



Project Safe Neighborhoods: Strategic Interventions

Gun Prosecution Case Screening: Case Study 1

Written by:

Scott H. Decker
Curator's Professor of Criminology and Criminal Justice
University of Missouri-St. Louis

Jack McDevitt
Associate Dean, College of Criminal Justice
Northeastern University

With:

Edmund F. McGarrell
Michigan State University

Tim Bynum
Michigan State University

John Klofas
Rochester Institute of Technology

Natalie Kroovand Hipple
Michigan State University

School of Criminal Justice
Michigan State University
560 Baker Hall
East Lansing, MI 48824

May 2006



U.S. Department of Justice
Office of Justice Programs
810 Seventh Street, N.W.
Washington, D.C. 20531

Alberto R. Gonzales
Attorney General
U.S. Department of Justice

This project was supported by Grant #2002-GP-CX-1003 awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice. The Project Safe Neighborhoods Case Study series has benefited from the support, assistance, and comments of John Irving, Lois Felson Mock, Robyn Thiemann, and members of the Firearms Enforcement Assistance Team (FEAT) of the U.S. Department of Justice.

Overview

The last decade of the 20th century witnessed significant declines in the rate of crime in the United States. This was true for most types of crime, including homicide and serious violent crime.¹ Despite these declines, the level of gun crime in the United States remains higher than that experienced in other western democracies and is a source of untold tragedy for families and communities.² Given this context, in 2001 the Bush Administration made the reduction of gun crime one of the top priorities of the U.S. Department of Justice (DOJ), along with combating terrorism and enhancing homeland security.

The vehicle for translating this priority into action is Project Safe Neighborhoods (PSN). PSN represents a commitment to gun crime reduction through a network of local partnerships coordinated through the nation's 94 U.S. Attorneys' Offices. These local partnerships are supported by a strategy to provide them with the resources that they need to be successful.

The PSN initiative integrates five essential elements from successful gun crime reduction programs, such as Richmond's Project Exile, the Boston Operation Ceasefire Program, and DOJ's Strategic Approaches to Community Safety Initiative. Those elements are: partnerships, strategic planning, training, outreach, and accountability. The partnership element requires that the local U.S. Attorney create workable and sustainable partnerships with other federal, state, and local law enforcement; prosecutors; and the community. Strategic problem-solving involves the use of data and research to isolate the key factors driving gun crime at the local level, suggest intervention strategies, and provide feedback and evaluation to the task force. The outreach component incorporates communication strategies geared at both offenders ("focused deterrence") and the community ("general deterrence"). The training element underscores the importance of ensuring that each person involved in the gun crime reduction effort—from the line police officer to the prosecutor to the community outreach worker—has the skills necessary to be most effective. Finally, the accountability element ensures that the task force regularly receives feedback about the impact of its interventions so that adjustments can be made if necessary.

Partnerships

The PSN program is intended to increase partnerships between federal, state, and local agencies through the formation of a local PSN task force. Coordinated by the U.S. Attorney's Office, the PSN task force typically includes both federal and local prosecutors, federal law

enforcement agencies, local and state law enforcement agencies, and probation and parole. Nearly all PSN task forces also include local government leaders, social service providers, neighborhood leaders, members of the faith community, business leaders, educators, and health care providers.

Strategic Planning

Recognizing that crime problems, including gun crime, vary from community to community across the United States, that state laws addressing gun crime vary considerably, and that local and state resources vary across the federal judicial districts covered by U.S. Attorneys' Offices, PSN also includes a commitment to strategic planning whereby the PSN program is tailored to local context. Specifically, PSN provides resources for the inclusion of a local research partner who works with the PSN task force to analyze the local gun crime problem and to share the findings with the task force for the development of a proactive plan for gun crime reduction. The research partners assist the task force through analysis of gun crime patterns and trends that can help the task force focus resources on the most serious people, places, and contexts of gun violence. The research partners can also bring evidence-based practice to the task force discussions of gun crime reduction strategies.³ The inclusion of the research partner was also intended to assist in ongoing assessment in order to provide feedback to the task force.

Although each district creates strategic interventions that make sense in their local context, one strategy shared by all PSN task forces is increased federal prosecution of gun crime. PSN is built on the belief that the increased federal prosecution of gun offenders will reduce gun crime through the incapacitation of gun criminals and the deterrence of potential offenders. This working hypothesis is based on the notion that federal sanctions for gun crime are often more severe than those either available at the state level or likely to be imposed at the state level. Further, federal prosecution may include sanctions unavailable at the local level. The focus on prohibited persons possessing or using a firearm is built on the finding that a significant portion of gun crime involves offenders and victims with significant criminal histories. Thus, by increasing the certainty that a prohibited person in possession will face strong federal sanctions, the goal is to persuade potential offenders not to illegally possess and carry a gun.

The commitment to increased federal prosecution appears to be borne out. Fiscal year 2005 witnessed over 13,000 individuals charged with federal gun crimes, the highest number ever recorded by DOJ. Since PSN's inception, the number of federal firearms prosecutions has increased 73 percent.⁴

Training

PSN has involved a significant commitment of resources to support training. This program has included training provided to law enforcement agencies on topics including gun crime investigations, gun crime identification and tracing, and related issues. Training on effective prosecution of gun cases has been provided to state and local prosecutors. Additional training has focused on strategic problem-solving and community outreach and engagement. By the end of 2005, DOJ estimates that nearly 18,000 individuals had attended a PSN-related training program sponsored by one of the many national PSN training and technical assistance partners.⁵

Outreach

The architects of PSN also recognized that increased sanctions would have the most impact if accompanied with a media campaign to communicate the message of the likelihood of federal prosecution for illegal possession and use of a gun. Consequently, resources were provided to all PSN task forces to work with a media partner to devise strategies for communicating this message to both potential offenders and to the community at large. This local outreach effort is also supported at the national level by the creation and distribution of Public Service Announcements and materials (ads, posters). These materials are direct mailed to media outlets and are also available to local PSN task forces.⁶

The outreach component is also intended to support the development of prevention and intervention components. PSN provided grant funding in fiscal years 2003 and 2004 to the local PSN partnerships that could be used to support a variety of initiatives including prevention and intervention. Many initiatives were built on existing programs such as school-based prevention, Weed and Seed, or juvenile court intervention programs.

Accountability

The leadership of the PSN initiative at DOJ has emphasized that PSN would focus on outcomes—i.e., reduced gun crime—as opposed to a focus on outputs such as arrests and cases prosecuted. That is, PSN's success is measured by the reduction in gun crime. This accountability component was linked to strategic planning whereby PSN task forces, working with their local research partner, are asked to monitor levels of crime over time within targeted problems and/or targeted areas.

Additional Information

For more information on Project Safe Neighborhoods, visit www.psn.gov. If you are interested in supporting your local Project Safe Neighborhoods program, please contact your local U.S. Attorney's Office.

Contents

Gun Prosecution Case Screening	1
Source of the Strategy	1
Goals	2
System Fix	3
Impact on Crime	4
Roles in the Gun Case Review Process	4
Description of Intervention	7
Criteria for Choosing Federal Cases	7
Eastern District of Missouri	9
Western District of Tennessee	10
Impacts of Gun Prosecution Screening	10
Program Successes	11
Program Challenges	12
Keys to Successful Implementation	13
Conclusion	14
References	17
Endnotes	19

List of Figures

Figure 1: General PSN Case Process	8
Figure 2: Gun Case Screening—Lessons Learned	15

Gun Prosecution Case Screening

Project Safe Neighborhoods (PSN) was developed in 2001 as the U.S. Department of Justice’s (DOJ) initiative for responding to and significantly reducing gun crime in the United States.⁷ PSN represents a commitment to gun crime reduction through a network of local partnerships coordinated through the nation’s 94 U.S. Attorneys Offices (USAOs). These local partnerships are supported by a strategy to provide them with the resources that they need to be successful.

A series of promising practices and interventions has emerged in PSN sites across the country. Not all are utilized in all PSN sites, and those that are implemented are adapted to fit local contexts. Yet, these strategic interventions and practices are being utilized by a number of PSN task forces with promising results. The initial set of PSN case studies focuses on four of these practices: crime incident reviews, gun prosecution case screening, chronic violent offender lists, and offender notification meetings. The current study focuses on gun case screening.

Many PSN task forces have implemented some form of a joint federal-local screening process to decide whether gun cases should be prosecuted federally or locally.⁸ The fundamental goal of the gun case screening process is to ensure that gun crimes are prioritized for prosecution in the most appropriate venue (i.e., federal versus local court).

The structure of the screening process varies significantly across PSN task forces but typically includes an Assistant U.S. Attorney (AUSA), a local prosecutor, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and local law enforcement. Cases are screened to assess eligibility for federal prosecution and to compare whether federal or local prosecution will yield more severe sanctions. In some jurisdictions, where severe prison overcrowding has resulted in weak sanctions for gun offenders at the state level, the screening is primarily to decide whether the case is eligible for federal prosecution. Most eligible gun cases will be prosecuted federally. In other jurisdictions, where state gun laws are more stringent, the gun case screening meeting is more focused on deciding which eligible cases should be prioritized for federal prosecution. Also known as “Smart Prosecution,” joint screening (between federal and local prosecutors) is considered a key step towards focusing resources and tailoring PSN to local context.

Source of the Strategy

This strategy emerged in a number of districts from a common set of experiences. A number of districts observed early in the PSN process

that offenders did not view criminal penalties for gun possession as having much deterrent value. Historically, many gun possession cases, even when offenders had significant felony records, resulted in trivial penalties, providing little deterrent value. In most cases, this observation was linked to overcrowded local jails, ineffective state penalties for criminal gun possession and the inability of the system to work together. In other districts, the U.S. Attorney's Office was somewhat isolated from local law enforcement and state prosecution. There was a lack of familiarity with what the U.S. Attorney's Office could do and what penalties were provided by federal statute. These problems led to the conclusion in many districts that in order for criminal penalties to pose a realistic threat to offenders, the system needed to be fixed. Richmond's Project Exile strategy provided a ready-made outline for a cooperative case review strategy between local/state and federal prosecutors.⁹

Goals

Ultimately, the goals of the case review process are to incapacitate violent gun crime offenders and to communicate a deterrent message to potential offenders through increased certainty and severity of punishment for gun crimes. Gun prosecution case screening is a vehicle for finding the best venue for prosecution (i.e., federal or local court) in order to increase the certainty of sanctions for gun crimes and to remove the most serious gun crime offenders from the community.

Gun case screening is growing in popularity within PSN. Nearly all the PSN task forces report some type of case screening mechanism, and most report working with local prosecutors. Achieving the goal of effective prosecution is contingent on a variety of factors. One of the factors most critical to this process is finding the most appropriate venue for prosecution. In many states, federal gun laws provide for more severe penalties than do state laws, but this is not the case in all jurisdictions and often varies by type of offense and an offender's prior record. With the strategic goal of finding the most appropriate venue for prosecution, the case review process seeks to identify relevant elements of a gun case or a gun offender's criminal record that have an impact on this decision. Then the PSN task force uses this information to make strategic decisions about where the longest sentence can be obtained, where conviction is most likely, and where the impact of punishment is likely to be the greatest. The goal is not simply to increase the number of federal gun prosecutions, but also to incapacitate the most serious offenders and to increase the deterrent effect of these prosecutions. Therefore, a key objective in case reviews is consideration of the impact of the punishment on the offender, the community, and other potential offenders.

This strategic prosecution process is most effective where there is a team approach to the review of and decisions about firearms cases and firearms offenders. This calls for increased cooperation. First, there

must be increased cooperation between different sectors of law enforcement, including federal, state, and local enforcement agencies. Second, levels of prosecution must be better coordinated, and this means federal, state, and local prosecution must work together. Finally, there must be cooperation across the sectors of the criminal justice system, such that law enforcement, prosecution, and aftercare supervision (probation and parole) work together to review information, make decisions about cases, and follow through on decisions.

Smart prosecution is ultimately expected to both improve criminal justice processes and to have a positive impact on crime.

System Fix

A number of PSN jurisdictions report that one of the challenges they faced was to address gaps in the system. It became immediately apparent in many districts that there were functional or processing gaps between agencies of the criminal justice system, whether those gaps were between federal and local law enforcement, between federal and state-level prosecution, or across functions. In addition, the penalties for gun crimes in many districts had little or no deterrent effect. Accordingly, many jurisdictions set out to fix those challenges in the system, typically through better communication, better information, or face-to-face meetings. For example, in the Eastern District of Missouri, the PSN Coordinator has taken it as his charge to make offenders more concerned about the criminal penalties for carrying a gun than they are of being caught on the street without their gun for self protection. The district's gun case review team now examines every gun case in the city of St. Louis. A similar result comes from the District of Nevada, where every gun case is reviewed for potential federal prosecution. In addition, the bureaucratic slowdowns in the system have been eliminated. The Western District of Missouri has implemented a streamlined case review process in the U.S. Attorney's Office that can result in indictments within a day or two. This streamlined review process has resulted in a dramatic increase in the number of federal gun prosecutions in this district.

A significant problem faced by the Western District of Tennessee was that a combination of weak state gun laws and a large volume of gun cases led to the belief that it was "no big deal" to be caught with a gun. This led the U.S. Attorney's Office to implement a case tracking system that reviews every gun case that falls under the federal gun statute provisions. Similarly, task forces in the Middle District of Alabama, the Southern District of Alabama¹⁰, the Western District of Missouri, and the Middle District of North Carolina all report that every gun case is reviewed by their task force. This appears to be a critical element for success; by reviewing every gun case, the task force can better understand the nature of gun crime in its jurisdiction, can improve the overall quality of case materials, can reinforce to local

Case Screening in Rural Jurisdictions

PSN task forces operating in geographically large, rural jurisdictions face significant obstacles in establishing gun case screening teams. The relatively small number of cases from smaller jurisdictions, coupled with long travel distances, may make it impractical to bring together law enforcement personnel and local prosecutors on a regular basis for a face-to-face meeting with the PSN review team. As noted in this report, the Middle District of Alabama has overcome these obstacles by having law enforcement personnel from outlying jurisdictions attend the meetings only when they have cases to bring to the review.

Given the geographic distance between the district's two main population centers, the Southern District of Georgia has two different gun case screening meetings that take place monthly in Savannah and Augusta. The PSN Coordinator convenes one meeting in Savannah, while the Project Sentry Coordinator convenes the other meeting in Augusta. Cases screened at either meeting are tracked using a data-

continued next page

law enforcement the importance of gun cases, and can make better strategic decisions. Ultimately, these gun case screening processes are critical for increasing the certainty of punishment for gun crimes, a central component of a focused deterrence strategy.

Impact on Crime

The impact on gun crime should occur in several ways. First, increased federal prosecutions can be an integral part of communicating the PSN strategy and deterrence message to offenders. This can be true both for the specific offenders who receive federal sentences for gun offenses, as well as their cohorts at high risk of involvement in gun crime. The strategy can also be communicated to the general public, particularly to the citizens in PSN target areas, because they are part of the communities most victimized by gun crime. Second, cases at the state level can be strengthened through focused attention on building cases and through the threat of federal prosecution, thereby resulting in increased guilty pleas, convictions, and incarceration time.

Because of the critical role of information sharing and strategic decision making in PSN, gun case reviews can be an effective means of ensuring more appropriate penalties for gun offenders. This is particularly true in those communities where simple gun possession has been *de facto* decriminalized. Many jurisdictions report that there are few if any penalties for simple illegal gun possession because of the large volume of such cases and their "routine" nature. The case review process can help to address these problems by providing more information about the criminal histories of the offenders, as well as working with local law enforcement to improve the quality and quantity of investigative information about the cases.

Roles in the Gun Case Review Process

U.S. Attorney's Office. One of the keys to an effective PSN strategy is leadership from the U.S. Attorney's Office. Prior to PSN, U.S. Attorneys did not always play a leadership role in the prosecution of gun crime cases. However, in jurisdictions where gun case review has achieved success, the U.S. Attorney and the PSN Coordinator (a AUSA) have played key roles. Indeed, it appears crucial that a case review process involve considerable input from the U.S. Attorney's Office. Some jurisdictions have found that direct involvement of the U.S. Attorney in some aspect of the case review process also has proven beneficial. In the Western District of Tennessee, for example, the U.S. Attorney attended roll call trainings in police precincts (often at 5 a.m.) in order to reinforce the importance of providing accurate and thorough information for gun arrests. Similarly, in both the Middle and Southern Districts of Alabama, the U.S. Attorney traveled the district, visiting local police departments asking the departments to bring their gun cases to the U.S. Attorney's Office. One of the added benefits of

this process has been the de-mystification of the U.S. Attorney's Office. Breaking down those barriers, making the U.S. Attorney's Office and the AUSAs who work there more accessible, and increasing knowledge about the federal process are important, indirect benefits of the case review process. A AUSA need not chair the case review committee, but needs to be involved in a substantial way.

The Western District of Tennessee has formed a model gun case review team. In addition to the AUSA PSN Coordinator, the task force includes two District Attorneys, a U.S. Marshal, two ATF agents, seven representatives of the Memphis Police Department, two Shelby County sheriff officers, and the PSN research partner. This team has functioned for nearly three years and reviews approximately 125 cases per month. In the Eastern District of Missouri, there has been strong collaboration between the U.S. Attorney's Office; the St. Louis City Circuit Attorney's Office; the St. Louis Bureau of Alcohol, Tobacco, and Firearms; and the St. Louis Metropolitan Police Department in its review of gun cases. This team reviews approximately 175 cases per year. This cooperation grew out of several local and federal initiatives to reduce crime in the City of St. Louis. These initiatives include Ceasefire, Weed and Seed, Juvenile Accountability Block Grant, Strategic Approaches to Community Safety Initiative, and currently, Project Safe Neighborhoods. In St. Louis, the gun case review process was modeled after work piloted by the Western District of Tennessee. This highlights one of the most valuable outcomes of PSN—the ability to learn of successful models in other districts and adapt them for implementation in new venues.

The Middle District of Alabama has a similar structure and membership for its gun case screening team (known as PIRT: Prosecution and Investigative Review Team). The Middle District sought to increase cases from local jurisdictions throughout the entire district and thus solicited task force members from a number of local police and sheriff's departments. They report reviewing approximately 180 cases per year under this process. However, here law enforcement team members are not permanently deployed to the task force by their police departments; rather, they come to the weekly meeting when their department has a gun case they feel is appropriate for federal prosecution. One of the benefits of this approach is to spread the word about the gun review process more widely throughout the police departments in the district. This, in turn, has increased the level of cooperation between local law enforcement, ATF, and the U.S. Attorney's Office and resulted in a significant increase in gun case referrals for federal prosecution.

Local/state prosecution. The local prosecutor has a key role in the PSN process since the bulk of cases will continue to be prosecuted at the local level. By including the local prosecutor in the gun case screening process, a number of benefits accrue. First, an informed decision can be made about the likelihood of successful prosecution and a judgment as to the likely sentence in federal versus state court. Second,

base that is located on the district-wide server. This database maintains basic information on each case, such as date it was received, defendant name, lead charge, case status (e.g., indicted), disposition, sentence date, AUSA assigned, ATF agent assigned, and any comments from the meetings. Simple reports help show progress on the cases, as well as flag outstanding case issues that may need to be addressed at the next case screening meeting. The database also helps coordinate federal prosecution and PSN priorities across the district.

In geographically larger districts, such as Maine and Utah, the PSN coordinators traveled the state to explain PSN and to enlist liaisons in local police, sheriff, and prosecutor's offices that can be included in phone conferences when cases are reviewed for potential federal prosecution. In all of these jurisdictions, local law enforcement officials have commented about their appreciation for the U.S. Attorneys' Offices having reached out to the local officials and working with them to increase the federal prosecution of gun offenders.

Gun Case Screening— Local Law Enforcement Training

With the increased focus on federal prosecution brought by Project Safe Neighborhoods came the discovery that local law enforcement officers were not always aware of the elements of a federal firearms case. In response, several districts set out to train local law enforcement officers in an effort to help create better cases. Districts have found, overwhelmingly, that this type of training was useful to not only improving federal cases, but state and local cases as well.

In Alabama, served by three U.S. Attorney's Offices, the commitment to training local law enforcement on federal gun crime prosecution has led to joint efforts across the three task forces. For example, organizers of the 2002 Annual Statewide Law Enforcement Coordinating Committee (LECC) meeting set aside time to train participants on federal gun laws.

In the Middle District of Alabama, the PSN Coordinator and leader of their gun case screening team (referred to as PIRT) found that local law enforcement was not used to

continued next page

having a local prosecutor with a clear understanding of the eligibility for federal prosecution may influence plea negotiations with a defendant. Third, the local prosecutor may begin to see the U.S. Attorney's Office as a resource for addressing problematic gun cases. For example, a state prosecution case weakened by poor witnesses—such as a gun assault involving participants in a drug sale—may be a strong federal case if the defendant is a felon in undisputed possession of a gun.

Consequently, a representative(s) of the local prosecutor is typically an integral member of the gun case screening team. In St. Louis, the Chief Warrants Officer from the local prosecutor's office sits on the case review committee, which leads to more effective charging decisions. In states such as California and Massachusetts, state gun laws often provide the most serious penalties, so the role of the state prosecutor is enhanced. The Middle District of North Carolina has several different case screening teams that cover different parts of the district. In Forsyth County (Winston-Salem), the gun case screening team is led by the Forsyth County District Attorney and meets on a weekly basis.

In some PSN districts, the local prosecutor has not assigned a representative to the case screening team. In such jurisdictions, the case review typically involves the U.S. Attorney's Office, ATF, and local law enforcement. The decision then focuses on whether the case can be prosecuted federally. Clearly, however, the substantial involvement of the local prosecutor's office enhances the effectiveness of gun review task forces.

Local law enforcement. This group provides the majority of the background materials and cases referred for gun case review. This is particularly true for data on past or pending offenses. It can safely be said that without local law enforcement, the case review process cannot work. In many jurisdictions, police officers are assigned to the task force on a permanent basis; in some, they rotate in and out; and in others, local officers rotate into the task force as they have cases to be presented. Many jurisdictions have also employed sheriff's deputies in their task forces, reflecting the mobile nature of gun offenders as they move in and out of jurisdictions.

One innovative component to the case review team in St. Louis is the inclusion of a police "internship" in the U.S. Attorney's Office. Six police officers to date have held the two-month position since the internship began in the summer of 2003. The purpose of the internship is for local police officers to gain a better understanding of the federal justice system and how federal prosecutors put together cases. For each case review meeting, the police intern compiles a summary of each case to be discussed, including detailed offender histories and whether or not the case meets the requirements of federal jurisdiction. The current intern program has also been an active part of PSN for two and one-half years.

Federal law enforcement. ATF is also a critical partner in the case review process; ATF agents can enhance the efficiency of the review process because they have extensive and unique information. In addition, ATF agents will ultimately be responsible for preparing gun cases for federal prosecution. In the District of Nevada, an ATF agent gives a briefing about each gun case, and the AUSA and Assistant District Attorneys (local prosecutors) then ask questions about elements of the case that may make for a more successful prosecution in one of their venues.

In addition, the U.S. Marshals service is assuming an increasingly important role in Project Safe Neighborhoods through their ability to apprehend fugitives, and their role in several gun task forces has grown over time. In the Western District of Tennessee, local law enforcement officers have been cross-deputized as U.S. Marshals, enhancing cooperation across agencies. In other jurisdictions, the Drug Enforcement Administration has also played a key role in gun case review groups.

Probation and parole. A variety of other PSN partners can be included in the case review process, as appropriate. Because of their knowledge of offender histories and current supervision status, some jurisdictions may choose to include state probation and parole in the case review process. Such individuals often have knowledge of offenders about to be released from prison, as well as their associates, and aspects of prior records that are unique contributions to the process. Federal probation is another resource that can significantly contribute to the gun review process.

Research partners. Research partners can be included in the case review process to provide analyses of links between offenders, identify geographic hot spots of gun crime, and assess the effectiveness of various aspects of the strategy. In the Western District of Tennessee, the research partner is an integral part of the review process and provides feedback on the impact of the enhanced gun prosecution system in the district. This research team has also developed an impressive flow chart (see Figure 1) documenting the steps in the review process and how cases should flow through the system if they are to receive full consideration for appropriate prosecution.

Description of Intervention

Criteria for Choosing Federal Cases

The way cases are chosen, first for review and then for assignment to the appropriate prosecution venue, is a crucial step in the gun case review process. As noted above, the most successful of these processes reviews every gun case in the chosen jurisdiction, either district-wide or within a specific county or municipality. Because of their extensive

enforcing federal gun laws and were not always familiar with available federal gun statutes. They felt it was important to have someone in every local law enforcement agency in the district trained on Alabama ICE (their version of PSN). This law enforcement officer (now a task force member) would be responsible for the program and officer training within his or her respective agency. All cases coming from the agency to the gun screening team would first be screened by the task force member. This would uncover systemic problems in report preparation and writing, as well as provide the opportunity to strengthen the case before it reached the review stage. The task force member becomes a resource to fellow officers in the department, as well as the regular liaison between the agency and the PSN task force. In addition, the USAO offers a general officer training given at roll calls, called “What is a Federal Gun Crime?”

In the Southern District of Alabama, the Mobile Police Department (MPD) generates the majority of gun cases brought to the USAO. The U.S. Immigration and Customs

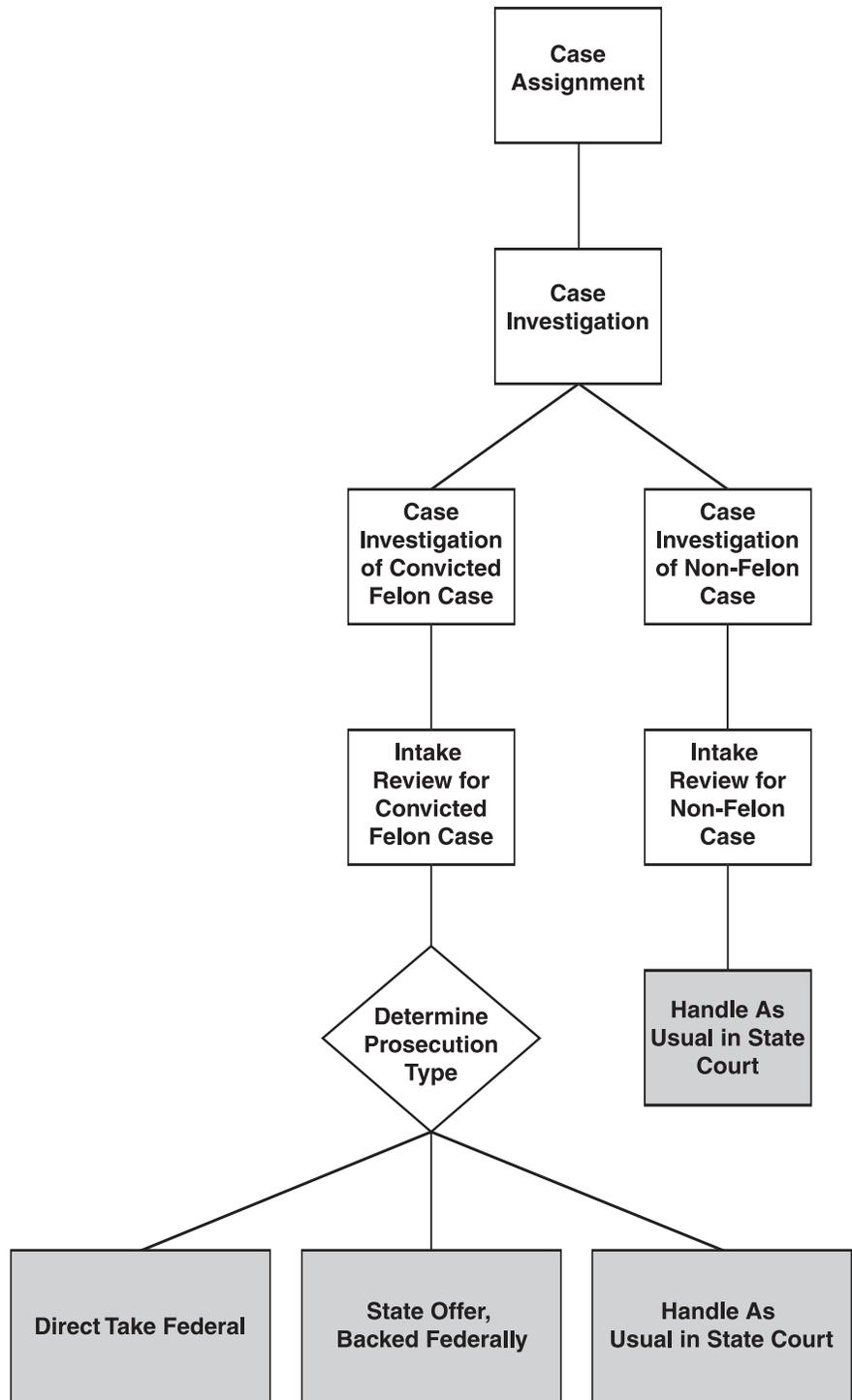
continued next page

Figure 1: General PSN Case Process¹¹

Enforcement (ICE) Coordinator found that some narrative reports by officers were lacking in the detail needed to prosecute a case federally. In response to this, they created a three-hour in-service training for officers, available at the pistol range. The in-service training focused on the ICE program and what is needed from the street officer to prosecute a gun case federally. In addition, all recruits received an eight-hour block of instruction on the ICE program while in the academy. Finally, in an effort to reach out to the smaller agencies within the district, the USAO provide no-cost trainings in conjunction with MPD and ATF for law enforcement agencies. Reports from federal prosecutors and experienced police investigators indicate there has been marked improvement in narrative writing, especially in misdemeanor possession of a pistol without a permit, since the inception of these local trainings.

In Winston-Salem, North Carolina (Middle District of North Carolina), ZAP (Zero Armed Perpetrators) meetings, run by the Forsyth County District Attorney, are held weekly to screen all gun cases in

continued next page



use of this process, detailed descriptions of two districts with considerable experience in the gun case review process are presented below.

Eastern District of Missouri

In the Eastern District of Missouri, the committee meets bi-weekly to determine the most appropriate jurisdiction for prosecution and if the case can be opened by the USAO. Initially, the team met weekly, but later decided that every other week was sufficient. The two most pertinent criteria for the case review are: whether the case violates federal law and whether the federal sentence length is more severe than the state sentence. Cases reviewed come from local law enforcement, ATF, and the Circuit Attorney's Office (CAO) (the local prosecutor). The ATF reviews all firearm arrests from the local police department for potential federal prosecution. The ATF then compiles criminal histories, examines the firearms, conducts traces and test firings, obtains information regarding felony convictions, obtains fingerprint data, and then forwards the case to the USAO, recommending federal prosecution where possible and appropriate. Once a case is taken by the USAO, a specific ATF agent is assigned to follow the case throughout federal prosecution.

The CAO pulls all gun cases for which police officers have applied for warrants. Because of both the volume of firearm cases in St. Louis and the focus on felons in possession of a firearm, the CAO prosecutes all robberies, assaults, etc. where a gun was recovered. The cases that the Circuit Attorney's Office can relinquish to the USAO, along with the cases prepared by the ATF, are discussed in the case review meeting. On average, eight to twelve cases are reviewed in each meeting, and two to four may be taken federally.

Before each review meeting, the police department intern in the U.S. Attorney's Office pulls the police reports for each case that will be discussed at the meeting and locates any additional information that would be helpful prior to the actual meeting. After a decision has been made to prosecute a case federally, the AUSA conducts follow-up information gathering; locates any missing reports, if applicable; and communicates with other necessary agencies. If a case is declined by the USAO, a letter is sent to the police officer assigned to the case saying that his or her case was reviewed and is now being deferred to the CAO; the letter also provides the reasons for the deferment. If a case is accepted by the U.S. Attorney's Office, a letter is also sent to the police officer reporting the acceptance and specifying the AUSA who has been assigned the case. During a nine-month period in 2003, 130 cases were screened by this team. Of the 130 cases screened, 53 resulted in a federal indictment. Of the 53 cases indicted in federal court, seven cases were subsequently declined, one case was dismissed, and pleas were given in five cases. The balance was prosecuted in federal court.

Forsyth County. In order to educate local police officers, task force members initiated a department-wide ZAP training. Now, ZAP training has become part of Winston-Salem Police Department's in-service refresher training. Recruits also receive training during their time at the academy.

Police Gun Crime Interns—Southern District of Alabama

The Mobile Police Department serves as the major source for gun cases in the Southern District of Alabama, where the PSN project is referred to as Alabama ICE. The ICE Coordinator, a sergeant in the Criminal Investigative Section, initially screens all gun cases for federal “triggers” for prosecution and coordinates with ATF and the AUSA to prioritize cases for federal prosecution.

For greater buy-in from street-level officers, the Chief of Police implemented an internship program within the police department. One officer per month is assigned as a shadow to the ICE Coordinator. The officer learns how to work gun cases, what is needed for a federal gun case, and the proper procedures to follow. Officers have been selected strategically and after 12 months, one officer per shift per district has been specifically trained as a gun crime “expert” and then put back in the field. These officers serve as resources to other street officers and as liaison to the ICE Coordinator. As such,

continued next page

Western District of Tennessee

The Western District of Tennessee has instituted a dual tracking system whereby cases are tracked through both the District Attorney’s Office and the U.S. Attorney’s Office. When the case review process was first initiated in this district, it confronted obstacles faced by many districts, including the widespread belief among offenders that the penalties for gun crimes were only minor inconveniences. There was an extensive training process, and an impressive manual was produced to guide the process, with subsequent revisions made as necessary. The Western District of Tennessee found that inviting a large number of people to the review sessions was an effective way to build teamwork. The committee reviews every case that involves a gun, obliterated serial number, or ammunition and focuses particular attention on prohibited persons. No gun case can be disposed of by the District Attorney’s Office without a review by the committee. The goal is to find federal “triggers;” that is, the elements of a case that would make it eligible for federal prosecution. A representative from the District Attorney’s Office and the AUSA PSN Coordinator review every case.

A “Handgun Offense Review Sheet” has been developed to identify all of the potentially relevant aspects of the case so that cases can be tracked effectively and the necessary information can be made available to prosecutors. Specifically, this form includes a summary of the offense, charts the offender’s criminal history, identifies federal triggers present, and includes the “arrest ticket,” evidence reports, and the “Rights Waiver Form.” Arresting officers now have a copy of a Rights Waiver Form that includes the appropriate federal triggers that would make a case eligible for federal prosecution. The goal is to have every arrest involving a firearm accompanied by this form. The increased availability of information produces better cases, regardless of whether they are ultimately prosecuted, and leads to more appropriate charging.

Two key issues guide the weekly review of cases: (1) provability: the strength of physical evidence, witnesses, priors, and presence of triggers; and (2) where to charge the case: in federal or state court.

Federal prosecution is often used to leverage state pleas. Offenders are provided a choice: plead guilty in state court to a charge that does not include probation, has a hearing within 30 days of charging, and provides no chance for early release from prison or face federal prosecution. In this way, cases that are prosecuted by the District Attorney still carry the threat of federal prosecution and include enhanced state sentencing for illegal gun use. The Western District of Tennessee has used this process for three years, attesting to its staying power and importance to the participants.

Impacts of Gun Prosecution Screening

There is considerable anecdotal information that the message about “fixing the gaps in the system” is beginning to have an impact on

offenders. In the Western District of Tennessee, jailhouse telephone calls have specifically mentioned PSN and enhanced gun prosecution in warnings by arrestees to co-offenders on the street. The presence of an ATF officer was met with comments about the “922-G” man in the house.¹² When arrestees begin to know the federal statutes by number, the message is clearly being sent. In the Eastern District of Missouri, offenders now tell the research partner during periodic interviews in the jail that they don’t want to be “walked across the street,” from state court to federal court, because of increased federal prosecution for gun cases. In the Middle District of Alabama, arrestees are reported to have told arresting officers, “Don’t ICE me,” ICE being the acronym for “Isolating the Criminal Element,” the local PSN program. Officials in other districts report that upon arrest with a gun, offenders claim that “they are on the list” and can’t have a gun because of increased federal prosecution of gun cases.¹³

they serve as communication vehicles to spread the word about PSN to fellow officers, and they take their knowledge about gun crime enforcement to new assignments such as gang and drug units.

Publicizing the efforts of such task forces is a key to their sustainability. The AUSA in the Eastern District of Missouri distributes a monthly newsletter to the local police department reporting cases that have been opened for federal prosecution, including the officer assigned to that case, updates on open cases, and sentence lengths. The USAO circulates a newsletter online and in print in a local newspaper informing both government agencies and the public about firearm cases being prosecuted at the state and federal levels in the City of St. Louis. Additionally, the AUSA has spoken to police recruit classes to instruct new police officers about federal jurisdiction and the PSN initiative in general, and the case review process, specifically. The Western District of Tennessee also reports to local law enforcement cases that have been successfully prosecuted. The feedback is critical for maintaining support among participating groups, but also for external constituencies such as local elected officials, neighborhood groups, and civic organizations. In addition, in Memphis, the District Attorney’s Office stepped in to help fund cell phones for the gun review task force when budget reductions in the police department caused them to be cut.

Program Successes

Interviews with members of gun case review teams and a review of PSN documentation revealed three primary areas where case review teams feel they have achieved the greatest success. These include (1) information sharing, (2) the increase in federal firearms cases being prosecuted, and (3) public safety.

Information sharing. Agency representatives agree that the cooperation among the team from the beginning of the case review process has been remarkable. Prior to the case review, the local police, state prosecutor, and federal prosecutor could be working on the same case without the knowledge that another agency was looking at the case.

The procedures initiated through the case review process have greatly reduced these duplicative efforts. This increases the effectiveness as well as the efficiency of the system, not only by eliminating duplication, but also by increasing information that each partner brings to the case. It is important to note that the information includes not only case history data, but also knowledge about the individual offender, because even in large cities with high crime rates, many chronic offenders are well known to officials in the criminal justice system.

Increased federal prosecution. The next success most often cited for the case review process is the number of cases now being federally prosecuted. Cases with federal elements can be identified more clearly, and the local prosecutor understands the federal elements, while the USAO better understands the state elements of a gun case. There is now a concrete mechanism for identifying cases for federal prosecution that, if prosecuted at the state level, would result in probation or a minimal prison sentence. In many states, low-level firearm cases get more time and have a higher probability of incarceration when prosecuted federally.

Public safety. Finally, there is emerging evidence that public safety has been enhanced as a result of the PSN case review process. By aggressively prosecuting suspects in the arena that can provide the harshest sentence, more violent criminals are being taken off the streets. Indeed, in Detroit a certain category of gun cases had been referred to as “non-violent gun cases,” which typically involving possession. Many of these cases, when fully reviewed, turn out to contain federal elements for prosecution. There is anecdotal evidence in St. Louis that word of the review process is spreading on the streets so that “you do not want to have your case go to federal court.” An AUSA from the Eastern District of Missouri reported that the reaction of defendants in federal court was shock when the realization hit that they were actually going to have to serve time. As more cases are prosecuted federally, the goal is that this word will continue to spread. It is at this point that a focused deterrence strategy, with a credible threat of prosecution for illegal gun possession and use, becomes a meaningful gun crime reduction strategy.

Program Challenges

Perhaps the greatest challenge to implementing an effective gun case screening process is simply the commitment to bring together key agency representatives on a regular schedule for the case screening meetings. In addition to the meetings themselves, ATF agents and police investigators must prepare the cases for the meeting and someone must be responsible for managing cases and, ideally, maintaining a database to ensure that cases are followed through the conviction stage. Beyond these observations, the following addresses some of the barriers and obstacles to implementing an effective case screening process.

Districts that have implemented this strategy generally report few implementation issues. However, one issue is the challenge of informing local law enforcement officers at the line level about the case elements necessary for federal prosecution, as well as informing them of the commitment in the U.S. Attorney's Office to actually take these gun cases. In St. Louis, this information is communicated in the following way: each police officer receives a card, about the size of a business card, with limited information about what constitutes federal jurisdiction. This information could also be spread through a monthly newsletter or via periodic departmental e-mails relaying this information to all relevant police officers.

Another possible source of concern is the fear that local prosecutors may rush cases through state prosecution before the case can be reviewed and indicted in federal court. That approach may be employed to ensure that federal prosecutors take all cases that are appropriate, even if they are not seen as the "best" cases. This concern, however was not evident in any of the districts examined.

One challenge faced by most task forces is the amount of time and effort required for the case review process, including not only the process itself and the information gathering required, but also the added tasks of newsletters and updating all the agencies involved. Case tracking systems will require a data collection system unique to tracking cases through the system in order to better gauge the success of the task force's work.

Another challenge may be the length of time it takes to file a complaint or indictment in the federal system. In many federal judicial districts, the grand jury may meet only once a month, so there are limited opportunities to get indictments. Educating members of the task force about the relative demands of each system will be an important method to combat misgivings among members regarding delays. In cases judges may question taking new gun cases generated by PSN; this hurdle can potentially be overcome by educating the judiciary, as well as through careful case presentation. This is the specific strategy that the Western District of Missouri has employed by educating federal judges on the volume of gun crime in their district. Issues of territoriality between agencies and levels of government can be overcome by having a clear set of goals and procedures in place before beginning a case review process. In addition, since changes in personnel can hinder successful program implementation, developing ways to institutionalize the practices is key. Training, procedural manuals, and buy-in from leaders are also ways to address these potential hurdles.

Keys to Successful Implementation

There are a number of keys to successfully implementing an effective case review process. One key issue is **building trust** between

members of the task force. This can best be accomplished by holding regular meetings over specific cases in which each agency shares information relevant to each case. Having a shared set of expectations about what will be accomplished by the case review process is an important part of this process.

Another important part of a successful case review process involves **integrating local and federal law enforcement into the process**. Local police are crucial to any gun crime reduction strategy, and their records and expertise must be integrated into the review of cases. ATF also has a critical role to play in the review of gun cases. If ATF can provide timely trace data for guns recovered in crime, the deterrent effect both for the suspect and those involved in obtaining the gun will be greatly enhanced.

A number of districts have found that **providing feedback** to participants has been especially important to achieving success. In particular, the U.S. Attorney's Office in a number of districts has provided letters of commendation for the work done by local police in preparing cases that were prosecuted in a federal venue.¹⁴ Such letters have been very well received by individual officers who previously would only know about a case if they were called to testify. Such letters are highly valued by officers whose efforts are validated by this process.

Conclusion

The gun case review process can work most effectively in concert with other interventions, particularly incident reviews, chronic violent offender lists, and offender notification. Each of these approaches is based on a common set of PSN principles, including strategic prosecution, the use of data to guide decisions, a task force approach, and spreading the deterrence message to high-risk offenders. Ultimately, gun case screening under the PSN model will have the greatest impact if linked to knowledge of violent criminals, places, and contexts, and if communicated through a focused deterrence message aimed at potential offenders. Aggressive prosecution of serious gun crime offenders can produce an incapacitation effect. When coupled with comprehensive violence reduction strategies, the impact of prosecution is likely to be magnified through the communication of both focused and general deterrence messages and corresponding prevention and intervention efforts.

Figure 2: Gun Case Screening—Lessons Learned**Successful case screening processes are built on:**

- Leadership from the U.S. Attorney.
- Involvement of key agencies (USAO, local law enforcement, state prosecutor, ATF).
- Regular meetings with a fixed agenda.
- Feedback to arresting officers from the U.S. Attorney or AUSA.
- Rotating officer assignment to gun case screening team (“police interns”).
- Training of law enforcement on gun crime identification, investigation, and prosecution.
- Communicating targeted deterrence message to potential offenders.
- Communicating general deterrence and awareness message to community.
- Involvement of research partner to assess case processing and provide feedback to PSN task force.

References

- Braga, Anthony A. 2004. *Gun Violence Among Serious Young Offenders*. Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services.
- Bureau of Justice Assistance. 2004. *Project Safe Neighborhoods: America's Network Against Gun Violence* (Program Brief). Washington, DC: U.S. Department of Justice.
- Bureau of Justice Statistics: www.ojp.usdoj.gov/bjc/cvict_c.htm (Accessed 12/28/04).
- Bureau of Justice Statistics: www.ojp.usdoj.gov/bjs/ijs.htm (Accessed 12/28/04).
- Cook, P. and J. Ludwig. 2004. "Principles for Effective Gun Policy." *Fordham Law Review* LXXIII, II:589-613.
- Dalton, Erin. 2003. *Lessons in Preventing Homicide*. East Lansing, MI: School of Criminal Justice, Michigan State University. www.cj.msu.edu/~outreach/psn/erins_report_jan_2004.pdf (Accessed 1/9/05).
- Decker, S. 2003. *Policing Gangs and Youth Violence*. Newbury Park, CA: Wadsworth.
- Henderson, E., S. Pillsbury, L. Reed and R. Janikowski. 2005. *Project Safe Neighborhoods Working Paper #8* February 2002-May 2004. Memphis, TN: The University of Memphis Center for Community Criminology and Research.
- Ludwig, J. and P. Cook. 2003. *Evaluating Gun Policy: Effects on Crime and Violence*. Washington, DC: Brookings Institution Press.
- McGarrell, E.F. 2005. *Strategic Problem Solving and Project Safe Neighborhoods*. East Lansing, MI: Michigan State University. www.cj.msu.edu/percent7Eoutreach/psn/Strategic_Problem_Solving_PSN_wp1percent5B1percent5D.pdf (Accessed 3/2/06).
- McGarrell, E.F. and S. Chermak. 2003. *Strategic Approaches to Reducing Firearms Violence: Final Report on the Indianapolis Violence Reduction Partnership*. Final Report submitted to the U.S. Department of Justice, National Institute of Justice www.ncjrs.org/pdffiles1/nij/grants/203976.pdf (Accessed 3/2/06).
- Memphis Police Department. July 13, 2004. Project Safe Neighborhoods. Standard Operating Procedures. Memphis, TN.

- National District Attorneys Association. 2001. *Combating Gun Violence: An in-depth look at Richmond's Project Exile*. Alexandria, VA: American Prosecutors Research Institute.
- National Research Council. 2005. *Firearms and Violence: A Critical Review*. Committee to Improve Research Information and Data on Firearms. Charles F. Wellford, John H. Pepper, and Carol V. Petrie, editors. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press.
- Office of Juvenile Justice and Delinquency Prevention. 1999. *Promising Strategies to Reduce Gun Violence*. Washington, DC: U.S. Department of Justice.
- Project Safe Neighborhoods *Working Paper 6: PSN Case Process*, February 2002–May 2004. Sarah Pillsbury, Lindsay Reed, Elisabeth Henderson, Richard Janikowski. The University of Memphis. Memphis, TN: Center for Community Criminology and Research.
- St. Cyr, Jenna and Scott H. Decker. 2003. *St. Louis Gun Case Review Study*. St. Louis, MO: University of Missouri-St. Louis.
- Zimring, Franklin and Gordon Hawkins. 1999. *Crime is Not the Problem: Lethal Violence in America*. New York: Oxford University Press.

Endnotes

1. Bureau of Justice Statistics: www.ojp.usdoj.gov/bjc/cvict_c.htm (as of 12/28/04).

2. Levels of property crime and violent crime not involving a gun are lower in the United States than many other western democracies, but gun crime remains exceptionally high in the U.S. See Zimring and Hawkins, 1999; Bureau of Justice Statistics: www.ojp.usdoj.gov/bjs/ijis.htm (as of 12/28/04).

3. Reviews of promising gun crime reduction strategies that can assist research partners and task forces include Braga, 2004; National Research Council, 2005; Ludwig and Cook, 2003; Office of Juvenile Justice and Delinquency Prevention, 1999. See also Dalton, 2003; Decker, 2003.

4. These data were reported by the U.S. Department of Justice, Executive Office for United States Attorneys (10/05).

5. Data compiled by Professor Joe Trotter and colleagues as part of American University's PSN Technical Assistance Program.

6. Bureau of Justice Assistance, 2004. See also www.psn.gov.

7. Readers interested in a more detail about the background and strategic problem-solving model of PSN are referred to Bureau of Justice Assistance, 2004; www.psn.gov; and McGarrell, 2005.

8. Nearly all (95 percent) PSN coordinators report some mechanism for screening gun cases, with most (89 percent) reporting joint federal-local screening.

9. Jurisdictions across the country vary in the terms used to refer to local prosecutors or district attorneys. In most jurisdictions, they are called "local" or "county" prosecutors bringing cases under state law. In other jurisdictions, prosecutors with the same functional role are referred to as "state" prosecutors. In this report, the terms "local" and "state" prosecutor are used to refer to prosecutors operating at a local level and typically handling felony criminal prosecution.

10. The Southern District of Alabama gun case screening is not organized as a task force but does include the same type of local-federal gun case screening as in the other districts.

11. A special thanks to the Western District of Tennessee for allowing the use of this chart; see Henderson et al., 2005 for more detail.

12. "922-G" refers to one of the federal statutes (18 U.S.C. 922(g)) commonly used for federal prosecution.

13. The comment about being “on the list” refers to two other PSN strategic interventions, chronic violent offender lists and offender notification meetings. See McGarrell (2005) and subsequent PSN case study reports.

14. In the Southern District of Alabama the letters are often sent by the Sergeant from the Mobile Police Department, who serves as liaison to the U.S. Attorney’s Office.