

U.S. Department of Justice  
Executive Office for United States Attorneys



United States Attorneys'

# USA Bulletin

January 2002

Vol. 50, No. 1



199022 -

199033

PROJECT  
**SAFE**  
NEIGHBORHOODS

America's Network Against Gun Violence



# Project Safe Neighborhoods

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January 2002  
Volume 50  
Number 1

United States  
Department of Justice  
Executive Office for  
United States Attorneys  
Office of Legal Education  
Washington, DC  
20535

Kenneth L. Wainstein  
Director

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considered an endorsement  
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program, or service

The United States Attorneys'  
Bulletin is published pursuant  
to 28 CFR § 0.22(b)

The United States Attorneys'  
Bulletin is published bi-  
monthly by the Executive  
Office for United States  
Attorneys, Office of Legal  
Education, 1620 Pendleton  
Street, Columbia, South  
Carolina 29201. Periodical  
postage paid at Washington,  
D.C. Postmaster: Send  
address changes to Editor,  
United States Attorneys'  
Bulletin, Office of Legal  
Education, 1620 Pendleton  
Street, Columbia, South  
Carolina 29201

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Internet Address  
[www.usdoj.gov/usao/  
eousa/foia/foiamanuals.html](http://www.usdoj.gov/usao/eousa/foia/foiamanuals.html)

Send article submissions to  
Managing Editor, United  
States Attorneys' Bulletin,  
National Advocacy Center  
Office of Legal Education  
1620 Pendleton Street  
Columbia, SC 29201

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National Sheriffs' Association

National Organization of Black Law Enforcement Executives

Fraternal Order of Police

Executive Director, Police Executive Research Forum

International Association of Chiefs of Police

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 National Criminal Justice Reference Service (NCJRS)  
 Box 8000  
 Rockville, MD 20849-8000



THE WHITE HOUSE  
WASHINGTON

November 27, 2001

Dear United States Attorneys:

Although progress has been made in fighting violent crime, America remains far too violent with a violent crime rate among the highest in the industrialized world. Nationally, there were 12,658 murders in 1999, two-thirds of which were shooting deaths. For every fatal shooting, there were roughly three non-fatal shootings. A teenager is more likely to die from a gunshot than from all natural causes of death combined. This is unacceptable in America. For our children's sake, this Nation must reclaim our neighborhoods and streets.

We need a focused national strategy to ensure that every community vigorously combats the problem of gun violence. Project Safe Neighborhoods is an integral part of that strategy. It will establish a network of law enforcement and community initiatives targeted at gun violence and will involve an unprecedented partnership among all levels of government. It will increase accountability within our system, and it will send a clear message to criminals – you will do hard time for gun crime.

To reduce gun violence, we must vigorously enforce existing gun laws. Project Safe Neighborhoods incorporates and builds upon successful programs all across America. This Administration is devoting nearly a half billion dollars over the next two years to hire new Federal and state prosecutors to support investigators, to provide training, and to develop and promote community outreach efforts. As newly appointed United States Attorneys, each of you will certify to the Attorney General that a new comprehensive gun violence program has been implemented in your districts and report regularly on its progress. Your leadership and commitment are essential to the initiative's success, and I thank you in advance for your dedication to this important effort.

By bringing together Federal, state, and local law enforcement, Project Safe Neighborhoods will play a key role in reducing gun violence in America, and those who commit crimes with guns will find a determined adversary in my Administration.

Sincerely,

A handwritten signature in black ink, appearing to read "GWB", written over the printed name "George W. Bush".

George W. Bush



Office of the Attorney General  
Washington, D. C. 20530

November 8, 2001

Dear United States Attorney:

On May 14, 2001, with the support of the Bureau of Alcohol, Tobacco and Firearms, President George W. Bush announced Project Safe Neighborhoods: America's Network Against Gun Violence. Project Safe Neighborhoods renews gun crime enforcement efforts across America by networking existing local programs that target gun crime and providing them with the additional tools necessary to succeed in reducing gun violence.

Project Safe Neighborhoods will promote heightened coordination among federal, state and local agencies in a unified offensive. I am directing every United States Attorney in each of the 94 federal judicial districts across America to serve as the agent of change to make this national initiative a success. To succeed in this important mission, each United States Attorney will work with local prosecutors and police departments to establish a task force consisting of federal and local officials. This task force will develop a comprehensive strategic plan to fight gun violence and will review and prepare gun cases for prosecution in the most appropriate forum. Community and law enforcement leaders from across America have been invited and urged to be involved in these local task forces. The rivalries and competing agendas that can exist among law enforcement officials must give way to strategic partnerships focused on public safety.

The new United States Attorney will serve as the catalyst to bring together all law enforcement agencies and the community to ensure a uniform and comprehensive approach to reduce gun violence. Good examples of this type of strong, coordinated partnership include Project Exile in Richmond, Virginia, and Operation Ceasefire in Boston, Massachusetts. The success of these programs is due in large part to the strength of the partnerships established.

But partnership in this endeavor is not enough -- there must also be provision. The Administration will seek to commit \$558.8 million to this effort over two years, including \$233.6 million already available in 2001. This funding will be used to hire new federal and state prosecutors, support investigators, provide training, and develop and promote community outreach efforts. These resources, combined with unprecedented partnership among all levels of government, seek to dramatically reduce gun crime throughout the nation.

I am grateful for the support of the ATF, the National District Attorneys Association, and many other state and local law enforcement agencies who have participated in developing this important initiative. Together in strong coordination with law enforcement and communities across America, we can help break the deadly link between guns and crime and keep gun wielding criminals off our streets and out of our neighborhoods.

Sincerely,

A handwritten signature in black ink, reading "John Ashcroft". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

John Ashcroft



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

November 16, 2001

**Open Letter to the United States Attorneys  
on ATF's Role in Project Safe Neighborhoods**

At the Bureau of Alcohol, Tobacco and Firearms (ATF), we look forward to combining our experience and resources with yours to effectively address gun crime in your communities. ATF's role in Project Safe Neighborhoods is specific, and it has several components.

Virtually every firearm starts out legal and leaves an extensive paper trail. By following that trail, ATF can identify and target traffickers. Through a combination of Federal violent offender statutes that provide mandatory sentencing, the tracing of illegally trafficked firearms, and the ability to analyze recovered crime guns, ATF brings to the table opportunities that enhance the efforts of all Project Safe Neighborhoods participants.

These components work because of ATF's commitment to working with other agencies at all levels, especially with local law enforcement. By building a framework, and exchanging best practices with the entire law enforcement community - local and Federal, police and prosecutors, we can take a stronger, united stand against crime and criminals.

ATF already participates nationally in taskforces, violent offender and youth outreach programs, and Project Safe Neighborhoods serves to enhance these efforts. With the intensive training ATF has developed and will deliver, and with partnerships with the Department of Justice, the International Association of Chiefs of Police, and the National District Attorneys Association, this initiative can further our collective efforts nationwide.

Together we can protect and serve this Nation, its citizens, and our neighborhoods. When ATF can help you, please call on us.

A handwritten signature in black ink, reading "Bradley A. Buckles".

Bradley A. Buckles  
Director



*Office of the Executive Director*

**National District Attorneys Association**

99 Canal Center Plaza, Suite 510, Alexandria, Virginia 22314

703.549.9222 / 703.836.3195 Fax

www.ndaa-apri.org

October 23, 2001

The Honorable John Ashcroft  
Attorney General of the United States  
U. S. Department of Justice  
10<sup>th</sup> Street & Pennsylvania Avenue NW  
Washington, DC 20530

Dear Mr. Attorney General:

As Executive Director of the National District Attorneys Association (NDAA), President of the American Prosecutors Research Institute (APRI) and President of the National College of District Attorneys (NCDA), I wish to express support from the prosecution community for your Project Safe Neighborhoods initiative recently developed to reduce gun-related violence across America. All three prosecutor organizations are dedicated to assisting local prosecutors in identifying innovations and best practices to enhance community safety.

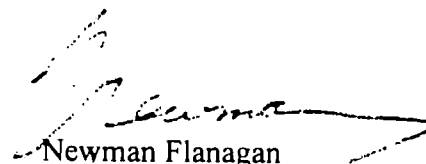
As you know, 95% of all criminal cases are prosecuted locally. Because gun violence represents one of the greatest threats to community safety, it continues to be a priority of our nation's prosecutors, law enforcement and the public. Accordingly, we are very excited that new approaches and resources are being directed at gun-related violence efforts.

Under Project Safe Neighborhoods, federal funds recently have been made available for hiring local prosecutors to combat gun violence. The Department of Justice also has plans for significant training opportunities for prosecutors and law enforcement over the next two years. The hiring and training opportunities should serve to increase the ability and effectiveness of local prosecutors and law enforcement to combat firearm-related violent crime.

From the local prosecutor's perspective, Project Safe Neighborhoods is an historic endeavor that will bring local prosecutors and their federal counterparts closer together in pursuing mutual goals in a collaborative way. The true beneficiary of this initiative should be the American public. Reducing gun violence and enhancing community safety is a goal and priority for all.

Local prosecutors appreciate your recognition of their critical roles in combating gun violence. We look forward to working closely with you on this promising national initiative.

Sincerely,



Newman Flanagan

*To Be the Voice of America's Prosecutors and to Support Their Efforts to Protect the Rights and Safety of the People*



**Sheriff John Cary Bittick**

NSA President  
Forsyth, Georgia

**Thomas N. Faust**

Executive Director  
Alexandria, Virginia



## NATIONAL SHERIFFS' ASSOCIATION

1450 DUKE STREET • ALEXANDRIA, VIRGINIA 22314-3490

Telephone (703) 836-7827 • Fax (703) 683-6541

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Oct. 22, 2001

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NSA Corporate Representative  
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The Honorable John Ashcroft  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Mr. Attorney General:

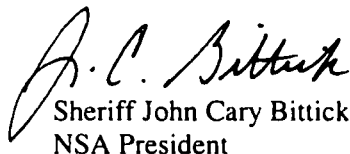
On behalf of the National Sheriffs' Association (NSA) and the nearly 3,100 sheriffs across the United States, we are writing to express our strong support for Project Safe Neighborhoods. We would like to thank President Bush for his commitment to this endeavor and for his willingness to work so closely with local law enforcement agencies in reducing gun violence.

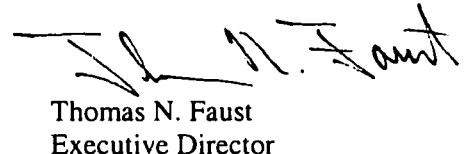
NSA welcomes the opportunity to work with the United States Attorneys to develop a uniform and comprehensive approach to reduce gun violence in America and to make Project Safe Neighborhoods a success. In bringing the Justice Department together with state and local law enforcement agencies, Project Safe Neighborhoods recognizes the need to reach out into the communities and to coordinate efforts on all levels.

Project Safe Neighborhoods stresses the importance of cultivating new coalitions to work with established ones in order to raise awareness and increase participation within the community. Its emphasis on these strategic partnerships and use of a long-term approach gives it the flexibility to tailor its initiatives toward the specific needs of each community and to build upon the successes of existing programs.

The National Sheriffs' Association lends its full support to this program and pledges to work with the United States Attorneys to help Project Safe Neighborhoods achieve its goals, produce many successful outcomes, and combat gun violence in our Nation.

Sincerely,

  
Sheriff John Cary Bittick  
NSA President

  
Thomas N. Faust  
Executive Director

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Senior Special Agent  
INS/Office of International Affairs, Washington, DC

November 2, 2001

MAURICE FOSTER  
*Executive Director*

The Honorable John Ashcroft  
Attorney General of the United States  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Mr. Attorney General:

I am writing you on behalf of the National Organization of Black Law Enforcement Executives (NOBLE), and the nearly 4,500 primarily African-American law enforcement CEO's and command level officials, to express our strong support for **Project Safe Neighborhoods**. It is my belief that the program will play an important role in strengthening our national security.

**Project Safe Neighborhoods** stresses the importance of partnering with the U.S. Attorneys, local law enforcement, and the community to more easily investigate, and devote the necessary resources to reduce gun violence and other criminal elements now operating in our communities.

NOBLE welcomes the opportunity to work with **Project Safe Neighborhoods** to educate, promote their message, enforce the laws and programs concerning handgun safety, reducing firearms violence and reducing crimes, which will continue to make our African American and ethnic communities safer.

The National Organization of Law Enforcement Executives wholeheartedly support this important initiative that can provide lasting solutions to law enforcement issues and concerns, as well as, the ever changing needs of our communities. If I can be of any further help on this momentous effort, please do not hesitate to contact our National President, Leonard Cooke or me at our headquarters at (703) 658-1529 X18.

Sincerely,

Maurice Foster  
Executive Director



**GRAND LODGE  
FRATERNAL ORDER OF POLICE®**

309 Massachusetts Ave., N.E.  
Washington, DC 20002  
Phone 202-547-8189 • Fax 202-547-8190

STEVE YOUNG  
PRESIDENT

JAMES O. PASCO, JR.  
EXECUTIVE DIRECTOR

11 October 2001

The Honorable John Ashcroft  
Attorney General of the United States  
10th and Constitution Aves., NW  
Washington, D.C. 20530

Dear General Ashcroft,

I am writing on behalf of the more than 299,000 members of the Fraternal Order of Police to express my strong support for ***Project Safe Neighborhoods***, a nationwide commitment to reducing firearms violence in the United States by networking existing local programs that target gun crime.

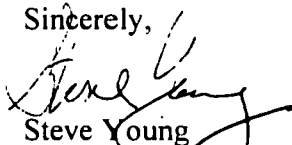
Guns are involved in more than 300,000 violent crimes annually. Despite an overall decline in the number of homicides committed with firearms during the last fifteen years, gun violence remains a serious problem. Of the 15,000 people murdered each year, two-thirds of the victims die at the hands of armed criminals, and for every fatal shooting there are roughly three non-fatal shootings.

While much success has been achieved by programs such as Project Exile in Virginia, a national strategy can ensure that every community is attacking gun violence with the focus and intensity the problem deserves.

Through ***Project Safe Neighborhoods***, every newly appointed United States Attorney will be directed to certify that his or her district has implemented a comprehensive gun violence program. By partnering with local law enforcement, developing a strategic plan using local resources, providing additional training for officers and prosecutors, reaching out to the community and ensuring accountability for results, ***Project Safe Neighborhoods*** will be a truly nationwide effort carried out at the local level. We can reduce gun violence in our communities without Federalizing local law enforcement or passing new firearms laws.

The Fraternal Order of Police is proud to support this important initiative. If I can be of any further help on this important effort, please do not hesitate to contact me or Executive Director Jim Pasco at my Washington office.

Sincerely,

  
Steve Young  
National President





POLICE EXECUTIVE  
RESEARCH FORUM

The Honorable John Ashcroft  
Attorney General of the United States  
950 Pennsylvania Ave.  
Washington, DC 20530

**Chuck Wexler**  
*Executive Director*

October 18, 2001

Dear Mr. Ashcroft:

On behalf of the members of the Police Executive Research Forum (PERF), a national organization of police professionals who collectively serve more than 50 percent of our nation's population, I would like to express our support for the Project Safe Neighborhoods program. It is my belief that the program will have a very positive effect on the number of gun-related crimes in the United States.

The Project Safe Neighborhoods program incorporates proven law enforcement tactics such as crime mapping, firearms tracing, and ballistics testing to effectively reduce crime. The cooperation of attorneys and law enforcement has been a critical tool in crime fighting and prevention and will continue to be under this program and Project Safe Neighborhoods allows U.S. Attorneys to devote the time and resources necessary to effectively reduce gun-related crimes and enforce existing criminal laws.

PERF strongly supports the continued efforts of the Project Safe Neighborhoods program to swiftly prosecute violent criminals and improve the relationship between law enforcement and communities. This successful collaboration of law enforcement and U.S. Attorneys has made a difference in neighborhoods across the United States.

Thank you for your continued support of local law enforcement efforts.

Sincerely,

Chuck Wexler  
Executive Director



**International Association of  
Chiefs of Police**

515 North Washington Street  
Alexandria, VA 22314-2357  
Phone: 703/836-8767; 1-800/THE IACP  
Fax: 703/836-4543  
Cable Address: IACPOLICE

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Alexandria, VA

November 26, 2001

The Honorable John Ashcroft  
Attorney General  
U.S. Department of Justice  
Washington, DC 20530

Dear Attorney General Ashcroft:

On behalf of the International Association of Chiefs of Police (IACP), I would like to express our strong support for Project Safe Neighborhood. The IACP believes that this program and other joint firearms enforcement programs that create partnerships between federal and local law enforcement agencies and prosecutors will help to reduce gun-related violence and more effectively enforce our nation's gun laws.

The reduction of firearms-related crime has been and continues to be a major goal of the IACP. Experience has demonstrated that programs like Project Safe Neighborhood, which provide for vigorous, coordinated enforcement and prosecution of illegal possession and use of firearms by criminals, can dramatically reduce firearms-related violent crime. In addition, the IACP applauds the initiative's funding for comprehensive training for federal, state, and local law enforcement officers. This training will address issues of great importance to law enforcement, including firearms identification, federal and state firearms laws, firearms safety, and firearms trafficking and tracing.

I am pleased to report that the membership of the IACP formally endorsed Project Safe Neighborhood and other such programs at our 108<sup>th</sup> Annual Conference that was recently held in Toronto, Canada. The IACP looks forward to working with you on this matter of great importance to the law enforcement profession and the communities we serve.

Sincerely,

William B. Berger  
President

---

# PROJECT SAFE NEIGHBORHOODS

## *A Network to Make America's Communities Safer*



199022

### ★ Overview

Project Safe Neighborhoods is a comprehensive, strategic approach to reducing gun violence in America. The various crime reduction initiatives in the past decade have taught us that to have a truly significant impact, the federal government must do more than just increase its arrest and prosecution numbers. Our efforts must be comprehensive. We must build effective partnerships with our state and local counterparts. We must enhance our capacity to obtain and analyze crime and other data that should guide our strategies and afford us the opportunity to measure the impact of our efforts. We must maintain an edge in the attack on gun violence by providing expansive and comprehensive training for federal, state, and local law enforcement officers and prosecutors. We must convey the priorities, message, and results of our efforts to the media and community members. And we must build a powerful and lasting coalition with our citizens – one that empowers them to be agents of change in their own communities.

This Administration is committed to an all-out assault on gun violence and will provide the resources necessary for Project Safe Neighborhoods' success. The Administration will seek to commit \$558.8 million to this effort over two years, including \$233.6 million already available in FY 2001. This funding will be used to hire new federal and state prosecutors, support investigators, provide training, and develop and promote community outreach efforts.

### ★ The challenge

Despite an overall decline in the number of gun homicides during the last fifteen years, gun violence in America remains intolerably high. Of the 15,000 people murdered each year, two-thirds of the victims die at the hands of armed criminals. For every fatal shooting there are roughly three non-fatal shootings.

Guns are involved in over one-third of a million violent crimes annually. Of particular alarm is the high toll gun violence takes on young people. A teenager is more likely to die from gunshots than from all natural causes of death combined. Almost 4,000 students were expelled in 1998 for bringing a firearm to school and about 60 percent of 6-12th grade students said they could "get a gun if they wanted." In a 1997 study of juvenile drug sellers who owned a firearm, 42 percent admitted to using a gun in a crime. Among juvenile gang members, 50 percent admitted to using a gun in a crime.

Individual cities and states have begun to respond effectively to this epidemic of gun violence. Model firearms programs such as Project Exile in Richmond, VA, and Operation Ceasefire in Boston, MA, have achieved success in many large cities throughout the country. It is this Administration's task to expand upon these successes by giving all new United States Attorneys both a mandate and a framework for creating an effective gun violence reduction program.

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★ ***The solution – Project Safe Neighborhoods:  
a Comprehensive Enforcement Strategy***

There are five essential elements required for a vigorous and successful gun violence reduction strategy: 1) Partnership, 2) Strategic Planning, 3) Training, 4) Community Outreach and Public Awareness, and 5) Accountability. Mindful of the varying problems facing each district, this initiative does not mandate a “one-size-fits-all” approach that supplants effective strategies already in place in each district. Instead, these elements will be tailored to the needs of each individual district and the gun violence problem therein.

To effectively deploy the substantial resources dedicated to this effort, each district will designate a *Project Safe Neighborhoods Point Of Contact* in the United States Attorney’s Office to serve as the project coordinator and help streamline communication about the initiative. Each United States Attorney is also encouraged to create a specialized unit within his or her office to target the most significant gun crime problems within the district to maximize the impact of this initiative and help ensure the safety of our nation’s communities.

To complement the efforts of these specialized units, the Department of Justice is creating a *Firearms Enforcement Assistance Team (FEAT)* network comprised of persons with expertise in the core elements of Project Safe Neighborhoods. This network will assist the districts with their implementation efforts.

The five elements essential to a vigorous and successful gun violence reduction plan are outlined below.

★ ***PARTNERSHIPS***    ★ ***STRATEGIC PLAN***

★ ***TRAINING***

★ ***OUTREACH***    ★ ***ACCOUNTABILITY***

*Partnerships:* The United States Attorney in each judicial district is uniquely situated to bring together all law enforcement agencies to ensure a uniform and comprehensive approach to reduce gun violence. This initiative will involve every

United States Attorney in the coordination of all gun-related programs at the federal, state and local level within the district. The tired old rivalries and competing agendas that sometimes exist among law enforcement officials must give way to strategic partnerships focused on community safety. Each partnership will form a team of federal and local officials to review and prepare gun cases for prosecution in the most appropriate forum.

Good examples of strong, coordinated partnerships include Project Exile, originated in Richmond, Virginia, and Operation Ceasefire, created in Boston, Massachusetts. The success of these cities stems largely from the strength of the partnerships established between federal and local law enforcement and prosecutors.

***Strategic plan:*** Of vital importance to the success of any law enforcement partnership is the formation of a strategic plan to attack gun crime and violence. United States Attorneys have a vast array of enforcement weapons to use in developing those plans. The enforcement mix will depend on the specific causes of gun violence in the community, the availability of law enforcement resources, and the expected outcome of each approach. Although the specific approach to combating gun violence will accordingly vary from district to district, this initiative asks each United States Attorney to incorporate three national priorities in his or her strategic plan. Those priorities are as follows:

- ★ increased prosecution of violent organizations using federal conspiracy, racketeering, narcotics, and all other available laws aggressively to attack and punish violent drug traffickers, violent street gangs, and violent robbery rings;
- ★ heightened enforcement of all federal laws against illegal gun traffickers, as well as corrupt federal firearms licensees that supply them, with an emphasis on those gun traffickers who supply illegal firearms to violent organizations and to juveniles; and,

- ★ renewed aggressive enforcement of federal firearms laws against those persons prohibited from possessing firearms or who use firearms in furtherance of illegal activities, including those persons denied under the Brady Act.

Each strategic plan should reflect the three national priorities, but the individualized district plans, like the specific gun violence problem, will have unique features. For example, in one district, a proactive plan to target domestic violence may be appropriate, while in another district, a strategic plan to target armed robberies may be more productive. The goal of each United States Attorney's plan is the same – to reduce the levels of gun crime – but the solution will vary depending on the particular problems facing each district.

Creating a tailored strategic plan requires several steps. First, the United States Attorney and his or her partners must assess the nature and scope of gun-related crime in the district and/or the major metropolitan areas within the district. Only by understanding the specific dynamics of the local crime problem can the partnership effectively deploy resources to make a lasting reduction in crime in the district. Having identified the most significant problems, United States Attorneys and their partners can develop focused strategies aimed at reducing gun-related crime. The plan should be specific about its goals and the means for achieving them.

All partners must then work together to implement the plan. Rarely will a United States Attorney's Office, acting alone, have a significant and lasting impact on gun crime and violence. The most successful plans are those that utilize the skills of each partner for a comprehensive and coordinated response to the identified local problems. Finally, once the plan is implemented, the partnership must continually evaluate it to determine whether it is having the desired impact. If the plan is not resulting in its intended effects, it is critical to then reexamine the plan and the data

to determine how to modify it. Conversely, if the data indicate that the plan is having a positive impact, the United States Attorneys and their partners can ensure that they continue to devote the necessary resources to the effort.

★ **Training:** Specialized training is essential for participants to keep current on laws and trends that affect law enforcement. To maintain an edge in the attack on gun violence, this initiative mandates more expansive and comprehensive training for federal, state, and local law enforcement officers and prosecutors. As part of this initiative, the Justice Department will partner with the ATF, the National District Attorneys Association and local law enforcement to conduct innovative regional cross-training involving prosecutors, agents and officers involved in gun crime cases. This training will address firearms identification, safety, federal and state firearms statutes, federal and state search and seizure laws, crime scene and evidence management, firearms trafficking and tracing, and strategic planning.

Project Safe Neighborhoods will also rely on a variety of other ongoing training programs, including: (1) the annual Gun Violence Reduction Seminar at the National Advocacy Center, which involves federal prosecutors from every district; (2) Violent Crimes Seminars for federal prosecutors at the National Advocacy Center; (3) The Department of Justice's Gun Interdiction Training program for federal prosecutors, state and local prosecutors, and law enforcement officers; (4) local firearms trafficking training conducted by ATF; (5) the International Association of Chiefs of Police Gun Interdiction Technical Assistance Project; (6) the Police Executive Research Forum firearms training for state and local law enforcement; (7) the National Institute of Justice/Federal Law Enforcement Training Center firearms training; and (8) ATF training for federal firearms licensees.

United States Attorneys are also encouraged to design and conduct their own training programs at the local level. The United States Attorney is best



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suited to organize and schedule regional and local training so that key law enforcement personnel, both local and federal, are able to develop and maintain the skills necessary to make this initiative a success.

★ **Outreach:** Community outreach and public awareness constitute essential components of any successful gun violence reduction plan. By conveying the priorities, message, and results of this enhanced enforcement effort to the media and community members, the United States Attorney can help shape the attitudes of law-abiding citizens and those who would otherwise believe they can violate our gun laws with impunity.

Project Safe Neighborhoods has partnered with the National Crime Prevention Council (NCPC) to assist the preparation of a national outreach campaign. The Project Safe Neighborhoods Communication Tool Kit (forthcoming) contains a myriad of reproducible brochures, literature, videos, and other materials designed to assist the United States Attorney in promoting the local gun crime initiative in that district. Each item in the Kit is designed to have the local initiative's name affixed to it, giving that item a distinctly local feel. For example, each Project Safe Neighborhoods brochure has a blank "placeholder" on the cover on which a sticker can be affixed containing the name and contact information of a local initiative.

★ **Accountability:** Careful and consistent review of gun violence reduction efforts is necessary for an effective and proactive gun violence reduction strategy. If we are to target our resources strategically, we must continually evaluate the problems we face and the efficacy of our response, both at the local and national level.

To encourage the United States Attorneys to assess regularly the effectiveness of their plans and the emerging trends in their districts, the Attorney General will ask them to report, bi-annually, on several aspects of their Project Safe Neighborhoods implementation efforts. The report provides an opportunity to describe fully the gun violence problems in each district, as well

as the strategies the Project Safe Neighborhood coalition is employing to combat those problems. Each United States Attorney will be asked to report on four general areas: (1) the nature of the partnerships with other federal agencies, state and local law enforcement, and the community; (2) the nature and prevalence of gun crime and violence in the community, the strategies adopted to address that gun crime and violence, and how the impact of those strategies is measured; (3) how the local gun crime initiative is being publicized; and (4) whether the partnership has taken advantage of training opportunities and/or conducted trainings at the local level.

These reports will be reviewed by a team chaired by the Office of the Deputy Attorney General and comprised of individuals with expertise in each of the five Project Safe Neighborhoods elements. The team will provide feedback to the districts, identify model programs to share with other jurisdictions, and provide assistance to districts encountering difficulties implementing particular elements of the Project Safe Neighborhoods initiative.

#### ★ **Resources**

The implementation of this initiative will be accompanied by a substantial commitment of resources for United States Attorneys and state and local law enforcement officials. United States Attorneys will also have several tools especially designed for this initiative at their disposal.

#### ★ **The FY-2001 Budget**

- ★ *\$15.3 million in funding for 113 new Assistant United States Attorneys to serve as full-time gun prosecutors.* These new prosecutors will be deployed strategically to attack the gun crime addressed by this new initiative.
- ★ *\$75 million to hire and train approximately 600 new gun prosecutors to work in partnership with federal law enforcement.* Because this initiative represents a district-wide, comprehensive approach, the addition of new prosecutors is essential to

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complement the federal resources brought to bear against gun crime.

- ★ *\$200,000 for Gun Interdiction Training for state and local law enforcement officers in ten cities.* Training is critical to fulfill our program objective of heightened coordination and partnership among all segments of law enforcement.
- ★ *\$44 million in state criminal history records improvement grants.* These grants will ensure that our state criminal records are current - a necessary component to ensuring the safety of our community and our law enforcement officers.
- ★ *\$19.1 million in funding to expand ATF's Youth Crime Gun Interdiction Initiative to 50 cities.*
- ★ *\$41.3 million in funding to expand ATF's Integrated Violence Reduction Strategy* targeting crime gun trafficking, armed violent offenders and prohibited gun buyers identified by the National Instant Criminal Background Check System.
- ★ *\$28.8 million in funding to expand FBI and ATF computerized ballistics technology.*
- ★ *\$9.9 million in funding to create nationwide tracing program for 250 cities (ATF).*
- ★ *Development of a community outreach "tool kit" for United States Attorneys.* This kit will provide United States Attorneys with resources needed to communicate the deterrent message of this initiative at the local level and to garner the vital support of the local community.

#### **The FY-2002 Budget**

- ★ *\$24.3 million to continue funding for FY 2001 gun prosecutors and for 94 more Assistant United States Attorneys dedicated to school gun violence and juvenile gun offenses.* These prosecutors will assist in targeting juveniles who obtain weapons and commit violent

crimes, as well as the adults who place firearms in the hands of juveniles.

- ★ *\$20 million for new state prosecutors to combat juvenile gun crime.* Because most juvenile crime is prosecuted at the state level, it is necessary to complement our federal effort with resources to address this persistent issue at all levels.
- ★ *\$50 million in grants to the states for hiring gun prosecutors, community outreach, and other gun violence reduction efforts.*
- ★ *\$50 million in grants to the states to provide safety locks for handguns.* An important method for reducing juvenile crime is to assist parents in securing handguns with safety locks.
- ★ *\$35 million in state criminal history records improvements grants.* Ensuring that our state criminal records are current is a necessary component to ensuring the safety of our community and our law enforcement officers.
- ★ *\$115.7 million for ATF's Youth Crime Gun Interdiction Initiative.* These ATF-related resources include additional agents, training, ballistics technology and other resources.
- ★ *Continuation of training assistance from the COPS program, the Office of Justice Programs and ATF.* This training will keep law enforcement officers and prosecutors current on laws, trends, and practices necessary to maintain their proficiency in reducing gun violence.

For more information on Project Safe Neighborhoods, please visit

[www.ProjectSafeNeighborhoods.gov](http://www.ProjectSafeNeighborhoods.gov).

# Firearms Trafficking 101 Or Where Do Crime Guns Come From?

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On November 21, 1994, Bennie Lee Lawson, who had previously been interviewed by DC Police in relation to a triple homicide, entered Metropolitan Police Headquarters in Washington, DC and asked where the homicide squad was located. By mistake, he ended up in the offices of the cold case squad, a unit comprised of DC Police and FBI agents, which evaluated and reopened unsolved homicide cases. Once inside the office, Lawson produced a fully automatic MAC-11 and opened fire. In the moments that followed, a police officer, Frank Daley, and two FBI agents, Martha Hernandez and Mike Miller, were shot and killed. A third FBI agent was severely wounded by the gunfire, but survived. Lawson eventually took his own life. In the end, law enforcement would be left with little; a dead suspect who was a convicted felon, an unlawfully possessed fully automatic weapon with an obliterated serial number, and one burning question – "How did Bennie Lee Lawson, a convicted felon legally barred from possessing a firearm, get a gun in Washington, DC, where handgun possession is restricted?"

It is important for every community to determine the origin of its crime guns. If law enforcement does not uncover the source of a crime gun, the community they serve is destined to repeat the cycle of violence, as more guns from the same source will repeatedly be used to victimize the public. Law enforcement, galvanized by the tragic events of November 21, 1994, made a point of finding out where Bennie Lee Lawson got his gun. Despite the fact that the serial number had been obliterated, law enforcement was able to partially restore the serial number to five

possibilities. ATF's National Tracing Center quickly advised the investigating agents that only three of those five possibilities were valid serial numbers for a MAC-11. These three serial numbers were traced and the hunt began for the trafficker who diverted that firearm out of commerce and into the hands of a convicted felon.

The ATF Tracing Center contacted the manufacturer of the weapons and asked where they had shipped each of the three firearms. The Tracing Center followed the trail of each gun from manufacturer, through wholesalers, to gun shops in Nashville, Boston and Mobile. ATF special agents were sent to follow the trail of each gun. Boston reported back that the gun matching their serial number was presently in a gun store. Nashville reported back that their gun was in the possession of the original purchaser. Mobile, Alabama reported back that the purchaser of their MAC-11 claimed that the gun had either been stolen or taken by his brother. In a subsequent interview he would confess that he had "straw purchased" the firearm.

ATF defines *firearms trafficking* as the illegal diversion of firearms out of lawful commerce and into the hands of criminals, prohibited persons and unsupervised juveniles. Firearms traffickers are motivated by the profit, prestige and power they obtain by supplying guns to criminals and juveniles who cannot legally obtain them. Firearms trafficking is how drug dealers, gang members and violent criminals get the guns they need to commit violent crimes. Firearms trafficking is how Bennie Lee Lawson obtained the gun he used, despite Federal laws designed to prevent convicted felons from obtaining firearms.

Firearms trafficking is profitable because of the disparity in firearm laws in different jurisdictions. In cities like Washington, Chicago or New York, local statutes heavily restrict handgun acquisition and possession, but violent

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crime fuels the demand for easily concealable weapons. The basic law of supply and demand takes effect. For a firearms trafficker who is willing to break the law and exploit the criminal demand for firepower, these are "market areas." By contrast, "source areas" are places where guns are plentiful and more easily obtained. In a "source area" there are numerous gun shops and less restrictive state and local laws regarding firearms possession and acquisition. Guns purchased in "source areas" can be easily sold on the street in a "market area" for two to three times as much as the trafficker paid for the gun. An easily concealable and inexpensive semiautomatic pistol purchased for \$85 in Virginia or North Carolina can be sold for \$150 or \$200 on the streets of New York City or Washington, DC. These same patterns occur within a state, with firearms moving between regions within that state. They also occur internationally when firearms illegally acquired in the United States are trafficked to Canada, Mexico or other countries. Frequently, the same criminal methods used to obtain firearms in Florida that are destined to be trafficked to New York are employed to illegally obtain firearms destined for South America.

Bennie Lee Lawson's gun was purchased in Alabama by a "straw purchaser." Straw purchases are one of the most frequent methods used to divert firearms out of lawful commerce, where they are a heavily regulated commodity, and onto the street, where they are available to anyone. Convicted felons will simply use a friend, a family member or a girlfriend to buy a gun for them. The felon provides the money for the gun, selects the gun, and directs the purchase. The straw purchaser just fills out all of the required paperwork, posing as the buyer. Firearms traffickers, like the firearms trafficker that supplied Bennie Lee Lawson's gun, need straw purchasers to insulate themselves from discovery. The gun trafficker knows that these guns are going to the street and that police will recover some of them. If those firearms are traced, the trafficker does not want their name reflected as the purchaser of the gun. Frequently firearms traffickers will travel from a market area to a

source area and recruit a network of straw purchasers who are residents of that state and who need a few extra dollars. Straw purchasers are not traffickers. They are pawns of the traffickers. They are frequently people desperate for money or drugs. Gun traffickers typically pay straw purchasers \$50 to \$100 per gun or provide them with a \$20 to \$50 rock of crack cocaine in exchange for their services. The person that straw purchased Lawson's gun, an Alabama resident, was paid gas money and beer in exchange for filling out the paperwork and posing as the buyer. The actual purchaser of the gun was a firearms trafficker from the Washington, DC area. The straw purchaser did not know the trafficker, indeed, he never even learned the trafficker's name. There was a casual, informal business relationship that netted tragic results.

Straw purchasers have several key weaknesses. Straw purchasers frequently do not have the financial capability to pay for the guns they straw purchase. It is not unusual in gun trafficking cases to interview a straw purchaser living on public assistance in subsidized housing who has straw purchased \$500 or even \$1,000 worth of firearms with cash provided to them by the firearm trafficker. When interviewed by law enforcement officers they have none of the weapons that they have allegedly purchased. Straw purchasers usually know nothing about the weapons they claim to have bought. They cannot describe the type of weapon, the caliber or even the number of guns they have purchased. Straw purchasers cannot account for the guns, but will frequently tell elaborate lies which are hard to disprove. They will claim the guns were stolen or that they held a big party and after the party was over the guns were missing, although they failed to report the theft to police.

Another popular scheme used by gun traffickers involves the use of false or fictitious identification. Federal law requires those individuals purchasing a firearm from a Federally licensed dealer to produce identification, usually a driver's license or a DMV identification card, to verify their identity, age and place of residence.

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Federally licensed firearms dealers, commonly referred to as FFL's (Federal Firearms Licensee), cannot sell handguns to persons under twenty-one years of age and can only sell handguns to persons who reside in the same state as the gun dealer. A gun dealer in Georgia cannot legally sell a pistol to a resident of New York or Washington, DC. If gun traffickers from those states want to acquire their guns in Georgia they will frequently obtain false ID that represents that they are Georgia residents. Schemes involving the use of false identification are commonly referred to as "lying and buying" since the purchaser will falsify the required paperwork to obtain the firearms. In these cases the purchaser is the trafficker.

In a typical "lying and buying" case, a trafficker might travel from British Columbia, Canada to Texas, obtain a Texas driver's license with a fictitious name and non-existent address, and use it to buy guns. When police in Canada recover the firearms, they will be traced back to a non-existent person whose address has them residing in a strip mall parking lot. More sophisticated traffickers will actually use identity theft, stealing the identity of a resident of the source state. Once they obtain the identifying information of an unknowing victim (such as his name, address and date of birth) they can have that information put on a driver's license with their picture. This literally becomes a license to traffick in firearms. If the guns are subsequently recovered by police and traced, they will be traced back to the victim of the identity theft who has no clue that firearms have been purchased using his name.

Consider each of the following "lying and buying" scenarios:

- A resident of New York goes to Atlanta, Georgia and gets a false driver's license using his real name and the address of a relative who lives in Atlanta, and uses it to buy pistols and shotguns.
- A convicted felon gets a driver's license with his picture and height and weight, but his brother's name, address and DOB. His brother

is not a prohibited person. The license is obtained without the brother's permission or knowledge.

- A Canadian gets a Florida driver's license in a false name and non-existent address and uses it to buy firearms two to three times a year while on vacation in Tampa. He smuggles the guns back and sells them on the street in Toronto, Canada.

Each case will develop differently because of the trafficker's scheme. Consider what leads would be generated by tracing the firearms in each instance. Also recognize that in each case the gun dealer will likely have no knowledge of what is actually transpiring.

It is important to note that all of the activity described is firearms trafficking. Despite this, the most likely Federal charge to be brought in any of these cases, be it a straw purchase or a lying and buying case, would be false statements to an FFL in connection with the acquisition of a firearm (Title 18 U.S.C., section 922 (a)(6)). There are several reasons that this is worthy of note. The first reason is the improper perception that false statement cases are not trafficking cases. Indeed, there is no "firearms trafficking" statute per se. In fact, the term *firearm trafficking* does not appear anywhere in the Gun Control Act of 1968, as amended. Failure to understand this has caused a perception among some that the Federal Government has failed to address the issue of firearms trafficking, concentrating its prosecution on "mere false statement cases." False statement cases are the most common type of trafficking case in the Federal system. This brings us to the second point. False statement cases don't sound like violent crime. Somehow, providing false information on a form lacks jury appeal, even if it does result in a violent criminal obtaining a gun. This is the key to investigating, and subsequently prosecuting, firearms trafficking cases. As a prosecutor or investigator, you have to get all the blood and carnage of the violent street crimes perpetrated with the trafficked guns into court so the jury can see the immense harm the trafficker has done. He didn't just lie on a form. He put a

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gun into the hands of a gang member who used it to shoot a fourteen-year-old child. The straw purchaser who acted as the buyer for Bennie Lee Lawson's MAC-11 didn't just lie on a form, he armed a convicted felon who used it to murder three law enforcement officers.

The problem of bridging the gap between the trafficker and the violent crime committed with the trafficked gun can become even more difficult when the trafficker is an FFL. Because FFL's are in the business of buying, receiving and selling firearms, the very nature of their business can often camouflage their trafficking activities. In addition, FFL's have legal access to thousands of firearms over a period of months. Consequently, they can easily traffick hundreds of guns without anyone noticing.

Federal law requires that all dealers maintain a log of all of the firearms they acquire and dispense. This "A & D book" or "bound book" must contain a detailed description of every firearm they receive, and the name and address of the person they obtained it from and sold it to, as well as the dates of each transaction. If the firearm is obtained from or sold to another licensed dealer they must record the dealer's FFL number. In addition, licensed firearms dealers must maintain copies of ATF forms 4473 (Firearms Transaction Record), identifying each individual purchaser and every gun they purchased.

These record keeping requirements force dishonest dealers to make certain decisions. Some crooked dealers do not record firearms they intend to traffick in their records. This results in the dealers' records not matching the records of suppliers. When the firearms are traced, the dealer cannot account for the guns. Other corrupt FFL's tack trafficked guns onto legitimate sales. After an unwitting customer leaves the gun shop having purchased a Colt revolver, two Intratec 9mm pistols are added to his 4473 and the A&D book now reflects that he purchased them. These guns are later sold "off the books" for a premium. When these guns are traced, they will track back to a customer who did, in fact, buy a firearm from that dealer, just not the gun being traced. Other

ingenious dealer/traffickers have randomly selected names from the obituaries or the phone book, and completed their required records for guns sold on the street using those names. Still others have falsified reports of the guns being stolen or missing from inventory so that they are no longer accountable for these crime guns when they are subsequently recovered and traced.

The discussion of licensed gun dealers who traffick in guns is not meant to suggest that gun dealers are, by their very nature, dishonest. The vast majority of gun dealers are honest, hard working, businessmen who deal in a regulated commodity. Because a dishonest FFL can do a great deal of damage by diverting hundreds, or even thousands, of guns out of lawful commerce and into the hands of criminals without attracting attention to themselves, the issue of crooked dealers must be addressed.

Firearms are diverted from commerce in other ways. Firearms that are stolen pose a significant threat to society in general and law enforcement specifically. Because these weapons are in the hands of criminals, the potential that they will be used to commit further crimes is immense. Law enforcement must deal not only with the risks associated with facing armed criminals, but also with developing ways to limit the firearms thefts that create the threats.

Stolen firearms represent a huge problem, although no one can accurately establish the percentage of the trafficked firearms market they account for, as there is no way to determine how many guns are stolen. Numerous factors contribute to the inability to accurately determine the number of firearms stolen each year. Private citizens are generally not required to keep records regarding their firearms and many do not even maintain a record of the serial number of their firearms. When firearms are stolen from individual's residences, the owners often cannot properly identify them to law enforcement. As a result, many stolen firearms enter illicit markets as stolen, undocumented, and undetectable.

In 1994, Congress created a partial remedy by requiring that all Federally licensed firearms dealers report the theft or loss of any firearms from their inventories to both ATF and local police within forty-eight hours. Since that time, more than 100,000 firearms have been reported stolen and a significant number of them have been subsequently recovered.

The key to understanding firearms trafficking is comprehensive crime gun tracing. This means tracing all firearms recovered by law enforcement that were used in a crime, suspected to have been used in a crime, or recovered in relation to a crime. This not only provides potential leads in that investigation, but also establishes a clear picture of where crime guns originate. While an individual gun trace frequently provides a valuable lead in a particular case, identifying an additional witness or coconspirator and having a database of crime guns that can be evaluated for trends and patterns is also very useful. ATF has identified firearms trafficking operations from observable patterns in trace data. There is no central database of firearm ownership. Indeed, Federal law prohibits such a database. What ATF has, as a result of crime gun traces from law enforcement agencies across the nation and around the world, is a database containing only information on crime guns. If twenty firearms all trafficked by the same individual in Texas are recovered in Chicago by different police officers in unrelated crimes, there is very little chance of the trafficker being identified without tracing. Through the comprehensive tracing of crime guns and the analysis of trace data, ATF's Crime Gun Analysis Branch will quickly identify a pattern of twenty crime guns from Texas being recovered in Chicago. This information is valuable to law enforcement officers in both locations.

In the Bennie Lee Lawson case, law enforcement took advantage of the fact that Washington, DC had been tracing all of their crime guns for years. The ATF Tracing Center queried their database for all firearms purchased in Alabama and recovered in Washington, DC. That query identified leads to additional crime

guns and straw purchasers who became witnesses against the trafficker who supplied the gun used to kill three law enforcement officers. The Federal prosecutor in Alabama used the successful trace information to identify trial witnesses, subpoenaing the police officers from the Washington, DC area to testify about the circumstances of each crime gun recovery. The Alabama judge and jury were provided a graphic picture of the harm the trafficker had caused. Based in large part upon this testimony, the judge in the case granted an upward departure and sentenced the trafficker to fifteen years in federal prison.

The story of Bennie Lee Lawson's MAC-11, its journey from commerce to crime, and the subsequent investigation, is both a snapshot of firearms trafficking and a model of law enforcement partnerships. Wanting to make certain that those responsible for putting a murder weapon in the hands of a convicted felon were punished to the fullest extent of the law, the Federal prosecutor in Mobile Alabama, ATF special agents from across the country, FBI and police from Alabama, Maryland, and Washington, DC, all worked together. The results – identifying, prosecuting and incarcerating the firearms trafficker – speak for themselves. ♦

#### ABOUT THE AUTHOR

□ **Mark Kraft** is an eighteen year Federal law enforcement veteran, currently assigned to ATF's Office of Training and Professional Development as the program manager for Project Safe Neighborhoods training. Special Agent Kraft conducted numerous investigations of violent armed offenders and firearms trafficking in the Washington/Baltimore corridor and was a member of the Baltimore Field Division's Special Response Team. He is a frequent speaker on the topics of firearms trafficking and firearms identification throughout the United States, as well as in Canada and Europe. ✽

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# Project Exile

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*Jim Comey, Managing AUSA  
Eastern District of Virginia*

*Stephen Miller, Supervisory AUSA  
Eastern District of Virginia*

## Introduction

For more than a decade, the newspaper headlines read the same: Another Murder in Richmond; Murder Rate Rises; Gun Violence Continues. It was a dubious distinction that the capital of Virginia was routinely among the five American cities with the worst per capita murder rates. In a city of 200,000, 160 people were murdered in 1994, and 140 in 1997, the vast majority of them with firearms. On Richmond's streets, the gun was an article of clothing; no drug dealer got dressed to go out without one. The deadly cocktail of readily available guns, drug dealing, and broken neighborhoods, produced an appalling level of street violence.

In 1997, the United States Attorney's Office for the Eastern District of Virginia developed and initiated Project Exile in Richmond, aimed at reducing the senseless violence plaguing the city. Project Exile was an aggressive approach to reducing the murder rate by changing the culture of violence in Richmond through a comprehensive strategy. In implementing the Project, the United States Attorney was joined by the Bureau of Alcohol, Tobacco and Firearms (ATF) and the Federal Bureau of Investigation (FBI), in coordination with the Richmond Commonwealth's Attorney's Office, Richmond Police Department, the Virginia Attorney General, the Virginia State Police, and the business community and citizens of Richmond. This strategy included both law enforcement and prosecution components aimed at deterrence, as well as community outreach and education programs focusing on prevention.

In the nearly five years since Project Exile started, Richmond is a changed place. The level of violence in general, and gun violence in particular, has dropped dramatically. More

importantly, the criminal culture has changed. The gun has gone from a fashion accessory to a huge liability in the criminal's mind, and that has changed behavior. Guns remain an integral part of Richmond's criminal underworld, but the link between the felon and his gun and the drug dealer and his gun has been stretched, with profound consequences for the city. In particular, Richmond has seen a dramatic drop in armed violence, with murders decreasing by one half, from 140 in 1997 to 72 in 2000. Armed robberies were down by a similar proportion over the same period.

What follows is a detailed description of how Project Exile was designed and implemented.

## The problem

Gun violence had plagued Richmond since the late 1980s, landing the city consistently in the top five murder per capita rates for the country. While homicide rates were dropping across the country, they were actually increasing in Richmond. In 1997, for example, 140 people were murdered, 122 of them with firearms. Ordinary citizens lived in fear, held hostage in their own homes by the gun violence on the streets. The violence was a cancer in the city, killing off economic development and hope, and even sapping the morale of an excellent police force.

Different causes played a role in the grim statistics. Most importantly, however, criminals in this city were regularly armed and willing to use weapons. By 1997, the link between drug dealing and guns had escalated to the point that almost every drug dealer was fully armed with high powered, readily accessible firearms. They frequently used guns to steal from competitors, deter stealing, and carry out revenge. Even without the drug connection, for a variety of reasons, the police reported a greater willingness of many on the street to carry weapons. It seemed that every altercation in Richmond became a gun battle because guns were everywhere.

The murder victims were not just criminals. In fact, while a large percentage of the homicide toll is connected to drugs, there was more to the story.



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In a typical year, 80% of homicide victims were African-Americans, most were over twenty-eight years of age, and half of them had no prior criminal record.

### **The response - Project Exile law enforcement**

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

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

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

When a Richmond police officer finds a gun during the course of his or her duties, the officer completes standard police department paperwork describing the weapon and the circumstances of the seizure. That paperwork is routed to the Project Exile task force, which determines whether a federal prosecution is possible. The seizing officer may also page an ATF agent twenty-four hours a day.

To enhance the investigative process, Project Exile increased manpower with three Richmond Police Department officers, two Virginia State Troopers, and an FBI agent, all of whom worked closely with the Richmond ATF agents. The Task Force worked out of an "off-site" space across the street from the United States Attorney's Office.

### **The response - Project Exile prosecutions**

The United States Code contains a series of statutes that can be used against the armed criminal. In summary, felons, drug users, fugitives, illegal aliens, and those convicted of domestic violence, are prohibited from possessing firearms. Similarly, using, carrying, or possessing a firearm in connection with drug dealing in violation of 18 U.S.C. § 924(c) carries a mandatory five, seven, or ten year jail term, depending on how the gun is used.

Federal prosecution is particularly effective for a number of reasons. First, Project Exile's prosecutors took a uniformly aggressive position against bond, and this approach has been successful in taking defendants off the street. The federal bond statutes provide for holding a defendant without bond when the defendant poses a danger to the community. Prosecutors argued vigorously in all felon-in-possession cases that the defendant was a murder waiting to happen and the community needed the protection of pretrial detention. In cases involving drugs and guns, prosecutors were able to rely on the presumption of dangerousness in the Bail Reform Act. Shifting this burden concerning bond has resulted in the vast majority of Exile defendants being held without bond.

Second, the federal system applies a mandatory sentencing guideline system in which a court's sentencing discretion is limited. Therefore, for a given type of firearm violation, the penalty is clear, substantial, and served in full without parole. In the state system, judges are all too often able to impose apparently significant sentences, only to suspend most or all of the jail term. In the federal system, with determinate sentencing, an armed criminal is truly "exiled" from the community. In plea discussions, federal prosecutors insist on resolutions that fully account for the defendant's conduct.

Finally, defendants know that a federal jail term will likely be served elsewhere in the country because Virginia has only one federal prison, a minimum security facility. This has a major impact because serving a jail sentence among friends and acquaintances is seen by the defendants as much less onerous than serving time

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in a prison out of state. Anecdotally, defendants have expressed more concern about where they serve their time than whether they will be going to prison.

Project Exile demonstrates that federal prosecutors can undertake a large scale prosecution effort of gun crimes with relatively limited personnel resources, and with a quick disposition of cases (nearly all Exile cases result in a guilty plea, frequently after a suppression motion challenging a *Terry* stop or search by local police). An average of three prosecutors (a combination of Assistant United States Attorneys and Special Assistant United States Attorneys) have been utilized at any one time on Project Exile, including prosecutors detailed from the Richmond Commonwealth Attorney's Office, Virginia Attorney General's Office and the Department of Justice (DOJ). As of November 1, 2001, there were 788 defendants indicted, 926 guns removed from the streets, and 541 sentencings with an average sentence of 61.5 months.

#### **The response - Project Exile law enforcement training**

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

From June - August 1998, in connection with the DOJ, 100 selected officers completed a Gun Recovery Initiative which included training, enforcement, and organizational measures. The Gun Recovery Initiative is aimed at improving the ability of the police to detect firearm violations and apprehend the perpetrators.

#### **Public outreach/education**

Perhaps the most innovative aspect of Project Exile is its effort to market deterrence to the community. Prosecutors typically rely upon the so-called "free media" to publicize our work and serve the critical goal of general deterrence. Exile

took it one step further and marketed deterrence to the criminal community through commercial advertising, with profound effects.

#### **Project Exile Citizen Support Foundation**

In July 1997, several civic leaders and community groups formed the "Project Exile Citizen Support Foundation" to support Project Exile with a variety of public outreach and education efforts through various media. The Foundation was created by Stanley Joynes, Esq., a prominent Richmond attorney who enthusiastically embraced the purposes and goals of Project Exile. Mr. Joynes and his law firm provided free legal work to create the support Foundation, registered it as a tax exempt organization, and handled the various media contracts. Through the Foundation's efforts, hundreds of thousands of dollars have been raised for the media effort, and tens of thousands more were raised in the form of donated media time and support. The United States Attorney's Office did not engage in any fundraising, on advice of EOUSA. Instead, prosecutors appeared at fundraising events to provide factual information about the program and left before the Foundation made an appeal for funds. In 2000, however, the District received a small federal grant to support the outreach effort.

The Foundation has been instrumental in the affirmative use of the media carrying the message "*An Illegal Gun Gets You Five Years in Federal Prison*," and in asking citizens to anonymously report guns on the street to the Metro Richmond Crime Stoppers telephone number. The Martin Agency, a prominent national advertising agency located in Richmond, provided substantial creative and production assistance, at no cost, to develop ways to get the message out to the community. The message has been distributed through billboards, a fully painted city bus which covers the entire city by changing routes each day, TV commercials, Metro Richmond traffic reports, use of over a million supermarket bags urging support of Project Exile, and 20,000+ business cards with the message distributed on the street by local police, and print advertising.

The "five years" slogan was developed by the advertising agency based on the belief that the

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core violation of the program would involve 18 U.S.C. 924(c), which carries a five-year mandatory minimum. Despite the prosecutors' concerns that the sentencing regime is much more complicated than the slogan, it was believed that five years would be a fair average sentence for the program. Five years later, that has proven remarkably accurate, with an average sentence of fifty-nine months.

### **Richmond Public Schools/Firearm Safety Programs**

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

The Eddie Eagle Gun Safety Program is an accident-prevention program for children in preschool through grade six, that teaches children what to do if they see a gun in an unsupervised situation. Beginning March 2, 1998, the 15,600 elementary students in Richmond's schools were given instructions that if they discovered or confronted a firearm they were to "*Stop. Don't touch. Leave the area. Tell an adult.*" The message, the equivalent of "don't play with matches," and similar safety programs, enables children to avoid becoming victims. This professional program, developed with teaching and law enforcement professionals, includes a fast-paced video, fun-filled activity books, brochures, stickers, posters, and a parent's guide to teach a plain, simple safety message. The materials, plus training assistance, were provided free of charge by the National Rifle Association. The program is scheduled to be repeated for several years. In addition, ATF agents are also conducting firearm safety and awareness programs in Richmond Public Schools.

### **Metro Richmond Crime Stoppers**

The Metro Richmond Crime Stoppers program provides a telephone number for citizens

to report criminal activity (anonymously if they wish) with the possibility of a reward up to \$1,000. Project Exile has utilized the number, and extensively publicized it, as the most efficient method to allow citizens to report armed criminals without fear of identification. The staff of the Metro Richmond Crime Stoppers will then send the report to the police department for prompt police response. In addition, the United States Attorney's Office participates in the monthly board meetings and has requested certain drug forfeiture proceeds be used through the police department to enhance Crime Stoppers operations.

### **Success**

Recent academic studies, comparing crime and punishment rates in various countries, have made clear that swift, sure, and substantial prosecution punishment of violent crime will result in a reduction of those crime rates. By any measure, applying this principle, Project Exile has been an unqualified success. In a very brief time period, the project has removed a large number of criminals predisposed to violence from the streets of Richmond. The project has changed the attitude about illegal gun possession among criminals, but also among the other participants in a busy criminal justice system. In a city clogged with murders, robberies, and shootings, judges, juries, police, and prosecutors all tended to view gun possession by a criminal as a "minor crime." No longer. Everyone in Richmond now views illegal gun possession as a serious offense.

Most importantly, in Richmond, the homicide rate has been significantly reduced. While many elements have contributed to the reduction, there is no doubt that project Exile has been a major factor. Tellingly, the number of Exile cases has steadily dropped, despite the continued aggressive intake procedure. The burden on the United States Attorney's Office has dropped even farther as a result of tough gun laws that took effect in Virginia in 1999 (the so-called "Virginia Exile" program). As a result, federal and state prosecutors in Richmond meet twice each month to review every gun arrest in the city and direct them into the jurisdiction that promises the highest possible punishment

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There is no doubt that a "brand" called Exile has been firmly established in Richmond and that this brand has helped change behavior for the better. Any one of numerous anecdotes tells the story as well:

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

2. In another case, again in an interrogation, a drug/gun defendant patiently explained how he understood the "feds" had a special TV channel going into the projects to spread the message that they were cracking down on guns. He was referring to the TV commercials run at the end of 1997 on Fox-35 and several cable channels. He got the message even while overestimating the degree of the advertising.

3. In a recent case concerning the sentencing of a defendant, the defendant wrote to the United States Attorney complaining that the sentence he would be getting under the federal sentencing guidelines was too harsh in that it was based in part on his juvenile convictions. It was clear he had seen the outreach media message because he wrote in his letter,

I'm writing to you in reference to my Presentence Investigation Report. My charge is possession of a firearm by a convicted felon. My sentence guideline is 77 - 96 months. In reaching my sentence guideline, the probation officer used 3 charges from my juvenile record on page 4 of my Presentence Investigation.

... in all do [sic] respect, I think going back to my juvenile record is a little too much. *Even the bus and the billboard says five years* (emphasis added).

4. In April 1998, a probation officer advised the United States Attorney's Office that he had been talking with a supervised defendant who had been engaged in drug dealing for many years. The defendant gestured to a poster on the wall with the Exile campaign message ("An Illegal Gun Gets You Five Years In Federal Prison") and said "you got that right." He explained to the probation officer that the word on the street now is that if you sell drugs, then "sell drugs, but don't be carrying no gun." He said the message had gotten to the criminal element. Breaking the gun/drug link is the single most important factor in reducing street violence and murders.

5. In June 1998, a plainclothes detective reported stopping three individuals on the street who met the radioed description of individuals wanted for a recent crime. The detective detained the three and did a safety pat down for weapons. He asked one of the three if he had any weapons. The person responded, "Are you crazy? That Exile thing will put you away for five years. I'd be an old man when I got out." None of the individuals were, in fact, carrying firearms.

The criminal element is clearly getting the message.

#### **Future efforts**

Recent statistics show that the United States Attorney's Office for the Eastern District of Virginia now ranks second among federal districts in prosecuting federal firearm violations. The new United States Attorney is proud of this long-term commitment to addressing the problem of violent crime in the District and intends to continue the Office's focus on armed criminals through Project Safe Neighborhoods (PSN). Although PSN tracks Exile in many respects, adherence to its five key elements will only strengthen Project Exile in Richmond. ♦

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## Targeted Crime Reduction Efforts in Ten Communities – Lessons for the Project Safe Neighborhoods Initiative

*Erin Dalton*  
*National Institute of Justice*

The Strategic Approaches to Community Safety Initiative (SACSI) starts with the simple but powerful notion that law enforcement has the power to prevent the next homicide. This concept was not uniformly embraced at the SACSI sites at the onset. Prosecutors, police officers, and probation officers wondered: "Could the decisions we make really affect who will get shot tomorrow night or next week?" This provocative question was eventually answered with a "yes," but only after considerable hard work by many people. This article presents the main lessons from SACSI problem-solving efforts with the hope that the Project Safe Neighborhoods Initiative (PSN) sites will learn from what SACSI has accomplished.

The SACSI sites realized that the question posed could not be answered by a single person or a single agency. They needed a team. They also realized that the question had to be split into more answerable inquiries. For example: "What if we could identify the most violent individuals and most violent groups on the street?" "What if we could follow, document, and map the feuds among these criminally-involved individuals and groups?" These and many other questions were asked and answered in a deliberative way by the

SACSI sites, requiring information from both traditional and non-traditional sources.

Next, the SACSI sites learned that they needed strategies designed to deal with the specific opportunities presented by the data. The working groups considered the following: "What if we established an early warning system to monitor assaults and shootings among these individuals/groups and intervene before they became homicides?" "What if we communicated clearly to these individuals/groups that violent behavior would not be tolerated and that if they behaved violently, all of the resources of the community would be brought against them?" "What if we actually made good on our word?"

The question "how can the decisions we make change who will get shot tomorrow night or next week?" became answerable and was answered – although with different strategies in each community. The days of discussing random homicides, of knowing that an individual was at risk to kill or be killed and not being able to intervene in time, became rare events.

SACSI sites efforts to develop the strategic partnerships, to collect and analyze the information needed to answer the questions raised above, and to design and evaluate strategies aimed at preventing the next homicide, demonstrate that large-scale, problem-solving

efforts can be rewarding. They also demonstrate the difficulty and challenges associated with problem-solving.

### ***How it started***

In the early 1990s, in the midst of youth homicide epidemics plaguing our nation's major cities, the National Institute of Justice funded Harvard University's Kennedy School of Government to achieve a simple but extremely challenging goal: Stop the violence in Boston. The efforts of Kennedy School's researchers and their partners, which became known as Operation Ceasefire, were extraordinarily successful. Youth homicides, which averaged forty-four per year between 1991 and 1995, fell to twenty-six in 1997 and to fifteen in 1998. A thoughtful and rigorous evaluation that describes and validates the team's work is available from the National Institute of Justice. [DAVID M. KENNEDY, ET AL., *DEVELOPING AND IMPLEMENTING OPERATION CEASEFIRE, REDUCING GUN VIOLENCE*, U.S. Dept of Justice, National Institute of Justice (September, 2001). NCJ 188741. ANTHONY A. BRAGA, ET AL. *MEASURING THE IMPACT OPERATION CEASEFIRE, REDUCING GUN VIOLENCE*, U.S. Dept of Justice, National Institute of Justice (September, 2001). NCJ 188741].

Even before a formal evaluation was completed, Boston's Operation Ceasefire was hailed in the media as an unprecedented success. Other major cities started calling and visiting Boston in the hope of replicating its miracle. At the same time, the Department of Justice sought to replicate the *process* Boston used to achieve significant reductions in youth homicide. The replication was called SACSII. The SACSII sites were funded in two phases. The first phase was funded in 1998 and included: Indianapolis, Indiana; Memphis, Tennessee; New Haven, Connecticut; Portland, Oregon; and Winston-Salem, North Carolina. The second phase was funded in 2000 and included: Albuquerque, New Mexico; Atlanta, Georgia; Detroit, Michigan; Rochester, New York; and St. Louis, Missouri.

The process involved the following elements:

- Develop a strategic partnership.

- Use research and information to assess the specific nature and dynamics of the targeted problem.
- Design a strategy to have a substantial near-term impact on that targeted crime problem.
- Implement the strategy.
- Evaluate the strategy's impact and modify the strategy as indicated.

This process is not dissimilar to the Project Safe Neighborhoods (PSN) Initiative model in which U.S. Attorneys will:

- Develop partnerships with federal, state, and local law enforcement and others.
- Develop strategic plans which include crime analysis and strategic enforcement, suppression, and prevention activities.
- Publicize their law enforcement successes to the community.
- Measure the impacts of their efforts.

While the specifics may vary somewhat, both initiatives begin with collaboration, rely on data and information-driven strategies, seek near-term results, and hold themselves accountable for their efforts by measuring the results. This article reviews the (1) organizational structures that seemed most effective under SACSII; (2&3) problem-solving approaches that evolved; (4) tactics that emerged; and, (5) their effectiveness at reducing violence with the hope that the PSN communities will learn from SACSII's lessons and take problem-solving to the next level.

### **I. Developing an effective partnership**

Partnerships represent a key aspect of success for many recent criminal justice initiatives (including SACSII and PSN). Yet partnerships are often assumed to exist when they do not, are difficult to achieve, and are rarely studied. Preliminary assessments of SACSII sites partnerships provide some useful insights.

Key issues in developing partnerships included membership, partnership structure, leadership, and project management. Two especially important and difficult issues in the SACSII sites were (1) whether to, and how to, involve the

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community and (2) how to balance the need for high-level leadership and support with the need for line-level law enforcement knowledge and know-how.

### ***Establishing the team***

Almost as important as deciding who to include as partners is how to invite them to join, how large the partnership should be, and at what organizational level (leaders or line-practitioners) the partnership operates. Race, gender, and culture were also important to the SACSI sites as they developed the composition of their working groups.

After two years of working together, the SACSI sites identified the following partners as most critical to the success of their problem-solving efforts: U.S. Attorney's Office, police department, research partner, district attorney's office, probation/parole agencies, and the Bureau of Alcohol, Tobacco, and Firearms. Most also mentioned a community-based organization or representatives of the clergy as critical to their success.

The consensus that emerged obscures the variation in team memberships and organization. At the beginning of the SACSI initiative, participation ranged from a small team consisting of a core of law enforcement and criminal justice officials without social service and community participation (as in New Haven), to a large and broad team comprised of officials and leaders from law enforcement, criminal justice, social service, and community-based organizations (as in Portland).

Which partnership structure was more successful? There is no easy answer to this question. Partnerships that started small and were relatively homogenous seemed more mobile and quicker to make key decisions. Small groups of law enforcement officials were more likely to trust one another and to share – and be legally permitted to share – sensitive information. However, these smaller partnerships sometimes lacked the diversity of opinions, approaches, and perspectives that characterized larger groups with more nontraditional partners. Also, larger groups may have been better protected from negative community, media, or political reactions.

Several SACSI sites combined these two distinct approaches. They started with a working group made up primarily of law enforcement and criminal justice representatives. The working group remained small until the team had a detailed understanding of the crime problem they were targeting. At that point, the group presented their findings to community and clergy groups and social service agencies, some of whom were subsequently included in the partnership and involved in shaping and implementing the strategies that followed. A benefit of waiting until the initial problem identification and analysis is complete before involving these other groups is that the working groups were able to identify the right groups and affected communities, and their roles were much more apparent than in sites that involved a larger group before a focus for the project was established.

### ***Leadership***

One of the most important dimensions of SACSI partnerships is leadership. The U.S. Attorney's Office played a significant role in leading the SACSI partnerships. As the highest ranking law enforcement officer in the community, the U.S. Attorney's status brought local law enforcement leaders to the table. In addition, because the U.S. Attorneys Office had a distance from the everyday local law enforcement business that most police departments, district attorneys offices, and even mayor's offices cannot claim, the U.S. Attorney was usually seen as more neutral in local law enforcement circles. The U.S. Attorney's leadership sometimes helped bring local law enforcement leaders to SACSI partnerships with an open mind. Lessons from the SACSI sites suggest that problem-solving partnerships often fall apart, or never come together, in the absence of a powerful, neutral convener.

### ***Management***

If we learned one thing from the SACSI initiative, it was the necessity of having a project director responsible for the hands-on management of problem-solving efforts. This critical team member managed the daily process, facilitated the conversation, moved the group toward the collective goal, ensured that different

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components of the partnerships worked effectively, held the group to task, and worked with the research partner to think through the nexus of operational capacities, local data analysis, and crime control theory. A successful project director balances the managerial need to keep the project on task while building the capacity of the other partners to shoulder essential tasks and responsibilities. Like effective leadership, problem-solving partnerships cannot succeed, in the absence of effective project management.

***The power of including front-line practitioners in the partnership***

Successful SACSI partnerships used knowledge and information gleaned from non-traditional sources. Typically, police chiefs and agency heads are asked about their most serious crime problems. Officers who are out on the streets everyday are rarely asked these same questions. The experiences of the SACSI sites indicate this is a glaring omission. Front-line practitioners are uniquely immersed in the problem. Their knowledge is essential to understanding the dynamics of targeted crime problems. While others may have a solid understanding of the outlines of a problem (e.g., they may know there is a gang component to the violence problem), front-line practitioners typically know the contours and vital details of the problem (e.g., they know who the gang leaders are, which gangs are most violent, and which are currently feuding). To achieve the balance between the need for leadership and the need for front-line practitioner knowledge, some of the sites established a working group with two levels—one with management representatives that met every six weeks or so—and one with line-level representatives that met more frequently.

***The significance of involving the “community” in the partnership***

The partners in the SACSI sites debated a great deal about the necessity and importance of involving the “community” in problem-solving efforts. Some participants argue that the work of the Ten-Point Coalition or gang outreach workers in Indianapolis or Winston-Salem played a major role in achieving crime reductions in those cities. Other participants consider their role less critical,

and even potentially disruptive, to information sharing and development of trust within the partnership. Some issues to consider when deciding whether to involve the community can be articulated: Will the community groups or individuals provide intelligence or perspectives not contained elsewhere in the partnership? Will their participation help craft more effective law enforcement approaches, as well as provide buy-in, that can temper community disapproval for aggressive law enforcement strategies that may be included as part of the initiative? Do they have a unique connection with the offender population? Are they likely to put limits on the trust that can be developed within the group? What issues are presented to the functioning of the partnership if law enforcement information needs to be shared when these individuals/groups are present? These and other questions should help guide the decision about whether to, and how to, include the “community” in the partnership.

***The importance of an outside perspective in the partnership***

Having someone from outside the operational world who can see practitioners’ work from a different perspective, frame operational efforts in a broader context, and validate law enforcement efforts to management and policymakers, make research partners a critical part of the problem-solving team. In addition, having someone trained in research methods and criminological theory has been significant in the SACSI partnerships. These partners helped develop the fullest possible understanding of the targeted crime problem, as well as a strategy that was based on the data and was measurable.

**II. Understanding the targeted crime problem**

For SACSI sites, the process of identifying the specifics of a problem often began with a review of the formal crime and community safety data, and usually progressed to include interviews, focus groups, and incident reviews. A closer look at two sites—Indianapolis, Indiana and Rochester, New York illustrate the processes. [For a full examination of the Indianapolis Violence Reduction Partnership see EDMUND F. MCGARRELL, AND STEVEN CHERMAK, PROBLEM



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SOLVING TO REDUCE GANG AND DRUG-RELATED VIOLENCE IN INDIANAPOLIS. Forthcoming *Gangs, Youth Violence and Community Policing*, S. Decker and E. Connors (eds). For more information on the Rochester SACS project, contact Lori Gilmore, Western District of New York, (716) 263-6760.]

### ***Indianapolis and its violence problem***

Indianapolis is a city with just over 800,000 residents in a metropolitan area of approximately one and one-half million. It has long ranked in the mid-range among the nation's larger cities in rates of crime generally and violent crime in particular. However, during the mid-1990s, Indianapolis experienced a significant increase in homicides, reaching a peak level of 157 in 1997. The doubling of the homicide rate, from 10 in 1990 to 20 in 1998, was attributed by local law enforcement to the late arrival of crack cocaine in this mid-western city. Some officials also thought that a gang problem fueled violence on the streets.

The working group used existing information systems (police incident reports, GIS crime mapping, court records) to analyze Indianapolis homicides. The 1997 and 1998, homicides looked similar to those in most urban, U.S. cities. They involved young men, using firearms, in concentrated geographic areas. Many of the victims and suspects had very similar personal characteristics – age, race, and gender – and many had prior criminal history. The most common age for victims was twenty-eight. Suspects were even younger, peaking from ages seventeen to twenty-six with a median of twenty-three. Nearly 80 percent of victims were male and more than 80 percent of suspects were male. Two-thirds of victims and 72 percent of suspects were African-American. At least 63 percent of the victims and three-quarters of the suspects had either an adult or juvenile criminal record. Firearms were used in about three-quarters of the homicides.

Crime mapping indicated that homicides were concentrated in particular neighborhoods in three of the five Indianapolis Police Department districts. The specific police beats tended to be the same ones with the most violent crime and the ones receiving the most citizen complaints about drug activity.

The analysis of official crime reports helped paint a picture of the overall patterns, but the picture was not detailed enough to craft interventions. For example, the official reports indicated that very few homicides involved either gangs (one in 1998) or drugs (six in 1997, seven in 1998). Nevertheless, investigators and line-level officers strongly suspected that gangs and drugs were involved in many, perhaps most, of the homicides.

To get a detailed picture of homicides, the working group decided to follow the approach taken in Boston, Minneapolis, and Baltimore. They brought together Indianapolis law enforcement officials with street-level intelligence on homicides and violence to participate in an examination of every homicide incident occurring in 1997. Participants included detectives and officers from the Indianapolis Police Department and Marion County Sheriff's Department, prosecutors, probation officers, corrections officials, and federal law enforcement (approximately seventy-five representatives from ten agencies). The intent was to move beyond the basics contained in official records and tap into the extensive knowledge available from the law enforcement professionals working these cases and areas of the city. Specifically, the working group sought information about motive and events leading up to the homicide, networks of chronic offenders involved in homicides, and whether and how homicides were related to drug use and distribution.

The incident review revealed that approximately 60 percent of the homicides involved suspects or victims who were described as being part of a group of known chronic offenders, or loosely organized gangs. Additionally, more than half the homicides had some type of drug connection involving known users and dealers, as well as incidents tied to drug sales, retaliations, and drug turf battles. The working group, armed with a problem analysis that enabled them to consider interventions, decided to concentrate their efforts on group and drug-related homicides.

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### ***Rochester and its violence problem***

Rochester is a city of about 217,000 people with a metropolitan area of just under 1.1 million. The metropolitan area has grown over the past thirty years, but the city itself has lost over one-third of its population since its peak in 1950. Rochester has averaged about fifty murders a year. While relatively small in absolute numbers, Rochester's homicide *rate* is the highest in New York – higher than New York City, 30 percent higher than Buffalo, and nearly 60 percent higher than Syracuse and Albany. It is also higher than cities such as Indianapolis and Los Angeles.

After reviewing the official data, Rochester found much the same general pattern as Indianapolis and other U.S. cities. Homicides involved young, African-American men, using firearms, in concentrated geographic areas, and many of the victims and suspects had prior involvement in the criminal justice system.

Like Indianapolis, the review of the official records was helpful in understanding basic crime patterns, but it left the Rochester SACSI team with little idea of how to reduce homicides. Much of what the analysis of the official records revealed was already widely known by the police and the general public. It was also clear that interventions already underway in this city were not having the desired effect.

The Rochester team decided that a homicide incident review would help give specificity to the problem. As in Indianapolis, the team wanted to develop a deeper understanding of the motives behind the murders and to see if there were patterns or individuals associated with multiple events that could lead to intervention strategies.

The review of all homicides in 2000 proved to be effective. It highlighted motives, weapons, and even individuals common across cases. Analysis of the data gained from the incident review revealed three types of murder in Rochester: (1) A small portion (13 percent) involved people who simply found themselves at the wrong place at the wrong time; (2) About half involved disputes and arguments; (3) About 40 percent involved murder associated with illegal business – almost all drug sales, robberies or robbery assassinations.

The homicide review also revealed that 40 percent of the homicides were connected with more than one assailant. The consensus among the group was that these were not highly organized gangs, but rather small groups of friends, involved in drug-related disputes and drug rip-off assassinations.

Before proceeding to interventions, the working group wanted to know more about the genesis and dynamics of drug houses and drug-house robberies, and needed additional information about the nature and frequency of disputes on the street. This led SACSI researchers to the Monroe County Correctional facility where they conducted lengthy focus groups with inmates.

The focus groups revealed valuable insights into the criminal lifestyle in Rochester. On the whole, the focus group members felt they lived in a very dangerous world. They believed they could run into conflicts anywhere and that most people in their neighborhoods had experienced, or were experiencing, serious “beefs” with others. Furthermore, they believed that weapons carrying and violence were common in their neighborhoods. They talked about “flash and respect” and reported that wearing expensive clothing or jewelry in their neighborhood may lead to envy by other young men. “Too much flash” seemed to be at the root of many conflicts and drug robberies.

In addition to providing invaluable insights into the criminal lifestyle, the focus groups also provided important information about the extent, supply, and reasons for gun carrying; the frequency, nature, and causes of disputes; and the history, operations, and dynamics of drug houses and drug house robberies. Further, the focus groups provided insights into the effectiveness of current law enforcement actions and on-going prosecution strategies such as Project Exile, as well as the level of intrusion and effect sanctions, including probation and parole, had on their lifestyle. From these focus groups, the Rochester SACSI group concluded that they had enough information to start thinking about strategies.

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### ***Observations about the problem specification process***

The precise nature and flow of the problem-specification process was unique to each of the SACSI sites. However, two generalizations can be made. First, the targeted crime problems were not necessarily what they seemed initially. On the surface, Indianapolis and Rochester (and many other cities) have the same violence problem. After a much closer look, it became clear that the gang and drug-market dynamics were very different in different communities, as were the reasons behind the homicides. Indianapolis had semi-organized gangs engaged in drug turf battles. Rochester had drug-house robberies and disputes among individuals and groups. Second, the process demonstrates the importance of qualitative and nontraditional sources of data. Official data were critical to outlining of the problems, but systematic questioning of line practitioners, community groups, outreach workers, and even offenders, proved much more revealing of the motives and nature of the events. It is in the underlying patterns where opportunities for intervention were to be found.

### **III. Developing a strategy**

Many of the SACSI sites struggled to move from specifying the problem to developing an intervention strategy. In some sites, it may have been difficult to develop a strategy because of an insufficient understanding of the problem – suggesting that the working group needed to continue gathering data. In others, it may have been an absence of leadership at a pivotal time. Often, it was simply the difficulty of matching the resources and assets of the working group to these difficult problems. Reflecting on the Boston experience, David Kennedy, one of the designers of the Boston Gun Project, urges patience. He reminds us that the types of problems likely to be addressed by sustained, large-scale, problem-solving exercises are typically difficult ones – otherwise, lesser efforts would have been sufficient to deal with them. The Boston Gun Project Working Group spent more than a year designing Operation Ceasefire. The SACSI sites

took at least that long to design and implement their strategies.

### ***Kennedy's decision rules***

While there is no cookbook of lessons that will tell you how to innovate or give you the solution to the targeted crime problem, the Boston and the SACSI experiences offer the outline of a process for strategy development. They also offer effective ways of deciding whether the solutions and tactics suggested to address the targeted crime problem will meet their goals.

In the SACSI sites, the working groups took their problem analysis to community groups, line-level officers, social service agencies, and affected neighborhoods, in an attempt to solicit solutions. Most also looked at similar problems and solutions in other communities, and considered ways to apply criminological theory and practice to identify possible solutions to the problem.

Common suggestions included:

- Reducing poverty in high crime neighborhoods;
- Eradicating drug demand;
- Federal prosecution of all illegal gun carriers;
- Offering parenting classes; and,
- Supporting conflict resolution training and anti-gang programming in the schools.

All of these solutions were plausible ones in many of the SACSI communities. Reducing poverty and other root causes in high-crime areas would likely have an effect on violence in those neighborhoods. Eradicating drug demand would likely eliminate drug markets and the violence associated with them. Federally prosecuting all gun carriers would likely remove many potentially violent offenders from the community. Offering parenting classes and supporting positive training in schools might lead to healthier and less violent at-risk kids.

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To narrow down the possible solutions, the SACSI sites applied Kennedy's decision rules to each one:

- 1) How big of an impact can we anticipate?
- 2) How long will it take?
- 3) Can we do it?
- 4) Do we want to?

As simple as they are, these questions set a very high standard. Most of the potential tactics suggested by SACSI working groups failed to meet at least one of the four rules. Two of the above mentioned examples – eradicating drug demand and federally prosecuting all illegal gun carriers – illustrate the point.

#### ***Eradicating drug demand***

If drug demand were eradicated, illegal drug markets and the violence associated with them would dissipate. Thus, this strategy would pass rule #1 by yielding significant impacts on violent crime. All members of the working groups would have happily eradicated drug demand, and many members desperately wanted to do it (passing rule #4). However, eradicating drug demand would take longer than the working group had (failing rule #2) and was not something the working group had resources, know-how, or capacity to accomplish (failing rule #3). Thus, this strategy was discarded.

#### ***Federal prosecution of all illegal firearms carriers.***

This was clearly something the working group could accomplish (passing rule #3), and, the results were likely to be almost immediate (passing rule #2). However, when working groups carefully examined the impact this strategy will have and the amount of resources required to sustain it over any duration, most groups concluded that this tactic was not targeted enough and did not offer enough “bang for the buck” (failing by rule #1). Further, when working groups considered the desirability of this action, most concluded that a good number of these offenders came from impoverished, addicted, and broken families, and not all of them deserved to be treated

as hardened criminals, particularly if something better could be offered. Working group members also knew that many communities would not support federal prosecutions for all firearms carriers. For these, and other reasons, this strategy was not appealing (failing by rule #4). The strategy was discarded.

The SACSI sites had to keep searching until they found tactics that were both doable and effective in the short-run. The tactics that eventually passed the test were more often enforcement-focused than some working groups would have preferred. Thus, some sites developed a parallel track in which longer-term interventions were implemented and assessed.

#### **IV. Common tactics**

SACSI sites rarely settled on a single tactic as the immediate best answer. Rather, they used a variety of integrated tactics (which came together as a single strategy) aimed at identified causes. While every strategy was different, a few tactics were common to many of the sites and to Boston. Common tactics are described below.

##### ***The list***

The goal of “the list” is to identify the most serious, violent offenders in the city and increase the arrest, prosecution, and incarceration of these offenders. If you can identify the most serious offenders, those responsible for most of the violence, and put them away, you will reduce violence and fear on the street. How the offenders for this list are identified is critical to success. Some cities relied solely on criminal history data, and thus sometimes identified older offenders who were not necessarily the most likely to commit homicide. Other cities combined criminal history data with a monthly version of the incident review process. In incident reviews, practitioners examined recent homicides, as well as other types of incidents (including shootings, shots fired, assaults, and/or robberies) to bring on-going violent events to bear in developing the list.

Once the list was developed, efforts were made to increase the arrest, prosecution, and incarceration of these offenders. In some sites, part of the effort involved establishing a team that

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screened all firearms and/or violence cases to determine the appropriateness of local or federal prosecution. This tactic is referred to in Richmond and other cities as "Project Exile." Some cities also increased the enforcement of bench warrants and increased probation/parole scrutiny on individuals on the list. In some communities, the list became something that was feared on the street.

This tactic was not used by all of the SACSI sites. Working groups that did not have strong community support feared being accused of "profiling" if they were to develop or use a tactic such as the list. On the other hand, working groups that were supported by community coalitions stood behind the list as strategic enforcement which sought to rid communities of the "worst of the worst", the offenders everyone wanted off the street.

### ***Lever-pulling***

The lever-pulling strategy attempts to: (1) increase the perception among high-risk individuals that they were likely to face criminal sanctions if they continued to engage in violence; (2) make high-risk individuals aware of, and provide access to, legitimate opportunities and services; (3) communicate clearly and directly to them; and, (4) be credible by following through on the threat of sanctions when violence occurs and by making services and opportunities available as an alternative to criminal activities.

The lever-pulling strategy starts by selecting a narrow target category of illegal behavior (for example, gang violence in Boston or adult offenders who involved juveniles in crimes as in Winston-Salem). The working group then delivers a direct and explicit message to a relatively small, targeted group regarding what kind of behavior will elicit a special response from law enforcement and what that response will be. Then the working group monitors the targeted group and the targeted behavior closely and follows-through when individuals or groups step out of line.

When individuals or groups commit targeted acts, the reaction must be immediate and certain. The working group must make good on its word, and "pull levers" on those who have engaged in violence. The working group should then

communicate the results of the crackdown with others they are trying to effect. In other words, the working group should tell the targeted group (for example, Gang B) why members from Gang A are being prosecuted federally for their violent acts and what will happen to them if they behave similarly.

The primary method for delivering the lever-pulling message in the SACSI sites was a series of forums (or highly formalized meetings) with the target audience. The targeted audience of criminally involved individuals was most commonly identified through a combination of ongoing incident reviews and the use of the list. Federal and local prosecutors, accompanied by local, state, and federal law enforcement, explained the sanctions (levers) that would be applied to individuals and groups participating in violence. At the same forum, clergy and community leaders expressed their concerns about violence in the neighborhoods and the number of young men being victimized and incarcerated. The meetings also offered descriptions of available services and support opportunities available from providers, community, and clergy participants.

While this was the general format for the forums, the message, messengers, and precise format for the meetings varied across sites. Letters or phone calls to offenders, billboards, and posters may also serve as primary or secondary ways of notifying offenders of the message. What is critical is not necessarily how the offender is notified, but that the message reaches the *right* people, and that the message is clear, direct, and, most important, *credible*.

### ***Home visits***

Another key tactic in the SACSI sites were unannounced visits to the homes of probationers and parolees by teams of probation/parole officers, police, and in some cities (like Winston-Salem) clergy representatives. The home visits reinforced the message that the criminal justice community was united and serious about ensuring that targeted offenders were not committing violent offenses. Often these teams met not only with the offender, but also with the offender's family and neighbors, to let others

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know what was going on. Some of the visits ended with drug tests and some ended with distribution of resource information and contact sheets for services for the offenders and their families.

## **V. Measuring outcomes**

The SACSI sites are using multiple techniques to determine if their interventions are having the intended effect. Most sites took careful pre-intervention measures of key violence indicators such as homicide, shootings, robbery, and aggravated assault, especially in the neighborhoods where the problems were concentrated and the solutions were implemented. All sites continued to monitor the indicators monthly, and where appropriate, by neighborhood to determine the impact. If key indicators showed an effect, SACSI site researchers sought to determine whether the effects could be replicated and predicted over time. They also attempted to identify alternative interventions or other dynamics (for example, economic or demographic changes) that could have caused these effects. Because some of the sites (for example, Winston-Salem) applied their strategies in several neighborhoods, they were able to compare the "test" areas with the "control" areas – those that experienced comparable violence but had not received the resources of the working group. The comparison of test and control areas was done to determine whether targeted crime was being displaced to other areas of the city.

In addition to these measures, several sites sought to determine how the strategies were affecting the city at large. For example, researchers in Indianapolis examined data over time from NIJ's Arrestee Drug Abuse Monitoring (ADAM) program, which regularly tracks drug use by arrestees by asking questions about their drug use history. The researchers used ADAM to assess offender awareness of SACSI tactics, to learn more about the perceptions of criminal justice system effectiveness, and to determine if perceptions have changed on the street due to the strategies. Similarly, researchers in New Haven conducted pre- and post- intervention surveys of fear of crime in neighborhoods where the interventions were most acutely focused. SACSI sites have also attempted to determine whether the notified group has taken advantage of services and

opportunities provided, and what effect these resources have had on offenders.

## ***SACSI site results***

The University of Illinois - Chicago is conducting an evaluation of all of the SACSI sites. The initial findings from the first five SACSI sites funded in 1998 (the sites funded in late 2000 have not begun implementing interventions yet) are promising. For example, in Indianapolis, targeted crimes were down 11 percent from the 1999 level and 46 percent since 1998. Memphis has also seen its targeted crime (sexual assault) rates decline 26 percent over the course of intervention. Winston-Salem's statistics indicate a steep decline in the use of firearms in violent crimes in targeted areas. SACSI publications should be available in the coming year.

## **VI. Conclusion**

The lesson from Boston Ceasefire and SACSI is that law enforcement can prevent the next homicide. To do so, they need to build the right team and to ask the right questions. More often than not, the answers to these questions come from crime incident reviews, focus groups, and interviews with practitioners, in addition to administrative criminal justice system data. Only once the team has asked and answered all of these questions, can they design strategies to deal with their unique and precise problem. Over time, the team learns to assess their strategies and modify their approaches until they can predictably prevent homicides. These steps sound easy but each one contains many pitfalls. The lessons from SACSI are offered with the hope that the problem-solving model will continue to be improved upon by the Project Safe Neighborhoods Initiative. ♦

## **ABOUT THE AUTHOR**

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# Project Safe Neighborhoods: America's Network Against Gun Violence Facilitating the Work of Outreach

*John A. Calhoun  
President and CEO  
National Crime Prevention Council*

President George W. Bush and Attorney General John Ashcroft have announced that the Nation's ninety-three United States Attorneys will spearhead local implementation of Project Safe Neighborhoods: America's Network Against Gun Violence (PSN). Beyond the enforcement task forces and strategies, United States Attorneys will help to focus community attention and support on intervention and prevention initiatives that complement enforcement strategies.

Outreach is a vital element in Project Safe Neighborhoods. Experience has demonstrated that identifying our shared values and changing community norms about crime is key to changing community conditions that invite or enable violence, especially gun violence. By changing community norms and expectations, community leaders and criminal justice officials can make a huge long-term difference. By educating and engaging the community in the shorter term, these leaders can help speed the work of Project Safe Neighborhoods in engaging the power of swift and certain enforcement to change criminals' behavior.

The National Crime Prevention Council, the nation's leading nonprofit crime prevention organization, is assembling a toolkit to help United States Attorneys reach out to, and involve, criminal justice and community leaders to form a core of local action to reduce and prevent gun violence. These kits will debut at the training seminar scheduled for January 23-25, 2002, at the

National Advocacy Center in Columbia, South Carolina, with a half-day training devoted to how United States Attorneys and their staffs can most effectively use the materials.

## **Kits help at the start**

As new United States Attorneys take their posts in each district, they will begin forming gun task forces, or engaging existing ones, made up of a wide variety of law enforcement and other agencies. They will attend community meetings to encourage gun violence reduction activities and build support from civic leaders to improve neighborhood safety.

The kit provides introductory information on Project Safe Neighborhoods and basics on gun violence prevention. It offers a list of key community sectors that can and should be involved and describes roles they can play. It offers examples of the deterrent effect of enforcement and its preventive role in reducing gun crime.

A brief video serves to anchor audiences in the key points of the initiative, allowing the United States Attorney to explain how his or her district plans to proceed and to describe how local initiatives will interface with Project Safe Neighborhoods. Examples of enforcement messages used in various jurisdictions will help drive home the Project Safe Neighborhoods message to potential criminals – you will do hard time for gun crime.

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## **Building partnerships**

As the chief federal prosecutors of their districts, United States Attorneys can effectively convey the message that gun violence reduction is a problem that the whole community, not just the criminal justice system, must address. The goal is shared – safer neighborhoods free of the tyranny of gun violence. United States Attorneys can be catalysts to rally communities around that goal.

A key element of the kit will help its users identify ways to develop and strengthen coalitions. Lessons drawn from experience will highlight key steps and strategies. Examples demonstrate the power of successful coalitions that have benefitted from these organizing principles.

The kit will also offer examples of public service advertisements (PSAs) in a variety of formats – radio, billboards, print, and television – that United States Attorneys and others have developed, together with tips on developing effective local PSAs.

## **Something everyone can do**

An inventory of ways in which various community sectors can contribute, ranging from simple to complex, is another feature of the kit that was well-received by community officials and criminal justice leaders who helped in developing the kit. How to identify and involve these partners (e.g., schools, businesses, faith communities), as well as how to keep them involved, are described. Examples of effective task forces and partnerships demonstrate the wide variety of groups involved, their roles and responsibilities, and the collaborative processes by which they work toward their shared goal.

For example, social service agencies and health care facilities can be crucial partners. They often work with families affected by gun violence and can help reduce vengeance and payback killings. They can educate victims themselves about the high costs of using guns. Specific examples of what these kinds of organizations have accomplished in reducing violence help demonstrate their usefulness as partners.

Neighborhood leaders can identify problems within their neighborhoods and often describe

causes of those problems. They can mobilize neighbors to take active roles in solutions. Such tools as neighborhood surveys and needs assessments are included in the kit, along with information on how to organize a community summit. A dozen groups will be highlighted.

## **Public education materials with local emphasis**

A powerful and flexible element of the kit is the variety of documents designed with the PSN logo along with room for the logo, address, and telephone number of the local gun violence prevention coalition or task force. These documents will be provided on a compact disk in Portable Document Format (PDF) so that their design and layout can be reproduced as often as needed. Instructions for matching typefaces to localize will be included.

These “localizable” documents include such pieces as business-card size notices of Federal gun laws, ready-to-laminate Federal gun laws with respect to convicted felons and others, with space on the back to include key state (and local) laws on these issues. A trifold brochure describes Project Safe Neighborhoods, with a panel for local program information, if desired. Materials sized as bookmarks, paycheck stuffers, posters, and table-tops (tent cards), will help spread PSN’s messages throughout the community.

A PSN resource guide provides key documents for United States Attorneys’ offices to design and implement gun law enforcement strategies and to work with local enforcement, intervention, and prevention efforts. The kit also includes wide-ranging references for further information on specific topics in a reproducible format with space to add specific state and local contacts.

## **The challenge and the opportunity**

This nation has faced many challenges in its history. Time and again we have demonstrated our ability to come together to ensure our safety and our freedom. Terrorists took thousands of lives on September 11, 2001. The challenge is to realize that gun violence terrorizes communities more



slowly and more invidiously, but even more lethally. The opportunity is present to involve communities in ending this appalling drain on our local and national energies, and to bring federal, state, and local partners together in using three impressive weapons – enforcement, intervention, and prevention – to build and sustain the safe and caring communities that all our citizens deserve. NCPC's Outreach Toolkit is designed to be a resource to United States Attorneys across the nation as they take on this task.

NCPC is pleased to be a partner with the U.S. Department of Justice in this endeavor. ❖

#### ABOUT THE AUTHOR

❑ **John A. Calhoun** is the President and Chief Executive Officer of NCPC. Mr. Calhoun founded and ran the Justice Resource Institute, which pioneered programs such as pretrial diversion for youth and urban courts, a pioneering neighborhood justice program. In 1976 he was appointed commissioner of the Massachusetts Department of Youth Services. He served as a Presidential appointee under President Carter as United States Commissioner of the Administration for Children, Youth, and Families, where he oversaw programs and policies in such areas as Head Start, child abuse and neglect, runaway youth, and child welfare. He created the Office for Families and the Office for Domestic Violence. He subsequently served as Vice President and Director of Public Policy for the Child Welfare League of America. ❖

## 99027 ATF's Integrated Violence Reduction Strategy

*Barbara Anderson  
Bureau of Alcohol, Tobacco and Firearms*

The Bureau of Alcohol, Tobacco and Firearms (ATF) is a strong partner in the Department of Justice (DOJ) Project Safe Neighborhoods (PSN) initiative and is strategically positioned to offer continuing support to federal, state and local law enforcement with ATF's unique tools to reduce gun-related crime and violence. ATF's strategic plan focuses specifically on reducing violent crime and we collaborate with other law enforcement agencies tasked with this same mission.

ATF is the Federal law enforcement agency responsible for enforcing the Federal firearms laws, including the Gun Control Act of 1968 (GCA), as amended, and the National Firearms Act (NFA). When enacted, Congress declared that the GCA's purpose was to provide support to federal, state and local law enforcement officials

in their fight against violent crime. With that clear directive, ATF developed a comprehensive strategy for enforcement of Federal firearm laws. ATF recognizes that each community has unique law enforcement requirements. Therefore our programs concepts are adapted and tailored to address the specific law enforcement needs of each community. The following is a general overview of the resources that ATF offers to the law enforcement community.

We are in the process of assigning ATF special agents in all 93 United States Attorney districts to support PSN and the prosecutors in place. ATF offers a wide variety of specialized training to federal, state, and local law enforcement officers and prosecutors. For instance, we are expanding our firearms training classes regarding our available tools and resources to include United States Attorneys and their staffs. We will work together to present and prosecute

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criminal firearms cases that make the most impact.

#### **On-line lead**

To carry out our unique firearms legislative responsibilities, ATF has developed many programs for reducing violent crime and providing intelligence data to law enforcement agencies. ATF is the only domestic agency that has access to national crime gun trace data, and other unique firearm-related data, through our partnerships with the firearms industry. Through the tracing process of a crime gun serial number, ATF agents obtain crucial leads to significant criminal cases which impact the illegal diversion of firearms. We maintain a highly qualified staff of firearm technology specialists who provide technical advice and services for manufacturers and importers of firearms. These specialists examine and classify firearms and related products, including industry prototypes. In consultation with our import experts, they make technical determinations concerning firearms importation.

#### **GREAT**

ATF administers the Gang Resistance Education and Training program (GREAT), a community-based curriculum designed to instill basic life-skills in children aged 8-14 (grades 3-8). By training local police officers to teach the curriculum, GREAT addresses real-life issues, such as positive decision making, goal setting, conflict resolution, and responsibility and anger management. The vision of the GREAT program is to prevent youth crime, violence, and gang involvement, while developing positive relationships among law enforcement families and youth. The program offers children of all backgrounds the building blocks for personal empowerment to create safer communities. A recently completed longitudinal study suggests that the children show more pro-social behaviors and attitudes than those of their peers who have not attended or completed the training.

#### **Achilles**

Federal laws often provide mandatory minimum sentences for armed career criminals and persons engaged in armed violent crime or armed drug trafficking crime. These sentences are often tougher than the comparable state penalties. ATF agents, in partnership with state and local authorities make recommendations to achieve the greatest deterrence of gun-related crime.

#### **NIBIN**

The National Integrated Ballistic Information Network (NIBIN) is a system for ballistics matching of firearms, cartridges and projectiles. NIBIN deploys and maintains the Integrated Ballistic Identification System (IBIS) equipment used by state and local law enforcement agencies, which allows them to compare evidence obtained from crime scenes and recovered firearms. NIBIN continues to expand into additional communities with this tool that can assist law enforcement agencies in linking, and ultimately resolving, unsolved firearm related crimes.

#### **Firearms Expert Training Courses**

ATF National Firearms Examiner Academy is the first of its kind to offer a formal national training program for tool mark examiners. This academy is a unique and innovative year-long training program in partnership with the firearms and ammunition industry. The students are apprentice/entry-level firearms examiners from federal, state, and local law enforcement laboratories. This training allows them to render technical determinations and provide expert testimony regarding firearms and tool marks on recovered firearm ammunition casings and projectile evidence. ATF provides technical training classes to ATF special agents, which allows them to provide expert testimony in Federal court regarding the identification and determination of place of manufacture of firearms. Expert firearms technical testimony is a mandatory element of proof in violent gun crime cases.

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## Partnerships

ATF has partnered with the National Institute of Justice, Bureau of Justice Statistics and other academic researchers to evaluate and analyze our data, thus increasing the efficiency of our investigations. ATF participates in several Department of Justice, Strategic Approach to Community Safety Initiative (SACSI) model cities and SafeCities initiatives. These highly visible programs are models for the PSN initiative used for sharing best practices.

ATF and DOJ have partnered to share best practices in determining the nationwide picture of the PSN initiative. Currently, the best sources of crime data are the FBI Uniform Crime Report as well as the National Victims Survey. We continue to improve our performance reporting, obtaining accurate and reliable information to measure our contribution to the reduction in violent crime.

We strive to achieve a clearer picture of the nature, type, frequency, and location of gun violence in each district, which will allow us to do a better job of strategically using our scarce resources. ATF looks forward to success in conjunction with our federal, state and local partners in the reduction of violent firearm crime. We are committed to innovation and partnerships for a sound and safer America.❖

## ABOUT THE AUTHOR

❑ **Barbara Anderson**, a Special Agent with the Bureau of Alcohol, Tobacco and Firearms, is currently assigned to the Strategic Planning Office where she is responsible for coordinating and facilitating the planning process for the Strategic Leadership Team.

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# 99028 Using Community Resources in Gun Violence Reduction Initiatives

*John Lenoir  
Assistant United States Attorney  
Chief, Programs Division  
Southern District of Texas*

In launching Project Safe Neighborhoods, Attorney General Ashcroft called on United States Attorneys to work with coalitions within their communities to increase citizen awareness and participation in their district's gun violence reduction program. In the not too distant past, directing federal prosecutors to partner with community-based groups in a crime-reduction initiative would have been unthinkable. United States Attorneys are now increasingly including community outreach as part of their mission. The communities that United States Attorneys work with are potentially well situated for partnership responsibilities, a result of community development initiatives of the Department of Justice's Office of Justice Programs (OJP). This article illustrates how a United States Attorney's Office can benefit from

OJP's work in establishing, training, and funding community public safety coalitions.

The OJP's various efforts to promote community-based public safety through planning strategies and programs can be an important resource for United States Attorneys in developing effective partnerships for sustained gun violence reduction. The Department has invested in many communities through training, technical assistance, and funding for community-based public safety programs. The flagship program for United States Attorneys is Weed and Seed. Operation Weed and Seed was created in 1991 with three sites. Ten years later, there are more than 250 Weed and Seed communities throughout the country. Nearly all United States Attorney's Offices sponsor at least one Weed and Seed community.

Through Weed and Seed, responsible community representatives are provided a forum to review and analyze crime problems with local and federal law enforcement officials and

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prosecutors. Each Weed and Seed steering committee is funded based on their application which incorporates a strategic plan. The civilian and law enforcement community planners prioritize crime issues, and set forth a plan of action for coordinated enforcement (weed) and corresponding community revitalization measures (seed). The active participation of United States Attorney Offices in the Weed and Seed initiative has been consistently encouraged by the Executive Office of United States Attorneys and OJP, and supported by a designated budget. Independent evaluations have noted that involvement of United States Attorneys has been critical to the success of this outreach program.

Other OJP programs, such as SACSI (Strategic Approach to Community Safety Initiative) and Comprehensive Strategy for Serious, Violent and Chronic Offenders (Comprehensive Strategy), empower community-based planning teams with technical assistance that brings scientific process and data-based decision-making to the table. These programs fund consultants who provide research and evaluation expertise. The goal is to assist community-based criminal justice planners in formulating their activities through access to local, state and national data resources, and to guide their sponsored activities through ongoing evaluations that measure results in context of outcome objectives.

The Southern District of Texas adopted a comprehensive approach to reduction of gun violence. The initiative is district-wide with region-specific programs developed in conjunction with law enforcement agencies and community representatives. The initiative incorporates enhanced enforcement through federal firearms statutes, with focused community policing and community-based gun violence prevention strategies.

The effective integration of enforcement, intervention and prevention components is a result of the district's successful experience with OJP-sponsored community public safety programs and established partnerships with state agencies. For the Texas Exile/Gun Violence Reduction Initiative, the State Attorney General provides prosecutors, the Governor's Office funds

consultants for community research and coordination, the National Guard assigns soldiers and airmen for community outreach assistance, and the Texas Exile Foundation, supported by private donations, sponsors public awareness through media campaigns.

Enhanced enforcement through federal law and procedures follows the now classic Exile model. Procedures were worked out with state prosecutors and local law enforcement agencies to ensure that ATF is notified early in all arrests that potentially entail federal firearms offenses. Cases are reviewed with state prosecutors to determine which forum, state or federal, is most appropriate. The State Assistant Attorneys General, assigned as Special Assistant United States Attorneys, supplement the prosecution of firearms cases.

What makes this initiative distinct is the district's commitment to leverage the OJP and state investments in community-based public safety initiatives of Weed and Seed and Comprehensive Strategy. The Weed and Seed program was well established in five communities in the district. This was the working coalition of community representatives, prosecutors, and law enforcement. Comprehensive Strategy was the research-guided strategic planning process. Bringing the two programs together could effectively engage the community's interest and resources to the issue of sustained gun violence reduction.

The objective is to rally the coalitions around the core principles of Comprehensive Strategy, that a community can realize a long-term reduction in juvenile crime through coordinated prevention, early intervention, and graduated sanctions. This remarkably obvious concept has been confirmed by the work of scholars and criminal justice researchers. We know, for example, that children are not born genetically predestined for delinquency. A young person's social behavior is essentially a result of learning from, and adapting to, his or her environment – one shaped by family and community.

Research has established what every experienced elementary school teacher knows intuitively: a child's propensity to delinquency can be predicted. Studies are identifying risk

factors for delinquency and juvenile crime. The behavioral risk factor approach in criminology follows the principles that guide risk analysis and prevention measures for medical conditions such as heart disease and cancer. Protective factors can off-set risk factors and reduce the likelihood of a young person adopting behavioral models that lead to delinquency and, ultimately, violent criminal behavior.

The Southern District of Texas called upon the Washington and Austin partners to set this prevention-oriented outreach in motion. The Governor's Office sponsored and funded consultants with Fox Valley Technical College through a grant which the United States Attorney's Office directs. The Fox Valley community planning experts were well known for their prior work with OJP in establishing the Comprehensive Strategy procedures in the initial five Weed and Seed communities.

The Fox Valley consultants, teamed with the district's Community Relations Specialist and the community Weed and Seed Coordinators, are asking the public safety coalitions in these five cities to apply the principles and practices of comprehensive strategy to the particular issue of armed violence. Specifically, they seek to identify those risk and protective factors most closely associated with armed offending. Next, prevention and early intervention measures are focused on these identified factor clusters. Graduated sanctions, the third element of Comprehensive Strategy, was already impacted by the extreme sanction of federal prosecution for the armed offender. The communities were asked to develop appropriate graduated sanctions before application of the federal hammer.

Midway through the first year of the two-year effort, the consulting team has made initial visits to the five cities and is preparing preliminary reports to the communities on data collected. The response of community representatives has been to request more time from the consultants to assist in developing community action plans. What has been accomplished so far is to convince community coalitions that it is possible to realize sustained reduction in violent crime. We now need to assist with the maps on how to accomplish this goal. A community's action plan will provide

a framework for coordination of services for youth and families from prenatal care to correctional aftercare. What this means is that every juvenile crime prevention and early intervention program undertaken by the community will be reviewed in terms of its comprehensive strategy. Does the program address risk factors identified as contributing to armed violence among the city's youth population, and/or enhance protective factors that provide a buffer against these risk factors?

In sum, the Southern District of Texas' approach is premised on the understanding that gun violence can be significantly reduced in a community by intelligent and persistent attention to early juvenile delinquency and crime. The United States Attorney has taken a leadership role in community-based public safety. The impact of these efforts will be difficult to evaluate in terms of crime statistics. Whatever credit the United States Attorney gets in crime reduction through prevention, a major goal has been accomplished in bringing together the best practices of the various OJP initiatives in the district to focus on reducing armed violence. ♦

#### ABOUT THE AUTHOR

□ **John Lenoir** has been Assistant United States Attorney in the Southern District of Texas for sixteen years, and currently directs the district's Programs Division. Prior to coming to the Department he spent six years as an Assistant District Attorney for New York County.✉

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# A County-Wide Approach to Firearm-Related Crime: The Story of The Firearm Crime Enforcement (FACE) Coalition of King County, Washington

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*Chief Steven Harris  
Commander Terry Morgan  
Redmond, WA Police Department*

King County is Washington State's most populous county. It is home to 1.7 million people and encompasses the city of Seattle. Over 3,000 law enforcement officers, from thirty-four local jurisdictions, serve in King County. The effort to create a firearm crime coalition in King County began in early 1998. Recently the name was changed from the "King County Violent Firearm Crime Coalition" to the "Firearm Crime Enforcement Coalition of King County." This was done to enhance the Coalition's emerging publicity efforts. The acronym for the new name, "FACE," will more easily lend itself to advertising slogans such as "Commit a crime with a gun in King County and you will FACE the consequences."

Compelled by school shootings in Springfield, Oregon and several other locations around the nation, as well as a negligent shooting death involving juveniles with a stolen firearm in our own city, the Redmond Police Department began an intense examination of firearm crime reduction strategies in early 1998.

A close look at the issue quickly revealed that the Redmond Police Department, by itself, could not be entirely effective in dealing with this problem. We were dependent on too many other entities, such as the county jail, the prosecutor's office, juvenile probation, the State Department of Corrections and even our neighboring police agencies. Policies and practices of all of these agencies had the ability to impact the safety and

crime level in our community regarding firearm-related crime.

There were, at the time, examples from other areas of the country where firearm crime reduction strategies had been successful. Most notable were The Boston Project and Project Exile in Richmond, Virginia. Both of these programs had achieved remarkable success in reducing firearm-related homicides. Our analysis identified five elements common to both of these programs. They were:

- a coalition approach, getting all of the stakeholders involved;
- a strategic focus on firearm-related crime, backed up by an agreed-upon plan, which provided mutual support for the overall goal of reducing firearm-related homicides and other violent firearm crime;
- vigorous enforcement and prosecution of laws related to criminal possession and use of firearms;
- an intense publicity program designed as a warning of the legal consequences of any illegal possession or use of a firearm;
- these programs did not seek to stigmatize lawful firearm ownership or use and, therefore, they gained universal public support, including the support of organizations that are traditionally at odds in the gun control debate.

Based on our study of the Boston and Richmond programs, it became evident that to be effective in reducing firearm-related crime in

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Redmond, we would have to adopt an approach that incorporated the aforementioned five points and included all stakeholders in King County. During a preliminary meeting of several key city chiefs and the County Sheriff, we found overwhelming support for developing a county-wide violent firearm crime coalition.

The King County Police Chiefs' Association was identified as the organization to be used as the mechanism for accomplishing this goal. The King County Police Chiefs' Association is an umbrella organization that includes all federal, state, county, and local law enforcement agencies that operate in King County, in addition to federal and county prosecutors and federal, state and county corrections officers. In early fall of 1998, the coalition concept was presented to the Chiefs' Association whose participants voted unanimously to develop the King County Violent Firearm Crime Coalition. A Redmond Police Commander was appointed to lead a committee made up of Command Staff from twelve key representative agencies of the Chief's Association. The committee's mission was to develop the Coalition's Strategic Plan, and its work involved numerous meetings as various parts of the plan impacted different stakeholders. For example, policies affecting the Department of Corrections had to be submitted to department heads for approval prior to being incorporated into a final plan.

After three months of work, the strategic plan was finished and unanimously approved by the King County Police Chiefs' Association. Adoption of this plan has created consistent and mutually supportive firearm crime-related policies among law enforcement, corrections and prosecutorial agencies. For example, any case involving a firearm crime is stamped "FIREARM CRIME" in red by the originating agency before it is sent to the county prosecutor. The King County Prosecutor has designated a specific deputy to review all such cases, ensuring that agreed-upon guidelines are followed and that maximum penalties are sought. This same prosecutor is cross deputized as a United States Attorney and also screens cases for suspects who meet the criminal history requirements to be classified as an armed career criminal. Career criminal cases are then filed in federal court where conviction for any

illegal firearms possession or use carries a mandatory fifteen year minimum sentence with no early release or parole.

Another significant accomplishment of the coalition has been the training of over 150 officers throughout the county as instructors on firearm-related law and investigations. They, in turn, have been tasked to provide in-service training to all officers and supervisors in their respective departments. Development and delivery of this training program was a major project undertaken by the King County Sheriff's Office, the Bureau of Alcohol, Tobacco and Firearms, the King County Prosecutor's Office, the State Crime Laboratory, and the Washington State Criminal Justice Training Commission. It was accomplished with existing budgets and is an excellent example of what can be achieved when working together to accomplish a common goal.

Besides improving training and streamlining procedures, the strategic plan also supported practices that were identified as having the potential to significantly impact firearm-related crime. The plan advocates partnerships between law enforcement and corrections that result in more intense post release supervision of violent felons. A close police and corrections partnership was a crucial element in the success of the Boston program and our strategic plan included an endorsement of Washington State's own police/corrections partnership model called Supervision, Management And Recidivists Tracking (SMART) Partnerships. The strategic plan also supports the deployment of School Resource Officers (SROs) to junior high and high schools to facilitate community-policing partnerships between police, school administrations and students. It endorses the concept of SRO's teaching a firearm awareness curriculum that educates students about the risks associated with the illegal possession and use of firearms, and encourages them to become partners with police and administrators in the safety of their schools. Several jurisdictions in King County, including Redmond, Bellevue, and Seattle had already developed and begun teaching such programs.

All of the above examples illustrate the types of strategies and agreements utilized in the

strategic plan to support the coalition's mission to "Develop and implement strategic initiatives that unify law enforcement, prosecutors, corrections and other vested agencies in a consolidated effort to reduce the incident of violent firearm crime in King County."

Crime trends can be influenced by a variety of factors. We believe that the King County Violent Firearm Crime Coalition is beginning to have an impact. According to the King County Prosecutors Office, juvenile firearm crime has dropped by 52% in King County in the last four years.

As work progressed in King County, an effort to develop Model Violent Firearm Crime Coalition Guidelines was underway by the International Association of Chiefs of Police Firearm Committee. These guidelines were to serve as a blueprint for other jurisdictions that wished to utilize the coalition concept in developing their own firearm crime reduction programs. At the 1998 IACP convention, the Firearms Committee met and designated a four-person subcommittee to study the coalition concept and draft IACP Guidelines. In June 1999, this subcommittee met with, and attended presentations by, key representatives of the King County Coalition. Ironically, at this Seattle meeting, one of the members of the subcommittee, announced that President Clinton, through Attorney General Janet Reno, had just ordered all United States Attorneys to develop broad-based firearm crime reduction strategies in each of their judicial districts. The order mirrored many of the agreements and initiatives already spelled out in the King County Strategic Plan, which at that time, represented a work effort that had been ongoing for over a year. Over the next four months, the subcommittee completed it's work and presented the IACP Model Firearm Crime Coalition Guidelines and a supporting resolution to the Firearm Committee during it's annual meeting at the 1999 IACP Convention. The Coalition Guidelines and the Resolution were unanimously approved by the Firearms Committee and went on to win approval by the IACP Board of Directors.

We are proud of our accomplishments in King County and we continue to work on improving

our efforts. On December 1, 2000, the King County Violent Firearm Crime Coalition received recognition as one of the ten leading firearm crime reduction programs in the country. We applaud the IACP for it's work and believe that the IACP's Model Violent Firearm Crime Coalition Guidelines can assist any jurisdiction in developing a comprehensive and effective firearm crime reduction strategy tailored to that jurisdiction's specific laws and unique problems. We further applaud the IACP for forwarding King County's Violent Firearm Crime Coalition Guidelines to the new Attorney General for consideration as part of a national firearm crime reduction strategy. We wish to thank the IACP for the opportunity to provide information about the King County Violent Firearm Crime Coalition and the IACP Model Violent Firearm Crime Coalition Guidelines to its membership through The Police Chief magazine.❖

#### ABOUT THE AUTHOR

❑ **Steven Harris** has served as Chief of Police in Redmond, Washington Since 1981. He is a current member of the International Association of Chiefs of Police Executive Committee, the Washington State Association of Sheriffs and Police Chiefs, the Police Executive Research Forum and the American Society for Industrial Security.

**Terrance J. Morgan** has served over 17 years with the Redmond Police Department where he was Promoted to Commander 4 years ago. He is Co-developer of SMART Partnerships, Washington's Nationally recognized partnership program between law enforcement and the WA State Department of Corrections. Morgan Assisted with development of The Firearm Crime Enforcement Coalition of King County.

A portion of this article was reprinted from the September 2001 issue of The Police Chief magazine, courtesy of the International Association of Chiefs of Police (IACP). The Police Chief article was written prior to the FACE Coalition's name change.✱



# Project Backfire: The Beginning of the End of Gun Crime in Kentucky

McKay Chauvin  
Assistant United States Attorney  
Western District of Kentucky

We have a problem with gun crime in Kentucky. The problem we have is that we have gun crime in Kentucky. More and better prosecution is never the entire solution, but no solution is possible in the absence of consistently aggressive law enforcement. In the Western District of Kentucky we are attempting to provide our part of the solution through *Project Backfire*.

While gun ownership is an accepted fact of life in the rural parts of our district, gun crime has become an accepted way of life in the big city. For that reason, we chose to start *Project Backfire* in Louisville (Jefferson County), the largest metropolitan area in Kentucky. In Jefferson County there are three separate prosecutors' offices charged with enforcing the law – the Jefferson County Attorney (misdemeanor offenses), the Commonwealth's Attorney (felony offenses), and the United States Attorney (federal offenses). The heart of *Project Backfire* is the partnership of these three agencies. *Project Backfire* is only possible through the unprecedented level of inter-jurisdictional cooperation among these prosecutors in committing their collective resources and resourcefulness to the problem of gun crime.

## The Tao of *Project Backfire*

Dealing with the problem of gun crime does not require knowing whether guns kill people, people kill people, or people with guns kill people. However, dealing with laws that concern guns does require an understanding and appreciation for how the people of the community might feel about that. Kentucky, the state that brought you bourbon whiskey, filterless cigarettes, and the Kentucky long rifle, is a source state for everything that the Bureau of Alcohol, Tobacco, and Firearms regulates. If this anti-gun violence, anti-gun crime initiative were to come

across as anti-gun, then the hearts and minds of the people who make up Kentucky juries would be lost to us. To that end, we accepted the National Rifle Association's premise that the problem of gun violence in the United States is not a question of law, but of law enforcement. *Project Backfire* accepts the challenge to enforce the laws on the books. We do so in order to eliminate any potential adverse reaction to the initiative, and because, agendas aside, we do have some pretty good gun laws. The first step in creating *Project Backfire* was to conduct a painfully honest assessment of the job we were doing prosecuting gun crimes in Jefferson County.

## We Have Met the Enemy and . . . ?

No solution to the problem of gun crime is possible in the absence of consistently aggressive law enforcement. The demands placed upon the state court system, however, have often prevented prosecution in Jefferson County from being consistently aggressive. This is not an indictment of the talented state prosecutors in Jefferson County, but of the system in which they operate. Our state partners in the Jefferson County and Commonwealth's Attorneys' offices, like most state prosecutors, are underpaid, overworked, and overwhelmed by the sheer volume of cases they are required to handle. The flood of criminal cases coursing through the Jefferson District and Circuit courts generates a powerful systemic momentum that directs the course of plea bargaining down the path of least resistance. The pressure on prosecutors not to interfere with this flow is tremendous. Dismissals, amendments, and lenient plea bargains are a natural reaction to, and consequence of, that system. Effective deterrence cannot be possible under those circumstances.

Consistently aggressive prosecution is not a problem in federal court. The Federal Sentencing Guidelines, absence of parole, limited opportunity for probation, and the resources to take every case to trial, guarantee that the sentences meted out in federal court are consistent and consistently stern.

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However, being consistently stern is not enough if you are not being consistently stern in enough cases. Most United States Attorney's Offices across the country have traditionally viewed street-level gun crime as primarily a "state matter." The firearm offense prosecutions which arrive in federal court are usually those that start out with federal law enforcement agencies. These prosecutions likely include the possession of firearms by prohibited persons, possession of prohibited firearms, 924(c) prosecutions connected with bank robberies and drug trafficking offenses, and prosecution under the Hobbs Act for robbery of a business in interstate commerce. The painfully honest truth is that there has simply not been enough of these federal firearms offense prosecutions to have the desired deterrent impact on gun crime.

*Project Backfire* proposed the marriage of state court volume with federal court consistency in order to produce consistently aggressive prosecution on a grand scale. The prosecutors of Jefferson County have resolved to do our part to deter gun violence by making the unlawful possession or use of a firearm the swiftest and surest way to the county jail, state prison, or the federal penitentiary.

### **Backfire Basics**

The grand scale we were seeking required that we define gun crime as broadly as possible. Rather than limiting ourselves to traditional firearms offense statutes, we chose to focus on the criminal *conduct* and consider a firearm offense to be *any* offense in Jefferson County in which a defendant unlawfully possesses or uses a firearm. The actual charge could be anything from disorderly conduct, to trafficking a controlled substance, to capital murder. Although every prosecution ultimately rises or falls on the facts, there are differences in the applicable statutes and available penalties which sometimes favor one jurisdiction over another. With that in mind, specially designated prosecutors from the Jefferson County, Commonwealth's and United States Attorneys' offices screen every firearm offense committed in Jefferson County as those offenses enter the criminal justice system so as to determine which jurisdiction (county, state, or federal) is most appropriate for each offense

and offender. Wherever the case goes, consistently aggressive prosecution follows through the application of strict prosecution guidelines.

### **The Guidelines**

Deciding that *Project Backfire* needed to have prosecution guidelines was easy. Deciding what those prosecution guidelines should be was hard. The guidelines had to be easy to understand and equally easy to apply across an incredibly broad spectrum of possible offenses, facts, circumstances, and degrees of available proof. After much discussion, we came up with a set of sixteen relatively simple guidelines. These guidelines were directed at three stages of the prosecution function – pretrial detention, probation revocation, and adjudication.

**1. Pretrial Detention.** While the decision-making authority in pretrial release matters ultimately rests with the judge, the responsibility to request an appropriately high bond for defendants who represent a danger to the public rests with the prosecutor. We incorporated that obligation into the guidelines by directing prosecutors in *Project Backfire* cases to: (1) request pretrial detention (Federal District Court), or an appropriately high bond (Federal District, Jefferson District and Jefferson Circuit Court); (2) request as a non-financial condition of bond that the defendant not possess any firearms; and (3) not agree to bond relief in exchange for concessions from the defendant, other than a plea of guilty to the charges. This last guideline came in response to the practice in Jefferson District Court of agreeing to bond relief in exchange for the defendant waiving a probable cause or bond hearing. This practice was one of the practical responses by prosecutors to that crushing pressure to move cases through the system. Under *Project Backfire* this would no longer be an acceptable response. The generally accepted exception to this rule is that a prosecutor may agree to bond relief after the defendant pleads guilty, so long as the plea and the terms of release are structured to promote the defendant's good behavior and protect the community.

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**2. Probation Revocation.** The same institutional momentum generated by the staggering number of cases processed through the state courts led to a similar practice in Jefferson County, for handling the revocation of previously probated sentences. In Jefferson District Court the practice had been for the prosecutor to agree not to revoke a defendant's previously probated sentence in exchange for a plea of guilty to the pending misdemeanor charge, or waiver of a probable cause hearing on the pending felony charge. In Jefferson Circuit Court, where revocation hearings are usually postponed until after the pending charge is resolved, the same end was effected by agreeing not to file the revocation motions as part of the plea agreement. Successfully revoking a defendant's probation, however, readily and successfully accomplishes the primary goal of *Project Backfire* by getting those who commit firearms offenses off the street and into jail. Defendants who commit firearms offenses while on probation, conditional discharge, or supervised release should have their release revoked as soon as practicable. The prosecution guidelines direct prosecutors in *Project Backfire* cases to do just that.

**3. Adjudication.** The final set of guidelines are targeted directly at ensuring the consistently aggressive prosecution of firearm offenses. These guidelines were especially difficult conceptually in that they had to be written in a way that prompted compliance while allowing for exceptions, where necessary in the interest of justice. For example, where the available proof falls somewhere above probable cause but well short of beyond a reasonable doubt, or where strict adherence to the rules would result in a disproportionately harsh sentence. The obvious concern was that the exceptions would quickly swallow the rules. Acknowledging that this was as much a matter of leadership as draftsmanship, we resolved this dilemma by establishing a standard for when the prosecutor could deviate from the guidelines, along with the assurance that prosecutors were going to be held accountable for explaining the exercise of that discretion.

Borrowing a page from the Federal Sentencing Guidelines, the *Project Backfire*

prosecution guidelines set out a minimum amount of time to be considered as the low end of the sentencing range in firearm offense prosecutions. The statutory maximum serves as the high end of that range. The recommendations are to be adjusted according to the seriousness of the offense and the extent of the defendant's criminal history. However, the prosecutor may deviate from the guidelines if he or she is not confident that the case could be proven at trial. Any time a prosecutor opts to dispose of a case outside of the established guidelines, the basis for that exclusion must be explained in writing as part of the disposition record. Every disposition of every county, state, and federal firearm offense prosecution in Jefferson County is collected and reviewed by *Project Backfire*, and this information is included in monthly reports to the Jefferson County, Commonwealth's, and United States Attorneys.

#### **Resources, Resources**

Our effectiveness in this project, like any other, has been limited by the available resources. Our commitment to take gun crime more seriously means more cases will go to trial, more probation revocations will be contested, and more sentencing hearings will be conducted. Yet prosecutors and paralegals do not magically appear whenever they are needed. The one absolute requirement was an additional paralegal to assemble the cases for prosecutorial review, and to keep statistical tabs on how cases were moving through the system. None of the prosecutor's offices had a paralegal to give up for full-time work on *Project Backfire*.

We found funds to hire a paralegal by contacting other agencies who share our goals. The Commonwealth of Kentucky Justice Cabinet authorized federal Byrne Grant funds they administer to be used to hire a paralegal, a part-time assistant, and to equip them with computers and other necessary supplies. The City of Louisville committed matching funds for the grant. Without that support, the project would have stalled.

Other attempts to garner resources have been less successful. Ethical restrictions prevent federal prosecutors from soliciting funds for such endeavors, and the private sector has, thus far,

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failed to generate the kind of public awareness that Dallas and Richmond have promoted. The Executive Office for United States Attorneys authorized an additional gun prosecutor, but denied our request for an additional paralegal. We hope the grants to our state partners under Project Safe Neighborhoods' Community Gun Violence Prosecution Program will help ease the burden by taking gun violence prosecution to another level.

#### So Far . . .

*Project Backfire* has been up and running for eleven months. In that time, we have identified and prosecuted 968 firearms offenses in Jefferson County. Success is hard to quantify because no statistical information is available from previous years for comparison purposes. We do know that the number of homicides committed with guns is down by 41 percent, and the number of gun crimes, in general, is down by 3 percent compared with last year, although we have to share the credit for the decrease with a number of other factors.

There have been a number of bumps along the road. Not everyone is happy with the program. Defendants, and defense lawyers do not like the stiffer penalties. Some state court judges have complained about the program creating more backlogs in their courts. Although the prosecutors' offices work together better than they

have in the past, we still sometimes disagree on which office should prosecute a case, and we are not satisfied with the number of cases being referred to federal court.

Nevertheless, it is abundantly clear that things have changed. Defendants, who in years past could expect to receive a fine for carrying a concealed firearm, are now going to jail. Probated sentences are being revoked; persistent felony offenders are being prosecuted as persistent felony offenders; and armed robbers are confronted with the Hobson's choice of pleading guilty to a high-end plea in state court, or facing a Hobbs Act prosecution or other charges in federal court. As such, we have had a major impact on how gun crime is prosecuted in our community. It remains to be seen how that impact will ultimately effect the problem of gun crime in our community. If a solution is possible, we can now say it is actively being sought in Jefferson County. ♦

#### ABOUT THE AUTHOR

□ **McKay Chauvin** has been an Assistant U.S. Attorney for the Western District of Kentucky since 1999, and he was an Assistant Commonwealth's Attorney from 1988 to 1999.✱

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## Executive Office for Weed and Seed Gun Law Enforcement Initiative

*Andrew H. Press  
Program Manager  
Weed and Seed*

The Executive Office for Weed and Seed (EOWS) is working with Office of Justice Programs (OJP) to develop a one-day presentation on Project Safe Neighborhoods and related gun crime enforcement activities that can be added to a regional meeting agenda at the discretion of regional planners. Project Safe Neighborhoods is a nation-wide commitment and strategy to reduce

gun crime in America. The strategy utilizes a network of existing programs that target gun crime and provides tools at the local, state, and national level to support the network. Since 1996, EOWS has offered a Gun Abatement Special Emphasis Area providing sites with up to \$50,000 for their law enforcement and crime prevention activities.

The EOWS Gun Law Enforcement Initiative seeks to reduce crime and violence involving guns in Weed and Seed sites. EOWS will continue to team with the Federal Bureau of Investigation

(FBI), Safe Streets Task Forces, and the Bureau of Alcohol Tobacco and Firearms (ATF) to apply lessons learned during other efforts such as Kansas City's Weed and Seed initiative and Washington, D.C.'s "Operation CeaseFire," both of which target illegal firearms activity. The EOWS initiative is closely linked to Project Safe Neighborhoods (PSN). Innovative strategies include educating residents on how to protect themselves from gun crime and related gun violence, and providing additional training to police officers on the latest tactics employed by criminals carrying weapons illegally. The initiative provides resources for police officers in designated areas to focus enforcement efforts on the seizure of illegal firearms. These officers will receive specialized training by the United States Attorney's office and OJP in creative and appropriate law enforcement techniques that will greatly enhance gun investigations and prosecutions. Assistance and resources are also available to both state and federal prosecutors so their offices can devote more time to cases involving firearms. Additionally, the ATF will provide assistance in tracing seized firearms to their source with the objective of identifying "straw purchasers" and disreputable dealers. Once

identified, an illegal source can be targeted for appropriate criminal and/or regulatory action. Through the gun initiative, funds could also be used to assist with the development of crime-mapping programs to help residents, officers, and prosecutors analyze when and where problems are occurring.❖

#### ABOUT THE AUTHOR

❑ **Andrew Press** is a Grant Management Specialist for the Executive Office for Weed and Seed (EOWS), Office of Justice Programs, U.S. Department of Justice. Mr. Press also manages the implementation of the Asset Forfeiture Fund Program, and handles gun violence and methamphetamine/drug abuse reduction programs for EOWS. Mr. Press holds a M.Ed. in Counseling Education/Counseling Psychology and a B.A. from George Mason University in Fairfax, Virginia. Mr. Press also served as an Adjunct Faculty Professor in the School of Business Administration at George Mason University.✉

## 99031 Implementing a Firearms Trafficking Strategy – Prosecuting Corrupt Federal Firearms Licensees

*Bruce Reinhart  
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### I. Background and "big picture" approach

What is firearms "trafficking"? ATF defines firearms trafficking as the "illegal diversion of legally owned firearms from lawful commerce into unlawful commerce, often for profit." *Following the Guns: Enforcing Federal Laws Against Firearms Traffickers*, Department of the Treasury, Bureau of Alcohol, Tobacco & Firearms (June 2000). This definition includes

everything from a simple straw purchase to a large-scale, multi-jurisdictional criminal organization. Thus, in designing a strategy to curb firearms trafficking, it is imperative to understand the particular manner in which firearms are trafficked in your area. What is right for South Florida may not be right for Washington, D.C.

### II. Understanding how gun markets work

In formulating a strategy, it is crucial to understand how people can acquire firearms. This discussion focuses on the market(s) for handguns and long guns. It does not apply to Title II

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weapons. There are actually two gun markets. The first (what I call the "primary market") consists of federally licensed firearms dealers (FFLs). The rules of the primary market derive from the Gun Control Act of 1968, and regulations issued under that Act by ATF. FFLs can purchase firearms at wholesale prices and must maintain a business premises. FFLs are required to keep certain paperwork records of their acquisition and disposition of firearms, including Form 4473. They are required to conduct pre-sale checks under the Brady Law, to cooperate with ATF in firearms tracing, and to file multiple sales reports with ATF. If they are not the subject of the investigation, they must permit ATF agents to review their records, without a warrant or probable cause. They are also subject to regulatory inspection and enforcement by ATF.

Due to changes in the licensing requirements, the number of FFLs has dropped substantially. In 1992 there were over 280,000 FFLs. By 2001, there were less than 100,000. The vast majority of these FFLs are honest, legitimate businesses.

As discussed more fully below, the information collected by FFLs can be one of the most potent tools in fighting and prosecuting gun trafficking. To that end, investigators and prosecutors must understand the information that is kept, and how to access it. Moreover, an important part of any trafficking strategy should be to identify and cultivate honest FFLs as sources of information. Make them a powerful first line of defense by educating them to identify straw purchasers and traffickers.

Separate from the primary, regulated market is an unregulated secondary market in firearms. This market includes gun shows, flea markets, and private sales. No license is required to sell guns in this market. There are no paperwork requirements in the secondary market, nor does the Brady Law apply. There are very few limits on transactions in the secondary market. Generally, any person may legally buy or sell firearms in the secondary market unless the transaction involves a prohibited person, such as a felon, (see generally, 18 U.S.C. 922(d), (g)), or the overall conduct rises to the level of "engaging in the business of dealing in firearms without a license" (18 U.S.C. 922(a)(1)(A)).

The secondary market is an open opportunity for criminals and illegal firearms traffickers, and an extraordinarily difficult problem for law enforcement. Once a firearm moves in the secondary market, the paper trail stops. Smart criminals know that they can freely buy a gun at a gun show, flea market, or from a friend, with no paperwork, no waiting period, and no background check. A sampling of 21,594 guns traced from crimes showed that 89% of the guns had been transferred at some point in the secondary market. *Crime Gun Trace Report (1999), National Report*, Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms (November, 2000). This study shows the magnitude of the law enforcement problem created by the secondary market.

### III. Developing a trafficking strategy

There are several basic principles to remember about gun trafficking. First, in most cases, people traffic in firearms to make money. Second, local conditions influence trafficking patterns. For example, areas where state laws make it difficult to acquire handguns, such as New York, New Jersey, and Washington, D.C., are more likely to be market areas. Areas where access to guns is easier, like Florida, are more likely to be source areas.

While most people think of gun trafficking as a problem involving the interstate movement of large shipments of guns, a recent survey of 1530 firearms trafficking cases showed that most cases involve a small number of guns and solely intrastate activity. *Following the Guns: Enforcing Federal Laws Against Firearms Traffickers*, Department of the Treasury, Bureau of Alcohol, Tobacco & Firearms (June 2000). This data means that in most cases, your local area will be both the source and market for the trafficked firearms. Thus, your enforcement strategy will have to focus on cutting off both sources and markets.

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## Where does trafficking occur?

Intrastate Only	45.5%
Intrastate and Interstate	20.4%
Interstate Only	19.5%
International Only	5.7%
Intrastate, Interstate, and International	3.1%
Intrastate and International	1.2%
Interstate and International	1.1%
Unknown	3.5%

## Guns per trafficking case

<i># of Guns Involved</i>	<i>% of Cases</i>
Less than 5	23.1
5-10	20.8
11-20	18.2
21-50	18.7
51-100	9.1
101-250	4.4
More than 251	2.4

## IV. The primary market

The two most prominent forms of primary market trafficking are straw purchasing and corrupt FFLs. In the first situation, the FFL unwittingly sells a firearm to someone who appears to be the true purchaser but is, in fact, buying the firearm for someone else. The other person may utilize a straw purchaser either because he is a prohibited person or because he does not want to create a paper trail showing the true extent of his firearms purchases. In the second situation, the FFL is complicit in transferring firearms to prohibited persons or traffickers. Almost certainly, the corrupt FFL will not keep accurate paperwork of these transactions and will not file accurate reports with ATF.

## V. Identifying and prosecuting a corrupt FFL

Although anecdotal data indicates that the secondary market is the overall most vulnerable place for firearms trafficking to occur, in a single community, a corrupt FFL can put guns in the

hands of criminals fastest and in the greatest number.

When considering whether and how to prosecute a corrupt FFL, it is important to remember that usually the FFL is motivated by greed. They choose to break the law and to evade the federal firearms regulatory scheme because these laws and regulations limit the universe of persons who can buy guns. In addition, prohibited persons or others who are illegally acquiring guns are an eager market for corrupt FFLs because they will often pay a premium to obtain a gun. Your investigation and charging decisions should consider the need to show the profit motive to the jury and to recover the defendant's ill-gotten proceeds.

Unlike drug trafficking cases, which are identified primarily through confidential informants or flipped defendants, firearm trafficking cases can be "profiled" through data collected by ATF. For this reason, a firearms trafficking prosecutor must become familiar with the paperwork generated in the firearms market. This paperwork includes:

- Trace data
- Multiple sales forms
- FFL paperwork (ie. 4473 forms, A&D books)
- NICS data
- Theft/Loss firearms reports

As discussed more fully below, there are many factors that are non-conclusive indicators of corrupt FFL activity and/or trafficking. It is important to remember that there may be completely innocent explanations for all of the indicators. Nevertheless, in deciding how to focus investigative resources, these indicators provide solid predication and, if illegal conduct is found, can ultimately be persuasive evidence in court.

### *Trace data*

Trace data is generated whenever a law enforcement officer asks ATF to trace a firearm recovered at a crime scene. ATF, using the unique serial number assigned to the firearm, contacts the importer/manufacturer, wholesaler, and FFL who sold the firearm. Through paperwork required to be kept by each of these entities, ATF can identify

the person who purchased the firearm from the FFL. The trace also indicates where the firearm was sold and where it was recovered. Although the crime gun may have later been transferred in the secondary market, the trace information provides an important lead in identifying the firearm trafficker.

Cumulative trace data can also be a powerful indicator of corrupt FFL activity. As noted in the chart, a recent study showed that only 14.3% of all FFLs had any crime guns traced back to them. Significantly, more than 50% of all traces came from only 1.8% of all FFLs.

Number of Traces	% of FFLs
1 or more	14.3
2 or more	7.2
5 or more	2.7
10 or more	1.2
25 or more	0.4
50 or more	0.2
Source: <i>Commerce in Firearms in the United States</i> , Department of the Treasury, Bureau of Alcohol, Tobacco & Firearms (February 2000).	

Thus, an FFL being the source of a large number of traces is a non-conclusive indicator of illegal activity.

#### ***Multiple sales forms***

If an individual purchases two or more firearms from a single FFL during a period of five business days, the FFL must file a multiple sales report with ATF. 27 C.F.R. 178.126a. The multiple sales form includes the purchaser's name and a listing of all of the firearms purchased, by make, model, and serial number. Analyzing multiple sales data may also be an indicator of firearms trafficking and/or straw purchasing. For example, multiple purchases of cheap, non-collectible handguns (such as Raven, Lorcin, Davis) are an indicator of trafficking. Put simply,

no one needs more than one of these guns for personal use. The absence of multiple sales forms from an FFL that has a significant number of traces may also be an indicator that the FFL is assisting traffickers by not creating a paper trail.

#### ***FFL paperwork***

Every firearm sale by an FFL must be recorded on a Form 4473. In addition, each FFL is required to maintain a Firearms-Acquisition and Disposition book (A&D Book). The FFL must record every firearm acquisition and disposition in the A&D book, including the make, model, and serial number of the firearm, the date of acquisition and disposition, the name of purchaser, and the serial number for the Form 4473 corresponding to the purchase. The FFL must retain the Forms 4473 and the A&D book at its business premises. A corrupt FFL will most likely have false entries in its A&D book, and will also have either false Forms 4473 or non-existent Forms 4473. Thus, once you have identified a corrupt FFL, it is crucial to audit the A&D Book and the Forms 4473. Often, you will uncover new paperwork violations, false documents, non-existent records, and inconsistencies between the A&D Book and the Forms 4473. To avoid later having parallel proceedings issues, obtain these records using a search warrant, if possible. The FFL paperwork should also be cross-checked with NICS data for the FFL. You may find situations where the same gun that was the subject of a NICS denial was sold within a few days. This may be an indicator of a straw purchase.

#### ***NICS data***

The Brady Law instituted the National Instant-Check System (NICS) for handgun purchases. An FFL with a large number of NICS denials coupled with a large number of traces may be an indicator that the FFL is assisting straw purchasers. For example, a common scenario with corrupt FFLs is that a prohibited person attempts to acquire a gun, but is stopped by the NICS check. The corrupt FFL will then suggest that a friend or relative of the prohibited person purchase the same gun because they can pass the NICS check. Frequently, these guns are later trafficked, recovered in crimes, and traced back to the FFL.



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### ***Theft/Loss firearms reports***

An FFL must report the theft or loss of firearms to the local police within 48 hours after discovering the theft or loss, and must also submit a Theft/Loss Report to ATF. 27 C.F.R. 178.39a. Reporting a non-existent theft or loss can be a way for an FFL to hide off-the-books transactions. Thus, a single FFL reporting multiple thefts can be an indicator of illegal activity.

### **VI. Legal tools for prosecuting illegal conduct by an FFL**

The provisions of the Gun Control Act (GCA) that apply to criminal conduct by federal firearms licensees can be divided into two primary categories:

#### ***Failure to maintain proper and/or accurate records, as mandated by the GCA and its regulations, for example:***

- FFL knowingly making any false entry in, failing to make appropriate entry in, or failing to properly maintain, any required record, 18 U.S.C. §§922(m), 924(a)(3)(B) (a 1 year misdemeanor);
- FFL knowingly making a false statement or representation with respect to the information required to be kept in the FFL's records, 18 U.S.C. §924(a)(3)(A) (a 1 year misdemeanor);
- FFL willfully selling or delivering a firearm without noting in his records the name, age, and place of residence of the transferee, 18 U.S.C. §§922(b)(5), 924(a)(1)(D) (a 5 year felony);
- Anyone (including FFL) knowingly making any false statement or representation with respect to the information required to be kept in the FFL's records, 18 U.S.C. §§924(a)(1)(A), (D) (a 5 year felony).

#### ***Engaging in prohibited transactions, for example:***

- Willfully shipping or transporting a firearm in interstate commerce to a non-licensee, 18 U.S.C. §§922(a)(2), 924(a)(1)(D) (a 5 year felony);

- Willfully selling a firearm to a minor, 18 U.S.C. §§922(b)(1), 924(a)(1)(D) (a 5 year felony);
- Willfully selling to an out-of-state resident, 18 U.S.C. §§922(b)(3), 924(a)(1)(D) (a 5 year felony);
- Knowingly selling to a prohibited person, 18 U.S.C. §§922(d), 924(a)(2) (a 10 year felony);
- Possession or transfer of a machine gun, silencer, short-barrel shotgun, 18 U.S.C. §§922(o), 924(a)(2) (a 10 year felony), 26 U.S.C. §§5861, 5871 (a 10 year felony).

Thus, "knowing" record-keeping violations are primarily misdemeanors. Prohibited transaction violations are, by definition, transaction specific. Neither category lends itself well to bringing a felony prosecution for a pattern of corrupt activity by an FFL. For record-keeping violations, the prosecution can appear to be picking on "technical" record-keeping violations with no clear identifiable victim. The effect of the violation (i.e. a felon got a gun) may be excluded from evidence. Similarly, charging a large number of individual prohibited transactions can become unwieldy and may appear disjointed to a jury.

To avoid some of the problems and limitations involved in a GCA prosecution of an FFL, AUSA's should be creative in looking to non-GCA statutes to prosecute corrupt FFL conduct. The next section discusses suggested ways to use non-GCA statutes to better prosecute a pattern of corrupt activity by an FFL.

### **VII. Klein Conspiracy**

Title 18, United States Code Section 371 defines two different offenses: (1) conspiracy to violate another law of the United States, or (2) conspiracy to defraud the United States. One potential negative factor to consider is that the statutory penalty for conspiracy is five years, whereas the statutory penalty for some prohibited transaction violations is ten years. As a practical matter, however, this concern may be minimal because the Sentencing Guidelines for corrupt FFL offenses usually will not exceed sixty months.

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### ***Conspiracy to violate another statute***

A person may violate section 371 by conspiring or agreeing to commit "an offense" that is prohibited by a substantive criminal statute. In firearms trafficking cases, this conduct could include agreements to commit any number of Federal firearms violations from lying on the ATF F 4473 (18 USC 922(a)(6)) to providing firearms to a convicted felon (18 USC 922(d)). When it can be shown that two or more persons conspired to commit an identifiable substantive offense, a conspiracy case is an easily recognizable and straight forward way to charge firearms traffickers and their associates.

Using conspiracy charges can be effective in undercover investigations of corrupt FFLs. A substantive prohibited transaction violation does not occur unless there is an actual disqualified person (e.g., felon, out-of-state resident) involved. Since the conspiracy offense requires only a criminal agreement and an overt act, a conspiracy charge may be viable in an undercover setting if more than one person from inside the FFL is criminally involved, even if there is no actual disqualified person involved.

### ***Conspiracy to defraud the United States***

A person may also violate section 371 by conspiring or agreeing "to defraud" the United States. This type of fraud involves the "cheating of the government out of money or property, or the interfering with or obstructing of lawful government functions by deceit, craft, trickery, or at least by dishonest means." *Hammerschmidt v. United States*, 265 U.S. 182, 188 (1924); accord *Dennis v. United States*, 384 U.S. 855, 861 (1966) (Section 371 prohibits "any conspiracy for the purpose of impairing, obstructing, or defeating the lawful function of any department of Government.").

This theory has regularly and successfully been used in tax prosecutions where the government alleges that the defendant conspired to defraud the United States by "impeding, impairing, obstructing, and defeating the lawful functions of the IRS in the ascertainment, computation assessment, and collection of revenue." *United States v. Klein*, 247 F.2d 908, 915 (2d Cir. 1957). See also *United States v.*

*Helmsley*, 941 F.2d 71, 90-91 (2d Cir. 1991); *United States v. Cambara*, 902 F.2d 144, 146 (1st Cir. 1990). It is not sufficient that the person's conduct had the effect of obstructing the enforcement of the law. There must be proof that his intent was to impede or obstruct the lawful functioning of a government agency. E.g., *United States v. Vogt*, 910 F.2d 1184, 1203 (4th Cir. 1990); *United States v. Shoup*, 608 F.2d 950, 956 (3d Cir. 1979). In the firearms trafficking context, therefore, there would have to be evidence that the defendants' intent was to obstruct, impede, or evade ATF's enforcement of the federal firearms laws.

The Klein conspiracy allows the prosecution to present the totality of the defendants' illegal conduct in a unified prosecution theory that focuses on the defendant's unlawful intent to profit by evading the federal firearms regulation scheme. A *Klein* conspiracy can be predicated on any deceptive conduct, including record-keeping offenses, prohibited transactions, or conduct that is not itself a specific violation of the GCA. Conduct that may be the factual basis for a *Klein* conspiracy includes selling firearms "off the books", making false entries in required records, creating and maintaining false Forms 4473, submitting false information in an FFL application, filing false theft reports, submitting false or incomplete records to the ATF National Tracing Center, or making other false statements to ATF personnel. Although each of these violations, alone, may lack jury appeal because they appear non-threatening or technical, in the aggregate, they can present a powerful case that the FFL was flaunting federal law for profit.

Using a broadly-defined *Klein* conspiracy instead of individual substantive firearms offenses expands the amount of evidence that should be admissible at trial. For example, conduct that otherwise might be excluded under Federal Rule of Evidence 404(b) as "other act" evidence can be converted into acts in furtherance of the conspiracy. Because impeding the federal regulatory scheme is the purpose of the conspiracy, the government should be able to introduce evidence of the good reasons for the regulations (e.g., keeping guns away from felons, facilitating traces of crime guns) and how the defendants' conduct interfered with these noble

purposes. Similarly, since profit is almost always the motive for the FFL to commit these offenses, the prosecution should be able to introduce evidence of the defendants' overall financial dealings. Evidence of the defendants' greed tends to make the underlying conduct look less like technical, regulatory violations.

I have located only one reported case addressing the validity of the *Klein* conspiracy in the FFL context. In *United States v. F.J. Vollmer & Co.*, 1 F.3d 1511, 1520 (7th Cir. 1993), the Seventh Circuit upheld the validity of a *Klein* conspiracy indictment against an FFL and others who made false statements to obtain and resell assault rifles. In the Southern District of Florida, we have used the *Klein* conspiracy successfully in two FFL prosecutions. See *United States v. McMillan*, 96-8032-CR-Hurley (unreported); *United States v. McLeod*, 01-8013-CR-Huck (unreported). In both cases, all defendants pled guilty, so the application of the *Klein* conspiracy was not tested in court.

#### **VIII. Using other non-GCA violations to charge corrupt FFL activity**

Corrupt conduct by an FFL may violate provisions of Title 18, other than the GCA. In some situations, the non-GCA violation will be the only available criminal charge. In other situations, the non-GCA charge will have advantages in terms of easier proof, broader admissible evidence, higher penalty, or potential forfeiture. Here are some examples:

##### ***Wire and Mail Fraud, 18 USC §1341 and §1343:***

- Faxing or mailing to the ATF National Tracing Center (in West Virginia) a Multiple Purchase of Handguns form that contains false information intended to conceal illegal activity (e.g., FFL mails multiple purchase forms that have fake names or omissions to hide true recipients of firearms.)
- Faxing, telephoning or mailing to ATF a Theft/Loss Report or Interstate Firearms Shipment Report of Loss, which contain false information intended to cover illegal firearms trafficking activity (e.g., FFL files false theft reports to cover illegally diverted or trafficked

firearms and to collect insurance in addition to the proceeds from the unlawful sales.)

- Faxing or mailing an Application and Permit for Importation of Firearms which contains false information intended to cover illegal firearms trafficking activity (e.g., an FFL or importer places inaccurate descriptions of firearms on the application in order to import thousands of assault weapons in an unlawful configuration that would normally preclude importation.)
- Mailing false or incomplete Forms 4473 (Firearms Transaction Records) and the Acquisition/Disposition Log to the ATF Out of Business Records Center, which contains false information intended to cover illegal firearms trafficking (e.g., an FFL goes out of business and sends in his/her records to ATF as required by law, however the records reflect only a few of the guns the dealer had in inventory. The former FFL then goes on to sell all the guns without "paper" at gun shows.)
- An FFL providing false information intended to cover illegal firearms trafficking activity, over the telephone to the ATF National Tracing Center during the completion of crime gun trace requests. (e.g., an FFL gets nervous because numerous firearms the FFL sold are getting traced back to the store so he provides false trace information to cover the identities of the traffickers with whom he is involved.)
- The use of interstate phone calls by an FFL and other traffickers to coordinate the interstate delivery of firearms to be trafficked.
- The mailing by an FFL of fraudulent sales tax information in states that have a sales tax. (e.g., an FFL is selling firearms off paper, not entering the sales in his books or gross receipts, and not mailing in proper sales tax information.)

##### ***Other non-GCA charges***

The following criminal factual scenarios may arise in the investigation of a corrupt FFL:

- Drug trafficking offenses, such as exchanging guns for drugs. These can be charged under Title 21 or 18 U.S.C. §924(c).

- Entry of imported goods by means of false statements, such as importing illegal assault weapons by using false Customs documentation. These can be charged under 18 U.S.C. §1001.
- Interstate transportation/receipt/sale of stolen property or property obtained by fraud, in violation of 18 U.S.C. §§2314, 2315.
- Federal tax evasion charges based on non-reporting of revenues from off-paper sales of guns, 26 U.S.C. §7201, *et. seq.*

#### **IX. Money Laundering, 18 U.S.C. §1956 and §1957**

If an FFL engages in financial transactions using the proceeds of specified unlawful activity, a money laundering violation may exist. Charging money laundering helps focus the jury on the corrupt FFL's profit motive. It puts the underlying violation in context by showing the jury how the crime proceeds were used to benefit the defendant.

#### **X. RICO, 18 U.S.C. § 1962**

Title 18 USC § 1962(b) makes it unlawful for anyone employed by, or associated with, an enterprise that affects interstate or foreign commerce, to participate/engage in the conduct of the affairs of the enterprise through a pattern of "racketeering activity". A corrupt FFL, or employees of an FFL, could constitute an enterprise for purposes of RICO. The offenses listed in the previous sections are all predicate offenses for RICO.

#### **XI. Forfeiture**

As noted above, most corrupt FFLs are motivated by profit. Whenever possible, prosecutors should use forfeiture proceedings to recoup the defendant's criminal proceeds. A full

discussion of the available civil and criminal forfeiture options is beyond the scope of this publication, but money laundering charges are a commonly-used forfeiture predicate. Similarly, as part of a RICO prosecution, the government may forfeit the defendant's interest in the RICO enterprise. In the corrupt FFL context, this means that the government potentially could forfeit the FFL business.

#### **XII. Criminal Fines**

Even if the proceeds of corrupt FFL conduct cannot be forfeited, prosecutors should seek to recoup those funds through criminal fines. This approach was used successfully in *United States v. McLeod*, *supra*, to obtain a \$40,000 fine. ♦

#### **ABOUT THE AUTHOR**

□ **Bruce Reinhart** is currently a Supervisory AUSA in the West Palm Beach Office of the Southern District of Florida. He joined the DOJ Criminal Division through the Attorney General's Honors Program in 1988 following a judicial clerkship in the Eastern District of Pennsylvania. From 1988-1994 he was a trial attorney in the Public Integrity Section of the Criminal Division. From 1994-1996, he was on a detail to the Treasury Department's Office of the Undersecretary for Enforcement, where he worked on issues including firearms trafficking, ballistic technology, and the Youth Crime Gun Interdiction Initiative. Since 1996, he has been an AUSA in the Southern District of Florida. ✱

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# Firearms Tracing

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The Bureau of Alcohol, Tobacco and Firearms (ATF) is charged with the enforcement of Federal firearms, arson and explosives laws. As part of that enforcement effort, ATF offers a firearms tracing and analysis service designed to assist International, federal, state and local law enforcement in denying criminal access to firearms and prevent violent crime.

Firearms tracing is the systematic research of the history of a particular firearm, from the manufacturer or importer through the wholesale Federal Firearms Licensees (FFLs) and retailer FFL to the first retail purchaser. The National Tracing Center Division (NTC) of ATF is responsible for conducting these firearm traces and analyzing the ensuing results. The NTC conducted over 235,000 firearm traces during Fiscal Year 2001 and over 200,000 a year in recent, prior years. Each trace request contains retail FFL information, purchaser information, possessor information and associates information. This is not a new service and ATF is the only agency capable of conducting firearms tracing. Nearly 17,000 law enforcement agencies have submitted firearms trace requests including trace requests from more than ninety countries.

What law enforcement agencies may not be aware of is that the NTC is also the repository of Multiple Sales Forms and FFL Out of Business Records (OBR). Multiple Sales forms are required by regulation to be submitted by FFLs whenever a retail purchaser buys two or more handguns in a five-day period. Currently, the NTC has more than 600,000 multiple sales on file, with an average of seven thousand being submitted monthly. As mentioned above, the NTC is also the repository for OBR. When an FFL goes out of business he or she is required to submit all firearms transaction records to the NTC. Currently there are over 300 million records with more than

a million arriving monthly. Additionally, FFLs report all thefts of firearms from their inventory to the NTC. This immense pool of data is leveraged into each new firearms trace request. When a law enforcement agency submits a trace request, the NTC accesses all the above information to provide them with a complete Firearms Trace Results report. This report not only traces the history of the firearm and provides them with the first retail purchaser, but also provides additional essential information. The report states how many other traces have been submitted for the same firearms, how many firearms have been traced to the retail FFL, the retail purchaser, the possessor, the recovery address and the associates. Additionally, the report indicates if the firearm was a part of a multiple sale, thereby indicating what other firearms the purchaser may possess.

Clearly, firearms tracing can provide law enforcement agencies with complete information that will allow them to tie a firearm to a particular suspect. With additional data related to the retail FFL, possessor, associates and recovery location, a second tier of investigative material is developed, in that the suppliers of firearms to criminals become evident. Indeed, when tracing is conducted comprehensively within a particular region, a full picture related to the movement of crime guns can be developed. This third tier of information can be used to focus enforcement activities in those areas particularly identified by the crime gun data analysis, and to indicate to investigators major crime gun suppliers both within and outside their jurisdictional region.

Currently, fifty-five municipalities are participating in the Youth Crime Gun Interdiction Initiative (YCGII), emphasizing comprehensive tracing as a cornerstone in their enforcement efforts. ATF established within the NTC the Crime Gun Analysis Branch (CGAB), to assist these agencies in developing valid crime gun data analysis. The CGAB routinely researches the trace data to provide investigative leads to law enforcement. Upon a law enforcement agency's request, the CGAB can provide a trace analysis of their region, complete with statistics and data

geo-coded and mapped, to depict graphically, crime gun trends. The CGAB publishes annually the Crime Gun Tracing Report (National Report) along with a complete trace analysis report for each YCGII city. As a subset to CGAB, ATF has established three Regional Crime Gun Centers (RCGC). These RCGC's are located in New York City, Chicago, and Washington DC. A fourth RCGC is being established in Los Angeles with additional RCGCs being planned. Each RCGC coordinates firearms tracing for the region and brings to bear regional expertise in the analysis of the trace data.

Unmistakably, comprehensive firearms tracing and trace data analysis can provide significant information to focus law enforcement efforts in the fight against violent crime. In order to encourage comprehensive tracing, ATF has provided law enforcement agencies with a number of methods to submit firearms trace requests as efficiently as possible. Firearm Trace requests can be submitted by FAX using ATF's Firearms Trace Request Form. Firearms trace requests can be submitted electronically via the Electronic Trace Submission System (ETSS). This system is actually configured in a number of different ways, depending upon the needs of the law enforcement agency. The system can be used to extract trace request data automatically from the agency's computer system where the agency already captures the required data. It can be configured to except a single trace at a time, or it can transmit the data in a Batch Download file. Currently, more than 140 law enforcement agencies are connected to the NTC via ETSS.

In conclusion, firearms tracing can link the firearm to the suspect. Firearms tracing can identify crime gun suppliers. Firearms tracing can identify trends within a region and be used as a tool to focus enforcement efforts. This service should be used to its fullest extent. The scope and

value of the information contained at the NTC increases with each firearms trace request, to the benefit of each law enforcement agency submitting the requests. For any questions regarding firearms tracing, please contact the National Tracing Center Division at (304) 274-4100. We will be happy to assist in any way we can as each of us strive in our fight against violent crime wherever it exists.❖

#### ABOUT THE AUTHOR

❑ **John B. Malone** began his career with the Bureau of Alcohol, Tobacco and Firearms in 1976 in Chicago, Illinois. In the subsequent 25 years, he has held numerous senior level, as well as executive level positions with ATF, including his more recent assignment as the Division Director of the San Francisco Field Division-the Bureau's second largest office and his promotion to his present position of the Assistant Director of the Office of Firearms, Explosives and Arson Directorate which has direct oversight over all firearms and explosives programs in ATF.

# 99033 National Instant Criminal Background Check System

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The National Instant Criminal Background Check System (NICS) was implemented in November 1998 to facilitate the Brady Handgun Violence Prevention Act's (Brady Act) requirement that background inquiries be performed on prospective gun buyers before gun dealers can transfer a firearm. NICS background checks are initiated by gun dealers who contact either the FBI-contracted call centers or through a designated state Point-Of-Contact (POC), who performs the checks on behalf of the FBI. The NICS Program has established an Operation Center and Program Office within the Criminal Justice Information Services (CJIS) Division of the FBI located in Clarksburg, West Virginia.

In its short 33 months of operation, the NICS has proven to be successful and highly effective. To date, the NICS has processed over 23 million transactions while at the same time it has denied over 190,000 transfers to felons and other fugitives from justice. Each name-based NICS background check generates a search of three FBI-managed databases containing over 42 million criminal history records and other prohibiting information. The information returned by this search is used to determine whether the prospective buyer is prohibited from purchasing a firearm.

Since the establishment of the NICS, millions of U.S. citizens have engaged in timely and lawful firearms transfers. Under the Brady Act, 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. Seventy-one percent of all gun buyers are authorized by the NICS to make their purchase immediately (within approximately 30 seconds, on average, after information is entered into the NICS). The remainder of the FBI

background inquiries are delayed to allow FBI NICS personnel research time to establish a basis for making a proceed or deny determination. Approximately 95 percent of all inquiries are issued a definitive response within two hours of initiation. Although the gun dealer, under federal law, has the right to proceed or deny a firearm transfer after the third business day if no definitive response has been received by the NICS, it is important to note that FBI NICS personnel continue to research for resolution on these cases for an extended period. If a final status can be determined at a later date, the FFL is advised of the finding to proceed or deny. On cases where the transaction should have been denied and the dealer exercised his or her right to transfer, a firearm retrieval is initiated in a coordinated effort between the Bureau of Alcohol, Tobacco, and Firearms (ATF) and local law enforcement agencies.

The NICS plays an important role in facilitating and supporting public safety issues. By recognizing that delay responses increase the risk of firearms being transferred to prohibited individuals, the NICS has devoted funding in system development and operational enhancements in order to improve the efficiency and timeliness of NICS responses. The NICS Program Office is devoted to both promoting awareness and resolution of the existing problems relating to incomplete criminal history records. Missing information in the nation's criminal and noncriminal justice records undermine the intent of the Brady Act, which is to prevent disqualified persons from purchasing firearms from licensed gun dealers while allowing lawful transfers to take place.

The NICS Program Office has recognized areas of improvement and dedicated itself to striving for excellence. However, this is in no way meant to underestimate the value already placed on the NICS and its contributions to furthering public safety in the United States. Perhaps the

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most effective way of conveying our success is to share true stories of how NICS deterred incidences of violence and perhaps saved lives. As mentioned earlier, the FBI NICS alone has prevented over 190,000 prohibited individuals from purchasing firearms, including over 5,500 fugitives from justice and over 7,400 individuals with domestic violence restraining orders. In addition, NICS personnel have assisted various law enforcement agencies throughout the country in the apprehension of numerous wanted persons. The following examples illustrate the success of the NICS:

- An FBI NICS employee was investigating a domestic violence charge for a delayed transaction when she was advised by the arresting agency that the subject was on probation for 12 months for striking his wife in the back of the head. The County Attorney advised that he was also under indictment for shooting at the local courthouse and on strict home confinement with electronic monitoring. The subject had attempted to purchase a firearm on his way home from a post traumatic stress counseling session. The transaction was denied and the police department notified NICS that the subject was apprehended and is currently being held in jail.
- A check in the state of North Carolina was delayed due to a hit in NCIC for a Wanted Person. The NICS learned that the potential transferee was wanted for the willful killing of a family member with a gun. The individual was considered armed and dangerous and had previously assaulted law enforcement officers. The transaction was denied and NICS coordinated with local law enforcement to assist in the apprehension of the felon.
- A transaction was delayed due to a charge for aggravated kidnaping Felony 1. After contacting the local District Clerk's office, it was learned that the charge had been dismissed but that the subject had been subsequently committed to a mental facility by the presiding judge. The FBI NICS personnel spoke directly with the judge who explained that the subject was committed due to a drug addiction, severe depression, and

mental instability. The judge strongly cautioned that the subject should not have a firearm due to threats of violence. The subject's spouse had recently filed for divorce and the subject had threatened to kill himself or his wife. After obtaining official documentation of such, the firearm was denied. The judge stated that at least one life had been saved that day.

- Recently the NICS, in cooperation with local Ohio law enforcement, successfully retrieved a firearm and 600 rounds of ammunition. Although the transfer was originally proceeded by the NICS due to no existence of prohibiting information, it was later learned that the subject had threatened to kill all the members of his mental health support group. The subject has since been entered into the NICS Index thereby barring any future firearms purchases.

With 33 months of operational experience, the NICS will continue to refine and improve the services being provided to the American public. However, the public safety assured with the implementation of the NICS, while difficult to measure incidences of violence deterred, is nonetheless undisputedly priceless.❖

#### ABOUT THE AUTHOR

❑ **Jill Montgomery** is 5-year veteran of the FBI, currently assigned to the NICS Program Front Office where she is responsible for high-level communications, speeches, presentations, operational impact analysis, and tracking operational statistics. She has specialized experience in criminal statistics and related studies as well as Internal Assessments.



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# Project Safe Neighborhoods

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Many of the publications are available online  
through the NCJRS Web site ([www.ncjrs.org](http://www.ncjrs.org)) and  
print versions may be ordered online or by calling  
800-351-3420. Please be sure to have the  
reference number of the publication(s) available.

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Publications from the Bureau of Alcohol, Tobacco, and Firearms may be viewed online on their Web site:  
<http://www.atf.treas.gov/pub/index.htm#Firearms>.  
For further information or print copies of reports, please contact ATF's Office of Liaison and Public Information (202) 927-8500.

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Box 8000  
Rockville, MD 20849-6000

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## Project Safe Neighborhoods Core Training Components

This list is of training specifically designed to support Project Safe Neighborhoods. For additional information on this training contact Reagan Dunn at the Department of Justice (202) 616-5336 or Special Agent Mark Kraft at ATF (202) 927-3130.

★ **Project Safe Neighborhoods**

**Implementation Training** - This two and one half-day, intensive course, delivered at the National Advocacy Center, is designed for those personnel who are responsible for implementing the Project Safe Neighborhoods strategy. Attendees would ideally include assistant U.S. attorneys, states attorneys, ATF RAC's or ASAC's and chiefs of police. The course provides an overview of the program, followed by in-depth instruction on each of the five elements of the program; building partnerships, developing a data driven strategy to combat firearms violence; training; community outreach and designing a criteria for measuring results. Blocks of instruction will include related topics such as grants and funding, firearms tracing and analysis of trace data and crime gun mapping. Course held annually.

★ **Project Safe Neighborhoods Strategic Planning Training** - (60 students) This two day course is designed for US Attorneys, district and state's attorney's, law enforcement management personnel responsible for partnership building, management and strategic planning of Project Safe Neighborhoods. For best results, the

course should be delivered to an existing team or task force. Based upon DOJ's Strategic Approaches to Community Safety Training, this course provides participants with the knowledge, skills and abilities to form an interagency working group; gather and analyze crime trend and crime gun data; design a strategic plan for your PSN program; implement that program; and assess and modify the strategy as data reveal effects. The goal of the training is to provide PSN partnerships with a strategy development tool that will enable them to reduce violent firearm offenses by using relevant data and information to develop targeted interventions. The course uses the data-driven, problem solving strategy that is credited with reducing youth homicides in Boston by 65 percent.

★

**Project Safe Neighborhoods**

**Enforcement Training** - (60 students) This three day intensive course on illegal firearms interdiction is a collaborative effort among the U.S. Department of Justice, the International Association of Chiefs of Police, The National District Attorney's Association and ATF. The goal of this training is to improve the level of crime gun interdiction and prosecution through a multi-disciplinary approach that emphasizes team building among the course participants; Assistant US Attorneys, state and local prosecutors, state and local police officers and sheriffs and ATF special agents. This course is based upon ATF's Firearms Trafficking

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Techniques Course (see below) and incorporates elements from IACP Firearms Trafficking Interdiction Technical Assistance Program (see below). The course focuses the resources of each occupation on initiating,

perfecting and prosecuting cases involving firearms traffickers and armed violent offenders. The course is specifically designed to support Project Safe Neighborhoods and is intended for maximum impact in a single city or community. This course is currently scheduled for six deliveries in fiscal year 2002 at sites to be determined.



## Upcoming Events

The Office of Legal Education is pleased to announce that it is sponsoring a **Project Safe Neighborhoods** conference, January 23-25, 2002, in Columbia, South Carolina. This conference is a combined effort between ATF, the Department of Justice (DOJ), the International Association of Chiefs of Police (IACP), the National District Attorneys Association (NDAA) and the National Crime Prevention Council (NCPC) to introduce Project Safe Neighborhoods, a priority firearms enforcement initiative of both President George W. Bush and Attorney General John Ashcroft. It is designed for those prosecutors who are responsible for implementing the Project Safe Neighborhoods strategy (firearms violence reduction points of contacts). One coordinator from each district is strongly encouraged to attend. Attendees will include Assistant U.S. Attorneys, State Prosecutors, ATF RAC's or ASAC's (one from each division) and Police Chiefs from major departments across the United States. The course provides an overview of the initiative, followed by in-depth instruction on each of the five elements of the program; building partnerships, developing a data driven strategy to combat firearms violence; training; community outreach and designing a criteria for measuring results. Blocks of instruction will include related

topics such as grants and funding, firearms tracing and analysis of trace data and crime gun mapping.



For more information about  
**Project Safe Neighborhoods**

go to our website

[www.projectsafeneighborhoods.gov](http://www.projectsafeneighborhoods.gov)

and click on the PSN icon.



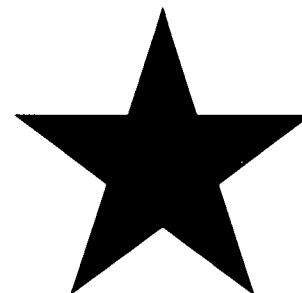
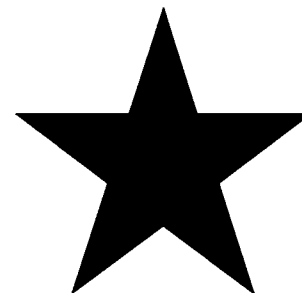
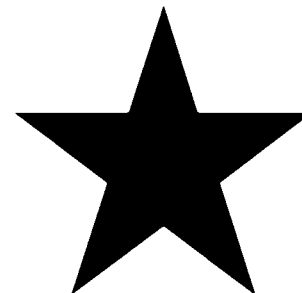
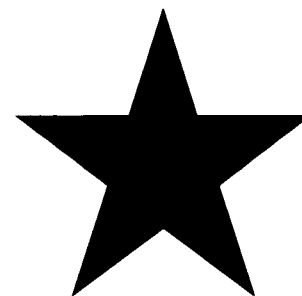
## Help Make Your Neighborhood Safer Today

Federal and local law enforcement and prosecutors can help your community, but they can't do it without you. Do your part to make Project Safe Neighborhoods a reality where you live. As President Bush said in announcing this project, "For all our children's sake, this nation must reclaim our neighborhoods and our streets."

To learn more about  
Project Safe Neighborhoods  
visit [www.usdoj.gov](http://www.usdoj.gov).



[www.usdoj.gov](http://www.usdoj.gov)





**Project Safe Neighborhoods: America's Network Against Gun Violence** is a new federal initiative to reduce gun violence announced in May by President George W. Bush and Attorney General John Ashcroft. Project Safe Neighborhoods seeks to commit \$558 million over two years to reduce gun violence in America. The initiative includes partnerships among federal, state, and local law enforcement agencies; strategic planning incorporating such technologies as crime mapping, gun tracing, and ballistic analysis; training that brings together federal, state, and local officials to build effective teams; outreach to communities; and accountability for impact on community safety.

The nation's 93 U.S. Attorneys will serve as agents of change in bringing Project Safe Neighborhoods to the states and communities they serve. They will spearhead enforcement task forces, work with local officials to identify the most effective laws to use against gun-carrying criminals, and help focus community attention and energy on reducing gun violence.

The project will also provide funds for state and local governments to employ additional prosecutors focused on enforcing gun laws; target gun traffickers, armed violent offenders, and those prohibited from buying guns; promote community outreach; and improve record keeping.

## Enforcement is Key

Enforcement helps reduce gun violence in several ways:

- It reinforces the message that the community will not tolerate gun violence.
- It removes serious violent offenders from the streets and out of our neighborhoods.
- Under federal law, felons, drug dealers, and other specified individuals can face 10 to 15 years in prison for illegally possessing a gun or ammunition.
- It increases the risk faced by potential offenders.

### Federal Laws — Some Examples

Federal laws provide a number of ways to prevent criminals from getting guns. People convicted of felonies risk a 10-year federal prison sentence if they possess or receive a firearm or ammunition. Those who are fugitives from justice face the same penalty, as do those convicted of domestic violence. Using or carrying a firearm during a federal crime of violence or a drug trafficking crime (federal or state) can result in a sentence ranging from 5 years' imprisonment to death (in addition to any sentence imposed for the crimes). Possessing or discharging a firearm in a school zone can yield a 5-year federal sentence.

### State Laws — Some Examples

State laws differ, but many states provide for additional sentencing if a firearm was used in commission of a crime, if an unauthorized person is in possession of a firearm, or if a firearm is illegally sold to a prohibited owner. Some states impose obligations on parents to store weapons securely against children's access; some states limit numbers of weapons that can be purchased in a given time period. States set their own minimum and maximum sentences for violations of these state laws.

### What You Can Do as an Individual

- If you suspect someone is in possession of an illegal gun (for example, a stolen weapon), report it to your local or state police or the Federal Bureau of Alcohol, Tobacco and Firearms (ATF).
- If you suspect someone has a gun but is barred by law from having one (for example, someone who has been convicted of a crime), report it to those same authorities.
- Support your police and prosecutors.
- Store weapons in your home securely, separating ammunition from weapons. Keep weapons secure against theft. More than 300,000 guns are stolen in home burglaries annually.

### What You Can Do in Your Community

Support programs that help people steer a new, law-abiding course. For example,

- Participate in partnerships that bring police and parole officers together to enforce terms of parolees' release or of probation.
- Encourage young people to get involved in teen and youth courts in which peers help decide what should happen to youth who have broken the law.
- Participate in Neighborhood Watch initiatives that involve residents in reporting suspicious behavior and working to improve their neighborhoods.
- Support programs focused on children and young people, such as youth-serving facilities like teen centers and Boys & Girls Clubs, classes to help parents improve their skills, and mentoring programs.
- Harness the energies of the faith community, schools, hospitals and clinics, businesses, community centers, youth-serving organizations, and youth membership groups to help.