



UNDER SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

→ TRANSMITTAL MEMO TO
AGT POTUS ON FFL REDUCTION
AND GUN TRAFFICKING

JAN 23 1997

→ REDUCED BY 56%
→ ALONG W/ BRADY BILL,
→ THESE MEASURES help
ensure legal mkt
for guns is not supplying
criminals.

MEMORANDUM FOR SECRETARY RUBIN

FROM: Raymond W. Kelly *RWK*
Under Secretary (Enforcement)

SUBJECT: Report on Gun Dealer Licensing and Illegal Gun Trafficking

ACTION FORCING EVENT:

President Clinton issued a memorandum to the Secretary of the Treasury in 1993 directing that steps be taken to ensure better screening of gun dealers and strengthened enforcement against gun traffickers, including improved crime gun tracing by ATF. The attached report states that new laws and other measures since then have resulted in a decline in the number of federal firearms licenses (FFLs) by more than half. The report also discusses ATF's new national firearms trafficking strategy, the cornerstone of which is crime gun trace analysis. This new strategy has already resulted in over 2,000 defendants being recommended for prosecution.

RECOMMENDATION:

That you transmit the attached report to the President and the Attorney General to inform them of the Department's and ATF's accomplishments pursuant to the President's directive.

Agree Disagree Let's Discuss

BACKGROUND ANALYSIS:

This report provides detail and the context for the accomplishments. There are no current studies linking the reduction in FFLs to a reduction in firearms crime in a given city. However, local law enforcement in major cities has strongly supported ATF's compliance efforts. This suggests that local law enforcement officials agree that heightened screening of gun dealers is an important firearms crime suppression measure. The combination of Brady law background checks on handgun purchasers, better screening of gun dealers, and better enforcement aimed at traffickers, including scofflaw FFLs that are trafficking, can be expected to reduce the number of firearms being diverted from the legal firearms market into the illegal market that supplies criminals and juveniles.

ATTACHMENTS: Tab 1: Transmittal Memorandum to the President, with report
Tab 2: Transmittal Memorandum to the Attorney General, with report

EXECUTIVE SECRETARIAT



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

January 29, 1997

MEMORANDUM FOR ATTORNEY GENERAL RENO

FROM: Robert E. Rubin *R. S. R.*

SUBJECT: Gun Dealer Licensing and Illegal Gun Trafficking

I am pleased to forward to you the attached report on gun dealer licensing and illegal gun trafficking. It reports on two elements of our strategy to suppress illegal gun availability -- strengthening the licensing requirements for federal firearms licensees and increasing law enforcement efforts against gun traffickers.

In three years, the number of federal firearms licensees has fallen by more than half, a drop reflected in states across the country. The remaining gun dealers have been subjected to heightened screening. Greater law enforcement focus on gun traffickers, facilitated by new methods of crime gun tracing analysis, is making it increasingly difficult for scofflaw gun dealers and traffickers to conduct their illegal operations.

Combined with the Brady law, these measures will help prevent the legal firearms market in our country from being a source of firearms for criminals and juveniles, while preserving legitimate access to firearms. I am confident that we can continue to build on these accomplishments during the next four years.

1997-se-000717



97.000717

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

January 29, 1997

SECRETARY OF THE TREASURY

MEMORANDUM TO THE PRESIDENT

FROM: Robert E. Rubin *REB*

SUBJECT: Gun Dealer Licensing and Illegal Gun Trafficking

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

APR 16 1997

MEMORANDUM FOR DEPUTY SECRETARY SUMMERS

FROM:

Raymond W. Kelly
Under Secretary (Enforcement)

A handwritten signature in black ink, appearing to read "R. Kelly", written over the typed name and title.

SUBJECT:

President Clinton's Child Gun Safety Lock Directive

ACTION FORCING EVENT:

On March 5, 1997, President Clinton signed a memorandum directing executive agencies to develop policies requiring that child gun safety locks be provided with every handgun issued by those agencies to law enforcement officers. The President directed that recipients proceed as quickly as possible to carry out the directive. Each executive agency is required to develop its own policy that implements the order. I have sent a memorandum to the Enforcement bureaus setting forth the new requirements with a timetable for reporting on their implementation. The attached memorandum from you provides the same instruction to the bureaus that report to you.

RECOMMENDATION:

That you sign the attached directive, which parallels the one I have issued.

 Agree Disagree Let's Discuss

BACKGROUND:

Youth violence is one of the five areas on which the President and Congress have agreed to enact legislation during this session of Congress. A key provision of the Administration's Anti-Gang and Youth Violence Act of 1997 requires that federally licensed gun dealers sell child gun safety locks with every firearm. The President has issued an executive order requiring that federal agents to be issued child gun safety locks for their weapons, an order that parallels the Administration legislation.

Devices can be purchased for under \$7. It is a small expense, but nevertheless an unanticipated one. Management has agreed with Enforcement's recommendation that FY 1996 carryover balances be used to pay for the safety locks. After final sign-off by Treasury, this recommendation must still be approved by Congressional appropriations committees. Therefore, the bureaus are instructed to purchase the devices whether or not such funds become available.

The memorandum requires a report to you by May 15, at which time White House staff is anticipating a report from all agencies. Our expectation is that the devices will be purchased as quickly as possible, but in no event later than October 15, 1997.



THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON

MEMORANDUM FOR

MARGARET M. RICHARDSON, COMMISSIONER
INTERNAL REVENUE SERVICE

VALERIE LAU, INSPECTOR GENERAL
OFFICE OF THE INSPECTOR GENERAL

LARRY E. ROLUFS, DIRECTOR
BUREAU OF ENGRAVING AND PRINTING

PHILIP N. DIEHL, DIRECTOR
UNITED STATES MINT

FROM:

LAWRENCE H. SUMMERS
DEPUTY SECRETARY

SUBJECT:

Implementation of Presidential Directive Concerning Child
Safety Lock Devices for Handguns

On March 5, 1997, President Clinton, expressing concern about firearms fatalities among American children and teenagers, signed a "Memorandum for the Heads of Executive Departments and Agencies," regarding child safety lock devices for handguns. The memorandum directed departmental and agency recipients to "develop and implement a policy requiring that a safety lock device -- as defined in our draft legislation -- be provided with any and every handgun issued by your agency to law enforcement officers." The memorandum further directed that recipients "ensure that all Federal law enforcement officers are informed of this policy and that all issued safety lock devices are accompanied by instructions for their proper use." The President directed that recipients proceed as quickly as possible to carry out the directive.

A safety "locking device" as defined in the Administration's draft "Anti-Gang and Youth Violence Act of 1997" (H.R. 810) is:

a device that when installed on a firearm and secured by means of a key or mechanically, electronically, or electro-mechanically operated combination lock prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electro-mechanically operated combination lock. The term also includes a mechanical, electrical, or electro-mechanical locking mechanism

incorporated into the design of the firearm that prevents discharge of the weapon by anyone not having access to the key or other device designed to unlock and allow discharge of the firearm.

Proposed 18 U.S.C. Sec. 921 (a) (33).

The President has stated that any and every handgun issued by your agency to law enforcement officers should be accompanied by a safety lock device. Therefore, this directive encompasses handguns already issued by the agency and handguns to be issued in the future. It also encompasses personal handguns certified to be carried for official purposes.

Every employee who currently carries one or more handguns should be equipped as quickly as possible with a safety locking device that meets the statutory definition of a locking device. Accordingly, you should purchase and provide such devices as quickly as possible, and establish a policy for continuing to issue such devices. Lock boxes and safes are not included in the statutory definition, and therefore do not satisfy the requirement. Please provide me with a report on the policy you have established by May 15th..

This may be an unanticipated expenditure for some of you. As you know, Treasury Management in conjunction with other offices in the Department is currently considering how to recommend that unobligated, carryover balances from Fiscal Year 1996 funds be allocated. While funds may become available from this total to pay for the safety locking devices to be purchased by Treasury offices and agencies, this directive is not contingent on a decision by Treasury to allocate unobligated balances in this manner.

Thank you for your cooperation in carrying out this important safety measure.

Attachments

1997-SE-002374 (COPY)

THE WHITE HOUSE

WASHINGTON

March 5, 1997

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Child Safety Lock Devices for Handguns

Every day, firearms claim the lives of too many children. Firearms cause 12 percent of fatalities among American children and teens, and one of every four deaths of teenagers ages 15 to 19. These numbers represent not only violent crimes, but also tragic gun accidents. Firearms are now the fourth leading cause of accidental deaths among children ages 5 to 14. Moreover, firearms have become the primary method by which young people commit suicide.

According to a Centers for Disease Control study released earlier this month, the rate of firearm deaths among children up to 14 years old is nearly 12 times higher in the United States than in 25 other industrialized countries combined. The Center also estimates that nearly 1.2 million unsupervised children return from school to a home that has a loaded or unlocked firearm.

Recently, my Administration sent to the Congress our "Anti-Gang and Youth Violence Act of 1997," draft legislation that includes a provision requiring all Federal Firearms Licensed dealers to provide a safety lock device with every firearm sold. Safety lock devices will help to reduce the unauthorized use of handguns by a child at play or a teen who wants to commit a crime. Just as important, safety lock devices can also help deter gun theft.

I have urged the Congress to move this legislation quickly. In the meantime, the Federal Government can serve as an example of gun safety for the Nation by taking an important step to reduce handgun accidents and protect our children from injury and death.

Every year, the Federal Government issues thousands of handguns to our law enforcement agents. While some agencies have already adopted a policy of distributing safety locks for these handguns, this policy should be universally adopted across the Federal Government. That is why I direct you to develop and implement a policy requiring that a safety lock device -- as defined in our draft legislation -- be provided with any and every handgun issued by your agency to law enforcement officers. You should ensure that all Federal law enforcement officers are informed of this policy and that all issued safety lock devices are accompanied by instructions for their proper use.

All Americans have a responsibility to ensure that guns do not fall into the hands of our children. Your response to this directive will help ensure that this does not happen. Taking this simple step can have a dramatic impact on saving the lives of our children. You should proceed as quickly as possible to carry out this directive.

William J. Clinton

1997-SE-006622



UNDER SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

JUN 19 1997

MEMORANDUM FOR SECRETARY RUBIN

FROM: Raymond W. Kelly *Ray Kelly*
Under Secretary (Enforcement)

SUBJECT: Youth Crime Gun Interdiction Initiative Expansion Request

This is to bring you up to date on the budget situation concerning the YCGII. As you recall, this initiative enlisted 17 cities in tracing the guns recovered by police. ATF analyzed the information for patterns that would help enforcement officials identify illegal gun traffickers supplying young people. We are now about to publish the analyses, which provide considerable new information about guns used in crime.

Rahm Emanuel has requested that the publication of the Youth Crime Gun Interdiction reports be accompanied by an announcement that the effort will be expanded to more cities. This is anticipated mid-July.

The pilot results demonstrate that more cities cannot be enlisted in expanded gun tracing without additional resources (a) for ATF tracers and hardware, and associated city resources, to handle the additional volume of traces (b) for agents and training to follow up on leads identified by trace information. This position is based on two facts stated in the reports: (1) Due to resource limitations, *ATF was only able to trace 37% of the guns* that police requested for tracing. We cannot solicit more gun tracing knowing we cannot respond to police requests or support trace analysis. (2) *The YCGII reports will show that there is a black market that supplies at least a quarter of the guns recovered from juveniles and youth.* Our estimate is conservative (because of the 37% limitation). Since we are announcing a problem, we should identify how we plan to address it. The Department of Justice agrees that more ATF agents are needed, as US Attorneys are under pressure by Congress to make more gun-related cases.

OMB has reviewed the numbers, which amount to approximately \$6 million for tracing, and \$36.6 million for agents and training to cover the existing 17 and added 15 cities.

Without discussing amounts, Emanuel thought that Treasury-Postal Appropriations might be a source of funding. Other White House staff have been considering a plan in which the Administration would come up with approximately \$6 million now, and then propose a budget amendment to Congress for the additional \$36.6 million. Enforcement has identified \$2.1 toward the \$6 million. Legislative Affairs believes that a budget amendment on youth violence is viable, if the Administration takes the lead. Treasury will be under considerable pressure to more funding toward the \$6 million, and to identify off-sets for any budget amendment.

TREASURY CLEARANCE SHEET

NO. _____

DATE: 6-19-97

MEMORANDUM FOR: SECRETARY DEPUTY SECRETARY EXECUTIVE SECRETARY
 ACTION BRIEFING INFORMATION LEGISLATION
 PRESS RELEASE PUBLICATION REGULATION SPEECH
 TESTIMONY OTHER _____

FROM: Under Secretary Kelly

SUBJECT: Youth Crime Interdiction Initiative

REVIEW OFFICES (Check when office clears)

- | | | |
|--|--|---|
| <input type="checkbox"/> Under Secretary for Finance | <input type="checkbox"/> Enforcement | <input type="checkbox"/> Policy Management |
| <input type="checkbox"/> Domestic Finance | <input type="checkbox"/> ATF | <input type="checkbox"/> Scheduling |
| <input type="checkbox"/> Economic Policy | <input type="checkbox"/> Customs | <input type="checkbox"/> Public Affairs/Liaison |
| <input type="checkbox"/> Fiscal | <input type="checkbox"/> FLETC | <input type="checkbox"/> Tax Policy |
| <input type="checkbox"/> FMS | <input type="checkbox"/> Secret Service | <input type="checkbox"/> Treasurer |
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| | <input type="checkbox"/> Legislative Affairs | <input type="checkbox"/> Other |
| | <input type="checkbox"/> Management | |
| | <input type="checkbox"/> OCC | |

Name (Please Type)	Initial	Date	Office	Tel. No.
INITIATOR(S) Susan Ginsburg	<i>AG</i>	<i>June 14 1997</i>	Enforcement	
REVIEWER(S) Paul Browne	<i>PB</i>	<i>6/19</i>	Enforcement	

SPECIAL INSTRUCTIONS

Review Officer _____ Date _____ Executive Secretary _____ Date _____



DEPARTMENT OF THE TREASURY
WASHINGTON, DC 20226

7/24/97

UNDER SECRETARY

MEMORANDUM FOR SECRETARY RUBIN

FROM: Raymond W. Kelly
Under Secretary (Enforcement)

SUBJECT: Youth Crime Gun Interdiction Initiative

Attached are reports prepared by the Bureau of Alcohol, Tobacco and Firearms (ATF) for the 17 communities participating in the Youth Crime Gun Interdiction Initiative. They fulfill three goals by:

- (1) Documenting how juveniles and youth illegally obtain firearms;
- (2) Enabling Federal and local enforcement agencies to assess the illegal firearms problem in their communities and develop strategies to combat it;
- (3) Reporting on greatly increased ATF tracing of firearms recovered by enforcement agencies.

The following are among the reports' findings about firearms recovered by enforcement agencies:

- Firearms rapidly diverted from first retail sales at federally licensed gun dealers to an illegal market account for at least a quarter of the firearms that police recover from juveniles and youth.
- One out of ten firearms recovered by police is from a juvenile (17 and under). When youth (ages 18-24) are included, the number changes to four out of 10.
- In 15 of the 17 sites, the majority or the single largest supply of the crime guns successfully traced comes from retail sources *within* the State. Jersey City and Washington, DC, are the only sites where the largest single source of successfully traced crime guns is outside of their State or borders.
- Seven out of ten crime guns recovered from adults are handguns. For juveniles and youth, the number is eight out of 10.
- Half of all crime guns recovered by police are semiautomatic pistols, which are also the preferred weapons for juvenile and youthful offenders (60 percent).
- While thousands of different kinds of firearms are available, crime guns are concentrated among a relatively small number of makes and calibers in each city.
- Preliminary research shows that a high percentage of crime guns with obliterated serial numbers were originally purchased as part of a multiple sale by a federally licensed gun dealer and then illegally trafficked.

During the course of the initiative, trace requests from the 17 sites nearly doubled over the same period the previous year, from 20,000 to more than 37,000 requests. Trace information is stored in the National Tracing Center's illegal firearms trafficking information system, Project LEAD, which enforcement officials use in the identification of illegal traffickers. By expanding the

1997-SE-008458

ATF CRIME GUN TRACE ANALYSIS REPORT

Youth Crime Gun Interdiction Initiative: The Illegal Youth Firearms Markets in 17 Communities

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The Illegal Youth Firearms Market in Atlanta, Georgia

Baltimore, Maryland
Birmingham, Alabama
Boston, Massachusetts
Bridgeport, Connecticut
Cleveland, Ohio
Inglewood, California
Jersey City, New Jersey
Memphis, Tennessee
Milwaukee, Wisconsin
New York, New York
Richmond, Virginia
St. Louis, Missouri
Salinas, California
San Antonio, Texas
Seattle, Washington
Washington, DC

In each report:

Report A: Number of Crime Gun Trace Requests

Report B: Crime Gun Trace Requests by Age of Possessor

ATF CRIME GUN TRACE ANALYSIS REPORT

Youth Crime Gun Interdiction Initiative

Introduction

The Youth Crime Gun Interdiction Initiative is a 17-city demonstration project aimed at reducing youth firearms violence. Officials from the Bureau of Alcohol, Tobacco and Firearms (ATF), police chiefs, local prosecutors, and U.S. attorneys are developing information about illegal trafficking of firearms to young people and new methods of reducing the illegal supply of firearms to them. The initiative was developed by ATF and its National Tracing Center, funded by the Department of the Treasury's Office of Enforcement and the National Institute of Justice, and announced by President Clinton on July 8, 1996.

Purposes of This Report

Since July 1996, participants have tested a new method of developing and providing information about the illegal sources of firearms to youth. Federal and local enforcement officials in each jurisdiction voluntarily agreed to submit information on all recovered crime guns to ATF's National Tracing Center. ATF developed the tools to analyze the information. ATF is publishing this report of its analyses for the following purposes:

To provide new information about illegal firearms activity by community. These reports provide an overall view of firearms associated with illegal possession or activity in a jurisdiction. They identify the types of firearms that enforcement agencies most frequently recover, the types of crimes with which these weapons are associated, the time it takes for firearms to move from a federally licensed firearms dealer to recovery by enforcement officials, and the source States of these firearms. This is the first time ATF has developed and published standardized reports on recovered crime guns.

To identify differences in adult, juvenile, and youth illegal firearms activity. These reports analyze firearms recoveries by age group, with a focus on young people. The information establishes whether patterns of crime gun acquisition differ by age group. While ATF has previously collected information from enforcement agencies on firearms recovered from juveniles from across the

To expand access to firearms-related enforcement information. These reports share ATF firearms-related enforcement information with other enforcement agencies. The reports thereby provide a new, common foundation for collaboration among ATF, the offices of the U.S. attorney, and local police and prosecutors, as well as other agencies concerned with youth violence. Using this information, police departments and local prosecutors may choose to modify resources devoted to firearms trafficking interdiction, and local task forces may choose to pursue firearms trafficking cases in Federal or State courts.

To initiate community, State, and national reporting on firearms trafficking. These reports provide a model for standardized, annual ATF reports on firearms recoveries at the city, State, and national level. State and national reports using firearms recovery information provided by every jurisdiction allow regional and national patterns to be identified.

methods, including Project LEAD, ATF's computerized illegal firearms information trafficking system, debriefing armed arrestees, and other street sources. These reports do not provide additional investigative information (such as the identities of federally licensed gun dealers or retail purchasers repeatedly associated with new crime guns). Rather, they provide analyses that can be useful in deciding how best to focus investigative resources to reduce the illegal firearms supply used in violent crime.

Strategic targeting of illegal sources of juvenile and youth crime guns. Information about the percentages of a jurisdiction's crime guns recovered from juveniles, youth, and adults allows investigative priorities to be established and assessed. For instance, enforcement officials may choose to use Project LEAD to look for federally licensed gun dealers and first purchasers linked with crime gun traces associated with juveniles and youth.

Strategic targeting of illegal sources of certain crime guns. Enforcement officials also can draw on the reports to develop other enforce-

ment strategies. Federal investigators already look for high volume traffickers operating across jurisdictional lines, whether interstate or intrastate, and use Project LEAD to investigate the illegal sources of guns used in violent crimes. Drawing on these reports, Federal and local officials can jointly decide to use Project LEAD and other investigative tools to target the illegal sources of various groups of crime guns: firearms with obliterated serial numbers; firearms most often used by juveniles and youth in violent crimes; illegally trafficked firearms most popular among juveniles, violent youth, and violent gangs; firearms with short "time-to-crime" rates, which are likely to have been deliberately trafficked; and firearms originating in-State or firearms originating out of State.

Optimum, balanced local enforcement strategy. By combining a focus on high volume traffickers with targeted trafficking enforcement efforts using trace analyses and information about local conditions, enforcement officials can work toward the optimum strategy for reducing local illegal access to firearms, especially by juveniles and violent gang members.

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What This Report Contains

Information about crime guns. A crime gun is defined, for purpose of firearms tracing, as any firearm that is illegally possessed, used in a crime, or suspected by enforcement officials of being used in a crime. Report E shows the crime types most frequently associated with crime gun trace requests.

Comprehensive crime gun trace data by community. The report presents information about how many crime guns were submitted for tracing. Participants in the Youth Crime Gun Interdiction Initiative voluntarily agreed to trace all crime guns recovered in their jurisdiction. Police departments are not required by Federal law to maintain or supply crime gun recovery information and have not historically submitted all crime guns for tracing. Lack of comprehensive tracing has precluded certain kinds of crime gun analyses since there may not have been enough crime gun trace requests from particular jurisdictions to identify community-wide patterns. The voluntary tracing agreement under this initiative was intended to overcome this problem.

Information from National Tracing Center traces. The information in this report is derived from data contained in requests for crime gun traces that enforcement agencies submitted to ATF's National Tracing Center (NTC) and from the results of traces that the NTC conducts. An NTC trace uses records maintained and made available by the firearms industry to identify the history of a firearm's ownership. A successful NTC trace describes firearm ownership from the manufacturer or importer through the wholesaler to the first known retail dealer. Depending on the investigative circumstances, the NTC trace may also identify the first retail purchaser, and sometimes even

the subsequent chain of possession. Investigative traces are extremely resource intensive and are generally conducted only where there is a specific investigative need.

Analyses of requests for crime gun traces. The report contains certain analyses that are based on the information contained in requests for crime gun traces. These analyses do not depend on the NTC successfully completing the traces. Information available for all crime guns submitted for tracing, whether or not the crime gun is successfully traced by the NTC, includes the number of recovered crime guns in a community, the type of firearm (e.g., revolver, rifle), and its manufacturer and caliber.

Analyses of successful NTC traces. The report also contains certain analyses that are based on the results of successful NTC traces. Information available only for crime guns successfully traced by the NTC includes the time it takes for a crime gun to move from its last known retail sale to recovery by enforcement officials, and the State in which the crime gun was sold.

Analysis of incomplete traces. The report shows the number of successful NTC traces and explains why the NTC closed the remaining traces without a successful NTC trace. This information is intended to assist in increasing the number of successful NTC traces.

Analyses by adult, youth, and juvenile age categories. The report generally presents information in four age categories: adults (25 and over); youth (ages 18 through 24); juvenile (17 and under); and all age categories combined.

Crime gun trace information for a 10-month period. The patterns depicted in this report are

ATF



The Youth Crime Gun
Interdiction Initiative

Crime Gun
Trace Analysis Reports:
The Illegal
Youth Firearms Markets in

ATF

1998-SE-006489



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

5/28/98

MEMORANDUM FOR SECRETARY RUBIN

THROUGH: Deputy Secretary Summers
FROM: Raymond W. Kelly *RW Kelly*
Under Secretary (Enforcement)
SUBJECT: Review of Youth Firearms Violence Priorities and Proposals

ACTION FORCING EVENT:

Working closely with ATF, we have collected the attached proposals aimed at reducing youth firearms violence. These proposals are consistent with the Administration's firearms policies, as well as the President's specific directive that there be a review and recommendations concerning any factors common to recent school shootings.¹

Our new proposals are focused on limiting unauthorized juvenile access to firearms, through law enforcement as well as industry regulation. In addition, we have developed a proposal to enhance ATF's Gang Resistance Education and Training (GREAT) program in order to maximize its violence prevention impact. In addition to the attached initiatives, this memorandum describes Treasury's overall role, current policy and program priorities that require further Administration commitment to be fully effective, and other Treasury-drafted firearms proposals awaiting Congressional action. The problem of gun violence requires long term solutions involving diverse government agencies at every level. Because Treasury regulates the firearms industry and has primary jurisdiction over enforcement of the nation's firearms laws, our role is central.

RECOMMENDATION

That you authorize our submission of the new proposals to OMB and the White House for eventual introduction in Congress.

_____ Agree _____ Disagree _____ Discuss

¹Following the recent youth firearms violence incidents, the President directed Attorney General Reno to conduct a review of violence issues affecting youth, focusing on the links between the school shootings. Attorney General Reno has selected a group of experts with research experience in areas relevant to youth violence. Her effort has included consultations and meetings with this group and other representatives of community organizations. The review effort has not yet generated any report or policy recommendations. The Attorney General also convened a gun policy working group that is preparing recommendations for U.S. Attorneys and police departments.

SUMMARY OF NEW PROPOSALS

The following summarizes the initiatives and programs that we think should be strengthened or proposed:

- **EXPANDED COMPREHENSIVE TRACING, GUN MARKET ANALYSIS REPORTING, AND TARGETED ENFORCEMENT:** Treasury needs gun market analysis to target enforcement resources and to support nearly all legislative and regulatory changes needed to restrict the gun supply to prohibited persons. Through the Youth Crime Gun Interdiction Initiative, ATF initiated a policy of comprehensive crime gun tracing in major cities, along with a system of standardized analysis. Comprehensive tracing maximizes investigative information for law enforcement, and also allows for complete statistical analysis at all levels. With 190,000 firearms traced last year, and approximately 800,000 gun crimes reported, this is a first step toward comprehensive crime gun tracing nationwide. A high priority for the next three to five years is continued support and expansion of the tracing system, improved analysis of trace data, and additional resources to support ATF's collaboration with state and local law enforcement on disrupting the market that supplies juveniles illegally, as well as gang offenders and criminals.
- **ENHANCEMENTS TO ATF'S GREAT PROGRAM:** The existing Gang Resistance Education and Training (GREAT) program, which aims to teach conflict resolution to students, appears to be effective. But GREAT's coverage could be expanded through increased appropriations to meet demonstrated need, and the program's content might benefit from further expert review of components involving conflict resolution.
- **ASSESSING LIABILITY FOR ALLOWING YOUTH ACCESS TO FIREARMS:** The White House has recently signaled interest in supporting so-called "child access prevention" ("CAP") legislation, which would make adults liable for criminal and/or civil penalties for storing guns in a manner that could reasonably be expected to lead to unauthorized youth access to such weapons, if such access leads to actual harm.
- **CURTAILING JUVENILE ACCESS TO FIREARMS:** Currently, 18 U.S.C. sec. 922(x) prohibits the transfer of handguns to youth except in certain circumstances. The proposed legislation would expand application of this provision to long guns, making it unlawful to transfer any firearms to youth. This prohibition would be subject to the same exceptions that currently apply to handguns.
- **REQUIRING FIREARMS SAFETY INFORMATION:** Although many firearms manufacturers voluntarily provide safety information for new firearms, ATF currently does not have authority to *require* the provision of such information. Moreover, the voluntary actions taken by manufacturers fail to reach used firearms, which make up a significant percentage of total sales.
- **REGULATING SECONDARY FIREARMS MARKETS:** Currently, there are

numerous paper-free firearms transfers that facilitate juvenile and criminal access to guns, and defeat gun tracing. For instance, ATF was able to complete only 37 percent of the Youth Crime Gun traces last year, in part due to lack of records. This proposal would extend record-keeping requirements, and requirements that such records be periodically reported to Treasury, for firearms sales taking place in secondary markets, such as gun shows and flea markets. This policy would help limit sales to prohibited purchasers in the first instance, and also would permit gun tracing to be completed for a significantly higher percentage of trace requests. Rep. Blagojevich (D. Ill.) has introduced a secondary market regulation bill, and ATF has also drafted a version.

AUTHORITY TO REGULATE FIREARMS DESIGN FOR CHILD SAFETY:

Legislation could give Treasury authority to develop regulations defining firearms safety standards. A version of this proposal is likely to be included in a bill to be introduced by Rep. McCarthy (D. N.Y.) later this session. ATF has also developed a version.

BACKGROUND

Youth gun fatalities primarily fall into three categories: crime deaths, suicides, and unintentional fatal shootings. In 1995, the last year for which data is available, juveniles suffered 1,772 homicides, 836 suicides, and 330 unintentional fatal shootings, and 88 otherwise caused and undetermined deaths.² Juvenile homicides involving firearms appear to be on a decreasing trend since 1994, yet these fatalities remain at historic highs relative to rates before 1986 when dramatic increases began. Inner city youths comprise most of the victims. Juvenile firearms suicides also decreased from 1994 to 1995, but the incidence of gun-related juvenile suicide had climbed steadily among older teenagers since the 1960's, and firearms are the most common method of suicide among juveniles.³ Meanwhile, unintentional fatal shootings have decreased significantly since 1980, although these deaths are increasing as a percentage of all unintentional juvenile fatalities.⁴ Treasury's primary policy focus has been on crime related gun deaths.⁵

Administration policy. In 1986, the Firearms Owners Protection Act weakened the gun laws in place at the time. The Administration has sought to strengthen certain firearms laws. Some of the more significant results include: the requirement of Brady background checks for gun purchasers; expansion of the categories of prohibited buyers; enactment of a ban on certain domestic and imported assault weapons; reform of the federal firearms licensee system, resulting

²Juveniles are defined as persons under age 18.

³Dr. David Satcher, the new Surgeon General, has declared that juvenile gun suicide surveillance, reporting, and response will be a high priority for him.

⁴Adolescents consistently account for over one third of all unintentional firearms deaths, with an average of 533 deaths annually, a rate three to four times higher than the rate for all Americans.

⁵Treasury's authority derives from the 1968 Gun Control Act. This Act, which established the system of federal firearms licensees, establishes categories of prohibited buyers, protects state gun laws from being undermined by interstate activity, regulates imports, and punishes gun-related offenses.

in a 50 percent reduction in the number of licensees, added and enhanced gun penalties; and a focus on reducing the illegal supply of firearms to youth. While one of the Administration's proposals has focused on child safety locks, we have not proposed new authority to regulate the design of guns for safety purposes (and the Consumer Product Safety Commission is expressly barred from doing so). Of course, given the nature of this issue, many other proposals continue to be advanced from many parties.⁶

Gun market analysis and illegal market enforcement. Treasury's primary policy focus remains on reinvigorating gun law enforcement and documenting and disrupting the illegal gun markets. Until November 1995, when ATF formally established its national illegal firearms trafficking program, ATF's principal firearms enforcement focus was the Achilles program, developed to investigate and arrest armed career criminals. (This corresponds to the Justice Department's "Triggerlock" program.) ATF, with Treasury support chiefly through the Youth Crime Gun Interdiction Initiative, has sought to expand the policy and operational focus beyond the sole pursuit of armed career criminals to the analysis and disruption of the gun market that illegally supplies juveniles, gang offenders and criminals. These tools include the establishment of a standard of comprehensive tracing of recovered firearms, reliable statistical analysis using this information, published in reports accessible to law enforcement as well as policymakers, and additional agent and tracing resources (FY 99).

Purchaser restrictions. Treasury is involved in the policy governing restrictions on lawful gun purchase, through ATF's implementation of the Brady law. Under this law, the current transition to the National Instant Check System (NICS), will require management and policy attention. A continuing policy focus is effective use of Brady information to identify gun offenders, and evaluation of the adequacy of the categories of prohibited purchasers. For example, the Administration is now seeking to add adults adjudicated delinquent of violent offenses as juveniles to the list of prohibited purchasers of firearms. Such legislation would cover the Jonesboro shooters.

Manufacturer standards. Treasury is also involved in regulating gun manufacturing and importation. Machine guns, for instance, are regulated through a tax and registration scheme. The assault weapons ban of 1994 -- an attempt to ban domestic production of certain firearms -- also is enforced by ATF. A continuing policy issue will be whether to expand manufacturer regulation, and whether to move toward design standards for domestically manufactured firearms, aimed at heightened child and user safety. Recently, the Department decided to ban the importation of large capacity military magazine rifles. Senator Feinstein also has proposed further limitations on domestic possession of large capacity magazines. Moreover, the White House negotiated directly with the gun industry over a voluntary industry agreement to provide child gun safety locks, and the President issued an executive order directing relevant agencies to

⁶For example, Sen. Moynihan has long favored tax increases on ammunition, and experts have proposed restructuring industry taxation so that it is based on gun characteristics other than price. A second approach that is not being proposed even by national advocacy organizations is a federal law restricting firearms sales to one a month. Such legislation has been adopted by three states. We have not taken a position on either of these approaches.

issue locks to all federal law enforcement gun carriers.⁷ The Justice Department is supporting research into so-called personalized guns. Through such debates, Treasury's focus is expanding from criminal youth violence to gun-related deaths generally, especially juvenile gun-related deaths.⁸

Prevention, training, advertising. Finally, Treasury and ATF are involved in youth crime prevention through the GREAT program, where law enforcement officers lead a school based youth anti-violence training effort for middle school students.

PENDING REGULATORY ACTIONS AND PROPOSALS

Pending Actions

The attached proposed initiatives join others on which we have made substantial progress. These initiatives include:

Regulation on warning signs in gun stores: ATF is finalizing a regulation that requires federally licensed gun dealers to post signs in stores warning against transfers to juveniles. Such a regulation was called for by the President.

Expanding government research efforts: Enforcement recently submitted a list of research subject areas to the National Institute of Justice, to encourage investment in firearms related research. Enforcement is co-funding a gun market analysis research project with NIJ through the Youth Crime Gun Interdiction Initiative, and planning for a conference is under discussion.

Sentencing guidelines reform: Treasury and ATF are working with the Sentencing Commission to change guidelines on sentences of gun traffickers including gun traffickers to juveniles.⁹

Proposals Already Being Considered in Congress

Treasury included a number of firearms provisions relating to juveniles in the Administration's Anti-Gang and Youth Violence Act submitted to Congress last session. Despite Senate and

⁷The Office of Enforcement currently is reviewing an extension of the safety lock policy that would require Treasury officers to make use of either the gun safety lock or an appropriate storage facility in order to further prevent accidental misuse.

⁸The gun industry continues to evince interest in a dialogue on gun safety standards. Its interest in federal intervention has been heightened by state regulatory initiatives, increased attention to liability lawsuits, fear of the fate of the tobacco industry, grassroots pressure, and media focus. In addition, the industry would like to see Congress remove restrictions on gun importation, to create a uniform manufacturing standard. It continues to pressure Congress through such efforts as appropriations amendments aimed at removing Administration restrictions on imports of military surplus weapons.

⁹This process is similar to an ongoing effort to toughen sentencing guidelines covering counterfeiting offenses. Ordinarily, this process does not require legislation.

House committee bills, Congress has not yet completed action on this legislation. Enactment remains a priority for the Administration. The Treasury-related provisions fall into five categories:

Prohibiting gun purchases by former juvenile offenders: Adding as a category of prohibited purchaser juveniles adjudicated delinquent for serious violent crimes or drug offenses from possessing firearms as adults. Currently, the Jonesboro shooters if adjudicated delinquent would not be prohibited from purchasing firearms as adults.

Increased penalties on juvenile and violent illegal gun buyers and users: Essentially aimed at juvenile criminals, this provision would increase penalties for receiving a firearm with an obliterated serial number, typical gang-related crime to obstruct ATF tracing.

Increased penalties on illegal gun traffickers to juveniles and criminals: In particular, trafficking to juveniles, currently a misdemeanor, would become a felony.

Better prevention of illegal firearms diversion from gun sellers: These provisions would permit ATF to suspend licenses and impose civil penalties on licensed dealers that obstruct tracing, increase criminal penalties for major gun dealer violations that aid traffickers, and fill gaps in mandatory reporting of gun thefts.

Federal funding for state/local tracing and interdiction: Tracing and trafficking interdiction would become eligible for Department of Justice grant funds.

FOLLOW UP

We will proceed with advocacy and refinement of the proposed initiatives in the inter-agency community if you agree that these initiatives merit support. Moreover, we are still gathering information on additional firearms policy initiatives that could be undertaken without additional legislation.

ATTACHMENTS

- List of pending legislative proposals
- Description of proposed GREAT program enhancements.
- Proposed legislation on juvenile access to long guns extending 18 U.S.C. sec. 922(x).
- Child access prevention proposal.
- Proposed legislation on firearms safety information.
- Proposed legislation on secondary market transfers of firearms.
- Possible firearms design authority

Stopping Illegal Gun Trafficking to Juveniles: Legislative Initiatives

These legislative proposals support the Administration goal noted in the President's July 19, 1997 radio address and elsewhere of stopping criminals from illegally supplying guns to juveniles, violent gang members, and criminals, and reducing juvenile and youth gang gun crime.

- * included in Administration's 1997 Anti-Gang and Youth Violence bill
- ** Administration or similar provision included in S.10
- *** 1998 proposal (Treasury/ATF)
- **** 1998 proposal, for further consideration only (Treasury/ATF)

Preventing illegal firearms diversion

- Require anti-theft measures by federally licensed gun dealers*
Treasury testified that ATF instead is issuing voluntary guidelines (issued 3/98).
- Permit license suspension and civil penalties for gun dealer violations obstructing crime gun tracing*
- Increase criminal penalties for major gun dealer violations that aid traffickers**
- Require firearms transfers between non-licensed sellers to be processed through licensed gun dealers, who would conduct Brady checks and provide a serial number for crime gun tracing****
- Mandatory reporting by common carriers of firearms thefts***
- Repeal sunset provision of the Undetectable Firearms Act of 1988, prohibiting firearms not detectable by metal detectors (law sunsets 12/10/98).

Tougher penalties on illegal gun traffickers to juveniles and criminals

- Increase penalties for firearms trafficking to juveniles**
- Increase sentences for traffickers to criminals**
- Minimum mandatory penalty for handgun transfer to a juvenile knowing the firearm will be used to commit a crime of violence or a drug trafficking crime**
- Punish conspiracies to violate the firearms laws**
- Establish new penalty for transfer of firearm if there is reasonable cause to believe the firearm will be used to commit a crime of violence or a drug trafficking crime*

Prohibitions on violent offender and juvenile possession

- Prohibit persons adjudicated juvenile delinquent for serious violent felonies or drug crimes from possessing firearms ("juvenile Brady")**
- Extend Youth Handgun Safety Act to long guns.****

Tougher penalties on juvenile and violent illegal gun buyers and users

- Increase penalties for juvenile handgun possession**
- Increase penalties for receiving a firearm with an obliterated serial number**
- Permit criminal forfeiture of firearms and vehicles used in violent crime and gun trafficking**
- Permit civil forfeiture of firearms, vehicles, other property, and proceeds involved in violent crimes and drug trafficking crimes*

Helping state and local law enforcement keep guns away from juveniles and criminals

- Byrne grant funding for police departments for interdicting illegal traffickers**
- Juvenile justice incentive state block grant funding for interdicting illegal traffickers***

5/21/98

PROPOSED GREAT PROGRAM ENHANCEMENTS

Background

The Gang Resistance Education and Training (GREAT) program currently serves students in all 50 states as well as Puerto Rico, Guam, and the District of Columbia. In the years since its inception, the program has trained over 3300 law enforcement officers. The program was recently evaluated by researchers at the University of Nebraska in a study funded by the National Institute of Justice. Although the evaluation indicates that data are insufficient to render a comprehensive judgement on the program's impact, the evidence available shows that the GREAT program improves the self-esteem of youth who participate in the program, as well as their relationship with their parents and participation in school.¹

One of the GREAT program's strengths is its internal curriculum evaluation system. Every year, the GREAT National Policy Board examines sections of the curriculum and considers amendments, revisions, expansions, or alternatives. Over time, the GREAT National Policy Board and program staff have enhanced the curriculum accordingly.

Discussion

Recent high-profile incidents involving youth firearms violence highlight the urgency of GREAT's mission. As a result, the three initiatives discussed below aim to deliver the program's message to youth and potentially improve the quality of the core elements in GREAT's curriculum -- the portions dealing with conflict resolution.

- **EXPAND PROGRAM TO MEET DEMONSTRATED DEMAND:** Surveys conducted by GREAT program affiliates as well as direct reports from trained officers indicate that substantial demand exists for additional program coverage. To meet this demand, ATF expects to make a funding request for FY 2000 of approximately \$40 million, a substantial increase from the current \$10 million budget for actual program activities. This request would provide approximately \$ 35 million for expanded training and partnerships with local GREAT affiliates, \$.5 million for after school violence prevention activities, and \$2.8 million for expanded officer training. Most importantly, these appropriations would increase coverage of the program to dozens of additional communities that currently want to incorporate GREAT into their curriculum but are unable to do so because of constrained program resources.

¹The research evaluated the effects of GREAT through a cross-sectional survey of 5,935 eighth graders from 42 schools in 11 locales. Among other findings, the research indicated that: lower rates of self-reported gang membership and delinquency among students who completed the program, increased communication and attachment with parents, and greater commitment to school. See National Institute of Justice, "National Evaluation of GREAT," *NIJ Research Brief* (November 1997).

- **REVIEW CONFLICT RESOLUTION CURRICULUM COMPONENTS:** The conflict resolution curriculum is a program cornerstone. Although the GREAT curriculum is reviewed yearly by the National Policy Board and through its National Quality Assistance Network, the conflict resolution component is important enough to merit additional analysis, especially given recent instances of youth firearms violence. Moreover, some studies sponsored by the National Institute of Justice to examine conflict resolution instruction in general suggest that such training is often less than fully effective when practiced in the unemotional context of a high school or middle school classroom.² To obtain useful perspectives, the GREAT program staff and the National Policy Board could meet with selected experts participating in the Attorney General's review requested by the President. This meeting of experts would serve to identify any specific enhancements that GREAT could make in the conflict resolution training it already provides to hundreds of thousands of students nationwide.

- **EXAMINE ADDITIONAL PROGRAM ENHANCEMENTS:** In addition to the meeting with experts from the Attorney General's review, we expect to request that the GREAT program provide reports on its existing curriculum review and implementation process. We expect to use these reports to evaluate whether the GREAT program requires additional curriculum enhancements. In addition, because of resource constraints on appropriated funds, Treasury should examine whether or not to explore the various options to create a Congressionally chartered nonprofit foundation to raise private funds for the GREAT program. This structure has worked effectively for other prevention efforts, and would still require the active participation of ATF to ensure quality control.

Follow-up

The Director of the GREAT is ready to meet with experts from the Attorney General's review and to follow up on conflict resolution curriculum enhancements. In addition, ATF is working with its GREAT program office to finalize the FY 2000 budget request necessary to execute program expansion.

²National Institute of Justice, "Adolescent Violence: A View from the Street," *NIJ Research Preview* (January 1998).

SEC. ____ . JUVENILE FIREARMS PROHIBITION.

Section 922(x) of title 18, United States Code, is amended--

(1) in paragraphs (x) (1) (A), (x) (2) (A), (x) (3) (A) - (D), and (x) (4), by striking "handgun" and inserting "firearm"; and

(2) in paragraphs (x) (1) (B) and (x) (2) (B) by striking " that is suitable for use only in a handgun".

Analysis

The Violent Crime Control and Law Enforcement Act of 1994 amended the Gun Control Act to make it unlawful for a person to transfer a handgun or handgun ammunition to a juvenile or for a juvenile to possess a handgun or handgun ammunition. A number of exceptions from the prohibitions are provided if the juvenile has the written consent of a parent and possession of the handgun is for purposes of employment, ranching or farming, target practice, hunting, and firearms safety instruction. An exception is also provided for juveniles who require handguns for purposes of military service.

The proposal would extend the prohibitions relating to juveniles and handguns to all firearms and ammunition transferred to and possessed by juveniles. Given the recent problems presented by shootings committed by juveniles with rifles, extending the prohibition in this manner is warranted. The numerous statutory exceptions will permit juveniles to continue to use firearms for sporting and recreational purposes.

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Child Firearm Access Prevention Act (Introduced in the Senate)

S 1917 IS

105th CONGRESS

2d Session

S. 1917

To prevent children from injuring themselves and others with firearms.

IN THE SENATE OF THE UNITED STATES

April 2, 1998

Mr. DURBIN (for himself, Mr. CHAFEE, Mr. REED, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prevent children from injuring themselves and others with firearms.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Child Firearm Access Prevention Act'.

SEC. 2. CHILDREN AND FIREARMS SAFETY.

(a) SECURE GUN STORAGE OR SAFETY DEVICE- Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

(34) The term 'secure gun storage or safety device' means--

(A) a device that, when installed on a firearm, prevents the firearm from being operated without first deactivating or removing the device;

(B) a device incorporated into the design of the firearm that prevents the operation of the

firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that can be unlocked only by means of a key, a combination, or other similar means.

(b) PROHIBITION AND PENALTIES- Section 922 of title 18, United States Code, is amended by adding at the end the following:

(y) PROHIBITION AGAINST GIVING JUVENILES ACCESS TO CERTAIN FIREARMS-

(1) DEFINITION OF JUVENILE- In this subsection, the term 'juvenile' means an individual who has not attained the age of 18 years.

(2) PROHIBITION- Except as provided in paragraph (3), any person that--

(A) keeps a loaded firearm, or an unloaded firearm and ammunition for the firearm, any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, within any premise that is under the custody or control of that person; and

(B) knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the permission of the parent or legal guardian of the juvenile;

shall, if a juvenile obtains access to the firearm and thereby causes death or bodily injury to the juvenile or to any other person, or exhibits the firearm either in a public place, or in violation of subsection (q), be imprisoned not more than 1 year, fined not more than \$10,000, or both.

(3) EXCEPTIONS- Paragraph (2) does not apply if--

(A) the person uses a secure gun storage or safety device for the firearm;

(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of 1 or more other persons; or

(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept.

(c) ROLE OF LICENSED FIREARMS DEALERS- Section 926 of title 18, United States Code, is amended by adding at the end the following:

(d) The Secretary shall ensure that a copy of section 922(y) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.

(d) NO EFFECT ON STATE LAW- Nothing in this section or the amendments made by this section shall be construed to preempt any provision of the law of any State, the purpose of which is to prevent children from injuring themselves or others with firearms.

THIS SEARCH THIS DOCUMENT GO TO

SEC. _____ FIREARMS SAFETY INFORMATION.

(a) IN GENERAL.--Section 923 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(m) A licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter unless the firearm is transferred with information relating to the safe storage, safe handling, and safe use of the firearm, as specified by the Secretary by regulation. The Secretary may, after notice and opportunity for hearing, revoke the license of any licensed importer, licensed manufacturer, or licensed dealer who willfully violates this subsection in accordance with subsection (e) of this section."

(b) NO CRIMINAL PENALTIES FOR VIOLATION.--Section 924(a)(1) of title 18, United States Code, is amended by striking "or in section 929" and inserting "or in sections 923(m) or 929".

Analysis

The amendment would make it unlawful for Federal firearms licensees to transfer a firearm to an unlicensed purchaser unless the firearm is transferred with information relating to safe storage, safe handling, and safe use of the firearms. The information required would be specified by the Secretary of the Treasury by regulation. The penalty for a willful failure to transfer such information with a firearm would be license revocation under section 923(e) of the Gun Control Act..

By requiring that firearms safety information be furnished with every firearm licensees sell, consumers will have access to safety information that may prevent accidental discharges and other firearm-related accidents.

SEC. ____ RECORDING SECONDARY TRANSFERS OF FIREARMS.

(a) IN GENERAL.--Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. RECORDKEEPING FOR NONLICENSEE TO NONLICENSEE TRANSFERS OF FIREARMS.

"(a) It shall be unlawful for any person who is not licensed under this chapter to transfer a firearm that has moved in or that otherwise affects interstate or foreign commerce to another person who is not licensed under this chapter prior to delivery of the firearm to a licensed importer, licensed manufacturer, or licensed dealer for purposes of complying with the recordkeeping provisions of subsection (c).

"(b) It shall be unlawful for any person who is not licensed under this chapter to receive a firearm that has moved in or that otherwise affects interstate or foreign commerce from another person who is not licensed under this chapter prior to delivery of the firearm to a licensed importer, licensed manufacturer, or licensed dealer for purposes of complying with the recordkeeping provisions of subsection (c).

"(c) A licensed importer, licensed manufacturer, or licensed dealer who receives a firearm intended to be transferred as described in subsections (a) or (b) shall enter the firearm into a separate bound record and comply with the requirements of sections 922(t) and 923(g)(1)(A) as if the firearm were part of such licensee's inventory. Such licensees shall submit monthly reports of such transfers on a form to be specified by the Secretary by regulation. Such reports shall not include the names of the unlicensed persons involved in the transfer of the firearm.

"(d) The provisions of subsections (a) and (b) shall not apply to--

"(1) a temporary transfer of a firearm for lawful sporting purposes;

"(2) a temporary transfer of a firearm for purposes of repair; or

"(3) a transfer of a firearm to a person who lawfully acquires a firearm by bequest or intestate succession. ↩

"(e) Any person who knowingly violates subsections (a) or (b) shall be fined under this title, imprisoned not more than one year, or both."

(b) EFFECTIVE DATE.--This section shall be effective 90 days after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated to carry out this section--

(1) \$5,000,000 for fiscal year 1999, which shall be available for up to 30 full-time equivalent positions;

(2) \$5,000,000 for fiscal year 2000; which shall be available for up to 30 full-time equivalent positions;

(3) \$5,000,000 for fiscal year 2001, which shall be available for up to 30 full-time equivalent positions;

(4) \$5,000,000 for fiscal year 2002, which shall be available for up to 30 full-time equivalent positions; and

(5) \$5,000,000 for fiscal year 2003, which shall be available for up to 30 full-time equivalent positions.

Analysis

The amendment would require all secondary transfers of firearms (those transferred between nonlicensed persons) to be delivered to a licensed importer, licensed manufacturer, or licensed dealer prior to the transferee's receipt of the firearm. The licensee to whom the firearm is delivered would be required to comply with the Brady law, to complete a Form 4473, and to record the transfer in a separate bound record. Licensees recording such transfers would also be required to submit monthly reports of secondary transfers on a form to be specified by the Secretary by regulation. The amendment specifically prohibits the reporting of names of the unlicensed persons involved in the transfer of the firearm. Thus, the reports could not be used to create a system of registration of gun owners.

Penalties for violating the transfer provisions would be not more than 1 year of imprisonment. Federal firearms licensees* who accepted delivery of firearms for purposes of recording such transfers and who failed to comply with the recordkeeping provisions of the law would be subject to existing provisions of the Gun Control Act for making false entries in required records or for failure to properly maintain required records (18 U.S.C. §§ 922(m) and 924(a)(1)(A)).

Data indicates that gun shows, flea markets, and other sources of unregulated gun sales account for a large proportion of illegally trafficked firearms. Moreover, secondary sales account for the vast majority of untraceable crime guns. Since firearms may be lawfully sold by nonlicensees without any recordkeeping, it is impossible to determine the source of such guns when they are used in crime.

The amendment would prevent the acquisition of firearms by felons and other prohibited persons by requiring delivery of the firearm to a licensee who would then conduct a criminal records check as required by the Brady law. The amendment would also facilitate the tracing of such firearms by requiring licensees to report the transactions to the Secretary on a monthly basis. Information concerning the transaction, including make, model, and serial number of the firearm could then be entered into a database. If the firearm is then the subject of a trace request submitted by a Federal, State, or local law enforcement agency, the licensee who recorded the transaction could then be contacted to provide additional information, concerning the identity of the purchaser.

SEC. ____ RESTRICTIONS ON DOMESTICALLY PRODUCED HANDGUNS.

(a) **IN GENERAL.**--Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(y) (1) It shall be unlawful to manufacture any handgun that does not meet minimum construction and safety standards as specified by the Secretary by regulation.

"(2) Paragraph (1) shall not apply to--

"(A) the manufacture for the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State; or

"(B) the manufacture by a licensed manufacturer for purposes of testing or experimentation authorized by the Secretary."

(b) **PENALTY.**--Section 924(a) (1) (B) of title 18, United States Code, is amended by striking "or (w)" and inserting "(w), or (y)".

(c) **REGULATIONS.**--Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish in the Federal Register a notice of proposed rulemaking soliciting public comment on the standards to be used in determining whether a handgun is subject to the restrictions of subsection (a) of this section. In issuing such regulations, the Secretary shall develop standards similar to the "Factoring Criteria for Weapons" used to evaluate handguns for importation.

Analysis

The amendment would make it unlawful to manufacture in the United States any handgun that does not meet minimum construction and safety standards as specified by the Secretary by regulation. Since 1968, imported handguns have been evaluated under "factoring criteria" that award points for various characteristics, including overall length, frame construction, weight, safety features, barrel length, and caliber. The criteria were designed to prevent the importation of small, easily concealable handguns, pistols not having a safety device, and revolvers that do not pass a safety test.

The purpose of the amendment is to impose the same standards on the domestic manufacture of handguns as are applicable to imported handguns. Tracing statistics indicate that inexpensive, easily concealable handguns are the weapons of choice for criminals. There is no reason to prohibit the importation of such weapons while allowing the domestic industry to manufacture and sell hundreds of thousands of them each year.



UNDER SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.
January 14, 1999

**MEMORANDUM FOR SECRETARY RUBIN
DEPUTY SECRETARY SUMMERS**

FROM: James E. Johnson 
Under Secretary (Enforcement)

SUBJECT: President's Directive on Gun Shows

ACTION FORCING EVENT

On November 6, President Clinton directed the Departments of the Treasury and Justice to develop options to address illegal purchases of firearms at gun shows, and the inability of the Bureau of Alcohol, Tobacco, and Firearms (ATF) to trace most crime guns obtained at gun shows. This memorandum discusses the response of the Departments of the Treasury and Justice to the President's directive on gun shows. Following the President's Directive, Treasury, ATF, and Justice convened a steering committee and a working group to analyze the scope of the problem, examine current law, and seek input from law enforcement and outside interested parties. These efforts have resulted in a draft report (attached) containing seven key recommendations developing a system whereby gun show promoters would register with ATF before a show, provide certain information to ATF, and be subject to certain penalties for noncompliance.

- Gun shows would be broadly defined, to include flea markets and other events where 50 or more firearms are sold by two or more individuals.
- Nonlicensed sellers would be required to obtain the assistance of a federal firearms licensee (FFL) to complete a transaction, subject to criminal penalties for noncompliance.
- The licensee would perform a background check and provide limited information to ATF, allowing the firearms to be traced when recovered from crime scenes.
- To enforce firearms laws at gun shows, the federal government would need to commit substantial resources to support regulatory enforcement, investigation, and prosecution.
- The enforcement system should be complemented by a public education campaign undertaken by the government and the firearms industry to educate firearms owners to sell or otherwise dispose of their weapons without making them available to violent criminals, unauthorized juveniles, or other prohibited purchasers.

- Treasury and Justice should consider revising the statutory definition of what constitutes being “engaged in the business” of selling firearms, or revising regulations defining certain terms related to this definition.

Should you and the Attorney General agree with these recommendations, Treasury and Justice anticipate transmitting the report to the White House next week. This afternoon, the White House revised its plans for unveiling the report. We will keep your staff informed as we receive additional details.

RECOMMENDATION

That you approve the attached report (Tab A) for transmittal to the White House. The report’s major recommendations call for establishing a system requiring gun show promoters to register with ATF, prohibiting non-licensed sellers at a gun show from transferring firearms without the assistance of a federally licensed firearms dealer, and requiring the assisting dealer to perform a background check and retain transaction records that permit ATF to trace crime guns. A draft transmittal letter is also provided for your review (Tab B).

_____ Agree

_____ Disagree

_____ Discuss

DISCUSSION

Background

In 1994, Congress passed and the President signed the Brady Handgun Violence Prevention Act (Brady Act), requiring FFLs to ensure that a purchaser is not a felon or is not otherwise prohibited from possessing firearms. Before the Brady Act was passed, FFLs had to rely on a customer’s self-report to ascertain whether she was a prohibited purchaser. Since passage of the Brady Act, licensees are allowed to transfer a firearm only after a record check that prevents the transfer of a firearm to a person prohibited from possessing it. As of this year, the Brady Act has prevented approximately 250,000 prohibited persons from acquiring a firearm from an FFL.

Unfortunately, the Brady Act does not cover all venues through which prohibited purchasers from obtaining firearms; it does not apply to the sale of firearms by nonlicensees, who make up a considerable proportion of sellers at gun shows. Under existing law, nonlicensees have neither a duty nor an independent means of establishing whether a buyer is prohibited from possessing a firearm. Although the Brady Act provides FFLs with this vital information, it is not generally available to other sellers of firearms.¹ This is a particularly acute problem at the more than 4,000 gun shows held

¹ States that exceed the current federal requirements for firearms transfers by requiring nonlicensees to ascertain the recipient’s background solve this problem by requiring nonlicensees to obtain the assistance of an FFL, who is in turn authorized to use the National Instant Criminal Background Check System (NICS) system.

On November 6, 1998, President Clinton directed the Secretary of the Treasury and the Attorney General to provide him with recommendations to address this problem. In the memorandum issuing his directive, President Clinton noted particular concern that violent criminals and illegal firearms traffickers could use gun shows to buy large quantities of weapons without ever disclosing their identities, having their background checked, or having any other record of their purchase maintained.

Under the present system, a large number of firearms at gun shows are sold anonymously. Nonlicensed sellers are under no obligation to find out whether they may be selling to a violent criminal. Furthermore, there is no way to trace many of these firearms, because the unlicensed sellers maintain no record of the sale. Although FFLs selling at gun shows must conduct a Brady background check and maintain records of the sale, nonlicensees make up a quarter or more of the total sellers.

Since the issuance of the directive, officials from Treasury's Office of Enforcement, from ATF, and from Justice developed the review by analyzing current conditions, examining existing law, and seeking input from ATF field offices, U.S. Attorney's offices, law enforcement organizations, trade associations, and a wide range of other groups interested in the issues covered by the review. The input received by Treasury and Justice from these sources reflected diverse views, ranging from a preference for the status quo to an interest in prohibiting all sales of firearms at gun shows by anyone other than a federal firearms licensee (FFL).

Recommendations

To address the enforcement problems posed by gun shows, the report proposes seven major changes, most of which require legislation.

- **DEFINE GUN SHOWS BROADLY:** The report proposes a broad definition for gun shows, to include ordinary gun shows as well as flea markets and similar venues where 50 or more firearms are offered by two or more people.²
- **ESTABLISH REGISTRATION SYSTEM FOR GUN SHOW PROMOTERS:** All promoters would be responsible for notifying ATF of the time and location of each gun show, providing ATF with a list of vendors at the show, identifying whether the vendors are FFLs, ensuring that all vendors are provided with information about their legal obligations. Noncompliance could be addressed through a range of punishments ranging from suspension or revocation of the privilege to promote a gun show, to civil monetary penalties, to criminal sanctions.

² The definition would read as follows:

Gun show. Any event (1) at which 50 or more firearms, 1 or more of which has been shipped or transported in interstate or foreign commerce, are offered or exhibited for sale, transfer, or exchange; and (2) at which 2 or more persons are offering or exhibiting firearms for sale, transfer, or exchange.

- **ALLOW NONLICENSEES AT GUN SHOWS TO TRANSFER FIREARMS ONLY WITH ASSISTANCE FROM A FEDERAL FIREARMS LICENSEE:** All nonlicensees offering firearms at gun shows would be required to obtain the assistance of an FFL in order to complete a legal transfer. The FFL would be responsible for identifying the purchaser, conducting a Brady check on the purchaser, and maintaining a record of the transaction.³
- **FEDERAL FIREARMS LICENSEE ASSISTING IN A GUN SHOW TRANSFER MUST SUBMIT LIMITED INFORMATION TO ATF:** In order to allow ATF to trace crime guns originally purchased at gun shows, the FFL assisting in the transaction should submit limited information about the transferred firearm to ATF. Such information would include the manufacturer or importer of the firearm, model, serial number, and identity of the FFL who assisted in the transfer. Thus, the federal government would obtain no information concerning the seller or purchaser. Instead, the licensee would retain such records. The National Tracing Center would request such information from FFLs only in the event that a firearm became the subject of a law enforcement trace request. FFLs would also submit multiple sales reports to ATF.
- **FEDERAL GOVERNMENT SHOULD COMMIT SIGNIFICANT RESOURCES TO COMBAT THE ILLEGAL FIREARMS TRADE:** Enforcing these and other laws at gun shows will require significant resource commitments from the federal government, to support regulatory enforcement, investigation, and prosecution. Some funding for this purpose will be available through additional funds provided by the Domestic Policy Council for gun enforcement.
- **INDUSTRY AND GOVERNMENT CAMPAIGN SHOULD EDUCATE FIREARMS OWNERS ABOUT THEIR RESPONSIBILITIES:** The federal government, in conjunction with the firearms industry, should undertake a campaign to educate firearms owners that they should sell or dispose of their weapons responsibly to ensure that they do not fall into the hands of violent criminals, unauthorized juvenile possessors, or others prohibited from possessing firearms.
- **CHANGING DEFINITION OF "ENGAGED IN THE BUSINESS":** In addition, the report indicates that Treasury and Justice should consider revising the statutory definition of what constitutes being "engaged in the business" of selling firearms, or revising regulations defining certain terms related to this definition. Such revisions could help prosecutors and investigators enforce laws requiring persons engaged in the business of selling firearms to obtain federal firearms licenses and to comply with all attendant requirements for selling firearms, including performing background

³ This is virtually the same system that has been used successfully for many years when a person wishes to legally transfer a firearm to a nonlicensee in another state.



The President
The White House
Washington, DC 20500

Dear Mr. President:

Shortly before the Brady Act's national instant check system went into effect at the end of November 1998, you directed us to build on the Act's remarkable successes by recommending actions that the Administration could take to ensure that firearms sales at gun shows are not exempt from Brady background checks or other provisions of our Federal gun laws. Our report, "Gun Shows: Brady Checks and Crime Gun Traces," reflects a review of available data on the problem as well as possible solutions, and proposes a series of steps that are consistent with existing firearms regulations to close the gun show loophole.

More than 4,000 shows specializing in the sale of firearms are held annually in the United States. There are, in addition, countless other public markets, such as flea markets, where firearms are freely traded or sold. Under current law, many of the firearms at these public markets are sold anonymously; the seller has no idea and is under no affirmative obligation to find out whether he or she is selling a firearm to a felon or other prohibited person. Moreover, there is no way to trace many of the firearms sold at these public markets if they are later recovered at the scene of a crime.

While licensed firearms dealers are required to maintain careful records of their firearms sales and, under the Brady Act, to check the purchaser's background before transferring any firearm, nonlicensees have no such requirements under current law. Thus, felons and other prohibited persons who want to avoid background checks can buy firearms at gun shows and other public markets with ease, and later use the guns in drug crimes and crimes of violence, or pass them illegally to juveniles.

The recommendations in our report build both on the structure and effectiveness of the Brady Act as well as the work of the Bureau of Alcohol, Tobacco and Firearms, National Tracing Center. Since you signed it into law in 1994, the Brady Act has prevented well over 250,000 prohibited persons (primarily convicted felons) from purchasing firearms from Federal firearms

licensees (FFLs). In recent weeks, under the new instant check system, the FBI has denied sales of over 12,000 firearms to prohibited persons; a number of these denials resulted in the apprehension of wanted criminals who were seeking to purchase guns.

After a careful study of the problem, we make the following recommendations, a number of which will require legislation:

First, "gun show" would be defined to include not only traditional gun shows but also many flea markets and other similar venues where firearms are sold.

Second, the Bureau of Alcohol, Tobacco and Firearms (ATF) would register all persons who promote gun shows. Promoters would be required to notify ATF of the time and location of each gun show, provide ATF with a list of vendors at the show, indicate whether the vendors are FFLs, ensure that all vendors are provided with information about their legal obligations, and require that vendors acknowledge receipt of information on these obligations. If a registered promoter fails to fulfill these obligations, ATF would consider revoking or suspending the promoter's registration or imposing a civil monetary penalty. Criminal penalties would also be available in certain circumstances.

Third, if any part of a firearms transaction, including display of the weapon, occurs at a gun show, the firearm could be transferred only by, or with the assistance of, an FFL. Therefore, if a nonlicensee sought to transfer a firearm, an FFL would be responsible for positively identifying the purchaser, conducting a Brady Act check on the purchaser, and maintaining a record of the transaction. This is the same system that has been used successfully for many years when someone wishes to transfer a firearm to a nonlicensee in another State. Any seller at a gun show - FFL or nonlicensee - would be subject to a felony charge for failing to comply with the Brady Act's background check requirements.

Fourth, FFLs would be responsible for submitting strictly limited information concerning all firearms transferred at gun shows (e.g., manufacturer/importer, model, and serial number) to ATF's National Tracing Center (NTC). No information about either the seller or the purchaser would be given to the Government (with the exception of instances in which multiple sales reports are required). Instead, the licensees would maintain this information in their files, as is done with all firearms sold by FFLs today. The NTC would request this information from an FFL only in the event that the firearm subsequently became the subject of a law enforcement trace request.

Fifth, the Department of the Treasury and the Department of Justice will review the definition of "engaged in the business" and make recommendations for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

The President

Page 3

Sixth, the Federal Government should commit additional resources to combat the illegal trade of firearms at gun shows. Without a commitment to financially support this initiative, the effectiveness of this proposal would be limited.

Seventh, in conjunction with the firearms industry, a campaign should be undertaken to encourage all firearms owners to take steps, when selling or otherwise disposing of their weapons, to ensure that they do not fall into the hands of criminals, unauthorized juveniles or other prohibited persons.

Taken together, our recommendations will close the gun show loophole. Whenever any part of a firearm transaction takes place at a gun show, the requirements of the Brady Act check will apply, and records will be kept to allow the firearm to be traced if it is later used in crime. If legitimate, unlicensed individuals wish to sell their personal collections of firearms at gun shows, they will now have the obligation-and the means-to ensure that they are not selling their guns to felons or other prohibited persons. Our recommended steps impose reasonable obligations in connection with firearms transactions at gun shows, while significantly enhancing law enforcement's ability both to prevent criminals from getting guns and to apprehend those who use firearms in the commission of crimes.

Respectfully,



Robert Rubin
Secretary of the Treasury

Janet Reno
Attorney General

EXECUTIVE SECRETARIAT CORRESPONDENCE MEMO COVER SHEET

Thursday, January 14, 1999

PROFILE #: 1999-SE-000435

DATE CREATED: 01/14/1999

ADDRESSEE: Robert E. Rubin
Secretary

AUTHOR: Johnson, James E.
US, ENFORCEMENT

SUBJECT: President's Directive on Gun Shows

ABSTRACT: President's Directive on Gun Shows.

RM 3419

TO REVIEWERS

TO EXECUTIVE SECRETARY

IN:

IN:

TO THE SECRETARY

TO ^{PA} ~~NEC~~ 1/14/99

DATE SIGNED:

DISTRIBUTION:

US, ENFORCEMENT

NCC to MER signature

1/15/99

PA to G.C. for clearance
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G.C. cleared w/ edits
(N. Wolin) 1/15/99

PA to Enforcement for
delivery to Justice 1/15/99

- MEMORANDUM FOR:**
- SECRETARY DEPUTY SECRETARY EXECUTIVE SECRETARY
 - ACTION BRIEFING INFORMATION LEGISLATION
 - PRESS RELEASE PUBLICATION REGULATION SPEECH
 - TESTIMONY

- UNDER SECRETARY JOHNSON X ASSISTANT SECRETARY BRESEE

FROM: James E. Johnson

SUBJECT: Memorandum to the Secretary on President's Directive on Gun Shows

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SPECIAL INSTRUCTIONS

Review Officer

Date

Executive Secretary



GUN
SHOWS:
BRADY CHECKS
AND CRIME GUN
TRACES

JANUARY 1999

GUN SHOWS: BRADY CHECKS AND CRIME GUN TRACES

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Exhibit 1: President's Memorandum Concerning Preventing Firearms Sales to Prohibited Purchasers

Exhibit 2: Digest of Selected States with Laws Regulating Transfers of Firearms Between Unlicensed Persons or Gun Shows

Appendix

EXECUTIVE SUMMARY

More than 4,000 shows dedicated primarily to the sale or exchange of firearms are held annually in the United States. There are also countless other public markets at which firearms are freely sold or traded, such as flea markets. Under current law, large numbers of firearms at these public markets are sold anonymously; the seller has no idea and is under no obligation to find out whether he or she is selling a firearm to a felon or other prohibited person. If any of these firearms are later recovered at a crime scene, there is virtually no way to trace them back to the purchaser.

The Brady Handgun Violence Prevention Act (Brady Act) provides crucial information about firearms buyers to Federal firearms licensees (FFLs), but does not help nonlicensees to identify prohibited purchasers. Under the Brady Act, FFLs contact the Federal Bureau of Investigation's National Instant Criminal Background Check System (NICS) to ensure that a purchaser is not a felon or otherwise prohibited from possessing firearms. Until the Brady Act was passed, the only way an FFL could determine whether a purchaser was a felon or other person prohibited from possessing firearms was on the basis of the customer's self-certification. The Brady Act supplemented this "honor system" with one that allows licensees to transfer a firearm only after a records check that prevents the acquisition of firearms by persons not legally entitled to possess them. Since 1994, the Brady Act has prevented well over 250,000 prohibited persons from acquiring firearms from FFLs.

The Brady Act, however, does not apply to the sale of firearms by nonlicensees, who make up one-quarter or more of the sellers of firearms at gun shows. While FFLs are required to maintain careful records of their sales and, under the Brady Act, to check the purchaser's background with NICS before transferring any firearm, nonlicensees have no such requirements under current law. Thus, felons and other prohibited persons who want to avoid Brady Act checks and records of their purchase buy firearms at these shows. Indeed, a review of criminal investigations by the Bureau of Alcohol, Tobacco and Firearms (ATF) reveals a wide variety of violations occurring at gun shows and substantial numbers of firearms associated with gun shows being used in drug crimes and crimes of violence, as well as being passed illegally to juveniles.

On November 6, 1998, President Clinton determined that all gun show vendors should have access to the same information about firearms purchasers.¹ He directed the Secretary of the Treasury and the Attorney General to close the gun show loophole. President Clinton was particularly concerned that felons and illegal firearms traffickers could use gun shows to buy large quantities of weapons without ever disclosing their identities, having their backgrounds checked, or having any other records maintained on their purchases. He asked the Secretary of the Treasury and the Attorney General to provide him with recommendations to address this problem.

In developing recommendations for responding to the President's directive, the Department of the Treasury and the Department of Justice sought input from

¹ See exhibit 1.

United States Attorneys, FFLs, law enforcement organizations, trade associations, and a wide range of other groups interested in firearms issues. The suggestions of these disparate groups ranged from doing nothing to establishing an outright ban on all sales of firearms at gun shows or by anyone other than an FFL. The United States Attorneys expressed particular concern with the complexity of the statutory definition of "engaged in the business" of dealing in firearms and noted that this made unlicensed firearms traffickers unusually difficult to prosecute.

The recommendations in this report build upon existing systems and expertise to achieve the President's goals of preventing sales to prohibited persons and better enabling law enforcement to trace crime guns.

First, "gun show" would be defined to include not only traditional gun shows but also flea markets and other similar venues where firearms are sold. ✓

Second, ATF would register all persons who promote gun shows. Promoters would be required to notify ATF of the time and location of each gun show, provide ATF with a list of vendors at the show, indicate whether the vendors are FFLs, ensure that all vendors are provided with information about their legal obligations, and require that vendors acknowledge receipt of this information. If a registered promoter fails to fulfill these obligations, ATF would consider revoking or suspending the promoter's registration or imposing a civil monetary penalty. Criminal penalties would also be available in certain circumstances.

Third, if any part of a firearms transaction, including display of the weapon, occurs at a gun show, the firearm could be transferred only by, or with the assistance of, an FFL. Therefore, if a nonlicensee sought to transfer a firearm, an FFL would be responsible for positively identifying the purchaser, conducting a Brady Act check on the purchaser, and maintaining a record of the transaction. This is the same system that has been used successfully for many years when someone wishes to transfer a firearm to a nonlicensee in another State.

Fourth, FFLs would be responsible for submitting strictly limited information concerning all firearms transferred at gun shows (e.g., manufacturer/importer, model, and serial number) to ATF's National Tracing Center (NTC). No information about either the seller or the purchaser would be given to the Government (with the exception of instances in which multiple sales reports are required).² Instead, the licensees would maintain this information in their files, as is done with all firearms sold by FFLs today. The NTC would request this information from an FFL only in the event that the firearm subsequently became the subject of a law enforcement trace request.

Fifth, the Department of the Treasury and the Department of Justice will review the definition of "engaged in the business" and make recommendations for legislative or

² As required by the Gun Control Act, FFLs must complete multiple sales records whenever two or more handguns are sold to the same purchaser within 5 business days.

regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

Sixth, the Federal Government should commit additional resources to combat the illegal trade of firearms at gun shows. Without a commitment to financially support this initiative, the effectiveness of this proposal would be limited.

Seventh, in conjunction with the firearms industry, a campaign should be undertaken to encourage all firearms owners to take steps when selling or otherwise disposing of their weapons to ensure that they do not fall into the hands of criminals, unauthorized juveniles, or other prohibited persons.

Taken together, these recommendations will address the President's goals of preventing firearms sales to prohibited persons at gun shows and better enabling law enforcement to trace crime guns. Whenever any part of a firearms transaction takes place at a gun show, the requirements of the Brady Act will apply, and records will be kept to allow the firearm to be traced if it is later used in crime. If unlicensed individuals wish to sell their personal collections of firearms at gun shows, they will now have the obligation—and the means—to ensure that they are not selling their guns to felons or other prohibited persons. The recommended steps impose reasonable obligations in connection with firearms transactions at gun shows while significantly enhancing law enforcement's ability to prevent criminals from getting guns and to apprehend those who use firearms in the commission of crimes.

1. DESCRIPTION OF GUN SHOWS

Sponsorship and Operation of Gun Shows

Shows that specialize primarily in the sale and exchange of all types of firearms are frequent and popular events.³ According to the periodical "Gun Show Calendar" (Krause Publications), 4,442 such shows were advertised for calendar year 1998. The following are the 10 States where shows were conducted most frequently in 1998:

<u>State</u>	<u>Number of Shows</u>
Texas	472
Pennsylvania	250
Florida	224
Illinois	203
California	188
Indiana	180
North Carolina	170
Oregon	160
Ohio	148
Nevada	129

Most of the shows were promoted by approximately 175 organizations and individuals. Most promoters are State and local firearms collector organizations with large memberships, including one group that has 28,000 members. The remainder of the gun shows were promoted by individual collectors and businesspeople. Ordinarily, gun shows are held in public arenas, civic centers, fairgrounds, and armories, and the vendor rents a table from the promoter for a fee ranging from \$5 to \$50. The number of tables at shows varies from as few as 50 to as many as 2,000.

Most of the shows are open to the public, and individuals generally pay an admission price of \$5 or more to the promoter. In rare instances, public access is limited by invitation only. Most gun shows occur over a 2-day period, generally on weekends, and draw an average of 2,500-5,000 people per show.⁴

Both FFLs and nonlicensees sell firearms at these shows. FFLs make up 50 to 75 percent of the vendors at most gun shows. The majority of vendors who attend shows sell firearms and associated accessories and other paraphernalia. Examples of accessories and paraphernalia include holsters, tactical gear, knives, ammunition, clothing, food,

³ ATF interviewed promoters, made field observations, and reviewed data obtained over a 5-year period to provide information for this report.

⁴ This information was provided by officials from the National Association of Arms Shows, which represents many of the gun show promoters.

military artifacts, books, and other literature. Some of the vendors offer accessories and paraphernalia only and do not sell firearms.

Public markets for the sale of firearms are not limited to the specialized firearms shows. Large quantities of firearms are also sold by nonlicensees at flea markets and other organized events. At some flea markets, FFLs have established permanent premises from which they conduct their business.

Both the specialized firearms shows and the broader commercial venues such as flea markets are collectively referred to as "gun shows" in the remainder of this report.

Types of Firearms Sold

The types and variety of firearms offered for sale at gun shows include new and used handguns, semiautomatic assault weapons,⁵ shotguns, rifles, and curio or relic firearms.⁶ In addition, vendors offer large capacity magazines⁷ and machinegun parts⁸ for sale.

The "high-end" collector and antique shows and the sporting recreational shows are generally produced by the sporting organizations or avid collectors and enthusiasts. The overall knowledge of the Federal firearms laws and regulations by these promoters is

⁵ Semiautomatic assault weapons may be legally transferred in unrestricted commercial sales if they were manufactured on or before September 13, 1994. Weapons manufactured after that date may be transferred to or possessed by law enforcement agencies, law enforcement officers employed by such agencies for official use, security guards employed by nuclear power plants, and retired law enforcement officers who are presented the weapons by their agencies upon retirement. (See 18 U.S.C. § 922(v).)

⁶ Curios or relics are firearms of special interest to collectors by reason of some quality other than those associated with firearms intended for sporting use or as offensive or defensive weapons. Curios or relics include firearms that are at least 50 years old, are certified by the curator of a Government museum to be of museum interest, or are other firearms that derive a substantial part of their value from the fact that they are novel, rare, or bizarre or because of their association with some historical figure, period, or event. (See 27 C.F.R. § 178.11.)

⁷ Magazines with a capacity of more than 10 rounds may be transferred or possessed without restriction if they were manufactured on or before September 13, 1994. Large capacity magazines manufactured after that date may be transferred to or possessed by law enforcement agencies, law enforcement officers employed by such agencies for official use, security guards employed by nuclear power plants, and retired law enforcement officers who are presented the magazines by their agencies upon retirement. (See 18 U.S.C. § 922(w).)

⁸ The National Firearms Act (NFA), 26 U.S.C. Chapter 53, regulates machineguns, which are defined as any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term also includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. (See 26 U.S.C. § 5845.) Machineguns must be registered with the Secretary of the Treasury, and those manufactured on or after May 19, 1986, are generally unlawful to possess. (See 18 U.S.C. § 922(o).) Parts for machineguns that do not fall within the statutory definition of machinegun (e.g., they are not conversion kits or frames or receivers) may be legally sold without restriction.

good, and the weapons offered for sale are mostly curios or relics or higher quality modern weapons. At other shows, vendors may be less knowledgeable about the Federal firearms laws, and many of the guns sold are of lower quality and less expensive.

Atmosphere

The casual atmosphere in which firearms are sold at gun shows provides an opportunity for individual buyers and sellers to exchange firearms without the expense of renting a table, and it is not uncommon to see people walking around a show attempting to sell a firearm. They may sell their firearms to a vendor who has rented a table or simply to someone they meet at the show. Many nonlicensees entice potential customers to their tables with comments such as, "No background checks required; we need only to know where you live and how old you are." Many of these unlicensed vendors actively acquire firearms from other vendors to satisfy a buyer's request for a specific firearm that the vendor does not currently possess. Some unlicensed vendors replenish and subsequently dispose of their inventories within a matter of days, often at the same show. Although the majority of people who visit gun shows are law-abiding citizens, too often the shows provide a ready supply of firearms to prohibited persons, gangs, violent criminals, and illegal firearms traffickers.

Many Federal firearms licensees have complained to ATF about the conduct of nonlicensees at gun shows.⁹ These licensees are understandably concerned that the casual atmosphere of gun shows, combined with the absence of any requirement that an unlicensed vendor check the background of a firearms purchaser, provides an opportunity for felons and other prohibited persons to acquire firearms. Because Federal law neither requires the creation of any record of these unlicensed sales nor places any obligations upon gun show promoters, information is rarely available about the firearms sold should they be recovered in a crime.

Gun Shows and Crime

It is hardly surprising, therefore, that a review of ATF's recent investigations indicates that gun shows provide a forum for illegal firearms sales and trafficking. In preparing this report, the Department of the Treasury, the Department of Justice, ATF, and outside researchers¹⁰ reviewed 314 recent investigations that involved guns shows in some capacity.¹¹ The investigative reports came from each of ATF's 23 field divisions

⁹ When appropriate, ATF investigated these complaints and took action ranging from warning letters explaining the need for a license to engage in the business of dealing in firearms, to referring a case to the United States Attorney for prosecution.

¹⁰ David M. Kennedy and Anthony Braga, both of the John F. Kennedy School of Government, Harvard University.

¹¹ See Appendix, table 1. The large majority of the investigations reviewed for this report were from 1997 and 1998. The remainder of the investigations was from the years 1994 through 1996, with one investigation each from 1991 and 1992. Forty-one investigations involved what may be described as flea markets, and three investigations involved firearms sales at auctions. The methodology of the review and a more detailed analysis of the results are set forth in the appendix.

throughout the country¹² and involved a wide range of criminal activity by FFLs, unlicensed vendors, and felons conspiring with FFLs.¹³ The investigations also involved a wide variety of firearms, including handguns, semiautomatic assault rifles, and machineguns.

Together, the ATF investigations paint a disturbing picture of gun shows as a venue for criminal activity and a source of firearms used in crimes. Felons, although prohibited from acquiring firearms, have been able to purchase firearms at gun shows. In fact, felons buying or selling firearms were involved in more than 46 percent of the investigations involving gun shows.¹⁴ In more than a third of the investigations, the firearms involved were known to have been used in subsequent crimes.¹⁵ These crimes included drug offenses, felons in possession of a firearm, assault, robbery, burglary, and homicide.¹⁶

Firearms involved in the 314 reviewed investigations numbered more than 54,000.¹⁷ A large number of these firearms were sold or purchased at gun shows. More than one-third of the investigations involved more than 50 firearms, and nearly one-tenth of the investigations involved more than 250 firearms. The two largest investigations were reported to have involved up to 7,000 and 10,000 firearms, respectively. These numbers include both new and used firearms.¹⁸

The investigations reveal a diversity of Federal firearms violations associated with gun shows.¹⁹ Examples of these violations include straw purchases,²⁰ out-of-State sales by

¹² See Appendix, table 2.

¹³ See Appendix, table 3. Current and former FFLs were the subject of a significant number of investigations.

¹⁴ See Appendix, table 3.

¹⁵ See Appendix, table 4.

¹⁶ See Appendix, table 4.

¹⁷ See Appendix, table 5.

¹⁸ See Appendix, table 6. Because tracing a firearm generally requires an unbroken chain of dispositions from manufacturer to first retail purchaser, used guns—including those sold at gun shows—have rarely been traceable.

¹⁹ See Appendix, table 7.

²⁰ A "straw purchase" occurs when the actual buyer of a firearm uses another person, the "straw purchaser," to execute the paperwork necessary to purchase a firearm from an FFL. Specifically, the actual buyer uses the straw purchaser to execute the firearms transaction record, purporting to show that the straw purchaser is the actual purchaser of the firearm. Often, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm because of a felony conviction or another disability.

FFLs, transactions by FFLs without Brady Act checks, and the sale of kits that modify semiautomatic firearms into automatic firearms. Engaging in the business without a license was involved in more than half of all the investigations. Nearly 20 percent involved FFLs who were selling firearms "off-the-book."²¹ The central violation in approximately 15 percent of the investigations was the transfer of firearms to prohibited persons such as felons or juveniles not authorized to possess firearms. Nearly 20 percent of the investigations involved violations of the National Firearms Act (NFA), which regulates the possession of certain firearms such as machineguns.²²

An examination of individual cases illustrates how gun shows are connected to criminal activity.

- In 1993, ATF uncovered a Tennessee FFL who purchased more than 7,000 firearms, altered the serial numbers, and resold them to two unlicensed dealers who subsequently transported and sold the firearms at gun shows and flea markets in North Carolina. The scheme involved primarily new and used handguns. All three pled guilty to Federal firearms violations. The FFL was sentenced to 15 months' imprisonment; the unlicensed dealers were sentenced to 21 and 25 months' imprisonment, respectively.
- In 1994, ATF recovered two 9mm firearms and the NTC traced them to an FFL in Whittier, California. The FFL had sold over 1,700 firearms to unlicensed purchasers over a 4-year period without maintaining any records. Many of the sales occurred at swap meets in California. The firearms were then sold to gang members in Santa Ana and Long Beach, California. Many of the firearms were recovered in crimes of violence, including homicide. Of the five defendants charged, two were convicted--the FFL and one of his unlicensed purchasers. Each was sentenced to 24 months' imprisonment.
- In 1995, an ATF inspector in Pontiac, Michigan, discovered a convicted felon who used a false police identification to buy handguns at gun shows and resold them for profit. Among the firearms purchased were sixteen new and inexpensive 9mm and .380 caliber handguns. Detroit police recovered several of the firearms while investigating a domestic disturbance. The defendant pled guilty to numerous Federal firearms violations and was sentenced to 27 months' imprisonment.

In addition to analyzing the ATF investigations, ATF supplemented the information with data from the NTC. Approximately 254 individuals identified in the ATF gun show-related investigations were checked against data in the Firearms Tracing System and related data bases. Of these, 44 appeared in the multiple purchase records with an

²¹ "Off-the-book" sales are those made by FFLs without conducting Brady Act background checks and without recording the sale as required by the law and regulations.

²² Under the NFA, certain firearms and other weapons must be registered. (See 26 U.S.C. chapter 53.) Table 8 shows the types of weapons involved in the investigations involving NFA violations. For example, more than half of the NFA investigations involved machineguns, while 11 percent involved grenade launchers.

average of 59 firearms per person. Of the 44 individuals, 15 were associated with 50 or more multiple sale firearms; these individuals had a total of 188 crime guns traced to them, an average of approximately 13 firearms each. The largest number of multiple sales firearms associated with one individual was 472; this individual had 53 crime guns traced to him. These patterns are not in and of themselves proof of trafficking. Rather, they are indicators investigators use to assist in trafficking investigations.

It is difficult to determine the precise extent of criminal activities at gun shows, partly because of the lack of obligations upon unlicensed vendors to keep any records. Nevertheless, the information obtained from the ATF investigations demonstrates that criminals are able to obtain firearms with no background check and that crime guns are transferred at gun shows with no records kept of the transaction.

2. CURRENT LAW AND REGULATION OF GUN SHOWS

The gun show loophole results both from the existing legal framework governing firearms transactions and the limits on the application of existing laws to gun shows. Gun shows themselves are not subject to Federal regulation. Instead, only transfers by FFLs at gun shows are regulated. Few limitations apply to sales by nonlicensees at gun shows or elsewhere. The Federal legal framework governing gun shows and firearms vendors, as well as the State legal framework governing gun shows, is summarized below.

The Federal Framework

Federal Regulation of Firearms Vendors

Licensed Firearms Dealers

The GCA requires that those seeking to “engage in the business” of importing, manufacturing, or dealing in firearms must obtain a Federal firearms license from the Secretary of the Treasury.²³ The Federal firearms license entitles the holder to ship, transport, and receive firearms in interstate or foreign commerce.²⁴ The bearer of that license, the FFL, must comply with the obligations that accompany the license. In particular, FFLs must maintain records of all acquisitions and dispositions of firearms and comply with all State and local laws in transferring any firearms.²⁵ They must positively identify the purchaser by inspecting a Government-issued photographic identification, such as a driver’s license. FFLs must also complete a multiple sales report if they sell two or more handguns to the same purchaser within 5 business days. FFLs may not transfer firearms to felons, persons who have been committed to mental institutions, illegal aliens, or other prohibited persons.²⁶ FFLs also may not knowingly transfer firearms to underage persons or handguns to persons who do not reside in the State where they are licensed.²⁷

FFLs must also comply with the provisions of the Brady Act prior to transferring any firearm to a nonlicensee. The Brady Act requires licensees to contact NICS prior to transferring a firearm to any nonlicensed person in order to determine whether receipt of

²³ 18 U.S.C. §§ 922(a)(1) and 923(a).

²⁴ See *id.*

²⁵ See 18 U.S.C. §§ 922(a)(1), (a)(3), (a)(5), (b)(2), and 923(g).

²⁶ See 18 U.S.C. § 922(d). The 1986 amendments to the GCA also made it unlawful for any person to transfer any firearm to any person knowing or having reasonable cause to believe that such person is a prohibited person.

²⁷ See 18 U.S.C. §§ 922(b)(1), 922(b)(3), and 922(x).

a firearm by the prospective purchaser would be in violation of Federal or State law.²⁸ FFLs must maintain a record but need not contact NICS when they sell from their personal collection of firearms. Federal law requires licensees to respond to requests for firearms tracing information within 24 hours.²⁹ Moreover, ATF has a statutory right to conduct warrantless inspections of the records and inventory of Federal firearms licensees.³⁰ An FFL who willfully violates any of the licensing requirements may have his or her license revoked and is subject to imprisonment for not more than 5 years, a fine of not more than \$250,000, or both.³¹

The obligations imposed upon FFLs serve to implement the crime-reduction goals of the GCA. For example, the recordkeeping requirements, interstate controls, and other requirements imposed on licensees are designed to allow the tracing of crime guns through the records of FFLs and to give States the opportunity to enforce their firearms laws.³²

Licensed Firearms Collectors

The GCA also requires persons to obtain a license as a collector of firearms³³ if they wish to ship, transport, and receive firearms classified as "curios or relics" in interstate or foreign commerce.³⁴ For transactions involving firearms other than curios or relics, the licensed collector has the same status as a nonlicensee. "Curio or relic" firearms generally are firearms that are of special interest to collectors and are at least 50 years old or derive their value from association with a historical figure, period, or event.³⁵ A licensed collector may buy and sell curio or relic firearms for the purpose of enhancing

²⁸ See 18 U.S.C. § 922(t). A NICS check is not required if the buyer presents to the FFL a valid permit to possess or acquire a firearm that was issued not more than 5 years earlier by the State in which the transfer is to take place, and the law of the State provides that the permit is to be issued only after a Government official verifies that the information available to the official, including a NICS check, does not indicate that the possession of the firearm by the person would violate the law.

²⁹ See 18 U.S.C. § 923(g)(7).

³⁰ See 18 U.S.C. § 923(g)(1)(B). Warrantless inspections are limited to those conducted (1) in the course of a criminal investigation of a person other than the licensee, (2) during an annual compliance inspection, and (3) for purposes of firearms tracing. *Id.* Inspections may also be conducted pursuant to a warrant issued by a Federal magistrate upon demonstration that there is reasonable cause to believe that a violation of the GCA has occurred and that evidence of such violation may be found on the licensee's premises. See 18 U.S.C. § 923(g)(1)(A).

³¹ See 18 U.S.C. § 923(e) and 924(a)(1)(D). Under current law, an FFL's failure to perform a NICS check is a misdemeanor.

³² S. Rep. No. 1501, 22, 25 (1968).

³³ See 18 U.S.C. § 923(b).

³⁴ See 18 U.S.C. §§ 922(a)(2), (a)(3).

³⁵ See 27 C.F.R. § 178.11.

his or her personal collection, but may not lawfully engage in a firearms business in curio or relic firearms without obtaining a dealer's license.³⁶ Recordkeeping requirements are imposed on licensed collectors, and ATF has a statutory right to conduct warrantless inspections of the records and inventory of such licensees.³⁷ Licensed collectors, like other licensees, are required to respond to requests for firearms trace information within 24 hours.³⁸ However, licensed collectors are not subject to the requirements of the Brady Act.³⁹

Nonlicensed Firearms Sellers

In contrast to licensed dealers, nonlicensees can sell firearms without inquiring into the identity of the person to whom they are selling, making any record of the transaction, or conducting NICS checks.⁴⁰ Because nonlicensed gun show vendors are not subject to the Brady Act and indeed cannot now conduct a NICS check under Federal law, they often have no way of knowing whether they are selling a firearm to a felon or other prohibited person. The GCA does, however, prohibit nonlicensed persons from acquiring firearms from out-of-State dealers and prohibits nonlicensees from shipping or transporting firearms in interstate or foreign commerce.⁴¹ Nonlicensees are also prohibited from transferring a firearm to a nonlicensed person who the transferor knows or has reasonable cause to believe does not reside in the State in which the transferor resides.⁴² A nonlicensee also may not transfer a firearm to any person knowing or having reasonable cause to believe that the transferee is a felon or other prohibited person.⁴³ Finally, nonlicensed persons may not transfer handguns to persons under the age of 18.⁴⁴ Of

³⁶ See 18 U.S.C. §§ 922(a)(1), and 923(a).

³⁷ See 18 U.S.C. §§ 923(g)(2), (g)(1)(C).

³⁸ See 18 U.S.C. § 923(g)(7).

³⁹ See 18 U.S.C. § 922(t)(1).

⁴⁰ See 18 U.S.C. §§ 922(t), and 923(g)(1)(A).

⁴¹ See 18 U.S.C. § 922(a)(3). An exception to this rule is provided for sales of rifles or shotguns by licensed dealers to nonlicensed persons if the purchaser appears in person at the dealer's licensed premises and the sale, delivery, and receipt comply with the legal conditions of sale in both the seller's State and the buyer's State. See 18 U.S.C. § 922(b)(3).

⁴² See 18 U.S.C. § 922(a)(5). Exceptions to this prohibition are provided for transfers of firearms made to carry out a bequest or intestate succession of a firearm and for the loan or rental of a firearm for temporary use for lawful sporting purposes. *Id.*

⁴³ See 18 U.S.C. § 922(d).

⁴⁴ See 18 U.S.C. § 922(x). A number of exceptions apply to this prohibition, including temporary transfers in the course of employment, for ranching or farming, for target practice, for hunting, or for firearms safety instruction. These exceptions all require that the juvenile to whom the handgun is transferred obtain prior written consent from a parent or guardian and that the written consent be in the juvenile's possession at the time the juvenile possesses the handgun. *Id.*

course, because nonlicensees are not required to inspect the buyer's driver's license or other identification, they may never know that the buyer is underage.

"Engaged in the Business"

Whether an individual seeking to sell a firearm will be regulated as an FFL or nonlicensee depends on whether that individual is "engaged in the business" of importing, manufacturing, or dealing in firearms. When Congress enacted the GCA in 1968, it did not provide a definition of the term "engaged in the business." Courts interpreting the term supplied various definitions,⁴⁵ and upheld convictions for engaging in the business without a license under a variety of factual circumstances.⁴⁶

In 1986, the law was amended to provide the following definition:

(21) The term "engaged in the business" means--

* * *

(C) as applied to a dealer in firearms, . . . a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms. . . .⁴⁷

The 1986 amendments to the GCA also defined the term "with the principal objective of livelihood and profit" to read as follows:

(22) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as

⁴⁵ Compare United States v. Gross, 451 F.2d 1355, 1357 (7th Cir. 1971) (one engages in a firearms business where one devotes time, attention and labor for the purpose of livelihood or profit) with United States v. Shirling, 572 F.2d 532, 534 (5th Cir. 1978) (profit motive not determinative where one has firearms on hand or ready to procure them for purpose of sale).

⁴⁶ See United States v. Hernandez, 662 F.2d 289 (5th Cir. 1981) (30 firearms bought and sold over a 4-month period); United States v. Perkins, 633 F.2d 856 (8th Cir. 1981) (three transactions involving eight firearms over 3 months); United States v. Huffman, 518 F.2d 80 (4th Cir. 1975) (more than 12 firearms transactions over "a few months"); United States v. Ruisi, 460 F.2d 153 (2d Cir. 1972) (codefendants sold 11 firearms at a single gun show); United States v. Gross, 451 F.2d 1355 (7th Cir. 1971) (11 firearms sold over 6 weeks); United States v. Zeidman, 444 F.2d 1051 (7th Cir. 1971) (six firearms sold over 2 weeks).

⁴⁷ 18 U.S.C. § 921(a)(21)(C).

improving or liquidating a personal firearms collection; Provided, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. . . .⁴⁸

Unfortunately, the effect of the 1986 amendments has often been to frustrate the prosecution of unlicensed dealers masquerading as collectors or hobbyists but who are really trafficking firearms to felons or other prohibited persons.

Federal Regulation of Gun Shows

Current Federal law does not regulate gun shows. The GCA does regulate the conduct of FFLs who offer firearms for sale at gun shows. Although the GCA generally limits licensees to conduct business only from their licensed premises,⁴⁹ in 1984, ATF issued a regulation allowing licensees to conduct business temporarily at certain gun shows located in the same State as their licensed premises.⁵⁰ The regulatory provision was codified into the law as part of the 1986 amendments to the GCA. To qualify for the exception, the gun show or event must be sponsored by a national, State, or local organization devoted to the collection, competitive use, or other sporting use of firearms; and the gun show or event must be held in the State where the licensee's premises is located.

As a result, an FFL may buy and sell firearms at a gun show provided he or she otherwise complies with all the GCA requirements governing licensee transfers. Nonlicensees, however, may freely transfer firearms at a gun show without observing the recordkeeping and background check requirements imposed upon licensees.

State Statutory and Regulatory Framework

More than half of the States impose no prohibition on the private transfer of firearms among nonlicensed persons and do not regulate the operation of gun shows. In some States, the only restrictions imposed on the private sales or transfers of firearms are similar to certain prohibitions set forth by the GCA. For example, Arkansas, Oklahoma, Texas, Louisiana, and Mississippi prohibit the transfer of certain firearms to felons; minors (or minors without parental consent); or persons who are intoxicated, mentally disturbed, or under the influence of drugs. Some States require permits to obtain a firearm and impose a waiting period before the permit is issued (e.g., 14 days in Hawaii). Other States impose additional requirements (such as completion of a firearms safety course in California) to obtain a license or permit. Some impose a waiting period for all firearms (e.g., Massachusetts), others only for handguns (e.g., Connecticut). Maryland directly regulates the sale of firearms by nonlicensees at gun shows, requiring

⁴⁸ 18 U.S.C. § 921(a)(22).

⁴⁹ 18 U.S.C. § 923(a).

⁵⁰ T.D. ATF-191, 49 Fed. Reg. 46,889 (November 29, 1984).

nonlicensees selling handguns or assault weapons at a gun show to undergo a background check to obtain a temporary transfer permit, and limits individuals to five such permits per year.

Exhibit 2 provides an overview of the laws of those States that regulate the transfer of some or all firearms by persons not licensed as a dealer, and of those States that directly regulate gun shows. None of the solutions proposed in this report will affect any State law or regulation that is more restrictive than the Federal law.

3. EARLIER LEGISLATIVE PROPOSALS AND COMMENTS FROM INTERESTED PARTIES

In developing the recommendations of this report, prior legislative proposals addressing gun shows were considered along with results of surveys of United States Attorneys, interest groups, and individuals concerned with firearms issues. Comments from FFLs and law enforcement officials were also considered.

Legislative Proposals

In the 105th Congress, Representative Rod Blagojevich introduced legislation addressing gun shows, H.R. 3833. Senator Frank Lautenberg introduced a similar bill, S. 2527. The proposed bills generally required any person wishing to operate a "gun show" to obtain a license from the Secretary of the Treasury and to provide 30 days' advance notice of the date and location of each gun show held. The gun show licensee would be required to comply with the provisions applicable to dealers under the Brady Act, the general recordkeeping provisions of the GCA, and the multiple sales reporting requirements. These requirements would apply only to transfers of firearms at the gun show by unlicensed persons. Unlicensed vendors would be required to provide the gun show licensee with written notice prior to transferring a firearm at the gun show. The gun show licensee would also be required to deliver to the Secretary of the Treasury all records of firearms transfers collected during the show within 30 days after the show.

Responses to Surveys

United States Attorneys

The Department of Justice requested information from United States Attorneys regarding their experience prosecuting cases involving illegal activities at gun shows or in the "secondary market."⁵¹ Those United States Attorneys who reported cases were asked to describe any particular problems of proof that arose in the cases and whether the existing levels of prosecutorial and investigative resources are adequate to address the violations that are identified. Finally, they were asked for their proposals on how to curtail illegal activity at gun shows.

Some United States Attorneys' offices have had significant experience investigating and prosecuting cases involving illegal activities at gun shows, while others reported no experience with these cases at all. Several common themes emerge from the responses.

There was widespread agreement among United States Attorneys that it can be difficult to prove that a nonlicensed person is "engaging in the business" of firearms dealing without a license under current law. The definitions create substantial investigative and

⁵¹ The "secondary market" refers to the sale and purchase of firearms after FFLs sell them at retail.

proof problems.⁵² Significant undercover work and follow-up by ATF are required to prepare a case against someone for "engaging in the business."

The United States Attorneys were virtually unanimous in their call for additional resources. The number of ATF agents available to investigate cases in many judicial districts falls far below the number required to mount effective enforcement activities at gun shows. United States Attorneys also noted that it will be difficult to devote scarce prosecutorial resources to gun show cases, so long as a number of the offenses remain misdemeanors.

United States Attorneys offered a wide range of proposals to address the gun show loophole. These include the following: (1) allowing only FFLs to sell guns at gun shows so that a background check and a firearms transaction record accompany every transaction; (2) strengthening the definition of "engaged in the business" by defining the terms with more precision, narrowing the exception for "hobbyists," and lowering the intent requirement; (3) limiting the number of private sales permitted by an individual to a specified number per year; (4) requiring persons who sell guns in the secondary market to comply with the recordkeeping requirements that are applicable to FFLs; (5) requiring all transfers in the secondary market to go through an FFL; (6) establishing procedures for the orderly liquidation of inventory belonging to FFLs who surrender their license; (7) requiring registration of nonlicensed persons who sell guns; (8) increasing the punishment for transferring a firearm without a background check as required by the Brady Act; (9) requiring the gun show promoters to be licensed and maintain an inventory of all the firearms that are sold by FFLs and non-FFLs at a gun show; (10) requiring that one or more ATF agents be present at every gun show; and (11) insulating unlicensed vendors from criminal liability if they agree to have purchasers complete a firearms transaction form.

A small number of United States Attorneys suggested that existing laws are adequate even though the resources available to enforce these laws are not. While gun shows do not appear to be a problem in every jurisdiction, the majority of United States Attorneys agreed that gun shows are part of a larger, pervasive problem of firearms transfers in the secondary market.

⁵² A recent case of an unlicensed individual who bought and sold numerous firearms illustrates the difficulty involved with prosecuting defendants charged with engaging in the business of dealing in firearms without a license. ATF agents discovered that an unlicensed person had purchased 124 handguns and 27 long guns from an FFL, as well as additional firearms from flea markets and garage sales. When questioned, the defendant admitted that he intended to resell them. At trial, the defendant contended that buying and selling guns was his hobby. The court, relying on the statutory definition, instructed the jury that a person engages in the business of dealing in firearms when it occupies time, attention, and labor for the purpose of livelihood and profit, as opposed to as a pastime, hobby, or being a collector. When the jury asked for a definition of "livelihood," the court explained that the term was not defined in the law and that the jury needed to rely on its common understanding of the term. The jury acquitted the defendant for engaging in the firearms dealing business. However, the jury convicted the defendant for falsely stating on the firearms transaction record executed at the time of purchase that he was the actual buyer, when in fact, he had intended to resell them.

Law Enforcement Officials

Of the 18 State law enforcement officials who responded to the survey, only 1 opposed new restrictions on gun shows: Seventeen officials share the President's concern with the sale of firearms at gun shows without a background check or other recordkeeping requirements and support changes to make these requirements for all gun show transfers. The majority of respondents urged that any changes apply not only to gun shows but to flea markets, swap meets, and other venues where firearms are bought and sold. Several respondents suggested limits on the number of gun shows or caps on the quantities of guns sold by nonlicensees. Others urged increased cooperation with the United States Attorneys to assist in the prosecution of those individuals who violate Federal firearms laws. Finally, the National Sheriffs Association suggested that gun show operators be required to obtain a permit and notify ATF of any gun show.

FFLs

FFLs submitted 219 responses, of which approximately 30 percent requested additional regulations to prevent unlawful activities at gun shows. Many of these FFLs supported a ban on firearms sales by unlicensed persons or, if permitted, urged that Brady checks be required to prevent prohibited persons from acquiring firearms. Other FFLs expressed frustration that unlicensed persons were able to sell to buyers without any paperwork (and advertise this fact), leaving the FFL at a competitive disadvantage. Others suggested that all vendors, licensed or not, should follow the same requirements whether at gun shows, flea markets, or other places where guns are sold. Many of the FFLs recommending additional regulations provided suggestions, some quite detailed, for closing the gun show loophole. These suggestions included registering all firearms owners, licensing promoters, restricting attendance at gun shows, conducting surprise raids at gun shows, requiring that all transfers go through an FFL, and requiring a booth for law enforcement to conduct background checks for all firearms purchases.

A number of the FFLs who responded believed that the problems at gun shows could be solved if current laws were more strictly enforced. Several of these respondents noted that ATF is already "spread too thin" to enforce additional laws. Others suggested that courts need to do a better job of enforcing the existing laws. Many others preferred stiffer sentences for violators of existing law. More than half, however, stated that new laws or restrictions are not the answer. Of this group, many stated that they do not see any illegal activity at gun shows and concluded that no new laws are necessary. Others expressed their belief that sales of private property should not be federally regulated, or they expressed distrust of the Government in general. Also included in this group were FFLs who reported that they do not sell at gun shows for a variety of reasons but oppose new regulations nonetheless.

Interest Groups, Trade Groups, and Other Responses

Eight responses were received from firearms interest or trade groups. The National Rifle Association (NRA) opposes any changes to existing laws, contending that only 2 percent of firearms used by criminals come from gun shows. The NRA suggested that regulating

the private sale of firearms would create a vast bureaucratic infrastructure and that ATF should instead continue to prosecute those who illegally trade in firearms. The NRA also suggested that many of the current unlicensed dealers would be under ATF scrutiny had they not been discouraged from holding a firearms license. The NRA expressed willingness to publicize the licensing requirements for those who deal in firearms. Similarly, Gun Owners of America recommended no changes to existing law, but suggested a "stop to this insidious ongoing Federal government assault on American citizenry and to return to the rule of law."

By contrast, the National Alliance of Stocking Gun Dealers (NASGD), a trade association consisting of firearms dealers, suggested that every firearm sale at a gun show be regulated and that the purchaser undergo a NICS check. In addition, NASGD suggested: (1) licensing all gun show promoters, auctioneers, and exhibitors; (2) limiting the number of times an FFL may sell at gun shows in a given year; (3) having nonlicensees comply with the same standards as FFLs; (4) requiring promoters to provide ATF and other authorities with the list of vendors at a gun show; and (5) having promoters maintain firearms transaction records and NICS transaction records for all firearms sold at a gun show.

Handgun Control, Inc. (HCI), suggested that gun show promoters be licensed and that they be authorized to conduct a NICS check on every firearms transfer by an unlicensed dealer. HCI also suggested that a 30-day temporary license be issued (limited to one per year) to any individual wishing to sell at a gun show. The proposed license would permit the sale of no more than 20 handguns, the serial numbers of which would be included in the license application. HCI suggested that "engaged in the business" be defined to limit the number of handguns sold from a "personal collection" to no more than 3 in a 30-day period. This restriction would not apply to sales to licensees or within one's immediate family. The Coalition to Stop Handgun Violence suggested licensing promoters, requiring a background check on all gun purchases, additional recordkeeping, a limit on the number of firearms purchased by any one person at a gun show, and increased enforcement resources and penalties.

The Trauma Foundation of San Francisco recommended requiring a background check for all firearms sales, licensing promoters, permitting only FFLs to sell at gun shows, and limiting the number of firearms purchased at a gun show. The United States Conference of Mayors supported one-gun-a-month legislation, background checks on all purchases, and increased funding for law enforcement.

Finally, in reply to open letters posted on the Internet, ATF received 274 responses. The vast majority of these responses either opposed any new restrictions on gun shows or favored enforcement of existing law. Approximately 5 percent favored new laws, usually suggesting a background check for firearms purchasers.

4. RECOMMENDATIONS

Summary of the Recommendations

These recommendations close the gun show loophole by adding reasonable restrictions and conditions on firearms transfers at gun shows.⁵³ The recommendations also ensure that there are adequate resources to enforce the law and that all would-be sellers of firearms at gun shows understand the law and the consequences of illegally disposing of guns. Each recommendation will be discussed in detail, but they may be summarized as follows:

1. Define "gun show" to include specialized gun events, as well as flea markets and other markets outside of licensed firearms shops at which 50 or more firearms, in total, are offered for sale by 2 or more persons.
2. Require gun show promoters to register and to notify ATF of all gun shows, maintain and report a list of vendors at the show, and ensure that all vendors acknowledge receipt of information about their legal obligations.
3. Require that all firearms transactions at a gun show be completed through an FFL. The FFL would be responsible for conducting a NICS check on the purchaser and maintaining records of the transactions. The failure to conduct a NICS check would be a felony for licensees and nonlicensees.
4. Require FFLs to submit information necessary to trace all firearms transferred at gun shows to ATF's National Tracing Center. This information would include the manufacturer/importer, model, and serial number of the firearms. No information about either an unlicensed seller or the purchaser would be given to the Government. Instead, as today with all firearms sold by licensees, the FFLs would maintain this information in their files.
5. Review the definition of "engaged in the business" and make recommendations within 90 days for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.
6. Provide additional resources to combat the illegal trade of firearms at gun shows.
7. In conjunction with the firearms industry, educate gun owners that, should they sell or otherwise dispose of their firearms, they need to do so responsibly to ensure that they do not fall into the hands of felons, unauthorized juveniles, or other prohibited persons.

⁵³ All of the recommendations except number 7 and part of number 5 would require legislation.

Explanation of the Recommendations

Definition of Gun Show

There would be a new statutory definition of "gun show."⁵⁴ The definition would read as follows:

Gun Show. Any event (1) at which 50 or more firearms, 1 or more of which has been shipped or transported in interstate or foreign commerce, are offered or exhibited for sale, transfer or exchange; and (2) at which 2 or more persons are offering or exhibiting firearms for sale, transfer, or exchange.

This definition encompasses not only events at which the primary commodities displayed and sold are firearms but qualifying flea markets, swap meets, and other secondary markets where guns are sold as well. Requiring there to be two or more persons offering firearms exempts from the definition FFLs selling guns at their business location, as well as the individual selling a personal gun collection at a garage or yard sale. In addition, the legislation requires a minimum of 50 firearms to be offered for sale in order for an event to become a gun show that is subject to the other new requirements. This minimum quantity ensures that private sales of a small number of firearms can continue to take place without being subject to the new requirements.

Gun Show Promoters

Any person who organizes, plans, promotes or operates a gun show, as newly defined, would be required to register with ATF. Gun show promoters would complete a simple form which entitles the promoter to operate a gun show. The registration requirement would go into effect 6 months after the enactment of the legislation to allow time for gun show promoters to comply.

Thirty days before any gun show, a promoter would be required to inform ATF of the dates, duration, and estimated number of vendors who are expected to participate. This information serves four purposes: First, it advises ATF that a gun show will be taking place. If ATF is in the process of investigating individuals who are violating the law at gun shows in a particular field division, the advance notice will assist ATF in determining whether the target of the investigation might appear at the gun show. Second, the information gives ATF a good idea about the scope and scale of the gun show to enable the agency to make the determination whether ATF should allocate resources to the show for the purpose of investigating possible crimes there. Third, it allows ATF to notify State and local law enforcement about the show, as suggested by

⁵⁴ Although the GCA does not define "gun show," the GCA does refer to "gun shows" in 18 U.S.C. § 923(j), the exception that permits FFLs to sell firearms away from their business premises under certain circumstances, including "gun shows."

the National Sheriffs Association. Finally, the notice involves the promoter at an early stage in identifying who is participating at the gun show.

Next, by no later than 72 hours before the gun show, the promoter would provide a second notice to ATF identifying all the vendors who plan to participate at the show. The promoter's notice would include the names and licensing status, if any, of all those who have signed up to exhibit firearms. The primary benefits of this notification are twofold. First, the notice gives ATF specific information about vendors who plan to participate at the gun show, along with their status as an FFL or nonlicensee. For any open investigations, this information would prove extremely useful in ATF's enforcement activities. Second, promoters will learn the identities of the vendors so that they can plan for the show. For example, the promoter can determine which of the FFLs will conduct background checks for nonlicensees and, if a significant number of nonlicensees plan to participate in the show, the promoter can plan to have enough "transfer" FFLs⁵⁵ present to meet the demand for NICS checks.

Although vendors who do not sign up for the gun show by the time that the promoter submits the 72-hour notice may still sign up to participate at the show, they will be required to sign the promoter's ledger acknowledging their legal obligations before they may transact business. The promoter will be required to submit the ledger to ATF within 5 business days of the end of the show. All vendors will also be required to present to the promoter a valid driver's license or other Government-issued photographic identification.

A gun show promoter who fails to register or comply with any of these requirements would be subject to having his or her registration denied, suspended, or revoked, as well as being subject to other civil or administrative penalties. Certain violations would be subject to criminal penalties. Vendors who sell at gun shows without signing the promoter's ledger would be similarly subject to civil and criminal penalties. In addition, if the vendor provides false information to the promoter in the ledger, the vendor would be liable for making a false statement.

Imposing these requirements on gun show promoters will make them more accountable for controlling their shows and ensuring that only vendors who comply with the law participate at gun shows. Although promoters will not be directly responsible for the performance of NICS background checks at gun shows, it will be in the promoter's interest to make sure that background checks are being performed in connection with each and every firearms transfer that takes place in whole or in part at the gun show. Gun show promoters profit greatly from the gun sales that take place at gun shows. However, until now, the Federal Government has not imposed any obligations on the promoter to encourage compliance with the law by all of the participants at the gun show. Placing an affirmative obligation on gun show promoters to notify vendors of their legal obligations will go a long way toward ensuring that only lawful transactions take place at gun shows.

⁵⁵ The transfer FFL does not act as the seller, but rather acts voluntarily in connection with a transfer by a nonlicensee or licensed collector.

Requiring vendors to sign the ledger and acknowledge that they have received information about and understand their legal obligations will prevent vendors from claiming that they did not know that they were required to complete all firearms transactions at a gun show through an FFL.

NICS Checks

No gun would be sold, transferred, or exchanged at a gun show before a NICS background check is performed on the transferee. The Brady Act permit exception would apply to firearms sales at gun shows. FFLs who participate in the gun show would be required to request NICS checks for all buyers, whether the FFL sells firearms out of the FFL's inventory or the FFL's personal collection. Nonlicensed sellers at the gun show must arrange for all purchasers to go to a transfer FFL to request a NICS check. Any FFL attending a gun show may act as a transfer FFL to facilitate nonlicensee sales of firearms. However, FFLs will not be required to perform this service; they will do so only voluntarily. FFLs may choose to charge a fee for providing this service. By having the FFL request the background check, the proposal takes full advantage of the existing licensing scheme for FFLs, the FFLs' knowledge of firearms, and the FFLs' access to NICS.

The unlicensed seller may not transfer the firearm to the purchaser until the seller receives verification that the transfer FFL has performed a NICS background check on the purchaser and learned that there is no disqualifying information. The FFL's role is limited to facilitating the transfer by performing the NICS check and keeping the required records. Any FFL or non-FFL who transfers a firearm in whole or in part at a gun show without completing a NICS check on the purchaser to determine that the transferee is not prohibited could be charged with a felony.⁵⁶

Prohibiting any firearms from being sold, transferred, or exchanged in whole or in part at a gun show until the transferee has been cleared by a background check establishes parameters that encompass all vendors, regardless of whether they are licensed. No FFL may claim that a background check is not required because the firearm is being sold out of the FFL's personal collection, nor will the distinction between FFLs and non-licensed dealers make any difference for NICS checks. When any part of the transaction takes place at a gun show,⁵⁷ each and every vendor at a gun show will require a transferee to undergo a background check before the firearm can be transferred.⁵⁸

⁵⁶ The legislative proposal would elevate the gravity of the offense of not conducting a NICS check for FFLs from a misdemeanor--which is presently contained in the Brady Act--to a felony regardless of the venue of the transaction.

⁵⁷ Requiring a NICS check when "any part of the transaction takes place at a gun show" ensures that buyers and sellers do not attempt to avoid the requirement by completing only a part of the sale, exchange, or transfer at the gun show. For example, if a nonlicensed vendor displays a gun at a gun show but the actual transfer occurs outside the gun show in the parking lot, the vendor is prohibited from transferring the gun without a NICS check on the purchaser.

⁵⁸ The recommendations made in this report would be in addition to any requirements imposed under State or local law.

Records for Tracing Crime Guns

Before clearing a transfer of any firearm by a nonlicensee, the transfer FFL would complete a form similar to the firearms transaction record currently used by FFLs. This firearms transaction record would be maintained in the FFL's records, along with the other records of firearms transferred directly by the FFL.

In addition, FFLs would be responsible for submitting to the NTC strictly limited information concerning firearms transferred at gun shows, whether the FFL is the seller or merely the transfer FFL. The information would consist of the manufacturer/importer, model, and serial number of the firearm. No personal information about either the seller or the purchaser would be given to the Government. Instead, as today with all firearms sold by FFLs, the licensees would maintain this information in their files. The NTC would request this information from an FFL only in the event that the firearm subsequently becomes the subject of a law enforcement trace request. In addition, FFLs would complete a multiple sale form if they record the sale by a nonlicensee of two or more handguns to the same purchaser within 5 business days, as is currently required for transactions by FFLs.

This requirement provides a simple and easy-to-administer means of reestablishing the chain of ownership for guns that are transferred at gun shows. If the firearm appears at a crime scene and there is a legitimate law enforcement need to trace the firearm, ATF will be able to match the serial number of the crime gun to the record and identify the FFL who is maintaining the firearms transaction form. ATF can then go to the FFL who submitted the information on the firearm and review the record that is on file with the FFL. This form will contain information about the transferor and transferee, and ATF can trace the firearm using that information. It is important to emphasize that ATF traces guns according to specific protocols and requirements, ensuring that the firearms information will not be used to identify purchasers of a particular firearm except as required for a legitimate law enforcement purpose.

Definition of "Engaged in the Business"

Not surprisingly, significant illegal dealing in firearms by unlicensed persons occurs at gun shows. More than 50 percent of recent ATF investigations of illegal activity at gun shows focused on persons allegedly engaged in the business of dealing without a license. Unfortunately, the current definition of "engaged in the business" often frustrates the prosecution of people who supply guns to felons and other prohibited persons. Although illegal activities by unlicensed traffickers often become evident to investigators quickly, months of undercover work and surveillance are frequently necessary to prove each of the elements in the current definition and to disprove the applicability of any of the several statutory exceptions.

To draw a more distinct line between those who are engaged in the business of firearms dealing and those who are not, and to facilitate the prosecution of those who are illegally trafficking in guns to felons and other prohibited persons--at gun shows and elsewhere--

the GCA should be amended. Accordingly, the Department of the Treasury and the Department of Justice will review the definition of "engaged in the business" and make recommendations within 90 days for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

Need for Additional Resources

To adequately enforce existing law as well as the foregoing proposals, more resources are needed. There are more than 4,000 specialized gun shows per year, and enforcement and regulatory activity must also occur at the other public venues where firearms are sold.

All of the previous recommendations will help close the existing gun show loophole, but they will not completely eradicate criminal activity at gun shows and in the rest of the secondary market. As the review of ATF investigations and United States Attorney prosecutions revealed, a substantial number of the crimes associated with gun shows are committed by FFLs who deal off the book and ignore their legal obligations. While a requirement that all gun show transactions be recorded and NICS checks completed will make it somewhat easier to identify off-the-book dealers, a markedly increased enforcement effort will be required to shut down these illegal markets. Further, ATF will need to focus on preventive educational initiatives, as described below. To accomplish all of these goals, significant resources will be required for more criminal and regulatory enforcement personnel, as well as prosecutors.

Without a commitment to financially support this initiative, its effectiveness will be limited. The Departments of Justice and the Treasury will submit budget proposals to fund this initiative at an appropriate level.

Educational Campaign

Finally, a campaign should be undertaken in conjunction with the firearms industry to educate firearms owners that, should they sell or otherwise dispose of their firearms, they need to do so responsibly to ensure that the weapons do not fall into the hands of felons, unauthorized juveniles or other prohibited persons. The vast majority of firearms owners are law-abiding and certainly do not want their firearms to be used for crime but, under the current system, they can unwittingly sell firearms to prohibited persons.

The educational campaign could involve setting up booths at gun shows to explain the law, encouraging unlicensed sellers to "know their buyer" by asking for identification and keeping a record of those to whom they sell their firearms; developing videos and news articles for promoters, dealers, trade groups, and groups of firearms owners describing legal obligations and liability and the need to exercise personal responsibility; and distributing posters and handouts with tips for identifying and reporting suspicious activity.

5. CONCLUSION

Although Brady Act background checks have been successful in preventing felons and other prohibited persons from buying firearms from FFLs, gun shows leave a major loophole in the regulation of firearms sales. Gun shows provide a large market where criminals can shop for firearms anonymously. Unlicensed sellers have no way of knowing whether they are selling to a violent felon or someone who intends to illegally traffic guns on the streets to juveniles or gangs. Further, unscrupulous gun dealers can use these free-flowing markets to hide their off-the-book sales. While most gun show sellers are honest and law-abiding, it only takes a few to transfer large numbers of firearms into dangerous hands.

The proposals in this report strike a balance between the interests of law-abiding citizens and the needs of law enforcement. Specifically, the proposals will allow gun shows to continue to provide a legal forum for the sale and exchange of firearms and will not prevent the sale or acquisition of firearms by sportsmen and firearms enthusiasts. At the same time, this initiative will ensure background checks of all firearms purchasers at gun shows and assist law enforcement in preventing firearms sales to felons and other prohibited persons, as well as inhibiting illegal firearms trafficking. The proposals also ensure that gun show promoters run their shows responsibly, that all firearms purchases at gun shows are subject to NICS checks, and that all firearms sold at the shows can be traced if they are used in crime. Further, these recommendations will guarantee that everyone selling at gun shows understands the legal obligations and the risks of disposing of firearms irresponsibly and that law enforcement has the resources necessary to investigate and prosecute those who violate the law. In short, as requested by President Clinton, the proposals will close the gun show loophole.

THE WHITE HOUSE

Exhibit 1

Office of the Press Secretary
(Rifhill, Arkansas)

For Immediate Release

November 6, 1998

November 6, 1998

MEMORANDUM FOR THE SECRETARY OF THE TREASURY
THE ATTORNEY GENERAL

SUBJECT: Preventing Firearms Sales to Prohibited
Purchasers

Since 1993, my Administration has worked hand-in-hand with State and local law enforcement agencies and the communities they serve to rid our neighborhoods of gangs, guns, and drugs -- and by doing so to reduce crime and the fear of crime throughout the country. Our strategy is working. Through the historic Violent Crime Control and Law Enforcement Act of 1994, we have given communities the tools and resources they need to help drive down the crime rate to its lowest point in a generation. Keeping guns out of the hands of criminals through the Brady Handgun Violence Prevention Act's background checks has also been a key part of this strategy. Over the past 5 years, Brady background checks have helped prevent a quarter of a million handgun sales to felons, fugitives, domestic violence abusers, and other prohibited purchasers -- saving countless lives and preventing needless injuries.

On November 30, 1998, the permanent provisions of the Brady Law will take effect, and the Department of Justice will implement the National Instant Criminal Background Check System (NICS). The NICS will allow law enforcement officials access to a more inclusive set of records than is now available and will -- for the first time -- extend the Brady Law's background check requirement to long guns and firearms transfers at pawnshops. Under the NICS, the overall number of background checks conducted before the purchase of a firearm will increase from an estimated 4 million annually to as many as 12 million.

We can, however, take additional steps to strengthen the Brady Law and help keep our streets safe from gun-carrying criminals. Under current law, firearms can be -- and an untold number are -- bought and sold entirely without background checks, at the estimated 5,000 private gun shows that take place across the country. This loophole makes gun shows prime targets for criminals and gun traffickers, and we have good reason to believe that firearms sold in this way have been used in serious crimes. In addition, the failure to maintain records at gun shows often thwarts needed law enforcement efforts to trace firearms. Just days ago, Florida voters overwhelmingly passed a ballot initiative designed to facilitate background checks at gun shows. It is now time for the Federal Government to take appropriate action, on a national basis, to close this loophole in the law.

Therefore, I request that, within 60 days, you recommend to me what actions our Administration can take -- including proposed legislation -- to ensure that firearms sales at gun shows are not exempt from Brady background checks or other provisions of our Federal gun laws.

WILLIAM J. CLINTON

**DIGEST OF SELECTED STATES WITH LAWS REGULATING TRANSFERS OF FIREARMS
BETWEEN UNLICENSED PERSONS OR GUN SHOWS (12/21/98)**

STATE	Regulation of Gun Shows?	Regulation of All Firearms Transfers?
PENNSYLVANIA 18 Pa. Stat. Ann. § 6111; § 6113.	NO.	YES. Nonlicensee wishing to transfer firearm to nonlicensee must do so through licensee or at county sheriff's office. The licensee must conduct background check as if he or she were the seller. Exclusions apply for certain firearms, family member transfers, law enforcement, or where local authority certifies that transferee's life is threatened.
CALIFORNIA Cal. Penal Code § 12071.1; § 12082.	YES. Must receive state certificate of eligibility to operate gun show.	YES. All transfers for firearms must be through a licensed dealer who must conduct a background check.
ILLINOIS 430 Ill. Comp. Stat. Ann. §§ 65/2(a)(1), 65/3.	NO.	YES. No one may lawfully possess any firearm without possessing a Firearms Owner's Identification Card (FOIC) issued by the State police. Each transferee of any firearm must possess a valid FOIC. Transferor must keep record of transaction for 10 years.
VIRGINIA Va. Code Ann. §§ 52-8.4:1, 54.1-4200, 54.1-4201.1.	YES. Promoter of firearm show must provide 30 days' notice, and provide pre- and post-show list of each vendor's name and business address.	NO.
DISTRICT OF COLUMBIA D.C. Code Ann. § 6- 2311.	NO.	YES. It is unlawful to possess any firearm that is not registered.
VIRGIN ISLANDS V.I. Code tit. 23, § 461.	NO.	YES. No transfer of a firearm is lawful without prior approval by Commissioner of Licensing and Consumer Affairs.
FLORIDA	NO.	Under Art. VIII, Sec. 5 of Florida Constitution, counties are now free to impose waiting periods and background checks for all firearm sales in places where public has the right of access; "sale" requires consideration.
PUERTO RICO P.R. Laws Ann., tit. 25, §§ 429, 438, 439	NO.	YES. All firearms must be registered and transfers must be through a licensed dealer.
NORTH CAROLINA N.C. Gen. Stat. § 14- 402.	NO.	NO. However, no transfer of a pistol is lawful without the transferee first obtaining a license from the county sheriff.
HAWAII Haw. Rev. Stat. §§ 134-2, 134-3, 134-4.	NO.	YES. No person may acquire ownership of a firearm until the person first obtains a permit from the local police chief. A separate permit is required for each handgun or pistol; a shotgun or rifle allows multiple acquisitions up to one year.

STATE	Regulation of Gun Shows?	Regulation of All Firearms Transfers?
IOWA Iowa Code Ann. § 724.16.	NO.	NO. However, it is unlawful to transfer a pistol or revolver without an annual permit to acquire pistols and revolvers.
MINNESOTA Minn. Stat. Ann. §§ 624.7131, 624.7132.	NO.	NO. However, it is unlawful to transfer a pistol or semiautomatic assault weapon without executing a transfer report, signed by transferor and transferee and presented to the local police chief of the transferee, who shall conduct a background check.
MARYLAND 27 Md. Code Ann. §§ 442, 443A(a).	YES. Nonlicensed persons selling a handgun or assault weapon at a gun show must obtain a transfer permit; a background check is conducted on the applicant. An individual is limited to five permits per year.	NO.
MISSOURI Mo. Rev. Stat. Ann. § 571.080.	NO.	YES. It is unlawful to buy, sell, exchange, loan, or borrow a firearm without first receiving a valid permit authorizing the acquisition of the firearm.
SOUTH DAKOTA S.D. Codified Laws §§ 23-7-9, 7-10.	NO.	NO. However, it is unlawful to transfer a pistol to a person who has purchased a pistol until after 48 hours of the sale. Exceptions apply for holders of concealed pistol permit.
NEW YORK NY Penal Law § 400.00(16) and §§ 265.11-13.	NO.	YES. As a general matter, no person may possess, receive, or sell a firearm without first obtaining a permit or license from the State. Thus, all lawful firearms transfers in New York, including those at gun shows, would be between licensees or permittees.
NEW JERSEY N.J. Stat. Ann. § 2C:39-3; 58-3.	NO.	YES. It is unlawful to sell a firearm unless licensed or registered to do so. No unlicensed person may acquire a firearm without a purchase permit or firearms purchaser identification card.
NEW HAMPSHIRE N.H. Rev. Stat. Ann. § 159.	NO.	NO. However, it is unlawful for a nonlicensee not engaged in the business to transfer a pistol to a person who is not personally known to the transferor.
CONNECTICUT Connecticut General Statute §§ 29-28 through 29-37.	NO.	YES. Anyone who sells 10 or more handguns in a calendar year must have a FFL or a State permit. Nonlicensees wishing to transfer a firearm must receive from the prospective purchaser an application which is then submitted to local and State authorities. Exceptions are for licensed hunters purchasing long guns and members of the Armed Forces.
MASSACHUSETTS Mass. Gen. Laws Ann. Ch. 140 § 129C; § 128A; § 128B.	NO.	NO. However, State law provides that any person may transfer up to four firearms to any nonlicensed person per calendar year without obtaining a State license, provided seller forwards name of seller, purchaser, and information about the firearm to State authorities.

STATE	Regulation of Gun Shows?	Regulation of All Firearms Transfers?
RHODE ISLAND R.I. Gen. Laws §§ 11-47-35, 36, 40.	NO.	YES. No person may sell a firearm without purchaser completing application which is submitted to State police for background check. Seller obligated to maintain register recording information about the transaction, such as date, name, age and residence of purchaser.
MICHIGAN Mich. Comp. Laws §§ 750.223, 750.422	NO.	NO. However, no transfer of a pistol is lawful without the transferee first obtaining a handgun purchase permit from the local CLEO.
NEVADA Nev. Rev. Stat. Ann. § 202.254.	NO.	NO. However, a private person wishing to transfer a firearm <u>may</u> request a State background check on the prospective transferee.

APPENDIX

Methodology

The following analyses are based on a survey of ATF special agents reporting information about recent investigations associated with gun shows. The investigations reflect what ATF has encountered and investigated; they do not necessarily reflect typical criminal diversions of firearms at gun shows or the typical acquisition of firearms by criminals through gun shows. Furthermore, they do not provide information about the significance of diversion associated with gun shows with respect to other sources of diversion. Nevertheless, they suggest that the criminal diversion of firearms at and through gun shows is an important crime and public safety problem.

The analyses use data from investigations referred for prosecution and adjudicated, and investigations that have not yet been referred for prosecution. Thus, not all violations described will necessarily be charged as crimes or result in convictions. As a consequence, the exact number of offenders in the investigation, the numbers and types of firearms involved, and the types of crimes associated with recovered firearms may not have been fully known to the case agents at the time of the request, and some information may be underreported. For example, it is likely that the number of firearms involved in the investigations could increase, as could as the number and types of violations, as more information is uncovered by the agents working the investigations.

Information generated as part of a criminal investigation also does not necessarily capture data on the dimensions ideally suited to a more basic inquiry about trafficking and trafficking patterns. For example, investigative information necessary to build a strong case worthy of prosecution may provide very detailed descriptions of firearms used as evidence in the case but may not even estimate, much less describe in detail, all the firearms involved in the trafficking enterprise.

Information was not provided with enough consistency and specificity to determine the number of handguns, rifles, and shotguns trafficked in a particular investigation. Likewise, special agents may not have information on trafficked firearms subsequently used in crime. Such information is not always available. Comprehensive tracing of crime guns does not exist nationwide and, until the very recent Youth Crime Gun Interdiction Initiative, most major cities did not trace all recovered crime guns. The figures on new, used, and stolen firearms reflect the number of investigations in which the traffickers were known to deal in these kinds of weapons. The figures on stolen firearms are subject to the usual problems associated with determining whether a firearm has been stolen. Many stolen firearms are not reported to the police. Such limitations apply to much of the data collected in this research.

Finally, except where noted, the unit of analysis in the review of investigations is the investigation itself. The data show, for example, the proportion of investigations that were known by agents to involve new, used, and stolen firearms, but these figures do not represent a proportion or count of the number of new, used, or stolen firearms being

trafficked at gun shows. The data show what proportion of investigations were known to involve a firearm subsequently used in a homicide, but not how many homicides were committed by firearms trafficked through gun shows. It was not possible to gather more specific information within the short timeframe of the study.

It was, for the most part, not possible to review and verify all of the information provided in the survey responses. However, ATF Headquarters personnel took a random sample of 15 cases each from the 31 investigations reported to have involved 101-250 firearms, and from the 30 investigations reported to have involved 251 or more firearms, and reviewed with ATF field personnel the information leading to those reports. A breakdown of the results of this review showing the basis for reporting the firearms volume is provided below. Based on this review, ATF concludes that the numbers of firearms reported in connection with the investigations have a reasonable basis.

	<u>N = 32*</u>	
Procedure	Number	Percent
Firearms seized/purchased/recovered and reconstruction of dealer records	10	31.2%
Reconstruction of dealer records	9	28.1%
Firearms seized/purchased/recovered	6	18.8%
Reconstruction of dealer records and confidential information	3	9.4%
Firearms seizure and admission by defendant(s)	2	6.2%
ATF NTC compilation and confidential information	1	3.1%
Unknown	1	3.1%

* This breakdown includes, in addition to the basis for the numbers of firearms reported in the randomly selected cases, the basis for the numbers of firearms reported in the two investigations involving the largest volumes of firearms, 10,000 and 7,000 firearms respectively. The case involving 7,000 firearms used a combination of an audit of firearms seized and the reconstruction of dealer records, while the case involving 10,000 firearms used a combination of NTC records and information from confidential informants.

Table 1

Initiation of Investigation

N= 314

<u>Reason</u>	<u>N</u>	<u>Percent</u>
Confidential informant	74	23.6%
Referred from another Federal, State, or local investigation	60	19.1%
ATF investigation at gun show (e.g., gun show task force)	44	14.0%
Trace analysis after firearms recovery	37	11.8%
Review of multiple sales forms	34	10.8%
Licensed dealers at gun shows reported suspicious activity	26	8.3%
Tip or anonymous information	18	5.7%
Field interrogation after firearm recovery	4	1.3%
Gun show promoter reported suspicious activity	2	0.6%
Analysis of out-of-business records	1	0.3%
Unknown	14	4.4%

Table 2

Investigations Submitted by Field Divisions

N= 314

<u>Field Division</u>	<u>Number of Investigations</u>	<u>Percent</u>
Dallas	43	13.7%
Houston	42	13.1%
Detroit	41	13.1%
Philadelphia	34	10.8%
Miami/Tampa	20	6.3%
Kansas City	19	6.1%
Nashville	16	5.1%
Columbus	15	4.8%
Seattle	11	3.5%
St. Paul	10	3.2%
Louisville	9	2.9%
New Orleans	9	2.9%
Phoenix	8	2.5%
Washington, DC	8	2.5%
Charlotte	8	2.5%
Los Angeles	6	1.9%
Atlanta	6	1.9%
Chicago	5	1.6%
San Francisco	1	0.3%
Baltimore	1	0.3%
Boston	1	0.3%
New York	1	0.3%

Table 3

Main Subject of Investigation

N=314

<u>Subject</u>	<u>Number of Investigations</u>	<u>Percent</u>
Unlicensed dealer	170	54.1%
Unlicensed dealer (never FFL)	118	37.6%
Former FFL	37	11.8%
Current FFL and former FFL	8	2.5%
Unlicensed dealer and former FFL	2	0.6%
Current FFL and Unlicensed dealer	4	1.3%
Current FFL/Former FFL /unlicensed	1	0.3%
Current FFL	73	23.2%
Felon purchasing firearms at gun show	33	10.5%
Straw purchasers at gun show	20	6.4%
Unknown gun show source	18	5.7%

Overall, 46.2 percent of the investigations involved a felon associated with selling or purchasing firearms. This percentage was derived from aggregate investigations in which trafficked firearms were recovered from felons; unlicensed dealers' criminal histories included felony convictions; felons had purchased firearms at gun shows, and a licensed dealer had a convicted felon as an associate. When only a licensed dealer was the main subject of the investigation, a convicted felon was involved in 6.8 percent (5 of 73) of the investigations as an associate in the trafficking of firearms. When the investigation involved an unlicensed dealer or a former FFL, 25.3 percent (43 of 170) of the investigations revealed that he/she had at least one prior felony conviction.

Table 4

**Firearms Associated With Gun Show Investigations Known to Have Been Involved
in Subsequent Crimes**

34.4 percent of the investigations (108 of 314) had at least one firearm recovered in crime.

N=108

Note: Since firearms recovered in an investigation may be used in many different types of crime, an investigation can be included in more than one category.

<u>Crime</u>	<u>Number of investigations with at least one</u>	<u>Percent</u>
Drug offense	48	44.4%
Felon in possession	33	30.6%
Crime of violence	47	43.5%
Homicide	26	24.1%
Assault	30	27.8%
Robbery	20	18.5%
Property crime (burglary, B&E)	16	14.8%
Criminal possession (not felon in poss.)	15	13.9%
Juvenile possession	13	12.0%

Table 5

Number of Firearms Recorded in Gun Show Investigations

N=314

<u>Number of Firearms</u>	<u>Number of Investigations</u>	<u>Percent</u>
Less than 5	70	22.3%
5 - 10	37	11.8%
11 - 20	22	7.0%
21 - 50	47	15.0%
51 - 100	47	15.0%
101 - 250	31	9.9%
251 or greater	30	9.6%
Unknown	30	9.6%

For further details about this information, see the Methodology section of this report.

Table 6

New, Used, and Stolen Guns Known to be Involved in Gun Show Investigations

<u>Type of firearm</u>	<u>Number of Investigations</u>	<u>Percent</u>
Used firearms	167	53.2%
New firearms	156	49.7%
Stolen firearms	35	11.1%
Unknown	75	23.9%

Note: Since more than one type of firearm can be recovered in an investigation, an investigation can be included in more than one category

Mutually exclusive categories

New firearms and used firearms	80	25.5%
Used firearms only	62	19.7%
New firearms only	61	19.4%
Used firearms and stolen firearms	13	4.1%
New firearms, used firearms, and stolen firearms	12	3.8%
Stolen firearms only	7	2.2%
New firearms and stolen firearms	3	0.9%
Unknown	75	23.9%

Table 7

Violations in the Main Investigations

Note: Since an investigation may involve multiple violations, an investigation can be included in more than one category.

<u>Violation</u>	<u>Number of Investigations</u>	<u>Percent</u>
Engaging in the business of dealing without license	169	53.8%
Possession and receipt of firearm by convicted felon	76	24.2%
Illegal sales and/or possession of NFA weapons	62	19.7%
Licensee failure to keep required records	60	19.1%
Providing false information to receive firearms	54	17.2%
Transfer of firearm to prohibited person	46	14.6%
Straw purchasing	36	11.5%
False entries/fraudulent statements in licensee records	27	8.6%
Illegal transfer of firearms to resident of another State by nonlicensee	27	8.6%
Illegal transfer of firearms to resident of another State by licensee	21	6.7%
Receipt and sale of stolen firearms	15	5.8%
Obliterating firearms serial numbers	14	4.5%
Drug trafficking	11	3.5%
Trafficking of firearms by licensee (unspecified violation)	9	2.9%
Transfer of firearm in violation of 5-day waiting period	7	2.2%
Illegal out of state sales by nonlicensee	7	2.2%
Licensee doing business away from business premises	5	1.6%
Illegal manufacture and transfer of assault weapon	3	1.0%
Sales by a prohibited person	2	0.6%
Forgery or check fraud to obtain firearms	2	0.6%

Table 8

Weapons Associated with NFA Violations In Gun Show Investigations

N= 62

Note: Since investigations may involve different types of NFA violations, an investigation can be included in more than one category. However, "converted guns" have not been included in the "machinegun" count.

<u>NFA violation</u>	<u>Number of NFA investigations with at least one</u>	<u>Percent</u>
Machine guns	33	53.2%
Converted guns	19	30.6%
Silencers	9	14.5%
Explosives (e.g., grenades)	8	12.9%
Grenade launchers	7	11.3%
Conversion kits/ parts	7	11.3%
Other (short barrel	5	8.1 %



The President
The White House
Washington, DC 20500

Dear Mr. President:

Shortly before the Brady Act's national instant check system went into effect at the end of November 1998, you directed us to build on the Act's remarkable successes by recommending actions that the Administration could take to ensure that firearms sales at gun shows are not exempt from Brady background checks or other provisions of our Federal gun laws. Our report, "Gun Shows: Brady Checks and Crime Gun Traces," reflects a review of available data on the problem as well as possible solutions, and proposes a series of steps that are consistent with existing firearms regulations to close the gun show loophole.

More than 4,000 shows specializing in the sale of firearms are held annually in the United States. There are, in addition, countless other public markets, such as flea markets, where firearms are freely traded or sold. Under current law, many of the firearms at these public markets are sold anonymously; the seller has no idea and is under no affirmative obligation to find out whether he or she is selling a firearm to a felon or other prohibited person. Moreover, there is no way to trace many of the firearms sold at these public markets if they are later recovered at the scene of a crime.

While licensed firearms dealers are required to maintain careful records of their firearms sales and, under the Brady Act, to check the purchaser's background before transferring any firearm, nonlicensees have no such requirements under current law. Thus, felons and other prohibited persons who want to avoid background checks can buy firearms at gun shows and other public markets with ease, and later use the guns in drug crimes and crimes of violence, or pass them illegally to juveniles.

The recommendations in our report build both on the structure and effectiveness of the Brady Act as well as the work of the Bureau of Alcohol, Tobacco and Firearms, National Tracing Center. Since you signed it into law in 1994, the Brady Act has prevented well over 250,000 prohibited persons (primarily convicted felons) from purchasing firearms from Federal firearms

licensees (FFLs). In recent weeks, under the new instant check system, the FBI has denied sales of over 12,000 firearms to prohibited persons; a number of these denials resulted in the apprehension of wanted criminals who were seeking to purchase guns.

After a careful study of the problem, we make the following recommendations:

First, "gun show" would be defined to include not only traditional gun shows but also many flea markets and other similar venues where firearms are sold.

Second, the Bureau of Alcohol, Tobacco and Firearms (ATF) would register all persons who promote gun shows. Promoters would be required to notify ATF of the time and location of each gun show, provide ATF with a list of vendors at the show, indicate whether the vendors are FFLs, ensure that all vendors are provided with information about their legal obligations, and require that vendors acknowledge receipt of information on these obligations. If a registered promoter fails to fulfill these obligations, ATF would consider revoking or suspending the promoter's registration or imposing a civil monetary penalty. Criminal penalties would also be available in certain circumstances.

Third, if any part of a firearms transaction, including display of the weapon, occurs at a gun show, the firearm could be transferred only by, or with the assistance of, an FFL. Therefore, if a nonlicensee sought to transfer a firearm, an FFL would be responsible for positively identifying the purchaser, conducting a Brady Act check on the purchaser, and maintaining a record of the transaction. This is the same system that has been used successfully for many years when someone wishes to transfer a firearm to a nonlicensee in another State. Any seller at a gun show - FFL or nonlicensee - would be subject to a felony charge for failing to comply with the Brady Act's background check requirements.

Fourth, FFLs would be responsible for submitting strictly limited information concerning all firearms transferred at gun shows (e.g., manufacturer/importer, model, and serial number) to ATF's National Tracing Center (NTC). No information about either the seller or the purchaser would be given to the Government (with the exception of instances in which multiple sales reports are required). Instead, the licensees would maintain this information in their files, as is done with all firearms sold by FFLs today. The NTC would request this information from an FFL only in the event that the firearm subsequently became the subject of a law enforcement trace request.

Fifth, the Department of the Treasury and the Department of Justice will review the definition of "engaged in the business" and make recommendations for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

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Sixth, the Federal Government should commit additional resources to combat the illegal trade of firearms at gun shows. Without a commitment to financially support this initiative, the effectiveness of this proposal would be limited.

Seventh, in conjunction with the firearms industry, a campaign should be undertaken to encourage all firearms owners to take steps, when selling or otherwise disposing of their weapons, to ensure that they do not fall into the hands of criminals, unauthorized juveniles or other prohibited persons.

Taken together, our recommendations will close the gun show loophole. Whenever any part of a firearm transaction takes place at a gun show, the requirements of the Brady Act check will apply, and records will be kept to allow the firearm to be traced if it is later used in crime. If legitimate, unlicensed individuals wish to sell their personal collections of firearms at gun shows, they will now have the obligation-and the means-to ensure that they are not selling their guns to felons or other prohibited persons. Our recommended steps impose reasonable obligations in connection with firearms transactions at gun shows, while significantly enhancing law enforcement's ability both to prevent criminals from getting guns and to apprehend those who use firearms in the commission of crimes.

Respectfully,

Robert Rubin
Secretary of the Treasury

Janet Reno
Attorney General