americans who wish to buy and use firearms for sport and other legitimate activities.

The Youth Gun Crime Enforcement Act will keep guns out of the hands of criminals and youth; it contains five sections. The Act will:

1. *Extend and strengthen the Brady Law* by expanding Brady background check requirements and imposing a mandatory 3-day cooling-off period;
2. *Restrict youth access to firearms* by raising the age that a juvenile can possess a handgun to 21 and holding adults criminally liable if they recklessly allow children to have access to guns that are later used to cause injury or death;
3. *Combat illegal trafficking in guns* by adopting sensible proposals to stem the flow of illegal guns to our streets;
4. *Strengthen the Assault Weapons Ban* by prohibiting the importation of all large capacity ammunition clips; and
5. *Give law enforcement additional tools to combat criminal misuse of firearms* by increasing penalties on criminals who use guns in the commission of crimes.

1. EXTENDING AND STRENGTHENING THE BRADY LAW

The Brady Law and the National Instant Criminal Background Check System (NICS)

In 1993, the Administration campaigned for and the Congress passed the Brady Law, a major step forward in our efforts to reduce gun violence by keeping guns out of the wrong hands. The Brady Law dramatically increased the effectiveness of our Nation's gun laws that prohibit certain people from possessing firearms – for example, felons, stalkers, and drug users – by requiring background checks on people who want to buy guns, and preventing the over-the-counter purchases of guns by those who are not allowed to possess them. During the first four years, state and local law enforcement officials conducted Brady background checks on prospective gun purchasers and stopped more than a quarter-of-a-million people who should not have guns from getting them. The cooperation of state and local law enforcement made the success of the Brady Law possible and undoubtedly saved lives and prevented crimes from occurring.

While our state and local law enforcement partners were performing background checks during the first four years of Brady, the Justice Department and the FBI worked hard to prepare for the Brady Law's second phase, the National Instant Criminal Background Check System (NICS). NICS became operational on November 30, 1998. NICS is a new national system that checks national criminal history databases – the Interstate Identification Index and the National Crime Information Center files – as well as new NICS databases containing information on the other prohibited categories, such as illegal aliens and persons under domestic violence restraining orders. Under NICS, the FBI shares the responsibility for doing background checks with states that have agreed to serve as points of contact (POCs) for the system.

Since November 30, 1998, NICS has processed more than 3.7 million background checks. Of these, our state POC partners handled 1.9 million checks. In

the vast majority of checks, legal gun buyers have completed their gun purchases within minutes. At the same time, the FBI alone has stopped more than 39,000 felons and other prohibited persons from getting guns; we estimate that our state POCs have stopped at least 39,000 more.

Expanding the Brady Law's Protections

The Administration is committed to building on the success of the Brady Law by expanding its protections in four key areas.

Closing the gun show loophole – Last November, President Clinton directed the Attorney General and the Secretary of the Treasury to develop a plan to close a gaping loophole in the Brady Law. Today, the law does not require background checks when unlicensed people sell guns at gun shows. This is a massive public safety problem, because more than 4,000 gun shows are held in America each year, and 25-50 percent of the vendors are not required to do background checks. A single gun show may have as many as 2,000 tables, each displaying numerous guns for sale. Those barred from buying or possessing a gun seek out the unlicensed sellers, because they know that they can get guns “no questions asked.” Also, because unlicensed sellers do not keep any records and because many of the guns sold at gun shows are used guns, there is often no way to trace them back to the person who sold or bought the gun at a gun show if one later turns up in a crime scene. Because guns can be bought anonymously at gun shows, they are a significant source of guns for criminals.

In their January 1999 report to the President, Attorney General Reno and Treasury Secretary Rubin lay out a plan to close the gun show loophole. The central recommendation in the report calls for legislation to require a background check and gun tracing records in connection with all firearms transfers at gun shows, even if the seller is unlicensed. This way, gun shows will no longer be a place where felons, fugitives, straw

purchasers, those convicted of domestic violence, and young people can buy guns. Licensed dealers will conduct background checks on behalf of unlicensed dealers at gun shows. In addition, licensed dealers will maintain and provide to the Secretary strictly limited information about the type of guns being transferred, to enable guns to be traced if later used in crime.

The Youth Gun Crime Enforcement Act contains this provision to close the gun show loophole. The Brady Law has shown that background checks impose a minimal inconvenience on lawful gun sellers and buyers and offer a high return for the rest of society. Waiting for a background check to be completed is a small price to pay for making our communities safer, because the only people getting guns at gun shows will be those who are permitted to have them.

Establishing a Mandatory Cooling-Off Period and Additional Time for Background Checks – Many gun crimes are committed within days of the time that the gun is purchased. Guns recovered as part of homicide investigations make up a significantly larger share (20 percent) of crime guns traced within one week of purchase than guns traced between one and two years of purchase (6.4 percent). To address this problem, the Clinton Administration is proposing a mandatory cooling-off period that would require a prospective handgun purchaser to wait for 72 hours before receiving a handgun. A cooling-off period will prevent gun crimes committed in the heat of the moment, as well as some suicides, both of which may be spontaneous acts.

Besides the cooling-off period, the proposal gives law enforcement additional time to complete background checks when they cannot be completed instantly. Although most checks can be completed within minutes, some checks require officers to obtain additional information to determine whether the potential purchaser is legally allowed to have a gun. Restoring the maximum waiting period to five days – the original amount of time allowed in the Brady Law – will prevent guns from being transferred to prohibited people about whom definitive information is unavailable at the end of three business days.

Juvenile Brady – As the number of juvenile homicide victims has increased, so too has the number of juveniles adjudicated delinquent for violent crimes such as murder, rape, and robbery. Today, those adjudications do not prevent juveniles from acquiring guns once they become adults. The Clinton Administration is proposing an amendment to the Brady Law that would treat violent juveniles and violent adults in the same manner for purposes of determining whether they can buy a gun. If they have been adjudicated delinquent for an act that would have been a violent felony if committed by an adult, they will be barred from getting a gun regardless of their age when they committed the crime.

Explosives – Current law prohibits felons and others from possessing explosives, but does not require that purchasers of explosives undergo a background check. There is no need to rely on the "honor system" for explosives when NICS is now in place for background checks. The Administration's proposal will require a NICS check on every person who buys explosives from a licensed explosives dealer.

2. RESTRICTING YOUTH ACCESS TO FIREARMS

Keeping guns out of the hands of juveniles has been one of the Clinton Administration's top priorities. The Administration has won passage of legislation prohibiting the juvenile possession of handguns, requiring "zero tolerance" for guns in schools, and establishing ATF's Youth Crime Gun Interdiction Initiative (YCGII). Through comprehensive crime gun tracing, YCGII is helping us to establish how the illegal market in firearms operates and to identify and arrest individuals who illegally supply guns to juveniles and young people, as well as the young people who gain illegal possession of the guns.

However, our current laws are still inadequate to keep guns from children. The number of children who are injured by or die from gun-related injuries on a daily basis, so starkly demonstrated by the school shootings of the past few years, confirms this sad reality.

The Administration is proposing four targeted proposals to reduce youth gun possession, as well as a proposal to prohibit the possession of explosives by young people.

Raising the Age of the Youth Handgun Ban to 21 – The Youth Handgun Safety Act, signed by President Clinton in 1994, bans possession of handguns by juveniles under the age of 18, and prohibits adults from transferring handguns to juveniles. Under the Act, however, it is legal for 18 to 20 year-olds to possess handguns and even to buy them from unlicensed sellers in their neighborhoods or at gun shows. The ease with which 18 to 20-year-olds can get guns is especially troubling given that ATF crime gun tracing data shows that more crime guns are traced to 18 and 19-year-olds than to any other age group.

The Administration's Youth Gun Crime Enforcement Act will extend the provisions of the youth handgun ban to young people between the ages of 18 and 21. The same exceptions that apply to juveniles will apply to persons between the ages of 18 and 21. They can temporarily possess a handgun if they need it to hunt or farm or in connection with a job, so long as they are authorized to have the handgun by responsible individuals (such as parents, employers, and the owners of the premises where the temporary possession occurs).

Banning Youth Possession of Semiautomatic Assault Rifles – Current law prohibits juveniles from possessing assault pistols, but it allows them to possess assault rifles and large capacity ammunition feeding devices that were manufactured before the effective date of the Assault Weapons Ban in 1994. The Administration's proposal closes this dangerous loophole by prohibiting the possession of all assault weapons and large capacity magazines by persons under the age of 21. There are no exceptions to this prohibition.

Requiring Child Safety Locks for All Firearms – Common sense tells us that if people own guns, they should keep them stored safely, to prevent children and others from getting hold of them. Unfortunately, many

children need look no further than their own home to get their hands on loaded and unlocked guns, as an estimated one-third of all privately-owned handguns are kept loaded and unlocked.

For several years, the Administration has called for the distribution of locking devices for firearms (also known as triggerlocks or child safety locks). Twenty major handgun manufacturers voluntarily have agreed to provide a locking device by October 1998 with every new handgun sold in the United States. Unfortunately, however, this goal has not yet been attained. According to one recent study, not all of the 20 manufacturers are currently supplying such devices. The study also concluded that only one in every ten handguns sold in the United States is sold with a locking device. The Administration's bill will require that licensed gun dealers provide a child safety lock or a secure gun storage box with every firearm sold.

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

However, too few states have CAP laws, and the laws in those states that do have them vary widely. Because youth gun violence is a serious national problem, the Administration has proposed legislation to hold adults criminally responsible if they recklessly allow a child to have access to a gun that is used by the juvenile to cause death or serious injury.

Prohibiting Possession of Explosives by Youth – The Administration's proposal will prevent youth under age 21 from acquiring explosives. It will be illegal to transfer explosives to youths, and for youths to possess explosives, with a very limited exception for commercially-manufactured black powder to be used in antique firearms.

3. COMBATING ILLEGAL TRAFFICKING IN GUNS

The Clinton Administration has made targeting illegal gun traffickers a law enforcement priority. In 1996, the Administration launched the Youth Crime Gun Interdiction Initiative (YCGII) in 17 cities to trace all crime guns recovered in these cities, and to identify and arrest the traffickers who illegally supply firearms to young people. Since then, the Administration has added an additional 20 cities to the initiative and conducted more than 200,000 crime gun traces for local law enforcement.

Illegal trafficking in guns remains a serious problem, and the Youth Gun Crime Enforcement Act strikes at the heart of gun trafficking through tough proposals to reduce the sources of illegal guns.

Restricting Handgun Transfers to One a Month – Gun traffickers stockpile handguns – which are the criminal's gun of choice – and transport them to areas where guns are difficult to obtain and where their sale is most profitable. In the eastern United States, for example, Interstate 95 has become known as the "iron highway," as gun traffickers purchase guns in states with few restrictions and move them northward into states with greater restrictions.

When the citizens of South Carolina and of 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 for 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 20 percent drop. Even though Virginia still ranks high as a source of crime guns for other states, half of the guns traced to Virginia were purchased there *before* the state adopted its one-gun-a-month law in 1993.

After Maryland enacted its one-gun-a-month law, there was a sudden and significant drop in the number of guns that were purchased in multiple gun sales in Maryland which ended up at crime scenes in Washington, D.C.

Gun runners should not be able to evade Brady background checks by buying handguns using "straw purchasers" (persons who buy guns for them), and diverting them to criminals. A federal one-gun-a-month law will eliminate the need for a piecemeal approach to stopping gun trafficking by imposing a uniform rule that will make handguns equally difficult for criminals to obtain in every community. Allowing a person to obtain one handgun a month – for a total of 12 handguns in a single year – will not overburden legitimate gun buyers. In those cases in which a person might on occasion have a legitimate need to obtain more than one handgun a month, the Administration's proposal provides exceptions, such as when a person seeks to replace a lost or stolen gun or wishes to acquire an existing collection of firearms.

Requiring Licensed Firearms Dealers to Store Their Firearms Inventories Securely – Juvenile "smash and grab" thefts and large-scale burglaries by gun traffickers provide a significant source of firearms to the illegal gun market. To cut down on thefts of firearms from licensed dealers, the Clinton Administration's proposal gives ATF the authority to issue regulations requiring licensed dealers to store their firearms inventories securely, just as ATF presently requires explosives dealers to store explosives securely.

Requiring Firearms Thefts From Common Carriers To Be Reported – Traffickers also steal guns when they are in transit and divert the guns to the illegal market. The proposed legislation will require common carriers to report the theft or loss of a firearm within 48 hours to give law enforcement the chance to prevent the diversion from being completed.

Increasing the Number of Allowed Compliance Inspections of Firearms Dealers – Currently, ATF is allowed to conduct only one inspection of a firearms

dealer per year, in the absence of probable cause and a warrant. Limiting ATF in this way means that dealers, once they are inspected, have a "bye" from oversight for the remainder of the year. The proposal allows ATF to conduct up to three inspections of firearms dealers annually to ensure that the dealers are complying with the federal background check and record-keeping requirements.

Liability When a Firearm Is Transferred To Commit a Crime of Violence – It is now illegal to transfer a gun to someone who uses it to commit a violent crime or a drug crime if the person transferring the gun "knows" that the gun will be used in a crime. This proposal clarifies that there is liability when the transferor "knows or has reasonable cause to believe" that the gun will be used to commit a violent crime or a drug crime.

Requiring Licensees to Report the Acquisition of Used Guns – New guns that are used to commit crimes can be traced effectively, because the serial number of the gun enables ATF to get information about the retailer who received a new gun from the manufacturer and distributor. ATF can find out from the retailer who bought the gun. In contrast, it is much more difficult to trace used guns, because they often have been through many private transfers before being resold by a licensed retailer or pawnbroker. Under the Administration's proposal, licensed dealers will submit reports to ATF about used firearms that they acquire, to enable the guns to be traced if they are later used in crime. The information submitted by the dealers to ATF will not include identifying information about private individuals who sell used guns to, or buy them from, licensed dealers; rather, it will be restricted to information identifying the firearm.

4. STRENGTHENING THE ASSAULT WEAPONS BAN

In 1994, the Clinton Administration successfully fought for legislation to ban the manufacture and importation of the 19 deadliest assault weapons, copies of those weapons, and large capacity ammunition clips that hold more than 10 rounds of ammunition. In response to the ban, some foreign manufacturers slightly

redesigned certain assault weapons in order to circumvent the ban. Last year, the Administration banned the importation of approximately 59 modified assault rifles, because they were found to be unsuitable for sporting purposes.

Despite these efforts, a significant loophole remains. Although the Assault Weapons Ban prohibits the manufacture and importation of large capacity ammunition feeding devices that were manufactured after 1994, the ban is virtually unenforceable, because it is difficult to determine whether the devices that are shipped into this country were manufactured before the ban went into effect. The Administration's bill therefore includes a proposal to ban all imported large capacity ammunition feeding devices that hold more than 10 rounds of ammunition, regardless of when they were manufactured.

5. GIVING LAW ENFORCEMENT ADDITIONAL TOOLS TO COMBAT CRIMINAL MISUSE OF FIREARMS

When criminals use guns to commit crimes, they should not receive the same penalty as someone who carries out illegal activities unarmed. Therefore, the Clinton Administration's Youth Gun Crime Enforcement Act gives law enforcement additional tools to crack down on criminals who misuse firearms.

Making Certain Gang-Related Firearms Offenses Predicates for RICO – Criminal street gangs and guns go together all too often, and gang members use guns in carrying out all aspects of their illegal activities. This proposal will add a number of firearms offenses to the RICO statute, which prohibits the illegal activities of criminal organizations such as street gangs.

Increasing Penalties for Firearms Conspiracies – This proposal will make conspiracies to violate the firearms laws punishable by the same maximum term as the underlying substantive offense that was the object of the conspiracy. In other words, if gang members agree to get guns illegally, and any one gang member takes steps to get guns illegally, *all* of the gang members who agreed to the plan can be punished as if they had actually gotten guns.

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

Making Juvenile Drug Trafficking Convictions a Predicate for the Armed Career Criminal Act – Youthful offenders are increasingly involved in serious drug offenses, and there is a known association between drug crimes and violence. Under this proposal, an adjudication of juvenile delinquency for a serious drug trafficking offense will be a predicate act under the ACCA, subjecting the offender to the ACCA's mandatory minimum prison term of 15 years.

Increasing the Limitations Period for National Firearms Act Prosecutions – Under current law, the statute of limitations for violations of the National Firearms Act, which prohibits the unlawful possession of explosive bombs and machineguns, is only three years. This proposal will extend the statute of limitations to five years, bringing it in line with the general statute of limitations for gun crimes.

Forfeiture of Firearms Used in Crimes of Violence and Felonies – This proposal will permit federal law enforcement to forfeit guns that are used in crimes of violence and felonies. In addition, ATF will be able to forfeit additional items (such as drugs and property) that are used in the crimes. Both civil and criminal forfeitures will be available.

BUILDING UPON OUR SUCCESS: NEW RESOURCES FOR INNOVATIVE AND EFFECTIVE PROSECUTION AND PREVENTION PROGRAMS

To build upon the successes of the last six years, the Clinton Administration is seeking additional resources for prosecution of federal firearms laws, crime gun tracing, and support for communities to implement strong law enforcement and prevention programs.

Prosecuting Illegal Acquisition, Possession, and Use of Firearms

Just as we work hard to keep guns out of the hands of criminals and children in order to prevent gun violence from occurring, federal law enforcement works hard to enforce the law when gun crimes are committed. United States Attorneys and ATF have worked in partnership with state and local police and prosecutors, mayors, and community leaders on numerous violent crime task forces and specially-targeted initiatives. These collaborative efforts, as exemplified by the Justice Department's Anti-Violent Crime Initiative (AVCI), allow us to develop firearms and violent crime prosecution strategies in coordination with state and local prosecutors that work for the particular community involved.

Through these combined efforts, the overall number of people convicted for firearms violations in this country rose sharply between 1992 and 1996, increasing by almost 25 percent. Although there has been a decline in the number of federal firearms prosecutions during this same period, this decline has occurred largely among lower-level offenders who received sentences ranging from probation to imprisonment for less than three years; the number of higher-level federal firearms offenders who received prison sentences of five years or more actually has increased by more than 25 percent during this same period.

In some communities, violent crime rates have been reduced dramatically through a coordinated firearms-focused violence reduction strategy. For example, in Boston, Massachusetts, federal and local law enforcement and community leaders developed a coordinated strategy to reduce youth gang violence. In Richmond, Virginia, which in 1996 had one of the highest per capita homicide rates of any American city, law enforcement officials established Project Exile, a coordinated approach to gun violence to curtail Richmond's homicide rate. Through Project Exile, the local police work closely with ATF and the United States Attorney's office to refer gun cases for federal prosecution when the state penalties are inadequate and there is a basis for prosecuting the case in federal court. This effort, in combination with other local, state, and federal law enforcement initiatives to address violent crime, helped reduce the total number of firearms homicides in Richmond dramatically – by 36 percent.

Towards a Comprehensive, Community-Based Gun Violence Reduction Strategy

On March 20, 1999, President Clinton directed the Attorney General and the Secretary of the Treasury to develop an integrated firearms violence reduction strategy that builds on the successful measures and innovative approaches that many communities already have implemented across the country. In response to the President's Directive, the Departments of Justice and Treasury are asking United States Attorneys and ATF Special Agents in Charge to participate in developing a gun violence reduction strategy that targets illegal guns; is tailored to the particular needs of their communities; and strikes an appropriate balance between federal and state law enforcement.

Each community will first assess the nature of its gun violence problem: Are youth gangs responsible for the violence? What are the illegal sources of guns to the community? Is the violence concentrated in particular neighborhoods or during particular times of the day? After conducting this assessment, each community will then develop an individualized plan that responds to specific local problems, and considers each of the following elements:

Boston's strategy to prevent youth violence

Starting in the early to mid-1990s, Boston embarked on a series of innovative public safety strategies that focused on violent youth and illicit gun markets. A broad coalition including federal, state, and local governmental agencies, nonprofit community service organizations, businesses, religious leaders, and parents, developed a comprehensive response to the escalating number of juvenile homicides. This response included enforcement strategies, such as Operation Ceasefire (to combat gang violence), a strategy to reduce the illegal supply of guns, and Operation Night Light, a police-probation partnership.

In addition to these enforcement efforts, and in keeping with the existing neighborhood policing strategy, Boston also employed numerous prevention and intervention initiatives. Working with community partners, the city built on existing services in the communities to enhance or expand services aimed at at-risk youth.

As a result of this coordinated approach, Boston's homicides fell from a high of 152 in 1990 to 35 in 1998.

In the words of Boston Police Commissioner Paul Evans, "The best intervention and enforcement efforts are also preventive. In the same way, the best prevention programs produce intervention effects. While our prevention/intervention/enforcement strategy is seen as providing a continuum of services, effects overlap. The strategy has evolved in this way because of the complexity of the overall problem."

- ✓ Enhanced investigation and prosecution of firearms violations;
- ✓ Comprehensive crime gun tracing, analysis and mapping, expanded use of ballistics identification technology, and coordinated use of crime and crime gun information to identify illegal gun markets, known as gun "hot spots";
- ✓ Coordinated law enforcement efforts to ensure that licensed gun dealers and purchasers comply with all applicable laws;
- ✓ Strict enforcement of probation and parole conditions and other measures to target chronic violent offenders; and

- ✓ Innovative strategies to work more closely with the community to search for and seize more crime guns, better identify gun criminals, remove weapons that are illegally in the hands of juveniles, and increase the public's knowledge of their community's gun-related crime and violence problem.

To enable the Department of Justice to devote appropriate new resources to the coordinated gun violence reduction strategy, the Clinton Administration has requested an additional \$5 million for intensive firearms prosecution projects and \$23.8 million for additional ATF agents.

***Youth Crime Gun Interdiction Initiative:
Enforcement Focusing on Armed Juveniles
and Youth***

Every gun sold in the United States has a serial number. When a crime is committed with a gun, police officers often can use the gun's serial number to "trace" that gun from the manufacturer to the original purchaser. This information often helps police identify suspects and patterns suggesting illegal gun trafficking.

ATF's National Tracing Center (NTC) is responsible for tracing guns that are used in crimes and recovered at crime scenes. When local police want to trace a crime gun, they submit a request to NTC, which then contacts the gun manufacturer. The manufacturer is required to provide the name of the wholesale or retail distributor and the date that the gun was sold to that distributor. The chain of wholesale and retail transactions is then followed from the point of sale to an individual.

In response to the tripling of the juvenile firearms homicide rate from 1985-1994, President Clinton initiated the Youth Crime Gun Interdiction Initiative (YCGII). The goal of YCGII is to identify and eliminate the illegal supply of firearms to and illegal use by prohibited juveniles and youth by identifying the illegal sources of crime guns, and using that information to put gun traffickers out of business. YCGII enhances enforcement of existing federal and state firearms laws by providing police and prosecutors with complete

information about recovered crime guns. Participating jurisdictions use that information to initiate law enforcement operations against criminals who illegally transfer firearms to juveniles, to adult criminals, and to other prohibited persons. YCGII also provides a foundation of information about the illegal gun market.

Youth Crime Gun Interdiction Initiative Report

The February 21, 1999 Youth Crime Gun Interdiction Initiative Report demonstrates the information that can be obtained from an analysis of crime gun traces and investigative information.

- Over 25 percent of crime guns recovered by law enforcement have moved rapidly from retail sale to point of recovery. Such fast time to crime guns are likely to have been trafficked.
- Illegal trafficking sources include straw purchasing rings, individual straw purchasers, unregulated private sellers at gun shows and elsewhere, trafficking in stolen firearms, and trafficking by federally-licensed firearms dealers.
- Among possessors of guns used in crime, over 41 percent were juveniles (ages 17 and under) and over 42 percent were between the ages of 18-24.
- Semiautomatic pistols clearly predominate among guns recovered in crimes in each city and constitute 52 percent of all trace requests.
- In eight of the 27 cities, an average of 41.4 percent of traced handguns had obliterated serial numbers, showing awareness among criminals of the Administration's trafficking enforcement program.

YCGII was implemented in 17 cities in July 1996, and has now been expanded to 27 cities. Since its inception, over 200,000 crime guns have been traced through YCGII. These traces have assisted law enforcement in solving individual cases and in identifying sources of crime guns to particular communities. Trace information has also helped investigators identify interstate and intrastate sources of crime guns, the types of guns most frequently used in crimes, patterns of trafficking in new and used firearms, and has led to arrests and prosecutions of gun traffickers by United States Attorneys.

The Clinton Administration's budget for Fiscal Year 2000 proposes to expand YCGII to 10 additional cities, and the Youth Gun Crime Enforcement Act will increase the program to 75 cities by 2004.

Developing and Promoting Smart Prevention and Intervention Strategies

The anti-violent crime strategy of the Clinton Administration is based upon the principle that to prevent crime effectively and *sustain* the crime rate reduction, tough law enforcement must be balanced with smart prevention and intervention strategies.

Through the Partnerships to Reduce Juvenile Gun Violence Program, the Comprehensive Communities Program, the Strategic Approaches to Community Safety Initiative, the Youth Firearms Violence Initiative, and other programs administered by the Department of Justice, the Administration has supported numerous innovative programs that break the chain of causation that leads to gun violence. The Justice Department and ATF have offered training and technical assistance to numerous communities to reduce the demand for and availability of guns and to reduce violence on our Nation's streets and in our schools. As part of its commitment to address the escalating problem of youth violence, the Department has provided funds to communities to enhance and coordinate prevention, intervention, and suppression strategies by developing partnerships between community residents, law enforcement, and the juvenile justice system. And the Justice Department has developed a "tool box" approach for communities to use in implementing effective programs to reduce violence.

Through its research branch, the National Institute of Justice (NIJ), the Justice Department also has supported many research projects that have improved our understanding of both the nature of gun violence and the effectiveness of various law enforcement strategies. For example, NIJ has sponsored studies of the illegal acquisition, possession, and use of firearms, as well as trends in gun injury, fatality, and crime. NIJ sponsored studies have also examined illegal firearms markets,

Promising Strategies to Reduce Gun Violence. A tool box for communities

In 1998, the Department of Justice examined over 400 gun violence reduction programs in communities across the country. These included federal, state, and local law enforcement programs and programs started by schools, hospitals, courts, businesses, and non-profit organizations. DOJ published *Promising Strategies to Reduce Gun Violence*, which presents practical information about 60 of these programs that have had a measurable impact on reducing gun violence. Among the tools that many communities have successfully used to reduce gun violence are the following:

- ✓ Crime mapping, including identification of high crime "hot spots"
- ✓ Direct police patrols of neighborhoods identified as crime "hot spots"
- ✓ Multijurisdictional task forces, bringing together federal, state, and local law enforcement teams for coordinated investigation and prosecution of firearms offenses
- ✓ Crime gun tracing and ballistics identification technology
- ✓ Investigation and inspection of firearms dealers to ensure that they are in compliance with federal and state laws, and local ordinances
- ✓ Arduancy reduction strategies
- ✓ School-based enforcement programs, including anonymous weapons hotlines
- ✓ Gun courts
- ✓ Surveillance of probationers by teams of probation and police officers, to visit the homes, schools, and workplaces of probationers
- ✓ Violence prevention education, including conflict resolution courses

sources of guns to juveniles and criminals, and patterns of firearms use and possession by high school students and gang members, and evaluated the effectiveness of various prevention and intervention programs. This research has supported the traditional enforcement activities of federal, state and local law enforcement officials, as they seek to address the root causes of gun violence by disrupting the progression of events and conditions that lead to gun violence.

FY2000 Budget

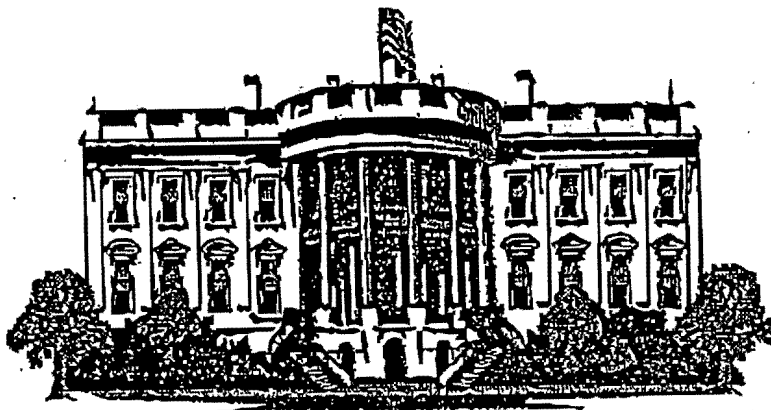
The balanced budget that President Clinton sent to Congress contains \$88.8 million in new funds to continue the fight against illegal sources and uses of firearms and to enhance enforcement of federal firearms laws. The President's budget includes:

- \$5 million for additional federal prosecutors to prosecute firearms violations
- \$23.8 million for additional ATF agents
- \$11 million to expand the Youth Crime Gun Interdiction Initiative to ten additional cities
- \$35 million for OJJDP to administer the Certainty of Punishment Program. This program will provide up to 45 communities with \$750,000 each to develop a range of programs to address juvenile crime, including juvenile gun and drug courts. Up to 20 additional communities will be considered for awards of up to \$100,000 for planning their intervention programs. An additional \$3.5 million will support an independent evaluation of the program, and an additional \$750,000 will be used to provide training and technical assistance to communities establishing these courts.
- \$10 million to expand OJJDP's Partnerships to Reduce Juvenile Gun Violence, from 9 sites to an additional 25 sites. The requested budget increase would expand demonstration of an approach supported both by three decades of research on preventing delinquency and juvenile crime, and preliminary research on reducing gun violence. Each of the 25 communities would receive \$300,000, with an additional \$1 million to provide training and technical assistance to these communities in implementing their programs, and an additional \$1.5 million for an independent national evaluation.
- \$4 million for a full evaluation of OJJDP's "Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders," within 5 states where it currently is being implemented.
- In addition, the President has asked Attorney General Janet Reno and Secretary of the Treasury Rubin to identify additional federal resources that can be applied to reduce gun violence.

In addition to these new budget requests, the President's budget includes \$1.3 billion for the 94 United States Attorneys' offices nationwide which will support investigation and prosecution of firearms violations by United States Attorneys. States may also use their various DOJ formula and block grant funding streams to support gun violence reduction initiatives.

CONCLUSION

All Americans should be able to feel safe and secure on our streets, in our schools, at work, and at home. Putting an end to gun violence will require a sustained effort at all levels of our government and our society. Together, we can build upon the successes of the last six years and bring greater peace and security to America's communities. Gun violence in America is not a new problem, but the nature of the problem has changed over the years. Today the emphasis must be on strengthening our laws to keep guns from criminals and children. The Clinton Administration's gun violence reduction strategy has been based on a comprehensive approach that has included legislation to prevent the illegal acquisition, use, and possession of firearms, such as the Brady Law, the Youth Handgun Safety Act and the Assault Weapons Ban; enforcement programs to enhance the investigation and prosecution of gun-related crimes, such as the Anti-Violent Crime Initiative; and prevention initiatives to identify and support innovative and effective programs to reduce gun violence and gun crime, such as *Promising Strategies to Reduce Gun Violence*. The proposals contained in the Youth Gun Crime Enforcement Act will give law enforcement powerful and effective new tools to reduce gun crime and violence further by building on the successful approaches and partnerships that have been developed during the Clinton Administration.



THE WHITE HOUSE

Domestic Policy Council

DATE: 10/19/99.FACSIMILE FOR: Ruby

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FACSIMILE FROM: Deanne

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NUMBER OF PAGES (INCLUDING COVER): 6

- ☒ FOR YOUR REVIEW
☐ PER MY E-MAIL OR VOICE-MAIL MESSAGE TO YOU
☐ PER YOUR REQUEST

COMMENTS:

- Sorry I was in such a rush!
- These are "DRAFT" pieces prepared in expectation of a compromise announcement.
- Please call me with questions!

Department of Justice (DRAFT 2.0 - October 7, 1999 (2:05PM)) **DRAFT**

**THE HYDE GUN SHOW "COMPROMISE" WEAKENING CURRENT LAW AND
STILL PUTTING GUNS INTO THE WRONG HANDS**

WHY WEAKEN CURRENT LAW? Under the current Brady instant check system, 73% of Brady background checks result in an immediate response by the FBI that the sale may proceed, and 95% of all gun buyers have their background checks completed (and a "proceed" or "denied" response delivered) within 2 hours.

- > Only the remaining 5% of checks on gun buyers require additional time. Usually, this time is needed for law enforcement to track down a record that confirms that the buyer is actually prohibited. Under current law, law enforcement has up to 3 business days to finish these checks.
- > When law enforcement requires more than 24 hours to finish a background check, the gun buyer is much more likely to be a person not legally entitled to possess a gun than the typical gun buyer. Overall, approximately 40% of the checks that take longer than 24 hours to complete result in a denial. For Saturday gun checks, the percentage goes up to 60%, making a Saturday gun buyer whose check takes longer than 24 hours almost 20 times more likely to be a prohibited person than the average gun buyer.
- > Chairman Hyde proposed language to weaken the Senate-passed gun show bill and current law by proposing a modified version of the Representative Dingell's NRA-backed proposal to shorten the time for all gun show background checks from 3 business days to 24 hours.
- > The Hyde proposal ~~also~~ would require all background checks at gun shows to be completed within 24 hours except when law enforcement needs to determine the disposition of an arrest record.
- > The effect of this proposal would be that law enforcement would have the additional time it needs to finish background checks for only 1 out of 9 categories of prohibited persons under the Gun Control Act.
- > Although incomplete criminal history records make up the majority of cases when law enforcement needs more than 24 hours to finish a background check, they are not the only cases in which law enforcement needs more than 24 hours to determine whether someone is prohibited under one of the other Gun Control Act prohibitions.

REAL-LIFE EXAMPLES. The following are examples of people who would have gotten guns if law enforcement had only 24 hours to complete a NICS background check. The examples include both checks that are performed by the FBI and checks performed by states that have agreed to do checks as points of contact for NICS.

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Domestic Violence Restraining Orders. The Hyde proposal would put guns into the hands of spousal abusers and other violent persons under domestic violence restraining orders. This is because law enforcement often requires more than 24 hours to determine whether a domestic violence restraining order is disqualifying under the Brady Law. Yet the Hyde proposal would weaken the Brady Law at gun shows to prevent the full 3 business days.

- Over 1600 spousal or child abusers have been stopped by the FBI since November 30, 1998. Many of them would have been able to receive the gun if law enforcement only had 24 hours to complete a background check.

A New York gun buyer under a domestic violence restraining order tried to buy a gun on Saturday, September 4, 1997, and the FBI needed more than 24 hours to determine that the buyer was prohibited.

A North Carolina gun buyer under a domestic violence restraining order tried to buy a gun on Saturday April 10, 1999, and the FBI needed more than 24 hours to determine that the buyer was prohibited.

- FBI audits of state Protection Order Files reveals a high percentage of records for which it would be important to have enough time to finish a background check.
- In Tennessee, a point-of-contact state, law enforcement reports that it need more than 24 hours to verify whether a domestic violence restraining order is still in effect and disqualifying.

Fugitives from Justice. In Georgia, a point-of-contact state, if a NICS check reveals that a gun buyer is a fugitive from justice, law enforcement calls the arresting agency to find out whether the wanted notice is still valid.

Illegal Aliens. In Pennsylvania, a point-of-contact state, if a NICS check reveals that a gun buyer is an illegal alien, law enforcement will make a call about a questionable record.

Dishonorable Discharges. In Vermont, a point-of-contact state, if a NICS check reveals that a gun buyer has been dishonorably discharged from the military, law enforcement has found it necessary to obtain further information about the discharge.

State Law Disqualifiers. Many states prohibit categories in addition to those under federal law, such as adults with serious juvenile records, sex offenders, and persons with violent misdemeanor convictions. Both the FBI and state law enforcement need up to 3 business days to determine whether a gun buyer is prohibited under state law.

THE BOTTOM LINE. Cutting down law enforcement's time to finish background checks to 24 hours in every case except where there is an incomplete criminal history record would put guns into the hands of spousal abusers, fugitives, illegal aliens, and ~~persons dishonorably discharged from the military~~. There is no justification for weakening the Brady background checks at gun shows in a way that affects only the 5% of gun buyers who we are worried about and places our communities and our children at risk.

BRADY

*these
who
are
not
legally
allowed
to get
guns*

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ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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October 7, 1999

The Honorable Henry J. Hyde
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hyde:

I write to offer my suggestions for proceeding with the juvenile justice legislation, which passed the Senate on May 20, the House on June 17, and has been in conference since August 5.

As you know, notwithstanding our good faith negotiations, several significant issues remain between us in our principal area of discussion to date -- a provision closing the gun show loophole by providing for background checks and allowing law enforcement to enforce laws against criminals who use guns purchased at gun shows. I therefore believe that at this point it would be helpful to directly involve the other Members of the Conference Committee in our deliberations, in a renewed effort to pass common sense gun safety legislation this year.

To this end, I believe that we should ask Chairman Hatch to convene a meeting of the conference committee next week, thereby allowing Members to offer and debate amendments, and vote out legislation before Congress's scheduled adjournment. Given the fact that the Columbine shooting took place almost half a year ago, the reality that 13 children are being killed a day by gun violence, and the ever present fear of "copycat" gun incidents, I think we can all agree that for the sake of our nation's school children and their families, we cannot allow this important matter to lay over until the next legislative session or the next school year.

As for the substance of my position on the gun show issue, I have previously indicated my support for the so-called "Lautenberg Amendment." However, since I understand that you and many Members of your caucus are opposed to the text of the Lautenberg Amendment, in the spirit of compromise, I am prepared to consider alternative language, so long as it ensures in all circumstances that criminals and other prohibited purchasers cannot purchase guns at gun shows

and that law enforcement has the ability to identify those attempting to do so. However, as I have previously stated to you, I cannot support legislation which merely provides for limited background checks at gun shows, while at the same time tolerating or adding other dangerous gun show loopholes, nor can I support legislation that would actually weaken current law and thereby allow more guns to fall into the wrong hands. To me that would create a mere mirage of security while engendering further cynicism by the American people regarding the efficacy of our gun safety laws.

In any event, in order to avoid any further confusion, and to facilitate the conferees coming to closure on this issue, let me reiterate my positions on several important aspects of the gun show issue:

1. Background Checks\Time Allotment - The time allotted for Brady background checks should be not one moment less than is needed to ensure that prohibited purchasers do not get guns. It is well established by law enforcement officials that in a number of circumstances three business days are absolutely necessary to determine whether a gun buyer is a prohibited purchaser. However, I understand that many background checks can be completed in less time and I am certainly open to proposals which would require that background checks be completed within a lesser time frame unless there are indications that an individual may be a prohibited purchaser, such as a dangerous felon, batterer or mentally disturbed individual.

2. Background Checks\Application to All Gun Show Transactions - The bill should not allow individuals to advertise a gun at a gun show, offer to sell the gun to a prohibited gun show purchaser that day at another location and not conduct a background check on such a transaction. Such a loophole, I believe, would be an invitation to fraudulent gun sellers to continue to use gun shows as a venue for illegal sales.

3. Definition of a Gun Show - The bill should be written so that background checks are required at all public events where a substantial number of guns are sold, regardless of whether other items are also sold at those events, or whether the organizer considers the purpose of the show to be promoting any particular goal. A substantial number of guns are sold at many flea markets and other events that are not sponsored primarily for the sale of guns. Indeed, many events that call themselves "gun shows" also sell knives, books, survival gear, camping equipment, antiques and other items. It is therefore important that the definition of gun show apply to such events.

4. Instant Check Registrants - As a general matter, I oppose allowing a new category of persons to conduct background checks and to have access to the private information in the National Instant Criminal Background Check System, such persons would not have the experience or incentives licensed dealers have to conduct checks in an honest and

thorough manner. However, I have indicated a willingness to move on this point if we could require that instant check registrants be current or retired law enforcement officers, which would help to ensure the reliability of this new category of persons.

5. Civil Immunities - I oppose immunizing instant check registrants and gun show promoters from lawsuits. I am concerned that civil immunities for these individuals would encourage careless behavior. If gun show promoters and instant check registrants utilize a reasonable standard of care, we do not need to be concerned about their susceptibility to lawsuits.

6. Identification of Gun Criminals - Because thousands of used guns anonymously trade hands at gun shows every year and are later used in crimes, it is critical that we include measures that close this loophole and enhance the ability of law enforcement officials to identify criminals who use those guns.

7. Maintenance of System Necessary to Prevent Fraudulent Sales to Gun Criminals - Current law allows law enforcement officials to retain records of information sent by dealers to the National Instant Criminal Background Check System so that such officials can detect fraudulent dealers who are selling guns to criminals and prohibited purchasers who provide false information to purchase a gun. Such temporary record keeping is essential to maintaining the integrity of the NICS, according to law enforcement officials. While I support the Senate provision which would allow these records to be retained for 90 days, I am willing to consider legislation which makes no mention of records retention in the bill and, therefore, maintain current law.

8. Weakening current law - I cannot support any provision which weakens current law, such as, measures that eliminate current restrictions on the direct interstate shipment of firearms that have been in place for over 30 years. It would be a bizarre response to recent gun violence tragedies for Congress to weaken current gun laws.

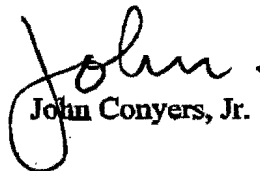
9. Discouraging state participation in the Brady background check system - I cannot support any legislation that would prevent or discourage states from conducting Brady background checks.

10. Roving Vendors - I oppose allowing vendors to conduct sales while moving through a gun show, without ensuring that moving vendors conduct background checks and without providing the same disclosures to those vendors as should be provided to vendors at fixed locations. Such vendors are the most difficult to detect conducting illegal sales, and it is essential that they be subject to, at a minimum, the same requirements as other sellers.

As you know, in addition to the gun show issue, there are numerous other issues in the conference which we need to agree on as well, including matters relating to juvenile justice prevention, freedom of speech, and the first amendment establishment clause. If we genuinely want to arrive at a bipartisan agreement, we must mutually agree to exclude matters viewed by many Members as "poison pills" intended to kill gun safety legislation.

As I have mentioned to you on several occasions, I very much appreciate the cooperative and good faith tone you and your staff have brought to our negotiations, and I sincerely wish we were closer to agreement on the key issues than we are currently. However, I remain optimistic that if we take these matters to the full conference and the House and Senate before Congress adjourns, we will be able to enact meaningful legislation which closes the gun show loophole.

Sincerely,



John Conyers, Jr.

cc: The Honorable Patrick J. Leahy, Ranking Member, Senate Judiciary Committee
House Democratic Members, Juvenile Justice Conference Committee

GUNS!!

Gun Free School Zone Act was included in Elementary and Secondary Education Act Reauthorization in 1994. The bill requires states that received federal funds to adopt a policy that any student who brought a gun to school be expelled for one year.

House passed 9/30/94 262-132; 128 Republicans voting against [House CQ Vote# 456]
Senate passed 10/5/94 77-20; 20 Republicans voting against [Senate CQ Vote# 321]

GOP Voted Against Putting 100,000 Cops on the Street. Republicans voted against the Democrats' 1994 Anti-Crime Bill which is putting 100,000 new police officers on the street to combat gangs, target drug "hot spots," and remove other criminals from our communities. [1994 CQ Almanac, House vote # 416, 8/21/94; 1994 CQ Almanac, Senate vote #295, 8/25/94]
36 Republicans against in Senate, 131 Republicans against in House

GOP Voted Against Banning 19 Types of Deadly Assault Weapons. The majority of Republicans in the House and Senate voted against the ban on 19 types of deadly assault weapons. Then-Senator Robert Dole called the ban "*ill-conceived*" and "*ineffective*." [1994 CQ Almanac, House vote # 156, 5/5/94; 1994 CQ Almanac, House vote # 416, 8/21/94; 1994 CQ Almanac, Senate vote #295, 8/25/94; New York Times, 3/18/95]

GOP Voted Against Brady Bill, 5-Day Waiting Period For Handgun Purchases. The majority of Republicans in the House and Senate voted against passage of the Brady Bill which implements a short five-day waiting period before an individual can purchase a handgun, allowing time for background checks. Since it passed, the Brady law has kept nearly 250,000 convicted felons, stalkers and fugitives from buying handguns. [1993 CQ Almanac, Sen. vote # 394, 11/20/93; 1993 CQ Almanac, Hse. vote # 564, 11/10/93; 1993 CQ Almanac, Senate votes # 387 & # 390, 11/19/93; NBC's "Meet the Press," 1994; BATF report, 1/18/96]

House GOP Voted To Repeal Assault Weapons Ban Over Police Objections. In 1996, House Republicans voted to repeal the 1994 ban on 19 types of deadly assault weapons, despite strong objections from police officers. Colonel David Mitchell of the Maryland State Police said: "*Repealing this ban would dishonor the sacrifice and memories of the many -- in fact, too many -- law enforcement officers who have been slain by criminals with assault weapons.*" The President of the Fraternal Order of Police said: "*A policeman's world is made a lot more dangerous by assault weapons. On behalf of the 270,000 members of the Fraternal Order of Police, I urge all members of Congress to vote to uphold the assault weapons ban.*" [Fraternal Order of Police release (U.S. Newswire), 3/21/96]

Lott Calls for a "Well-Armed Public" to Fight Crime. In 1998, Senate Majority Leader Trent Lott, speaking at the National Rifle Association's annual convention, vowed to oppose any efforts to tighten gun laws. Lott, pandering to one of the GOP's largest special-interest contributors, said that the key to ending crime was more gun ownership. "*Everyone is scared except the criminals. The way to change that is to give the criminals something to be afraid of. That thing is a well-armed public,*" Lott said. [New York Times, 6/10/98; CNN, "CNN & Company," 6/9/98]

Senate Republicans Killed Measure That Would Have Required Trigger Locks on Handguns. In 1998, Senate Republicans killed an amendment to the Commerce, Justice, State appropriations legislation that would have required all handguns sold in the U.S. to be equipped with trigger locks to prevent accidents. Fifty-two Republicans voted against the measure, sponsored by Democratic Senator Barbara Boxer (CA), who said the proposal was designed to prevent accidents involving children. Statistics from the Centers for Disease Control and Prevention show that 1.2 million children have access to guns in their homes. [Associated Press, 7/21/98]

Senate Republicans Killed Measure That Would Have Protected Kids From Guns, Punish Adults Who Improperly Store Guns Used By Kids in Crimes. In 1998, Senate Republicans killed an amendment to the Commerce, Justice, State appropriations legislation that would have imposed criminal penalties on any adult who improperly stored a gun which is subsequently used by a child in a crime. Senator Richard Durbin (D-IL) offered the proposal, which would have charged gun owners with a penalty of, at most, one year in prison and a \$10,000 fine. Senate Republicans voted to kill the proposal by a vote of 61 to 31. According to the National Institutes of Justice, 34 percent of handgun owners store their guns loaded and unlocked. [USA Today, 7/7/98; Washington Times, 7/23/98]

Senate GOP Killed Democratic Effort To Close Assault Weapon Ban Loophole. Senate Republicans killed a Democratic amendment to close a loophole in the 1994 ban on 19 types of deadly assault weapons. The amendment, offered by Senator Dianne Feinstein (D-CA), would have banned the importation of large capacity ammunition clips. Due to a loophole in the 1994 law, ammunition clips made before 1994 can still be imported. Republicans defeated the amendment by a vote of 54 to 44. [Washington Post, 7/29/98]

After Columbine

Rep. Bob Barr (R-GA): "Of course there are a number of those ... who will immediately make a political issue out of any tragedy of this sort. It really pulls us away from addressing the more fundamental issue that caused this. It's not a gun control problem. It's a culture control problem." [Washington Post, 4/22/99]

GOP Colorado Governor Bill Owens: "Well I'm not sure there are any solutions legislatively. I think we have to look at the gratuitous levels of violence in our theaters. We as parents have to look at the Internet and really ask ourselves again, are we doing what we can ... to stop this from happening in the future." ["Early Edition," CNN, 4/21/99]

CO House Speaker Russell George (R): "I'm getting emails from people saying: 'See what happens when you have guns? And you legislators are talking about allowing more guns in society, and here's the harm that comes.'" [CNN Interactive, 4/22/99]

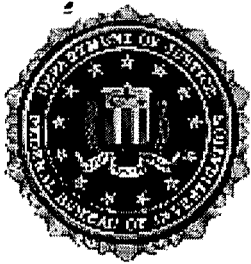
GOP Presidential Candidate Lamar Alexander: "The violence in Littleton should be viewed as yet another wake-up call to all Americans. This will not be stopped by new laws coming out of Washington." [CNN Interactive, 4/22/99]

GOP Presidential Candidate and Former Vice President Dan Quayle: "I hope we don't try to use this as an excuse to go and take away guns." ["Hardball," CNBC, 4/20/99]

National Rifle Association President Charlton Heston: "There should be armed guards in the nations' schools. If there had been one armed guard in the school, he could have saved a lot of lives and perhaps ended the whole thing instantly." [Associated Press, 4/22/99]

Minnesota Governor Said Colorado Tragedy Was Good Reason for Concealed Weapons. In April 1999, Minnesota Governor Jesse Ventura said the shooting tragedy in Littleton, Colorado w [Associated Press, 4/21/99]

GOP Senators Said Bombs Caused Most Of Damage In Columbine School Tragedy. In April 1999, GOP Senator Wayne Allard (CO) said that bombs caused most of the damage in the Columbine School tragedy at Colorado. In the tragedy, two students used four guns to kill 13 students and one teacher. When asked about the role gun safety standards could have played in preventing the tragedy, Allard said, "I think it [the availability of guns] played a very minimal role, because as watching the news accounts of this serious tragedy that happened at Columbine High School, that a lot of the damage was actually done with bombs, home-made bombs, which are already illegal." ["Inside Politics," CNN, 4/22/99]



National Instant Criminal Background Check System (NICS)



**The First Seven Months
(November 30, 1998 - June 30, 1999)**

Federal Bureau of Investigation
Criminal Justice Information Services Division

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EXECUTIVE SUMMARY

In November 1993, the Brady Handgun Violence Prevention Act of 1994 (Brady Act) was signed into law requiring Federal Firearms Licensees (FFLs) to request background checks on individuals attempting to purchase a firearm. The permanent provisions of the Brady Act, which went into effect on November 30, 1998, required the Attorney General to establish a National Instant Criminal Background Check System (NICS) that any FFL may contact by telephone, or other electronic means in addition to the telephone, for information to be supplied immediately, on whether the receipt of a firearm by a prospective transferee would violate Federal or state law.

In its first seven months of operation, the NICS has proven to be a highly effective system in processing over 4.7 million inquiries. Each NICS background check includes automated searches of approximately 34.7 million criminal records, 700,000 records on wanted persons, and 940,000 records on other prohibited persons. Since its establishment, the NICS has ensured the timely transfer of firearms to individuals who are not specifically prohibited under Federal law, while denying transfers to more than 100,000 felons, fugitives, and other prohibited persons.

In many ways, the NICS represents a partnership among the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, and Firearms (ATF), and state, local, and other Federal agencies. For example, the FBI worked together with state and local law enforcement to design the NICS. Federal and state agencies contribute records on disqualified persons for inclusion in the NICS. States may serve as points of contacts (POCs) to support their Federal Firearms Licensees (FFLs) in conducting NICS checks. Among the most significant examples of this partnership is that in addition to preventing more than one thousand wanted persons from purchasing firearms, the FBI's NICS examiners have actively contacted Federal, state and local law enforcement agencies to provide information which resulted in the apprehension of many of these fugitives from justice.

This report contains a synopsis regarding the background of NICS, how a background check works, statistics for the first seven months of operation, privacy and security issues, success stories and commendations received from various entities.

BACKGROUND OF THE NICS

Situation Before the Brady Handgun Violence Prevention Act

Since the passage of the Gun Control Act in 1968, certain individuals, such as convicted felons, have been prohibited from possessing firearms under Federal law. Until the passage of the Brady Act in 1993, however, there was no mechanism to prevent these individuals from obtaining firearms. Firearms were sold, even by FFLs, on the "honor system." Virtually the only recourse that federal law enforcement had against felons and other prohibited people who sought to purchase firearms was to prosecute them *after* they gained illegal possession of the firearm.

Brady Act Requires Background Checks

The Brady Act put an end to the "honor system" by requiring background checks on firearms purchasers buying firearms from FFLs. The Brady Act called for implementation in two phases: from February 28, 1994 until November 30, 1998, the rules of "Interim Brady" applied; since November 30, 1998, the provisions of "Permanent Brady" have been in place. During Interim Brady, the Brady Act applied only to handgun sales, and background checks were conducted by state and local law enforcement for these sales. During this time, there was no centralized mechanism for firearms background checks, and the Brady Act relied on the willingness of local sheriffs and other state law enforcement officials to do the background checks. Under Interim Brady, law enforcement officials had up to a maximum of five business days to complete background checks. The Interim Brady system was extremely effective, preventing over 310,000 felons, fugitives, and other prohibited people from getting handguns.

Brady Act Requires a National System for Conducting Instant Background Checks

The Brady Act also required the Attorney General to develop within five years a national system for conducting criminal background checks instantly. The Brady Act requires that the national system, the NICS, be utilized by any FFL to determine whether a prospective firearms transfer would violate Federal or state laws.

State and Local Officials Assist the FBI in Designing the NICS

To ensure that the national system required by the Brady Act would meet the needs of state and local law enforcement, the FBI created the Brady Act Task Group. This group was composed of representatives from the ATF and state and local officials who assisted the FBI in identifying the requirements for the NICS and in designing the system. Between 1994 and 1998, the Brady Act Task Group held formal meetings to provide detailed comments and recommendations to the FBI's NICS system developers. This task group was instrumental in preparing the NICS concept of operations. The concept called for firearms background checks to include a check of databases at the state and national levels. In this regard, when an FFL conducts a NICS check, a name search is conducted for any matching records in three different databases at the national level, which are managed by the FBI. These include:

- The National Crime Information Center (NCIC) which contains approximately 700,000 records on wanted persons and subjects of protective/restraining orders;
- The Interstate Identification Index (III) which contains approximately 34.7 million criminal history records; and
- The NICS Index which contains about 940,000 records of prohibited persons, as outlined in the Brady Act, such as individuals who have received dishonorable discharges from the Armed Services, individuals who have renounced their citizenship, mental defectives, illegal/unlawful aliens and others.

Establishment of the NICS Program Office

On August 1, 1998, the FBI's Criminal Justice Information Services Division established the NICS Program Office. This entity had the responsibility to closely coordinate the final stages of the development of NICS and the transition to an operational program. This included coordinating a multitude of functions and projects including: staffing; development of a training manual; training of employees; developing work procedure manuals; documenting state statutes regarding prohibitive NICS categories; enrollment of FFLs; acquiring space, desks, phones and computers; testing computer applications; setting up a management structure; creating reports on operations; preparing budget estimates; preparing workload projections; creating and modifying work schedules, etc. In addition, coordination of employee input resulted in the creation of the following NICS mission statement:

To enforce the provisions of the Brady Handgun Violence Prevention Act by utilizing an effective system to ensure the timely transfer of firearms to individuals who are not specifically prohibited under Federal law and denying the transfer to those who are prohibited from possessing or receiving such firearms through:

- 1) Effective leadership in the management and operation of NICS:
- 2) Timely, accurate and complete responses to NICS background checks; and
- 3) Timely and effective customer service to other Federal, State, and local law enforcement agencies, Federal Firearms Licensees, and other users of NICS.

FBI's Continuing Partnership with the States

The FBI has continued to seek and act upon the advice of state and local law enforcement in its operation of the NICS. Proven mechanisms are in place for the continuous improvement of NICS operations. For example, regional and national meetings are held twice each year in which the FBI provides status reports on the NICS to state, local and Federal advisory groups and receives recommendations for NICS system and operational enhancements. In addition, the FBI's NICS Program Office has hosted two NICS State Participant Conferences—one was held while

under the provisions of interim Brady and the other took place after permanent Brady was implemented. The second conference was held on June 23-24, 1999, during which the FBI presented briefings and received supportive feedback on its NICS operation to date. Finally, the FBI has incorporated NICS information into its Law Enforcement Online (LEO) program, and, in conjunction with the Department of Justice, has established the NICS Web Site (www.fbi.gov/programs/nics/index.htm) to ensure the rapid, continual dissemination of important new information about the NICS.

WHAT IS A NICS CHECK AND HOW DOES IT WORK?

Legal Requirements for the NICS Background Check

Permanent Brady prohibits a FFL from transferring a firearm until the FFL has contacted the NICS and *either* the transfer has been allowed *or* three business days have passed without an indication from the NICS that the prospective purchaser is prohibited from possessing a firearm. Once contacted, the NICS is expected to provide information regarding whether the prospective firearm purchaser is prohibited from possessing a firearm under Federal or state law.

Prohibited categories include:

- (1) convicted felons and people under indictment for a felony;
- (2) fugitives from justice;
- (3) unlawful drug users or drug addicts;
- (4) individuals who have been involuntarily committed to a mental institution or determined to be mentally incompetent;
- (5) illegal aliens and legal aliens admitted under a non-immigrant visa;
- (6) individuals who have been dishonorably discharged from the military;
- (7) persons who have renounced their citizenship;
- (8) persons subject to certain domestic violence restraining orders; and
- (9) persons convicted of misdemeanor crimes of domestic violence.

Actions Involved in a NICS Check

Applicant Completes Bureau of Alcohol, Tobacco and Firearms (ATF) Form 4473

To illustrate how the NICS works, consider a person who seeks to buy a handgun from an FFL at a gun store or a gun show. Currently, there are 48,837 type one (gun dealer) and type two (pawn broker) license holders in the United States and U.S. territories enrolled with the NICS Operations Center. It has been determined that approximately 15 percent of the licensed dealers account for 80 percent of the NICS transactions. The purchaser must provide photo identification to the FFL. The purchaser and the FFL then complete their respective parts of the ATF Form 4473, the "Firearms Transaction Record." The completed ATF Form 4473 will contain information such as name, address, and date of birth, and certification from the purchaser that they are not prohibited under Federal or state law from purchasing or possessing a firearm.

FFLs Contact the State Law Enforcement Agency Serving as a POC for NICS Checks

In states that agree to conduct Brady background checks, once the ATF's Form 4473 is completed, the FFL contacts the state POC for a NICS check. A state POC is a state agency that agrees to conduct Brady background checks, including NICS checks, on prospective gun purchasers. In states that have agreed to serve as POCs, FFLs contact the state POC for a Brady background check, rather than contacting the FBI. Currently, 16 states serve as a full POC for NICS (checks on handguns and long guns) and 11 states serve as partial POC for NICS (states perform checks for handgun purchases, FBI processes checks for long gun purchases). (See **Appendix A.**)

A state POC will access the state's independent criminal history database as well as the NICS. The NICS provides access to millions of criminal history records from all 50 states and the District of Columbia. A state's database typically contains references not only to those of the state's records which are part of the NICS databases, but also to the state's records and manual records—including many final dispositions—which are not part of the NICS. Many states also have access to records about people in the other prohibited categories, such as people who have been involuntarily committed to a mental institution or are under a domestic violence restraining order.

By contrast, where the FFL contacts the FBI directly, the FBI will access only those state records available through the NICS databases. Records which are maintained exclusively by states will not be available through the NICS. Although some of these records can be provided to the FBI and be included in the NICS database, many are not available to the FBI when it performs the NICS check. This is perhaps the most important reason for states to serve as POCs.

In Other States, FFLs Contact the FBI for NICS Checks

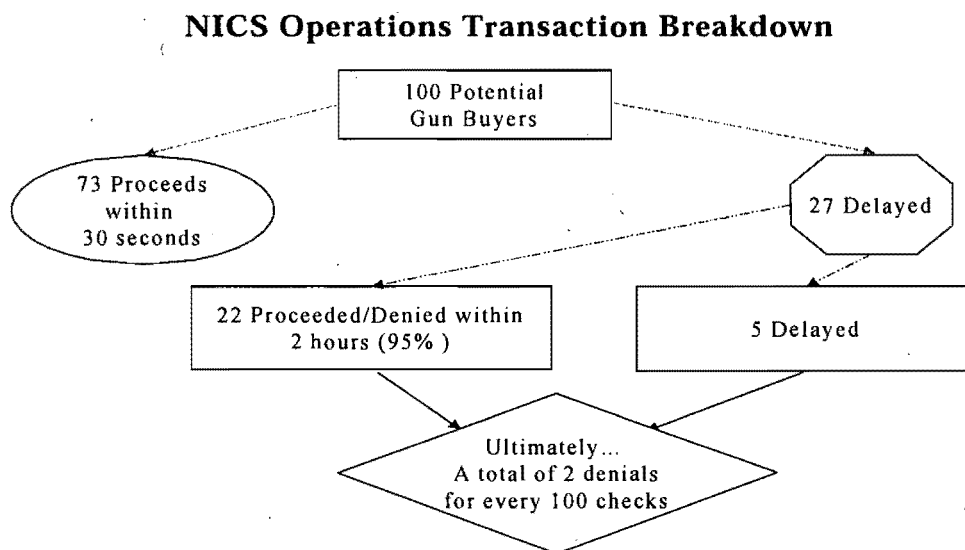
In states that have not agreed to serve as state POCs, once the ATF Form 4473 is completed, the FFL contacts the NICS at the FBI, by telephone through a toll free number, to request a background check. (Refer to NICS Operation Workflow Diagram—**Appendix B**—for overview of activities described on next several pages.) NICS is available for background checks 17 hours a day, seven days a week, including holidays (except Thanksgiving and Christmas). The call is received at one of two call centers located in Moundsville, West Virginia and Uniontown, Pennsylvania.

A call center customer service representative (CSR) enters the buyer's descriptive information into the NICS computer to initiate a search of the NICS databases. Once this information is entered and sent to NICS, one of two responses will be returned from NICS—proceed or delay—along with a NICS Transaction Number (NTN) for that particular transaction. The call center CSR does not have access to or receive any other information in NICS relative to criminal history information, wanted persons information or any other NICS index protected information. Most of the time, the NICS responds immediately with a “proceed” response, because there is no disqualifying or potentially disqualifying information in the system. In these instances, the FFL can complete the sale, and the purchaser can leave the gun store or

gun show with the firearm. Sometimes, of course, the NICS identifies disqualifying or potentially disqualifying information in the system and a delay response is generated. In these cases, the NICS will forward the information to the FBI Operations Center where an FBI employee, known as a NICS examiner, must take additional time to review the record to determine whether it is complete, whether it matches the prospective buyer, and whether it contains disqualifying arrest and disposition information.

NICS Responses to Requests for Background Checks Must be Timely and Accurate

Under Permanent Brady, as soon as the NICS is able to determine accurately that there is no information demonstrating that the buyer is a prohibited person, the gun transfer is allowed to proceed. This means that there is no federal waiting period. As described in greater detail below, 73 percent of all prospective gun purchasers are authorized by the NICS to make their purchase *immediately* (within approximately 30 seconds on average after information is entered into NICS). The NICS provides a definitive response (“proceed” or “deny”) to 95 percent of all requests within two hours of receipt of information to search NICS. Only five percent of prospective purchasers have to wait more than two hours for a NICS response, and these persons are given their response as soon as the NICS obtains the necessary information. A purchaser whose NICS checks takes more than 24 hours to complete is almost 20 times more likely to be a prohibited person than the average gun buyer. This process is further illustrated as follows:



RESULTS FROM THE FIRST SEVEN MONTHS OF NICS OPERATIONS

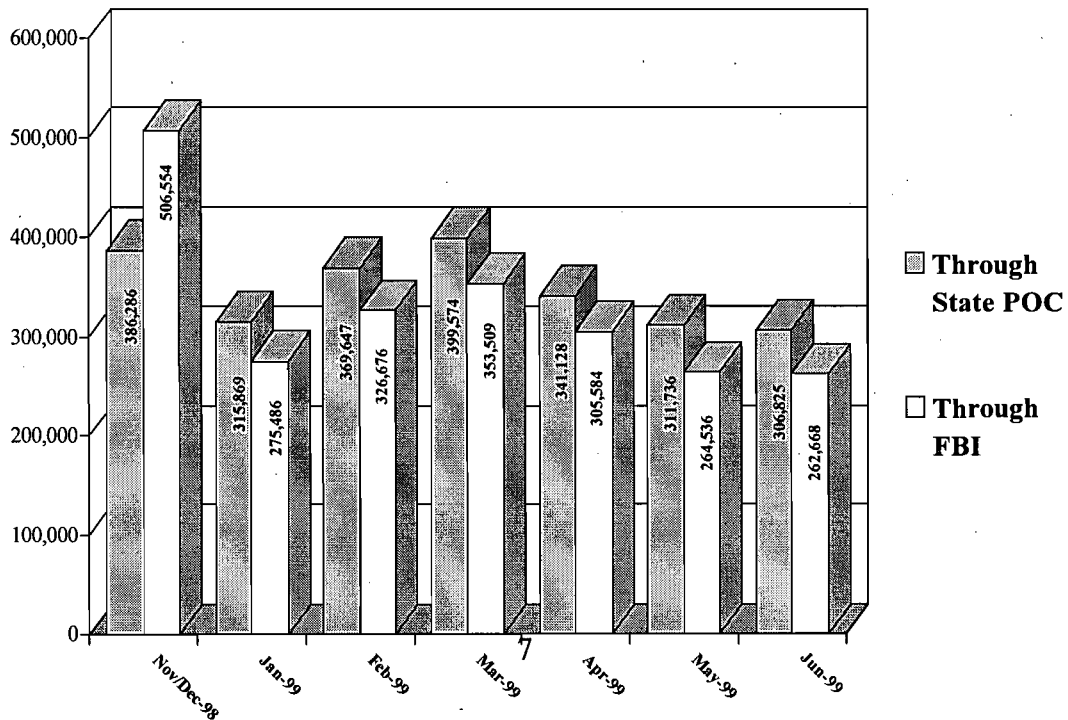
Number of NICS Checks

In the first seven months of operation, through June 30, 1999, there were 4,726,078 checks run through the NICS. Of these, 2,295,013 were handled by the FBI, while 2,431,065 were handled by state POCs. The chart below shows queries by month, divided between FBI and state POCs.

MONTH(S)	STATE	FBI	TOTAL
November/December '98	386,286	506,554	892,840
January '99	315,869	275,486	591,355
February '99	369,647	326,676	696,323
March '99	399,574	353,509	753,083
April '99	341,128	305,584	646,712
May '99	311,736	264,536	576,272
June '99	306,825	262,668	569,493
6 Month Total (Jan - June)	2,044,779	1,788,459	3,833,238
7 Month Total (Nov/Dec - June)	2,431,065	2,295,013	4,726,078

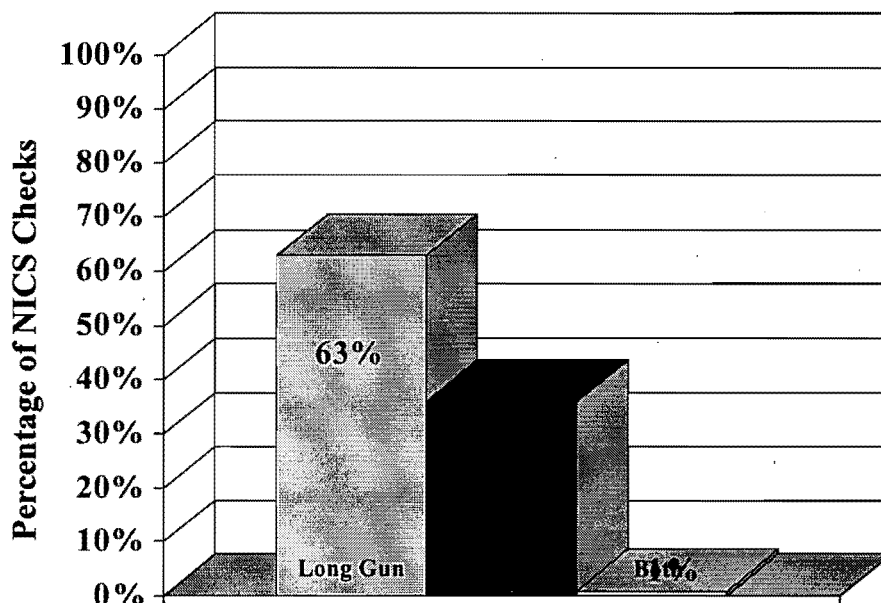
The state and FBI monthly transaction totals are graphically illustrated as follows:

Monthly Breakdown of NICS Queries



With the establishment of the NICS, background checks were required for the first time in connection with the purchase of long guns. Experience has shown that there are significantly more NICS inquiries for long gun purchases than for handgun purchases, as illustrated below.

Handgun and Long Gun Breakdown



Note: NICS inquiries require information as to whether the purchase is for a long gun, handgun or both. NICS does not include information pertaining to make, model or serial number of firearms being purchased.

"Immediate Proceeds"—There is No Disqualifying Information in the NICS

Of the total 2,295,013 NICS checks handled by the FBI, 1,665,232 (73 percent) resulted in an immediate "proceed" determination to the FFL (indicating that no records regarding the prospective buyer have been located by the NICS, and that the gun can be transferred under the Brady Act). The average amount of time that it takes for NICS to provide an immediate proceed after information is entered into NICS is within 30 seconds.

"Delays"—There is Potentially Disqualifying Information in the NICS

The other **27 percent** of NICS checks are delayed, because additional time is required to determine whether a firearms purchaser is prohibited from possessing a firearm. If information needed to finish the background check is available electronically, the background check is completed within two hours. Of the **27 percent** of NICS checks for which additional information

is required, most (80 percent) are completed **within two hours** by performing additional electronic checks. In other words, **95 percent** of all NICS checks are completed within two hours.

The remaining five percent of checks cannot be completed electronically and require more time to finish. The FBI must contact the state or local entity that has the information (usually the disposition) to complete the record. For example, the check of criminal history records, comprised primarily of state submissions, is a critical element of a NICS check. Usually, these records contain information to show that an individual was arrested, the crime charged, and whether or not the person was found guilty of the crime. Sometimes, however, the criminal history record will only show that the person was arrested, without showing the disposition of that arrest (that is, whether the arrest resulted in a conviction). Under Department of Justice interpretation of current Federal law, an arrest alone is insufficient to disqualify a prospective purchaser from obtaining a firearm. Final disposition information from the states is therefore critical to the NICS.

The first seven months of NICS operation demonstrate the connection between the lack of state arrest disposition information and the delays in NICS responses. Where the NICS shows a potentially disqualifying criminal history record for a prospective purchaser, *but* does not have electronic access to final disposition information, a NICS examiner must take steps to obtain that information from non-electronic sources. Often, this will require direct contact with the local court where the information is held. The ability to obtain the required disposition information depends on several factors, including whether the court is open (courts are typically closed on weekends), the availability of the court clerk to assist, and accessibility of the disposition information. For these reasons, the Brady Act allows the NICS three business days to complete a check.

The Brady Act allows the NICS three "business" days to complete a check, rather than three days or 72 hours. (A "72 hour" rule would mean that, if a purchase were initiated on a Saturday morning and arrest disposition information was needed, the FBI would have only approximately eight business hours - on Monday - to obtain this information in order to complete the check.) Of the 49,160 NICS denials issued by the FBI during the first seven months of NICS operation, over 11,000 (22%) would not have been issued if the law allowed only 72 hours to complete a check, instead of three business days.

Some examples illustrate the impact of a 72 hour rule. The following denied persons, who tried to buy a gun on Saturday in past months, would not have been stopped from purchasing a firearm: a person convicted of rape in Virginia who tried to buy a gun on Saturday, May 15, 1999; a person convicted in Texas of Aggravated Kidnaping with Attempt to Rape a Child who tried to buy a gun on Saturday, February 27, 1999; a person convicted of domestic violence in Kansas who tried to buy a gun on Saturday, January 30, 1999.

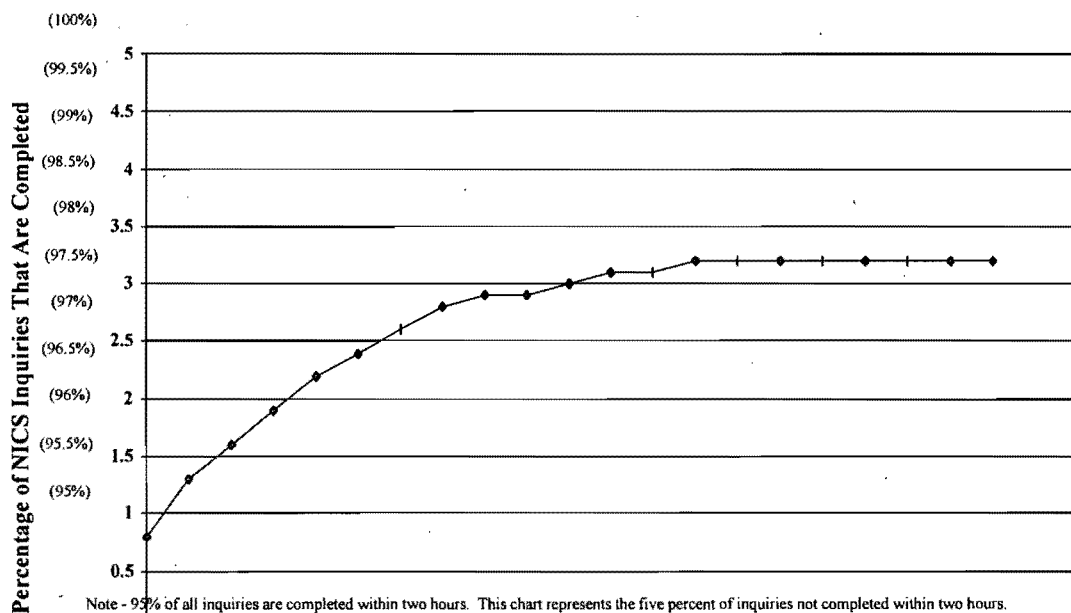
Reducing the time limit for checks from three business days to lesser periods, such as 48 hours or 24 hours, would mean correspondingly greater decreases in the ability of the NICS to

prevent unlawful purchases. Of the FBI NICS denials during the first seven months, approximately 15,000 (31%) would not have been stopped if a 48-hour limit had been in place, and approximately 20,000 (41%) would not have been stopped if a 24-hour limit had been in place.

“Default Proceeds ”—Although There is Potentially Disqualifying Information in the NICS, Three Business Days have Passed Since the NICS Check was Initiated

A portion of the five percent of NICS checks that require more than two hours to complete cannot be completed within the three-business day time period currently provided under the Brady Act. As illustrated in the graph which follows, approximately 60 percent (three) of the remaining five percent are resolved within ten calendar days. There is relatively little activity depicting receipt of disposition information after 13 calendar days.

Allocation of the Five Percent of NICS Inquiries That Are Not Completed in Two Hours



As soon as the NICS examiner receives information to complete the check—such as the disposition of an arrest—contact is immediately made with the relevant FFL to provide the result of the NICS check whether or not within the statutory three business day period. However, the Brady Act allows FFLs to transfer firearms after three business days, even if the check is incomplete.

These situations can be called “default proceeds,” because the FBI does not actually issue a “proceed” for the firearms transfer. Rather, the FBI provides the FFL with information that efforts are continuing to obtain data to complete the background check. When a final disposition is unable to be retrieved within the three business days, the NICS Operations Center contacts and advises the FFL verbally through a prepared script that the NICS is still in the process of reviewing the matter and cannot give either a 'PROCEED' or a 'DENIAL' response for this sale. The FFL is also advised that if they are not contacted by the NICS by the close of business that day, the Brady Act does not prohibit the transfer of the firearm the following day or at any time within 30 days. Additionally, the FFL is advised that the NICS will be continuing to review the matter for two more weeks and will contact the FFL within that time if NICS discovers definitive information regarding the transaction. Sometimes, the FBI will receive information (usually a disposition of an arrest) after the three business days which indicates the purchaser is prohibited from purchasing or possessing a firearm. The FBI will contact the FFL to determine whether or not the firearm has been transferred.

Retrievals

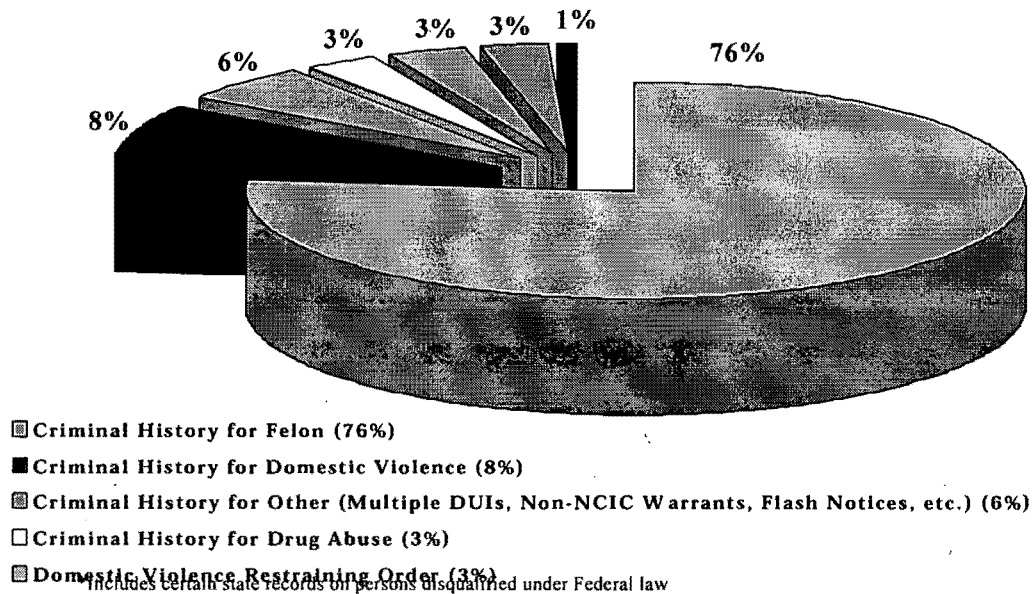
When the FBI determines that an FFL has already transferred the firearm to an individual determined by the NICS to be a prohibited person, the FBI notifies local law enforcement where the firearm was sold or where the purchaser lives, if different, and the ATF that a prohibited person received a firearm. During the first seven months of NICS operations, there were 1,786 occasions where information demonstrating a purchaser was prohibited was received after three business days, and it was determined that the firearm had been transferred to the purchaser, thus necessitating local law enforcement or ATF having to retrieve the firearm(s) from the prohibited person.

Denials

Since November 30, 1998, the FBI and the state POCs each have performed approximately one-half of the NICS checks. While the FBI tracks the number of denials that it issues, the FBI does not routinely receive information about denials from the state POCs. In the first seven months of NICS operation, the FBI blocked 49,160 illegal gun sales, a denial rate of 2.13 percent. Based on the information received from individual states, the FBI estimates that a

comparable number of denials have been issued by the state POCs, for an estimated total of 100,000 denials under Permanent Brady. The FBI denials by prohibited category are illustrated as follows:

FBI Percentage of Denials by Category



As reflected by the preceding chart, the overwhelming majority of NICS denials by the FBI are for people with criminal convictions. This includes individuals who have been convicted of a felony, a misdemeanor crime of domestic violence, or drug crimes which establish illegal drug use or drug addiction.

Detailed information on each denial transaction is referred to ATF for investigation.

Dispositions

To try to prevent as many prohibited people as possible from obtaining firearms, the FBI is continuing to work with the states on improving NICS' direct access to state final disposition information, and to assist states in improving the accuracy and completeness of the records that are available to the NICS system for background checks. In addition, FBI representatives have been attending state court clerk conferences to encourage states to provide the needed disposition information on an expeditious basis. Finally, because states that serve as POCs have access to more records that will contain dispositions, the FBI is working to encourage more states to serve as POCs for the NICS.

Additional time beyond the current three business days would improve the ability of NICS to obtain information on prohibited persons before a transfer of a firearm takes place.

Appeals

When an individual is denied a firearms transfer on the basis of a NICS check, that person may appeal this decision directly to the FBI. An important measure of the accuracy of NICS background checks is the number of appeals that have been generated, and more importantly, the number of decisions that have been overturned on appeal. Regarding the 49,160 denials issued from November 30, 1998 through June 30, 1999, the FBI has received only 6,896 appeals which represent less than 15 percent of these denials. Of the 5,169 appeals on which a decision has been reached, 3,823 (74 percent) have sustained the denial, while 1,346 (26 percent) have overturned the denial. Of those overturned upon appeal, approximately 30 percent were the result of information missing from the original record, such as an expungement or restoration of rights.

PRIVACY AND SECURITY ISSUES

Because the NICS contains an extensive amount of sensitive personal information about individual criminal histories and other disqualifying information, there is the potential that the system will be used improperly. Congress recognized this possibility and required the Attorney General to ensure the privacy and security of the system. To fulfill this responsibility, instances of fraud and abuse must be identified. Only by conducting audits of those entities and individuals who have access to the system can fraud and abuse be detected and punished. To perform audits, the FBI must have access not only to the records of prospective firearms purchasers who are denied, it must also have access—at least for a limited period of time—to records of firearms purchasers who are approved.

Basic security audits are essential to preventing the invasions of privacy that would result from misuse of the system. Audits allow the FBI to detect both persons who misuse the system to perform unauthorized background checks as well as felons who assume the identity of a qualified person to buy firearms illegally. Audits also enable the FBI to determine whether false names are submitted to the NICS by FFLs to evade the name check system. For instance, a corrupt FFL may send in one name (known to have no disqualifying record) for a NICS check, but record a different name on the firearms transaction record. If the record of the name sent to the system were destroyed immediately, there would be no way of proving that the dealer had deliberately evaded the background check system by sending it a false name. The audit log contains information relating to each NICS background check requested by FFLs and allows the FBI to audit use of the system by FFLs and POCs. The audit log also allows the FBI to perform quality control checks on the system's operation by a review of the accuracy of the responses given by the NICS record examiners to FFLs.

Thus far, NICS audits conducted by the FBI based on the current NICS rule (the interim audit system) have uncovered multiple instances involving improper use of the system. For example, the audit log has helped the FBI to identify an FFL who was transferring firearms without doing background checks and has aided in identifying several possible "straw purchases" that were forwarded to the ATF for investigation. The audits have also been used to identify FFLs who have been conducting NICS inquiries on persons outside of the context of a gun

transfer. The Federal firearms laws require that the individual completing the ATF Form 4473 must be buying the firearm for himself or herself or as a gift. Any individual who is not buying the firearm for himself or herself or as a gift, but who completes this form, violates the law. Another example would be if an individual knowingly and willingly purchases a firearm for a person who has been previously denied the purchase of a gun. These incidents are referred to as "straw purchases."

A Department of Justice, NICS Regulation, "Final Rule," was published in the *Federal Register* on October 30, 1998. This final rule provides that the FBI may retain records of all NICS transactions for six months, and that the FBI will work to reduce the retention period to the shortest practicable period of time (less than six months) that would allow basic security audits of the NICS. The final rule also provides that records be retained for a longer period if necessary to pursue identified cases of misuse of the system. In addition, the final rule mandates that the information in the Audit Log be used only for the purpose of conducting audits of the use and performance of the system or pursuing cases of misuse of the system.

Pursuant to the final rule, on March 1, 1999, the Department of Justice issued a notice of proposed rulemaking in the *Federal Register* to further reduce the retention period to 90 days. The proposed regulation will also establish a system for conducting audits. With this system, the FBI will provide information from the audit log to the ATF in connection with specific ATF inspections of FFLs, so the ATF inspectors can compare the information in the audit log to the information kept by the FFLs. ATF inspectors will be subject to the same strict requirements regarding the use and destruction of information from the audit log as the FBI. However, giving ATF the ability to use information in the audit log in the course of an on-site inspection will significantly improve the effectiveness of the audits. The FBI is currently finalizing this regulation.

SUCCESS STORIES

NICS has thus far fulfilled its mission. As a result of the concerted efforts of NICS personnel, firearms transfers to non-prohibited purchasers have been accomplished with minimal inconvenience to both the FFL and purchaser. There, of course, have been individuals who have been denied the ability to purchase a firearm. Following are some examples of instances, within different prohibitive categories, where NICS has been successful in obtaining relevant information to deny a firearms transfer.

The NICS Has Assisted in Capturing Wanted Persons

Not only has the NICS prevented more than a thousand wanted persons from purchasing firearms, but the FBI's NICS Examiners also have actively contacted Federal, state, and local law enforcement agencies to provide information which resulted in their apprehension. The following examples illustrate the success of the NICS in helping capture wanted persons:

- On 3/24/99, the NICS identified a person wanted for burglary in Arkansas. The Van Buren, Arkansas, Police Department, was preparing to put this subject on its Ten Most Wanted List. The subject was apprehended.
- On 3/12/99, the NICS identified a person wanted in connection with a major marijuana and cocaine drug ring. The subject was at the top of Colorado's Wanted Persons list. The subject was picked up by the U.S. Marshals' Service in McAllen, Texas.
- On 3/11/99, the NICS identified a person wanted in Oscoda, Michigan, for eight years, for Aggravated Assault with a deadly weapon against a family member. The Texas Highway Patrol picked him up and held him in Texas awaiting extradition to Michigan.
- On 3/1/99, the NICS identified a person wanted for theft and violating a \$5,000 bond. The subject is now in the custody of the Gallup, Texas Police Department.
- On 2/28/99, the NICS identified a person wanted in California for obstructing a court order. He had violated his probation and his whereabouts were unknown. A NICS Examiner informed California that the subject was in Washington State attempting to purchase a firearm. With assistance from another NICS Examiner, all authorities were contacted and the subject was apprehended and extradited to California.
- The Logan Detachment of the West Virginia State Police notified the NICS that, based upon a NICS check, a person wanted for aggravated assault with a gun in Indiana, was arrested on 2/11/99 while still in the gun store by the West Virginia State Police.
- Other examples of wanted persons taken into custody by local law enforcement agencies when identified by the NICS include:
 - S An individual from Missouri wanted for fraud was arrested on 2/3/99 by the sheriff's office.
 - S A military deserter from New York was arrested by the New York State Police on 1/30/99.
 - S An individual from Wisconsin wanted for perjury was arrested on 1/26/99 by the Wisconsin State Patrol.
 - S A fugitive from New Mexico wanted for fraud was arrested on 1/13/99.
 - S An individual from Louisiana wanted for theft was arrested on 1/12/99 by the New Orleans Police Department.

- S A fugitive from Texas wanted for assault was arrested on 1/10/99 by the State police. This individual had two outstanding warrants from the county and eight traffic warrants.
- S A person wanted in Cleveland, Ohio, for carrying a concealed weapon was arrested by the State Police in Wheeling, West Virginia.

Mental Defectives Prevented from Purchasing a Firearm

- S A man who has been committed to a State hospital on three occasions for threats against elected officials in the State of Washington was denied.

Individuals Who Had Controlled Substance Related Charges Prevented from Purchasing a Firearm

- S A man wanted for felony marijuana and cocaine drug ring involvements in Texas was arrested.
- S An individual in Louisiana with multiple drug charges was apprehended.
- S A man from Louisiana with a drug conviction within the past year and on probation was denied and information of his attempt to purchase a firearm was turned over to his probation officer.

Individuals With Domestic Violence Charges Prevented From Purchasing a Firearm

- S A man in Florida with an outstanding warrant for domestic battery and controlled dangerous substance/cocaine was arrested.
- S A man in Louisiana charged with domestic violence was apprehended.
- S Two individuals charged with domestic battery in West Virginia were arrested.
- S An individual charged with menacing—domestic violence was identified.

Dishonorably Discharged Individuals Prevented From Purchasing a Firearm

- S An individual who was charged with rape/sodomy of a child and dishonorably discharged from the military.
- S An individual in the military who was convicted of stealing by force and violence and dishonorably discharged.

Illegal Aliens Prevented From Purchasing a Firearm

- S An illegal/unlawful alien who had been arrested on three separate occasions by United States Immigration and Naturalization Service (INS) in Laredo, Texas, was apprehended.
- S An illegal alien who attempted to purchase a gun in Texas was identified.

INS Deported Felons Prevented From Purchasing a Firearm

- S An arrest was made of a deportable alien by the Portland, Oregon, INS and returned to Mexico.
- S An individual with an immigration violation was voluntarily returned to Mexico.

Other Individuals Prevented from Purchasing a Firearm

- S An individual from West Virginia, who was under indictment and had charges of malicious wounding, night time burglary and battery on a correctional officer, was arrested.
- S An individual in Kansas, who was previously convicted of felony attempted terroristic threats.

COMMENDATIONS

The NICS Program has received many commendations for denying firearms to ineligible persons as well as other NICS initiatives.

- S Dallas County, Texas, DIVERT Court Program, illustrates this appreciation and points to the long-term impact of a single denial. On 4/29/99, the Program Manager of DIVERT wrote to a NICS Supervisor:

“...DIVERT is a judicially-supervised pre-indictment diversion court that provides substance abuse treatment to offenders charged with a State jail felony of possession. The program lasts for one year and includes substance abuse counseling in the community, random urinalysis testing, substance abuse education, and scheduled court attendance. Graduation from the program results in dismissal of the charge. The goal of the program is to return sober, law abiding citizens to the community.

Under the terms and conditions of DIVERT, it is the order of this court that participants ‘do not possess a firearm during the term of diversion.’ Following your inquiry, the community treatment provider was notified

that a 24-year-old ... participating in her group had attempted to purchase a firearm at a local gun show. That evening during group session, the counselor asked the young man to share with the group his motivation and/or desire to purchase or own a gun. He reported to the case manager the next day that the group had 'processed him,' asking him questions and providing him an opportunity to express his feeling and views. He said he no longer had a desire to purchase a gun, and felt that the group was instrumental in helping him make a better decision about owning a gun at this time in his life.

This letter is to thank you for doing your job—for allowing us this 'therapeutic opportunity' to make a difference in this young man's life. Keep up the good work!"

- S During a proceed call with a Federal firearm licensee, the Rio Grande Training Company, Las Cruces, New Mexico, commented on the professionalism of the NICS staff.
- S Bexar County, Texas, Sheriff's Office sent a facsimile to a NICS Examiner expressing appreciation for the information she provided.
- S A representative from Gander Mountain, Bloomington, Minnesota, expressed: "Thanks to everyone for taking a hard job that was a hornet's nest and making it work. Keep up the good work."
- S Holt and Associates, Auctioneers from Colorado Springs, Colorado, stated: "We have had the opportunity to use your NICS Program Services. I am prompted to advise you that the reception was outstanding and that the personnel who assisted were most helpful, courteous, and did make your job much easier. We were conducting an estate auction that included a collection of firearms, and our buyers were from several states. This could have caused a great deal of difficulty for the buyers. I want you to know you have a great staff. In this busy world, too many people don't stop to say -- thanks, good job."
- S A licensed gun dealer in Kansas wrote to commend the NICS on its performance running checks for him at a recent gun show: "First of all, I would compliment you for the professionalism that your people extend to us...This past weekend I attended a gun show in Wichita, Kansas. During that period, I ran 40-50 checks with several delays. I was quite surprised at how fast these delays were investigated. The customers also made comments as to how fast the delays were taken care of...Again, thanks for a job well done."

- S A famous entertainer attempting to purchase gold-plated pistols which were used in the television series *Have Gun Will Travel* at a cost of \$22,500 whose transaction was delayed but later proceeded because of a "hit" in one of the databases. The FFL commented, "Keep up the good work. I intend to spread the word that NICS is doing a good job."
- S The Chief Information Officer from the Administrative Office of Courts in Montgomery, Alabama wrote a letter dated 7/11/99 to the NICS Program Office complimenting two members of the NICS staff who attended the Alabama Court Clerks Conference regarding the receipt of dispositions. An excerpt from this letter follows:

"...(the two representatives*) were there to give a presentation on NICS and to answer questions from the clerks. As you probably know, the NICS program in Alabama has been received with a lack of enthusiasm and the reception given to (the two representatives*) when they arrived on Thursday was cool. Despite this start, your two representatives worked diligently to change the situation and in just a day and a half they had made remarkable progress. Our clerks were sorry to see them leave so soon and they were invited back. The problems of dispositions for NICS in the State of Alabama are not over. However, the attitude has definitely changed and I anticipate that increased cooperation will be seen by your staff. Thank you for devoting some personal attention to this problem.

(The two representatives*) were as confident as any program representatives I have seen. They simply could not be flustered even by the most pointed question or comment. They did not let a potential negative situation overwhelm them but, rather, handled it with tenacity and style... I would like to extend the compliments of the Alabama Judicial System to them."

(*The names of these representatives have been omitted.)

CONCLUSION

The NICS has been working successfully for more than seven months to ensure the timely transfer of firearms to individuals who are not specifically prohibited by Federal law from possessing a firearm. In addition, the NICS has prevented the acquisition of firearms by an estimated 100,000 criminals, fugitives, and others who should not have firearms. The NICS staff has provided timely and effective customer service to other Federal, state and local law enforcement agencies, FFLs, and other users of NICS.

Partnership with the states has been successful through the transition from design and development to the operation of the NICS. The cooperation with the states continues via conferences, seminars, and telephonic communications for future enhancements to the NICS.

An excellent, detailed baseline of statistical data has been collected which will help the NICS Program Office in evaluating and improving performance of the NICS, based on analysis of patterns and trends (e.g., workloads, response times, etc.). By assuring that effective audits of the system are conducted and by assuring that adequate time and resources are provided to complete thorough checks, the NICS will be able to perform even more effectively in the future.

**NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM
POINT OF CONTACT (POC) STATES AND TERRITORIES**

- **Full Participants (16):** States which conduct NICS checks for all firearms purchases and for permits for handguns and long guns:

Arizona	Nevada
California	New Jersey
Colorado	Pennsylvania
Connecticut	South Carolina
Florida	Tennessee
Georgia	Utah
Hawaii	Vermont
Illinois	Virginia

(NICS performs pre-pawn checks for Florida.)

- **Partial Participants (11):** States which perform checks for handgun permits, while the FBI performs NICS checks for long gun purchases:

Iowa	New York
Michigan	North Carolina
Nebraska	

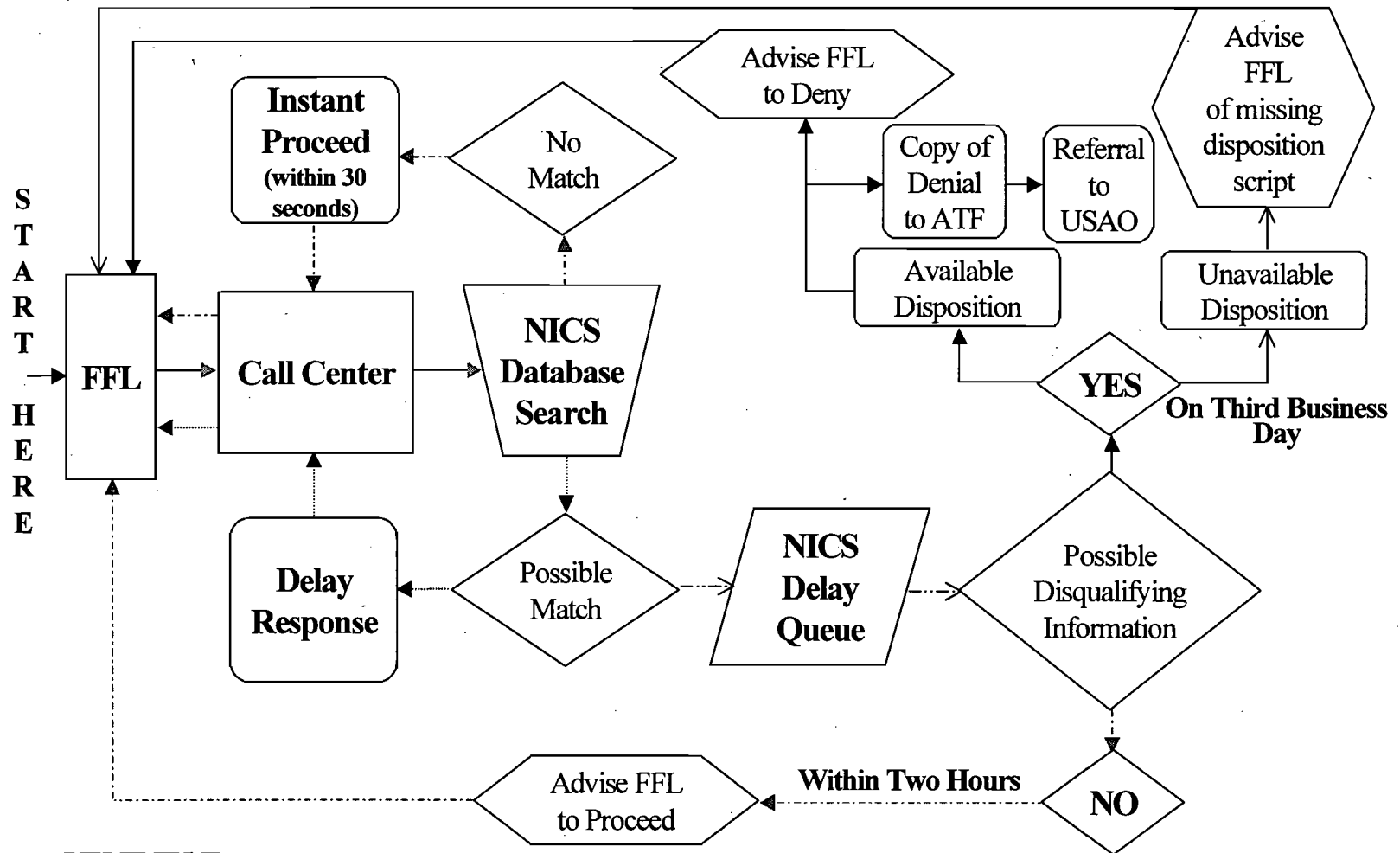
States which perform NICS checks for handgun purchases, while the FBI performs NICS checks for long gun purchases:

Indiana	Oregon
Maryland	Washington
New Hampshire	Wisconsin

- **Non-Participants (26):** The FBI performs NICS checks on both handguns and long guns for:

Alabama	Montana
Alaska	New Mexico
Arkansas	North Dakota
Delaware	Ohio
Idaho	Oklahoma
Kansas	Puerto Rico
Kentucky	Rhode Island
Louisiana	South Dakota
Maine	Texas
Massachusetts	U.S. Virgin Islands
Minnesota	West Virginia
Mississippi	Wyoming
Missouri	Washington, D.C.

NICS Operations Work Flow Diagram



APPENDIX B