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Recommendations of the Ohio Task Force on Gun Violence



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George V. Voinovich, Governor

Mike DeWine, Lt. Governor

Gary C. Mohr, Director

State of Ohio - Office of Criminal Justice Services

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ACQUISITIONS



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Ohio Task Force on Gun Violence

March, 1994

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OHIO TASK FORCE ON GUN VIOLENCE REPORT

EXECUTIVE SUMMARY

BACKGROUND

Ohio has experienced an increase in gun violence that parallels the national trend viewed every day in news accounts. Statistics compiled by the Federal Bureau of Investigation show that the rate of firearm murders in Ohio increased 39% from 1988 to 1992. The rate of handgun murders in Ohio increased 48% from 1988 to 1992. In 1992, firearm murders represented 66% of all murders in Ohio. Finally, the rate of juveniles arrested for murder in Ohio increased by 101% from 1988 to 1992.

Governor Voinovich has initiated several programs that have made this state a leader in prevention. Ohio's Family & Children First Initiative promotes healthier, self-sufficient families through well-coordinated social services at the local level. The nurturing environment fostered by this initiative helps insulate at-risk youth from abuse, neglect and other factors that contribute to the breakdown of the family structure and all too often lead to violent behavior.

Governor Voinovich has also made recent strides in starting educational programs for youth who otherwise would have few options. Primary among these are the school-to-work programs that combine classroom learning with paid work experience. Successful models of the school-to-work concept include the Jobs for Ohio's Graduates which has a 92% graduation rate. The Tech-Prep model is another example that allows students to gain valuable experience in business problemsolving.

To further address the violence problem in Ohio, Governor Voinovich established the Ohio Task Force on Gun Violence consisting of 22 Ohioans from diverse walks of life, each with a unique professional perspective on gun violence. The Executive Order creating the Task Force called for a report to be completed in 90 days that would include:

- o An implementation plan for instant background checks for those purchasing firearms and other enforcement measures.*
- o Recommendations for changes in statutes, rules, programs, policies and procedures to reduce the incidence of violent crime committed with firearms.*
- o An education and research plan to assist in the development of policies to reduce gun violence.*

TASK FORCE RECOMMENDATIONS

Prevention

The prevention recommendations form a comprehensive strategy designed to stop violence before it ever starts, to provide programs for youth at risk of becoming involved in violence, and to change the behavior of those who already have engaged in violence. Community-based programs need to offer a continuum of services.

- o The State of Ohio should foster and fund community-based violence prevention programs that involve family, churches, schools, youth groups, senior citizens and others. (Action Needed: Legislative)*
- o The Governor should appoint a group of business leaders, law enforcement and local officials to help the Task Force implement the State's violence prevention plan which includes promotion of the Bureau of Alcohol, Tobacco and Firearms' 1-800-ATF-GUNS hotline. (Action Needed: Administrative)*
- o The State of Ohio should develop an aggressive media campaign to reduce violence, especially gun violence. (Action Needed: Administrative)*
- o The Office of Criminal Justice Services should compile a violence prevention directory, organize violence prevention conferences, and oversee statewide violence prevention planning, including monitoring and evaluating the Task Force recommendations. (Action Needed: Legislative)*

Education

Recommendations directed toward education are aimed at making schools safer by establishing a zero tolerance for gun violence in the school setting. The Task Force also promotes the establishment of model alternative educational programs to provide students at risk of becoming involved in violence with hope and a sense of future.

- o Each school system in Ohio should develop and implement a violence control plan. (Action Needed: Administrative)*

- o A fund of \$5 million should be established to provide security equipment to interested schools to reduce guns being brought into a school setting. (Action Needed: Legislative)
- o Model educational programs should be promoted to provide youth at risk of becoming involved in violence with goals, incentives and career tracks. (Action Needed: Administrative)

Enforcement

There is the immediate challenge to protect Ohioans from gun violence. Necessary measures include those that keep guns out of the hands of juveniles and dangerous offenders, as well as those that punish violators. The Task Force also recommends greater cooperation among local, state and federal agencies to control gun violence.

- o The current Ohio firearm specification for using a firearm in the commission of a felony should be increased from a mandatory three years incarceration to five years and should be more comprehensively utilized by prosecutors and judges. (Action Needed: Legislative)
- o The penalty for theft of a firearm, or receipt of a stolen firearm, should be a third degree felony, regardless of its value. (Action Needed: Legislative)
- o The use of any altered or counterfeit identification card to purchase a firearm should be a fourth degree felony. (Action Needed: Legislative)
- o Judges should have increased authority to deny bail and order pre-trial detention for criminal defendants charged with serious offenses and who are potentially dangerous. (Action Needed: Ohio Constitutional Amendment)
- o Individuals under probation or parole supervision may be required to sign a waiver permitting random searches of their person, home or vehicle by probation, parole, and law enforcement officers. (Action Needed: Legislative)
- o Existing Ohio drug task forces should be expanded to include investigation and apprehension of career criminals and illegal firearms traffickers. (Action Needed: Administrative)

- o The Governor of Ohio should join a Memorandum of Understanding with the Bureau of Alcohol, Tobacco and Firearms and other cooperating states to investigate illegal trafficking of firearms. (Action Needed: Administrative)*
- o Law enforcement agencies and task forces should make use of the Bureau of Alcohol, Tobacco and Firearms' Ceasefire project which targets firearm-related crimes. (Action Needed: Administrative)*
- o All public schools, colleges and universities licensed by the State of Ohio should report and turn over all confiscated firearms to local law enforcement who should, in turn, contact the Bureau of Alcohol, Tobacco and Firearms for purposes of conducting firearms traces. (Action Needed: Legislative)*
- o The possession of deadly weapons should be statutorily prohibited on the premises of any state or private college or university unless otherwise lawfully permitted. (Action Needed: Legislative)*
- o Local authorities should be able to petition the Ohio General Assembly to designate certain school, church, playground or park areas as "Gun-Free Zones" to provide for enhanced penalties for gun crimes within such areas. (Action Needed: Legislative)*
- o The penalty for selling or furnishing a firearm to an underage person should be increased from a second degree misdemeanor to a fourth degree felony. (Action Needed: Legislative)*
- o Adults who negligently permit children to have access to their firearms should be subject to a criminal penalty. (Action Needed: Legislative)*
- o Law enforcement, coroners, and courts should be required to destroy, with limited exceptions, all seized and forfeited firearms. (Action Needed: Legislative)*
- o Retired law enforcement officers who meet all firearms certification requirements established by the Ohio Peace Officer Training Council, and other eligibility requirements, should be permitted to carry a concealed weapon. (Action Needed: Legislative)*

Firearms Transactions

Transactions involving unlicensed persons are a significant source of firearms for criminal offenders. The Task Force recognizes that the control of these unlicensed firearms transactions, as well as the promotion of knowledge about current law and safety practices, is essential for Ohio to reduce gun violence.

- o It should be unlawful for a person to sell more than six handguns or 20 long guns per calendar year without being a federally licensed firearm manufacturer, wholesaler, dealer or collector. An exception should be made for the one-time sale or disposition of a personal collection of firearms or the one-time sale of firearms as part of an estate auction. (Action Needed: Legislative)*
- o Federal firearm licensees should be required to offer for sale firearm safety mechanisms and should offer literature on firearm safety and firearms laws. (Action Needed: Legislative)*

Handgun Buyer Background Checks

Quick, comprehensive background checks of the criminal and mental health histories of those purchasing handguns will help ensure public safety and minimize inconvenience to the lawful purchaser. The recommendations below promote the use of modern technology to increase the criminal history information for the Bureau of Criminal Identification and Investigation to make such checks.

- o For purposes of the Brady Law, the Bureau of Criminal Identification and Investigation should be the agency authorized to conduct background checks on prospective handgun purchasers. (Action Needed: Legislative)*
- o An instant check system for handgun purchasers should be pursued through a collaborative effort between the Bureau of Motor Vehicles and the Bureau of Criminal Identification and Investigation (BCI&I) which makes use of a new digitized Ohio drivers' license and 900 phone number to access a BCI&I computer data-base. (Action Needed: Legislative)*
- o Clerks of courts should be required to transmit the dispositions of all criminal cases to the Bureau of Criminal Identification and Investigation. (Action Needed: Legislative)*
- o Clerks of probate courts should be required to report to the Bureau of Criminal Identification and Investigation all involuntary commitments of mentally ill persons. (Action Needed: Legislative)*

Juvenile Justice

A central focus of the Task Force is keeping guns out of the hands of juveniles and increasing the penalties for violent juvenile behavior. The Task Force also recognizes that the criminal records of violent juveniles should be available to law enforcement for the protection of law enforcement and for the safety of the citizens.

- o The expungement or sealing of juvenile records for youth committing violent offenses should not be automatic. These records should be accessible to law enforcement. (Action Needed: Legislative)*
- o Juvenile records for violent offenses, including those involving guns, should be placed on the Law Enforcement Automated Data System (LEADS). (Action Needed: Legislative)*
- o Judges should be given increased authority to bind juveniles over to adult court at age 15, except in capital cases (aggravated murder), in which case judges should be given increased authority to bind juveniles over at age 14. (Action Needed: Legislative)*
- o The Department of Youth Services should be able to transfer violent youth who turn 21 to the Department of Rehabilitation and Correction for imprisonment up to the age of 25. (Action Needed: Study)*
- o The possession of firearms by juveniles outside of the child's residential premises should be prohibited except for hunting, sporting, or educational purposes. (Action Needed: Legislative)*
- o The purchase, or attempted purchase, of a firearm by an underage person, or by an adult for an underage person, should be prohibited. (Action Needed: Legislative)*

Research and Information

The Task Force identified many types of information necessary to put together a comprehensive strategy to reduce gun violence. It is also clear to the Task Force that much attention must be given to the coordination and integration of criminal justice information systems on which sound research and effective enforcement depend.

- o The Criminal Justice Information Systems Steering Committee should be formally recognized and financially supported. (Action Needed: Legislative)*

- o A violence prevention data base should be developed to gather information regarding violence in Ohio, incorporating available sources such as schools, emergency rooms and law enforcement. (Action Needed: Legislative)*
- o Every youth and adult entering a state juvenile or correctional institution that has used a firearm in a crime should be interviewed to determine how they obtained their firearms for the purpose of developing enforcement strategies. (Action Needed: Administrative)*
- o The Youth Risk Behavior Study administered by the Department of Youth Services and the Department of Alcohol and Drug Addiction Services should be expanded and continued. (Action Needed: Administrative)*
- o A study should be conducted to determine the potential issues that would arise from establishing a license to carry a concealed firearm. (Action Needed: Administrative)*

The Gun Violence Problem in Ohio:

Statistics compiled by the Federal Bureau of Investigation indicate a rapidly escalating gun violence problem in Ohio, especially handgun violence, among our younger citizens:

- * Firearm murders as a percentage of all murders in Ohio have increased from 54% in 1988 to 66% in 1992.
- * The rate of firearm murders in Ohio, per 100,000 population, has increased 39% between 1988 and 1992.
- * Handguns accounted for most of Ohio's firearm murder increase:
 - Handgun murders in Ohio, per 100,000 population, increased 48% between 1988 and 1992.
 - Handguns were the weapon used in 81% of the murders by firearms in Ohio in 1988 and 86% in 1992.
- * The rate of adults arrested for murder in Ohio, per 100,000 population, decreased by 2% from 1988 to 1992.
- * The rate of juveniles arrested for murder in Ohio, per 100,000 population, increased by 101% from 1988 to 1992.

The Ohio Task Force on Gun Violence:

In response to Ohio's dramatic rise in gun violence, especially among its youth, Governor Voinovich signed Amended Executive Order 94-1V which created the Ohio Task Force on Gun Violence. The Task Force was given the responsibility to develop recommendations on the following:

- A. Improving the ability of gun dealers and other sellers of gun products to report gun sales to law enforcement to prevent the purchase of guns by unqualified purchasers, including, but not limited to, instant background checks.
- B. Improving enforcement mechanisms including the expansion of multi-jurisdictional task forces, implementation of tougher penalties and community policing.

- C. Implementing and improving on model educational programs which serve to educate our communities about the seriousness of gun violence.
- D. Recommending changes in existing law pertaining to guns to determine if those laws should be revised, expanded, amended or rescinded.

Further, the Task Force was charged with assessing the needs for security equipment and metal detectors and recommending appropriate funding to be included in the 1994 capital budget.

Finally, the Task Force was given a deadline of March 31, 1994, for submitting a report to the Governor which is to include the following:

- A. An implementation plan for instant background checks and other enforcement measures.
- B. A presentation for the recommendation of changes in statutes, administrative rules, programs, policies, and procedures which are necessary to more effectively and efficiently reduce the incidence of violent crime committed with the use of a firearm.
- C. An educational and research plan to assist in the development of policies to reduce gun violence.

Consistent with the Executive Order, the Ohio Task Force on Gun Violence was organized into the Enforcement/Technology Subcommittee and the Education/Prevention Subcommittee to achieve balance and specialization in its consideration of the short and longer term solutions to the problem of gun violence in Ohio.

The Education/Prevention Subcommittee:

The Education/Prevention Subcommittee saw as their charge the recommendation of measures to ensure primary, secondary and tertiary violence prevention. Primary prevention includes strategies designed to stop violence before it ever starts. Secondary prevention focuses on individuals at risk of becoming involved in violence. Tertiary prevention attempts to change the behavior of those who have already engaged in violence. Implicit in this three-pronged strategy is a comprehensive continuum of services in Ohio that addresses unmet needs.

In order to establish recommendations to prevent and reduce gun violence in Ohio, the Education/Prevention Subcommittee of the Ohio Task Force on Gun Violence established the following principles. These principles provide guidance in the establishment of recommendations towards the reduction of gun violence.

1. Gun violence cannot be sufficiently addressed without examining the full extent of violence in Ohio and, therefore, recommendations should consider the causal factors that promote violence.

All too often crime control proposals suggest that violence is inevitable and unavoidable. While there always will be a certain amount of violent crime in society, a recent study funded by the Ohio Department of Mental Health states that many factors contribute to violent behavior. For example, there is evidence to suggest that individuals: 1) first witness violence and then, 2) participate in violence and finally, 3) become predators. It therefore is unwise not to take such knowledge into consideration when devising policies to reduce violent crime.

2. In the State of Ohio, minorities are disproportionately affected by violence whether through witnessing, participating or victimization.

Statistics at both the national and state level prove beyond doubt that African Americans are involved in violence -- as victims, witnesses and offenders -- much more than their non-minority counterparts. Not only can such a fact help us direct scarce resources more responsibly, it also reinforces the obligation of policy makers to ensure that no one group in society is forced to bear the brunt of the tragic consequences that accompany violent crime.

A recent survey of the seven largest cities in Ohio, conducted by the Ohio Commission on African-American Males, demonstrates that minorities -- most notably African Americans -- are more often both the victims and offenders in homicide cases. This trend, which is reflected in national statistics, suggests that a disproportionate number of young African American males are dying from gun violence.

3. A comprehensive violence reduction policy for the State of Ohio must include a strategy which is equally balanced between prevention and sanctions.

If Ohio is to reduce violence and particularly gun violence, it must adequately fund prevention, intervention and treatment components in Ohio. This broader strategy must be coordinated with local and state government in conjunction with the private sector. It is only when the commitment to prevention is backed up by adequate funding that effective, community-based programs can be utilized, developed if necessary, and replicated if needed.

4. Crime and violence are not inevitable. Crime and violence can be prevented through a comprehensive strategy of prevention, education and enforcement.

Our communities have made significant strides in addressing problems such as drunk driving, HIV, and smoking. There is no reason why gun violence and violent crime in general cannot join this list of issues which can and must be confronted by discussion, education and action.

5. State government should assist in the development and implementation of local, comprehensive violence reduction strategies.

Despite the state's interest in crime prevention, it is local communities that have the power to release themselves from the ever-tightening grip of gun violence. Broad-based community coalitions should be formed which are responsive to local community needs and which make sure programs are culturally relevant to the needs of the local citizens.

Each federal, state and local agency that serves citizens must make violence prevention a priority. Departments of human services and other agencies administering entitlement programs must take advantage of their opportunities to promote sound parenting, the peaceful resolution of conflicts, and other methods of demonstrated worth. The same can be said for juvenile and adult criminal courts which also have an opportunity to, and even a responsibility for, effecting positive change in the clients they serve.

The Enforcement/Technology Subcommittee:

The Enforcement/Technology Subcommittee focused primarily upon two areas: (1) criminal sanctions on juveniles and other persons committing crimes with firearms; (2) accessibility of firearms, especially handguns, to juveniles and other prohibited persons. The Subcommittee agreed that its recommendations would be centered on the immediate challenge of protecting Ohioans from persons who have committed, or are likely to commit gun violence, especially those persons the criminal justice system identifies as hard-core, repeat violent offenders.

1. Criminal Sanctions

The Enforcement/Technology Subcommittee determined that the first and most immediate response to the increased problem of gun violence should be consistent and increased enforcement of existing criminal laws. The Subcommittee found that some of Ohio's laws pertaining to gun crime are not effectively utilized for various reasons. However, the Subcommittee did discover some gaps and

loopholes in several laws, as well as some that needed strengthening. In particular, the Subcommittee found a great need to enhance and create criminal sanctions in the area of juveniles and firearms, especially those juveniles committing repeat, violent offenses with firearms. To more comprehensively and consistently apply such criminal sanctions, the Subcommittee determined that greater cooperation and coordination between governmental jurisdictions is needed.

2. Prohibited Person Access to Firearms

The Enforcement/Technology Subcommittee determined that not only must existing and new criminal sanctions be applied to juveniles and other persons committing gun crime, but that efforts must be concurrently undertaken to reduce the all too easy accessibility of firearms to juveniles, felons and other prohibited persons.

Without intending to impede the law-abiding ownership of firearms in Ohio, the Subcommittee determined that certain measures must now be taken to better ensure that firearms do not end up in the wrong hands, whether as the result of a theft or other criminal act, the negligent storage of a firearm in a home, the reckless furnishing of a firearm by an adult to a child, or the purchase of a firearm as part of a commercial transaction. The Subcommittee found that personal responsibility is lacking in many cases and needs to be reinforced where appropriate while not being unreasonably onerous.

The Subcommittee had a particular concern regarding the sales of firearms by persons not holding a federal firearms license. The Bureau of Alcohol, Tobacco and Firearms (ATF) determined in a survey that 43% of gun criminals nationally obtain their firearms through unlicensed persons, either on the street, or at gun shows and flea markets. Criminals using guns obtained their firearms 34% of the time through the commission of a crime, especially burglary and robbery, eight percent through family and friends. Seven percent of the gun crime offenders illegally purchased their firearms directly through a federally licensed dealer. However, ATF points out that most firearms ending up in the hands of criminals are indirectly obtained through federally licensed dealers.

ATF has also determined that Ohio has become a source state for firearms, especially to states such as New York. Out-of-state purchasers--many of whom are illegitimate--often make use of "straw purchasers," that is, Ohioans who agree to buy firearms from licensed and unlicensed dealers. The out-of-state buyers often are drug traffickers who take guns back on their return trip. Some non-Ohioans even obtain Ohio driver's licenses and buy the guns themselves.

In response to ATF's findings, the Subcommittee determined that a multi-pronged approach must be adopted to keep criminals and juveniles from inappropriately

obtaining firearms. First, Ohio needs to put itself in a position to permit federal firearm licensees to obtain, efficiently and accurately, background checks on handgun buyers as currently required under the federal Brady Law. Second, Ohio needs to restrict unlicensed dealing of firearms without precluding the occasional sale of a gun by a hobbyist from a personal collection. Finally, criminal penalties for the theft of a firearm and for negligent storage of firearms need to be enhanced or created.

TASK FORCE RECOMMENDATIONS

Prevention

Recommendation 1: The State of Ohio should foster and provide funds for the development and implementation of community-based violence prevention programs that encourage and promote the involvement of family, churches, youth groups, senior citizens, and others.

Rationale: Although the school is frequently the place where primary violence prevention is implemented, violence is a pervasive problem which needs to be adequately addressed at the community level. Prevention can start in our schools, but prevention education and awareness must be in our communities.

These programs should be locally and culturally focused. Some programs which should be considered are conflict resolution, night prosecutors, Young Gentlemen's Club, Ohio Violence Prevention Process and hospital intervention for gun violence victims among others.

Action Needed to Implement: The Office of Criminal Justice Services should be directed to oversee this recommendation.

Fiscal Impact: Undetermined, however, federal funding must be pursued.

Recommendation 2: The Governor should appoint a working group consisting of business leaders, law enforcement and municipal and/or county officials to assist in the implementation of the State's violence prevention plan. This working group will also assist with the development of a comprehensive plan to promote the use of the Bureau of Alcohol, Tobacco and Firearms' toll-free hotline in Ohio. This effort should be coordinated by the Office of Criminal Justice Services and the Special Agent in Charge of ATF in Ohio. Any information obtained through this line will be distributed to local law enforcement.

Rationale: If Ohio is to successfully address the problem of gun violence, it must enlist the advice and support of all segments of the community, including the business world. The investment businesses, government and community leaders make in violence prevention will pay off for all Ohioans.

Drug-dealing, gang activity, and other crime-related factors play a major role in creating the random, gun-related violence that often claims the lives of young

children. According to studies cited by the ATF, chronic offenders, who represent just about six percent of the criminals arrested, are responsible for about 70 percent of the serious crime.

In addition to the help we can get from our own local police, the federal government offers crime-fighting help through ATF. The ATF has a toll-free number (1-800-ATF-GUNS) that private citizens can call at any time seven days a week to provide information on drug dealing, robberies, car-jackings, and other types of violent crime that involve the illegal use of firearms. Callers can remain anonymous if they choose. ATF will evaluate the information and take whatever action is considered appropriate.

Action Needed to Implement: The media, business leaders and governmental agencies should help the State's violence prevention plan. In addition, this working group should assist with a media campaign for promoting the toll-free number.

Fiscal Impact: Undetermined.

Recommendation 3: Ohio must develop an aggressive media campaign directed toward the reduction of gun violence.

The Office of Criminal Justice Services should serve as the lead agency for the project.

Rationale: The media in the State of Ohio have a responsibility to help reduce gun violence. This can be done through public service announcements that encourage youth to walk away from fights. The media can also help by working toward reducing violence on television, in handling victims of violence more sensitively, and in conveying the real tragedy behind crime-related news stories.

We are all aware of the successful media campaigns which have reduced the incidence of drinking and driving and reduced the number of Americans who smoke cigarettes or use drugs. In the same vein, the media can market peaceful solutions to violence.

Prevention should be the major focus of this campaign which should use both print and electronic media to educate Ohioans about the severity, causes and consequences of violence.

Action Needed to Implement: The media in the State of Ohio should have a responsibility to help reduce violence. The Task Force further recommends that the Governor convene the media and business and community leaders to discuss how the media can be employed to reduce violence.

Fiscal Impact: Undetermined.

Recommendation 4: The Office of Criminal Justice Services should serve as coordinator and facilitator of violence prevention efforts in Ohio, and should monitor the implementation of the Ohio Task Force on Gun Violence recommendations.

The Office of Criminal Justice Services should serve as this coordinator and facilitator and would be responsible for the initiation, facilitation and support of violence prevention efforts in the State of Ohio. A comprehensive, statewide violence reduction and crime prevention plan should be developed under the direction of the Office of Criminal Justice Services to ensure that violence is reduced for the safety of every Ohioan. Such a plan should include, but not be limited to, conflict resolution, Ohio Violence Prevention Process, and the Young Gentlemen's Program, among others.

As part of its responsibilities, the Office of Criminal Justice Services should coordinate a Statewide Prevention Conference for state and local government, the business community and others to develop and implement a comprehensive statewide violence prevention plan.

The Office of Criminal Justice Services should also create and distribute a directory of violence prevention and crime prevention services to ensure that local communities and other state agencies are informed about available violence prevention programs and funding.

Rationale: Ohio should recognize the need for coordination of violence prevention services and programs. Support, both financially and technically, must be given to local communities through a coordinated state plan. Many proven projects exist to reduce the problem of violence. Sharing information about innovative and successful programs will help local communities to better deal with the problem of violence.

Action Needed to Implement: Executive order or statutory change.

Fiscal Impact: Undetermined.

Education

Recommendation 5: Every Ohio school district should determine its need for violence control measures and, if necessary, develop and implement a violence control plan.

The plan could include, but not necessarily be limited to, any or all of the following:

1. Examining school violence data: Information on fights, firearms incidents, and other forms of violence should help school administrators.
2. Staff training: Teachers and non-teaching staff, administrators and school board members may benefit from training that specifically addresses violence prevention.
3. Hire a community organizer: Empowering communities to confront the problem of violence can be facilitated through the coordinative efforts of an organizer.
4. Access control: Having numerous entryways into schools may indirectly facilitate the opportunities for violence, including that involving guns. Schools may want to consider limiting the number of entrances in order to reduce gun violence.
5. Security equipment: Metal detectors, closed-circuit television cameras, convex mirrors, alarms and other forms of security devices may be necessary for schools to monitor opportunities for violence.
6. Hiring of security staff: Some school districts may need to hire security personnel to ensure that teachers, staff, and students are safe.
7. Activity schedule adjustments: In some cases, schools may want to reschedule athletic events to reduce the risk of fights and other opportunities for violence.
8. Teaching students about the dangers of firearms: Some elementary and secondary schools should consider implementing programs which would instruct students about the responsible, irresponsible and illegal use of firearms. Another aspect would be to provide information about the devastating effects of gun violence.

Rationale: Schools must have a zero-tolerance policy towards violence. A violence-free school will allow teachers to teach and students to learn in a safe environment.

Action Needed to Implement: The Ohio Department of Education should prepare and distribute a violence prevention guidebook to school districts by the Fall of 1994.

Fiscal Impact: Undetermined; federal funding will be pursued.

Recommendation 6: The Office of Criminal Justice Services, in conjunction with the Ohio Department of Education and other knowledgeable parties, shall develop an appropriate process to disburse funds equitably through the School Security Equipment Program to school districts which have demonstrated need for enhanced security equipment.

This program will be administered by the Office of Criminal Justice Services through an application process developed by that office, the Ohio Department of Education and others. School districts in Ohio which have demonstrated a need for enhanced security equipment will be given priority for funding.

Rationale: Some school districts need security equipment to ensure the safety of students, faculty and staff. This equipment could include communication equipment or other safety equipment.

Action Needed to Implement: Appropriation of Capital Bill funds should include administrative funds for the Office of Criminal Justice Services.

Fiscal Impact: The School Security Equipment Program has been recommended to receive \$5 million in the Capital Bill.

Recommendation 7: The Ohio Department of Education should promote, encourage and support creativity in local school systems including alternative schooling programs for those suspended, expelled, as well as others at risk of becoming involved in violent behavior.

Rationale: Some schools are not meeting the career needs of certain children because children learn in different ways. We must find ways to engage children in education through new, non-traditional means. All students, even those who are not bound for college, deserve a career opportunity. These programs have been proven to save youth at risk of committing violent acts by providing goals, tangible incentives and a viable career track.

Programs developed must provide on-the-job training and education. Funds should be provided by the State of Ohio and by private businesses. Business tax credits could be considered in order to foster the development of these school programs.

Action Needed to Implement: The Ohio Department of Education should assess and publicize 10 existing model programs by June 30, 1996.

Fiscal Impact: Undetermined.

Enforcement

Recommendation 8: The current firearm specification should be amended to provide for an increased period of incarceration, from the current three year term to a period of five years incarceration. Concurrently, prosecutors and judges should be encouraged to more comprehensively utilize Ohio's firearm specification.

Rationale: The Ohio Revised Code provides for firearm specifications to be added to felony indictments. When convicted of such specifications, offenders must serve a mandatory term of three additional years. It is unclear to what extent firearm specifications are currently used by Ohio prosecutors. It is also unknown how often these specifications are dropped during plea negotiations.

Despite the movement toward sentencing offenders to community alternatives, there are those who, due to their disregard for laws and threat to public safety, must be confined. In addition to keeping gun-using felons in confinement for a longer period of time, it is hoped that this provision will serve as a deterrent to those who are contemplating such criminal acts.

Action Needed to Implement: Legislative amendment.

Fiscal Impact: The Department of Rehabilitation and Correction, along with the appropriate courts, should study the impact of this recommendation in order for proper fiscal resources to be obtained.

Recommendation 9: The penalty for theft of a firearm or the receipt of a stolen firearm should be a felony of the third degree, regardless of its value.

Rationale: Theft of firearms, especially handguns, are expected to increase on the street and at gun shows now that the Brady Law is in effect. Thefts may also

increase if strict prohibitions are adopted with regard to the sale and transfer of firearms to juveniles. A recent study found that 34% of career criminals get their firearms from criminal acts.

Action Needed To Implement: Legislation is needed amending R.C. 2913.02(B).

Fiscal Impact: The Department of Rehabilitation and Correction will need to study the impact of this enhancement.

Recommendation 10: The use of any altered or counterfeit identification card for the purchase of a firearm should be a fourth degree felony.

Rationale: Persons who use altered or false ID's for the purchase of firearms should be penalized.

Action Needed To Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 11: Authority should be provided for the pretrial detention of defendants charged with serious offenses, and to authorize judges to order the detention, without bail, of defendants who are a potential danger to witnesses, victims, or the community at large.

Rationale:

1. Prevent additional crimes by those awaiting trial. A 1988 study indicated almost 18% of released defendants had been rearrested for the commission of a felony while on release.
2. Improve public confidence in the criminal justice system.
3. Improve the ability of law enforcement officers to obtain cooperation of victims and witnesses.

Action Needed To Implement: Ohio Constitutional amendment.

Fiscal Impact: Undetermined.

Recommendation 12: Any individual, as a condition of probation or parole, may be required to sign a waiver of their Fourth Amendment rights, and be subject to unannounced or random searches of their person, home and vehicle by parole, probation or law enforcement officers.

Rationale: Such a waiver will enable probation and parole officers, as well as law enforcement officers, to randomly search the person, home or vehicle of probationers and parolees who are deemed at risk of having firearms. These searches may result in the prevention of firearms-related offenses by convicted offenders under supervision. It will also result in the imprisonment of potentially dangerous offenders.

Action Needed to Implement: The recommendation calls for legislation to expand the authority of law enforcement and the design and approval of a waiver form.

Fiscal Impact: Undetermined.

Recommendation 13: The use of existing Ohio multi-jurisdictional drug task forces should be expanded to include the investigation and apprehension of career criminals and illegal firearms traffickers to combat gun violence.

The Office of Criminal Justice Services should act as a coordinating office and arrange periodic seminars for the task forces to educate them on latest techniques, trends and intelligence received from ATF firearms tracing efforts.

The Department of Rehabilitation and Correction (DRC) should assist the task force operations by also providing the latest intelligence on career criminals recently released from Ohio prisons. DRC also has extensive expertise regarding the handling of career criminals, the prison gangs, etc. which could also be presented at the periodic task force seminars sponsored by the Office of Criminal Justice Services.

ATF could assign Special Agents to the task forces to work with the officers and use the federal firearms laws which provide for a 15-year mandatory prison sentence for career criminals found with a firearm. ATF also operates a Violent Offender Program with the help of DRC and Ohio Law Enforcement Automated Data System (LEADS), which sends a computerized message to law enforcement when they check the background of a violent offender entered in the program. ATF could assist the task forces by entering their violent offenders in this statewide program. If a person entered into LEADS is apprehended with a firearm, ATF begins prosecution of the person as an armed career criminal subject to a 15-year prison sentence. ATF's Project Achilles which targets habitual criminals, and which uses federal firearms laws, federal courts, and enhanced sentencing against

armed major offenders and violent criminals, would also be made available to these task forces.

The Bureau of Criminal Identification and Investigation (BCI&I) could assign an agent to assist each of the task forces with both the drug and career criminal investigations using their expertise as undercover agents, the BCI&I laboratory system, their drug dogs, and the criminal record center.

The Ohio State Highway Patrol (OSHP) could assign troopers from their drug interdiction teams to the task forces. They could lend their expertise to investigating and interdicting the suspects as they move with drugs. The OSHP officers would gain valuable information on the identity of violent career criminals operating in their area which will enhance officer safety and increase the likelihood of the suspects being spotted on the highway. This will increase the frequency of career criminals being apprehended with firearms.

Rationale: Of those offenders who perpetrate violence with guns, there is a relatively small number of offenders who commit a disproportionate share of violent crime. Whereas 15 years ago, burglars and robbers often would be caught unarmed, their contemporary counterparts regularly carry semi-automatic handguns and sawed-off shotguns. These realities make day-to-day law enforcement extremely dangerous.

Currently, Ohio funds drug task force operations in every part of the state. They are staffed with police officers, sheriff's deputies and federal agents. The task force approach has shown to be an effective means of focusing manpower on a specific problem. In the past, the individual task force groups have operated independently of each other.

Career criminals and drug offenders many times are one and the same. Authorizing the drug task forces to concentrate on career criminals would add another dimension to our enforcement efforts against each group. The Governor should direct the task force operations to address the career criminal problem and provide increased funding.

Action Needed to Implement: Executive Order.

Fiscal Impact: Undetermined.

Recommendation 14: The Governor of the State of Ohio should join in the existing Memorandum of Understanding between the Bureau of Alcohol, Tobacco and Firearms and the Governors of the States of Maryland, Delaware, Rhode Island, North Carolina, South Carolina, Connecticut, Maine,

West Virginia and Virginia, as well as the Mayor of Washington, D.C. relating to their cooperation in the investigation of illegal firearm trafficking activity and direct the existing drug task forces and state law enforcement agencies in Ohio to join in and actively participate in the effort. Ohio's efforts should be coordinated by the Office of Criminal Justice Services.

Ohio should apply for U.S. Department of Justice grants to enable the assignment of personnel to assist in the collection of trace information from Ohio police and sheriff's departments as well as funding for personnel to actively participate in the resulting investigations.

Rationale: On January 31, 1994, The Mayor of Washington, D. C. and the Governors of the states of Maryland, Delaware, Rhode Island, North Carolina, South Carolina, Connecticut, Maine, West Virginia and Virginia signed a memorandum of understanding (MOU) with ATF to participate in a joint effort to combat the illegal distribution of firearms. The Governors of Massachusetts, New York, Florida and Georgia have also agreed to join in the program but have not signed the agreement as of this date.

This joint undertaking is the result of a meeting held on October 4, 1993, between ATF and representatives from Washington, D. C., Pennsylvania, Virginia, New York, Maryland, Delaware, West Virginia, Connecticut, and New Jersey. During this meeting it was agreed that a cooperative investigative effort would be launched with the active participation of all agencies. The intelligence data gathered would be housed and analyzed at the National Tracing Center (NTC) with the NTC's database as a central repository for all firearms trafficking information. In addition, each state will apply for Bureau of Justice Assistance (BJA) grants for the purpose of supplying manpower resources at the NTC to assist in the tracing of firearms and analysis of the data.

Participating law enforcement officials pledge to share information and resources to track the illegal distribution of firearms. ATF will collect all information from states regarding firearms used in crimes, and share it with police agencies in the participating states.

The agreement also calls for these states, ATF and the District of Columbia to work together to identify the sources of illegally possessed firearms, interdict illegal gun shipments, and enforce existing laws. The participants will have the opportunity to conduct joint investigations, and work collectively to ensure that federal firearms licensees comply with state and federal licensing requirements.

Action Needed to Implement: Governor should sign the Memorandum of Understanding and coordinate with the Bureau of Alcohol, Tobacco and Firearms.

Fiscal Impact: Undetermined.

Recommendation 15: State and local law enforcement and task forces should be encouraged to utilize the Bureau of Alcohol, Tobacco and Firearms' Ceasefire project which assists state and local law enforcement in combatting firearms-related violent crimes.

Rationale: The Bureau of Alcohol, Tobacco and Firearms is currently developing a new firearms enforcement project entitled Ceasefire. The purpose of Ceasefire is to provide investigative support to cities experiencing serious organized criminal gang and drug-related shooting incidents. The objective of this project will be to assist state and local police in the solution of firearms-related violent crime.

The project is based on providing focused investigative assistance to cities through the integration of ATF's Achilles Program's expertise and new forensic technology. ATF will utilize two computerized imaging systems along with investigative support to improve the efficiency in the examination of ballistic evidence.

The Bulletproof system utilizes a laser in photographing the rifling marks on a fired projectile that are made by the firearm from which it is expelled. The system assigns a unique signature in the form of a bar chart and a numeric value. This information is entered into a computer that will compare it to all the entries in the computer data base. It will provide the firearms examiner with an instant mechanism to identify similar projectiles. It also allows for a visual examination of the photographs on a video monitor.

ATF investigative support will be provided by the National Tracing Center, Firearms Technology Branch, and the ATF Forensic Laboratory. ATF expects this project to significantly contribute to the identification and linking of homicide and shooting incidents.

Action Needed to Implement: A law enforcement awareness campaign and educational seminars by the Bureau of Alcohol, Tobacco and Firearms are needed.

Fiscal Impact: Undetermined.

Recommendation 16: Schools, colleges and universities licensed by the State of Ohio should be required to report and turn over to local law enforcement all firearms that come into their custody. Local law enforcement should, in turn, be required to contact ATF for the purpose of conducting firearms traces. Ohio colleges and universities containing law

enforcement units should be required to contact ATF directly for the purpose of conducting traces of firearms that come into their custody.

The Ohio Department of Education should act as coordinator for the school-based program, assist in notifying the schools about this requirement, and monitor compliance. The Office of Criminal Justice Services should assist in conducting tracing training seminars and assist in disseminating to Ohio law enforcement trace studies compiled by ATF.

Rationale: The ATF traces firearms for law enforcement agencies around the world and can provide valuable information to law enforcement concerning the origin of the firearm, first retail purchaser, trafficking patterns, and the crimes the firearms are used in. Many illegal firearms trafficking organizations are disrupted because of the leads furnished to investigators by the National Tracing Center. ATF has begun a nationwide program to trace firearms seized from juveniles or found on school grounds.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 17: The conveyance or possession of deadly weapons or dangerous ordnance should be statutorily prohibited on the premises of any state or private college or university as defined by the Ohio Board of Regents unless otherwise lawfully permitted.

Rationale: The current statutory prohibition on the conveyance or possession of deadly weapons or dangerous ordnance on school premises should be extended to state or private colleges and universities.

Action Needed to Implement: Legislative amendment to Ohio Revised Code Section 2923.122 is needed.

Fiscal Impact: Undetermined.

Recommendation 18: Local governmental entities should be given the statutory authority to petition the Ohio General Assembly to designate certain specified school, church, playground or park areas as "GUN-FREE ZONES."

A "GUN-FREE ZONE" could be defined as a designated area and 1000 feet around such area where the penalty for the unlawful use or possession of a

firearm would be enhanced. The first offense would be a second degree felony, and a second violation would be non-probationable, and such penalty would be served consecutively with the underlying offense.

Rationale: Some areas of the state by their very nature should afford children a higher degree of safety so that they can grow, learn and play free of gun violence. City councils, township trustees or county commissions should be able to seek the Ohio statutory designation of "GUN-FREE ZONES" in their jurisdiction. The boundaries of the zones should be marked with signs that clearly state "GUN-FREE ZONE" and the penalty for violation.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 19: The penalty for the sale or furnishing of a firearm or handgun to an underage person should be enhanced to a fourth degree felony.

The penalty on the prohibition of selling or furnishing a firearm or handgun to a person under 18 or 21 respectively should be increased from a second degree misdemeanor to a fourth degree felony.

Rationale: With the dramatic increase in juvenile gun violence, the penalty for selling or furnishing a firearm to a juvenile should be increased.

Action Needed To Implement: Legislation is needed amending R.C. 2923.21 on improperly furnishing firearms to a minor.

Fiscal Impact: Undetermined.

Recommendation 20: A criminal prohibition should be created for an adult who negligently permits children to have access to their firearms.

This law should include the following points:

1. To prohibit any person, who knows, or reasonably should know, that there is a substantial risk that a child under the age of 18 may gain access to the loaded firearm without permission of the parent, guardian, or custodian of the child, from negligently storing or leaving a loaded firearm in a manner that results in a child obtaining the loaded firearm without permission. The penalty should be a first degree misdemeanor.

2. Exceptions should apply to persons carrying a loaded firearm on or close to his body, where a loaded firearm is secured with a trigger lock or in a securely locked container, where the loaded firearm is obtained by a child under 18 as a result of unlawful entry, or where the loaded firearm is obtained by a child under 18 for a lawful act of self-defense or defense of another person.

Rationale: This will reduce the access of guns by minors, especially guns brought to schools, and the violence guns create. Parents and other adults must be held responsible for negligently permitting such access. A December, 1993 National Institute of Justice study of juveniles found 45% of juvenile inmates and 53% of students in high risk areas who said they had acquired a gun obtained it from family or friends. If Ohio youths mirror those in this study, strict measures are needed to control juvenile access to firearms.

Action Needed To Implement: Legislation is needed creating R.C. 2923.211 entitled "Negligent Storage of a Loaded Firearm."

Fiscal Impact: Undetermined.

Recommendation 21: State and local law enforcement, the coroner, and the courts should be required to destroy, with limited exceptions, all firearms seized and forfeited. Violation of this section should be a felony of the fourth degree.

The following are exceptions to this provision:

1. The return of stolen firearms to their rightful and legal owners;
2. Firearms suitable for law enforcement use can be placed into service by law enforcement officers upon order of a judge of the court of common pleas, and should be destroyed when no longer used for official use by the law enforcement agency to which it was assigned;
3. The Ohio Department of Natural Resources, Wildlife Division, should be exempt from provisions of this law as it pertains to firearms as already provided by law;
4. A judge may allow for rifles or shotguns to be sold to a Federal Firearms Licensee by a law enforcement agency if he or she determines that the firearm is a sporting firearm suitable for hunting or target shooting.

Destruction of seized firearms would be the only authorized method of disposal and the officer charged with that destruction shall not be held liable for damages if, after a reasonable attempt to determine if the firearm had been stolen, an error was made and the firearm is destroyed.

Rationale: Currently Ohio law allows the sale of firearms seized by police if they are suitable for sporting purposes. Many police departments or their city administrations are selling not only long guns, but handguns at public auction or to federally licensed firearms dealers. These dealers then sell the firearms to the general public without tracing the firearms to determine if they are stolen. Moreover, confiscated firearms which are resold may fall into the hands of offenders who can once again use them for illegal purposes. Destruction of confiscated firearms, aside from the exceptions noted above, will best serve the public safety interest.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 22: Retired law enforcement officers, peace officers, and federal agents should be permitted under Ohio law to carry a concealed weapon on their person, unless otherwise prohibited by law. Persons suffering from a mental disability should not be eligible for this authorization. All eligible persons should be required to meet all legal requirements of certification established by the Ohio Peace Officer Training Council.

The Attorney General of Ohio should issue an identification card to retired officers listed above upon application, proof of retirement, and criminal record check.

Rationale: Currently officers retiring after a career in law enforcement in Ohio cannot carry a concealed firearm even though they may be in danger of being confronted by persons they arrested in the past. In addition, the retired officers have had extensive training and experience in enforcing the law, yet are unable to respond to a crime that takes place in their presence because of being unarmed. The ability of qualified individuals to carry concealed firearms will enhance their protection as well as that of other law-abiding citizens. The intent of this recommendation is for all retired officers to meet the standards and requirements of current police officers.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Firearms Transactions

Recommendation 23: It should be an unlawful transaction to sell, on a "recurring" basis, firearms without holding a valid federal license as a manufacturer, wholesaler, dealer or collector of firearms.

"Recurring" would be defined as more than six handguns or more than twenty long guns within a calendar year. Exceptions should be made for the one-time sale of a personal collection of firearms or the one-time sale of firearms as part of an estate auction.

The penalty for committing this unlawful weapons transaction should be a felony of the fourth degree on the first offense and a felony of the third degree on each subsequent violation.

Rationale: Under current Ohio law, a person who does not fit within the very narrow definition of a federally licensed "dealer" may legally sell firearms to persons without any documentation or criminal background check required of any kind. Ohio law does not require any type of state license, permit or background check pursuant to the sale of firearms beyond a vendor's license for retail firearm sales. As such, firearm transactions are permitted that promote the State of Ohio as an easy source of firearms for those who illegally purchase and traffic in firearms.

Nationally, ATF in a study found that unlicensed sellers of firearms account for approximately 43% of firearms purchased by career criminals. ATF estimates unlicensed sales of handguns to criminals and other prohibited persons will increase under the Federal Brady Law. The Brady Law requires federally licensed dealers, but not unlicensed sellers, to create documentation and conduct a background check prior to handgun purchases. To eliminate this unfairness and inconsistency, Ohio needs to require all persons who wish to sell firearms on a recurring basis to obtain a federal firearms license.

Action Needed to Implement: Legislation is needed amending R.C. 2923.20.

Fiscal Impact: Undetermined.

Recommendation 24: All federally licensed firearms dealers should be required under Ohio law to offer firearm safety mechanisms and display warnings and provide literature to purchasers on firearm safety and unlawful firearm transactions.

This law should include the following points:

1. All federally licensed firearms dealers to offer to sell purchasers of firearms a trigger lock or similar safety device which prevents firearms from discharging.
2. Every purchase counter in every store, shop or sales outlet should contain a conspicuously posted warning, provided by the State of Ohio, on federal and state laws pertaining to the furnishing of firearms to minors and, if made law, negligent storage of loaded firearms.
3. Each person who buys or is transferred a firearm should be given a written copy of the warning above, as provided by the State of Ohio, in boldface type with letters no less than one-fourth inch in height.
4. The penalty of a misdemeanor of the second degree should be imposed.

Rationale: Ohio laws pertaining to minors and guns needs to be reinforced at the point of sale. Also, awareness and access to firearm safety devices, especially for handguns, needs to be increased if Ohio is to reduce the illegal and irresponsible use of firearms. Because the licensed dealer is the first, logical point of contact for gun purchasers, it stands to reason that dealers can serve as an important source of information about gun laws and the responsible use of firearms.

Action Needed To Implement: Legislation is needed creating such criminal prohibition under Ohio Revised Code Section 2923. Authorization is necessary for the appropriate state agency to make signs available to federal firearm licensed dealers through local law enforcement.

Fiscal Impact: All literature and warning signs will be provided free of charge by the State of Ohio.

Handgun Buyer Background Record Checks

Recommendation 25: For the purpose of the Federal Brady Law, or an alternative Ohio law, the Bureau of Criminal Identification and Investigation (BCI&I) should be statutorily authorized to conduct background checks of prospective handgun purchasers. BCI&I should be required to query law enforcement of the residence of prospective handgun purchasers as part of this background check.

Rationale: BCI&I currently has general statutory authority and experience with regard to criminal background checks from a variety of sources and is the agency currently conducting comprehensive record checks for firearms transactions in Ohio.

Action Needed to Implement: Legislation.

Fiscal Impact: BCI&I will incur additional costs for telephone system, computer equipment, and human resources.

Recommendation 26: The Office of Criminal Justice Services, the Bureau of Motor Vehicles (BMV) and the Bureau of Criminal Identification and Investigation should form a Task Force or working group to implement an instant check system for handgun purchases made through Ohio federal firearm licensees, or any other persons required to conduct such check under Ohio law, to replace or augment the 900 number, manual computer check system now in place to conduct checks pursuant to the Federal Brady Law.

The system should work as follows:

1. BMV should install a new Digitized Ohio Driver's License System which would include placement of a magnetic strip across the back of each license capable of storing information such as name, date of birth, social security number, etc. This system has already received funding and is expected to be operational by April, 1995.
2. BCI&I, in the interim, should improve dispositional reporting and complete the creation of a computerized central data base with access to the relevant dispositional reporting systems (e.g., NCIC, LEADS, Triple-I, Sheriff's Jail Linkage System) necessary to effectuate a check under the Federal Brady Law or an equivalent Ohio law. The data base would need to be accessible by card readers as well as telephones.
3. Once the Digitized Licenses are issued, the BCI&I central data base is operational, and dispositional reporting is 90 to 95%, handgun transferors would take a prospective handgun purchaser's driver's license and swipe it through a card reader similar to the credit card authorization system. The reader would automatically dial up the BCI&I central data base computer and pass the encoded driver's license information to the database system. The data base computer would then search its records for a match and respond to the transferor indicating eligible or ineligible to purchase the handgun. An appeal could be made to BCI&I for any ineligible responses.

An alternative should be the usage of the current 900 number which, when called, would access the same computer data base as the card reader.

4. Utilization of existing credit card verification equipment should be a high priority to minimize extra costs to federal firearm licensees.

Rationale: Currently, BCI&I must conduct numerous manual criminal background checks related to handgun transfers which can take several days and result in a de facto "waiting period." On queries not requiring a manual check, a call to a human operator who then conducts an initial computer check can still take several hours. A system is needed to permit all criminal background checks, especially those involving handgun transfers, to be completed within a matter of minutes, through the use of a card reader, or while a person waits on the phone, without the regular need for human intervention. This system will not only facilitate the transfer of handguns to qualified purchasers, it will also enable law enforcement officials to more quickly identify wanted felons who attempt to purchase handguns.

Action Needed to Implement: Legislation.

Fiscal Impact: Funds need to be appropriated to cover the cost for BCI&I to create a computerized central data base capable of being accessed by a card reader or telephone.

Recommendation 27: Ohio Clerks of Court should be required to transmit the disposition of a criminal case to the Bureau of Criminal Identification and Investigation within 30 days of the filing of the journal entry of sentence or acquittal.

Rationale: Current Ohio law does not require Ohio Clerks of Court to report adult criminal case dispositions to BCI&I. BCI&I must conduct numerous, time-consuming manual background checks prior to handgun purchases resulting in a greater waiting period for those attempting to purchase handguns. Local law enforcement must also conduct manual checks which slows identification of criminals. Finally, manual background checks also preclude implementation of an instant background check system in Ohio.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 28: Ohio Clerks of Probate Courts should be required to report involuntary commitments of mentally ill persons to the Bureau of Criminal Identification and Investigation.

All Ohio Probate Court Clerks should be statutorily required to report adjudications of involuntary commitments of the mentally ill, including name, birth date and social security numbers to the Bureau of Criminal Identification and Investigation within 30 days of adjudication.

Rationale: Currently, it is very difficult, if not impossible, for the Bureau of Criminal Identification and Investigation (BCI&I) to obtain information concerning persons adjudicated mentally ill or committed to a mental institution. A number of mass murders, for example, have been committed by mentally ill individuals. These persons are prohibited from obtaining firearms under the federal Brady Law and Ohio law. The automatic reporting of adjudications of these persons to BCI&I, the agency conducting criminal background checks prior to handgun purchases, will help keep guns out of their hands.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Juvenile Justice

Recommendation 29: Expungement or sealing of the juvenile records should not be automatic and should be consistent with statutes regarding adult records.

Rationale: Law enforcement and other criminal justice agencies need to know the extent of a juvenile record but may not have access to such records under current Ohio law.

Action Needed to Implement: Legislation is needed amending R.C. 2953.32 and R.C. 2151.358.

Fiscal Impact: Undetermined.

Recommendation 30: Unless otherwise legally exempted by statute, juvenile records pertaining to serious violent offenses should be placed into the Law Enforcement Automated Data System (LEADS).

The following juvenile offenses should be placed in LEADS: aggravated murder, murder, voluntary manslaughter, felonious assault, aggravated assault, kidnapping, abduction, rape, sexual battery, gross sexual imposition, felonious sexual penetration, aggravated arson, arson, aggravated robbery and burglary.

Rationale: Many of the offenders who are perpetrating gun violence are juveniles. In addition, many of the violent adult offenders have records of violent offenses going back to their youth. Having access to these juvenile records would assist law enforcement officers in investigating and apprehending offenders, prosecutors in charging and prosecuting them, judges in sentencing them, and correctional officials in classifying and managing them.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 31: Juveniles at age 15 can be bound over to adult court except in capital cases in which case juveniles could be bound over at age 14.

The following is language that was drafted in response to juvenile bindover bills that have been introduced and are currently receiving hearings in the Ohio General Assembly.

- The youth must be 15 years or older and probable cause must exist for bindover to be considered.
- If the youth is accused of murder or aggravated murder (first time) that case would be transferred to the adult court unless the youth requests a reverse bindover hearing. If the youth requests the hearing the burden of proof is on the juvenile to prove why his/her case should be kept within the jurisdiction of the juvenile court.
- For all other cases including murder and aggravated murder, (second offense), if the prosecutor could prove one of the following existed the youth's case could be transferred to the adult court.
 1. The youth previously was found delinquent for murder or aggravated murder.
 2. The youth had two prior commitments to the Department of Youth Services (DYS).

3. The youth had one prior violent felony adjudication and is currently being charged with committing his second felony.
4. The youth is currently being charged with committing a violent offense with a weapon and has a prior felony offense.
5. The youth has had a prior adult conviction for a felony offense.
6. At the time of the alleged offense, the youth was in a DYS facility serving time for murder or aggravated murder.

Rationale: There is a growing intolerance of juveniles who, at an early age, engage in violent, anti-social acts, including those involving guns. Ohio Department of Youth Services statistics indicate that an increasing percentage of juveniles admitted to their facilities have used guns in the commission of their delinquent acts. However, these violent, predatory youths have to be released by law at age 21, even if they were sent to DYS for murder.

Action Needed to Implement: Legislation

Fiscal Impact: Undetermined.

Recommendation 32: The Department of Youth Services (DYS) may administratively transfer an offender under their custody who turns 21 and under Ohio law remains under the custody of the sentencing court to the Department of Rehabilitation and Correction until age 25.

Rationale: Transferring offenders originally incarcerated as juveniles in a DYS facility to an adult DRC facility until age 25 will result in terms of incarceration for juveniles commensurate with terms of incarceration of adults, or juveniles tried and convicted in adult courts, for similar crimes.

Action Needed to Implement: A study should be conducted by the Department of Youth Services and the Department of Rehabilitation and Correction to determine the impact of this recommendation.

Fiscal Impact: Undetermined.

Recommendation 33: Juvenile possession of firearms should be prohibited outside of the juvenile's residential premises except for legitimate hunting, sporting, or educational purposes.

The following language creates a new basis for determining delinquency with respect to juveniles who possess firearms.

2121.02 "Delinquent child" defined

As used in sections 2151.01 to 2151.54, inclusive, of the Revised Code, "delinquent child" includes any child:

- (A) who violates any law of this state, the United States, or any ordinance or regulation of a political subdivision of the state, which could be a crime if committed by an adult, except as provided in section 2151.021 of the Revised Code;
- (B) Who violates any unlawful order of the court made under this chapter.

Therefore, the Task Force proposes the following addition to R. C. 2151.02:

(As used in sections 2151.01 to 2151.54, inclusive, of the Revised Code, "delinquent child" includes any child):

- ... (C) WHO POSSESS A FIREARM OUTSIDE OF THE RESIDENTIAL PREMISES OF THE CHILD WITHOUT THE PERMISSION OF THE PARENT, GUARDIAN OR LEGAL CUSTODIAN OF THE CHILD AND WHO IS NOT ENGAGED IN HUNTING, SPORT SHOOTING, OR A SUPERVISED EDUCATIONAL ACTIVITY. PERMISSION IS DEEMED TO HAVE BEEN GRANTED IN EITHER OF THE FOLLOWING CIRCUMSTANCES:
 - 1) THE CHILD POSSESSES A VALID HUNTING LICENSE OR YOUTH HUNTING LICENSE, HAS SUCCESSFULLY COMPLETED THE HUNTER'S SAFETY AND CONSERVATION COURSE PURSUANT TO SECTION 1533.10 OF THE REVISED CODE AND IS ENGAGED IN HUNTING OR IS TRAVELING TO OR FROM HUNTING.
 - 2) THE CHILD POSSESSES A VALID HUNTING LICENSE OR YOUTH HUNTING LICENSE, HAS SUCCESSFULLY COMPLETED THE HUNTER'S SAFETY AND CONSERVATION COURSE PURSUANT TO SECTION 1533.10 OF THE REVISED CODE, OR IS ENGAGED IN A TRAPSHOOTING, TARGET SHOOTING, OR ANY OTHER SPORT SHOOTING ACTIVITY OR IS TRAVELING TO OR FROM THAT EVENT.

An amendment to the disposition statute (R.C. 2151.355) would also have to be made:

...If the child was adjudicated delinquent by reasons of having committed an act that would be an aggravated felony of the third degree or a felony of the third or fourth degree if committed by an adult, OR BY REASON OF POSSESSING A FIREARM IN VIOLATION OF SECTION 2151.02(C) OF THE REVISED CODE, commit the child to the legal custody of the Department of Youth Services for institutionalization for an indefinite term consisting of a minimum period of six months....

...IF THE CHILD WAS FOUND TO HAVE POSSESSED A FIREARM ON SCHOOL GROUNDS OR WITHIN 1000 FEET OF SCHOOL GROUNDS, IT IS A FELONY OF THE THIRD DEGREE...

If a juvenile is determined to be "delinquent" for unlawful possession of firearms, the juvenile court would have a range of dispositions available under the current statute (O.R.C. 2151.355). The same statute would be amended to allow the court to commit the juvenile to DYS for a minimum period of six months as follows: Orders of dispositions for delinquent child records; notice to victims; electronically monitored house detention; notification of school districts.

Rationale: Currently juveniles are not specifically prohibited from carrying firearms. Given the evidence of increasing use of firearms by youthful offenders, Ohio law enforcement officials need an additional tool to ensure that juveniles who should not be in possession of firearms can be arrested and prosecuted.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 34: The purchase, or attempted purchase, of a firearm by an underage person, or by an adult for an underage person, should be criminally prohibited.

This law should include the following points:

1. To prohibit the sale of a firearm or handgun to any person over 18 or 21 who the seller knows, or has reason to know, is purchasing the firearm or handgun for the purpose of resale or transfer to an underage person.

2. To prohibit any person under 18 or 21 from ordering, paying for, sharing in the cost of, or attempting to purchase a firearm or handgun. The penalty could be a misdemeanor.
3. To prohibit any person from knowingly furnishing false identification of any person under 18 or 21 for the purpose of obtaining a firearm or handgun for a person under 18 or 21 by purchase, or as a gift. The penalty could be a misdemeanor.
4. To prohibit any person under 18 or 21 from knowingly showing or giving false identification for the purpose of obtaining a firearm or handgun. The penalty could be a misdemeanor.
5. To cause the forfeiture of driving privileges and a denial of a driver's license for one year to a minor for display of a fictitious, altered license, or a license not his own, to purchase a firearm.
6. It should be a defense for the furnishing of a firearm or handgun to a minor if the person buying exhibited an Ohio Driver's License (or other valid identification card) showing such person was of legal age to buy the firearm, a bona fide effort was made to ascertain the true age of the person buying (i.e., comparing identification description and appearance of buyer) and there was reason to believe that the person buying was of legal age.
7. It is not intended that a gift from a parent or co-purchase with a parent be a violation of this statute.

Rationale: Current Ohio law prohibits the sale of firearms, with exceptions for hunting and adult instruction, to anyone under 18 and the sale of handguns to anyone under 21. However, current Ohio law does not make it unlawful for the underage person to buy, or attempt to buy, a firearm. Current Ohio law also fails to make the requirement of proof of age a defense to the sale of firearms to underage persons.

Action Needed to Implement: Legislation is needed amending R.C. 2923.21 on improperly furnishing firearms to a minor and the creation of new sections involving misrepresentation by underage persons to obtain firearms and immunity of firearm sellers.

Fiscal Impact: Undetermined.

Research and Information

Recommendation 35: The Criminal Justice Information Systems Steering Committee should be formally recognized and financially supported.

The Criminal Justice Information Systems Steering Committee (CJIS) currently exists informally to direct the coordination of criminal justice information systems in Ohio. This committee is comprised of representatives from the Buckeye State Sheriffs Association, the Supreme Court of Ohio, the Department of Public Safety, and regional crime reporting systems, among others. It receives staff and funding support from the Office of Criminal Justice Services.

In order to ensure the sound development of information systems which assist practitioners in controlling gun violence, CJIS should be adequately funded to hire staff and obtain resources to enable the group to:

1. Finalize and oversee a plan to integrate criminal justice information systems in Ohio;
2. Design and oversee a plan to integrate Ohio's criminal justice information systems with the appropriate national systems;
3. Design and oversee a plan to enhance criminal justice arrest and dispositional reporting records;
4. Consider recommendations for achieving an instant criminal history check in Ohio for firearm purchases, etc.

Prior to state funding, the Office of Criminal Justice Services should continue to provide support for the CJIS and, until a line item is established, that office will be staffing the CJIS.

Rationale: Ohio's criminal history dispositional data is far from accurate and complete and is decidedly below the national average. Until dispositional reporting is made reasonably accurate and the reporting rate increased to 90-95%, BCI&I will continue to be required to conduct time-consuming manual criminal background checks resulting in an unavoidable "waiting period" for handgun transfers, unrelated to waiting periods mandated under federal law. Also, until dispositional reporting is vastly improved, implementation of a computerized instant check system in Ohio by phone or card readers will be out of the question. An inter-agency and inter-governmental body capable of efficiently and effectively coordinating the improvement and implementation of criminal justice systems involved in dispositional reporting in Ohio is of paramount importance.

Action Needed to Implement: Legislation.

Fiscal Impact: A line item would need to be added to the Office of Criminal Justice Services' budget for the purpose of providing staff and resources to such a group.

Recommendation 36: A comprehensive violence prevention data base should be developed which would incorporate traditional criminal justice statistics with other statistics from related fields.

It is further recommended that the Office of Criminal Justice Services oversee the collection, analysis and dissemination of this data.

The Ohio Department of Education should make sure all schools are providing accurate, current information on acts of violence in their schools.

Rationale: There are a number of gaps in available data on gun violence in Ohio.

In order to ensure that funds, programs and policy decisions are being properly utilized, a comprehensive violence reporting data base system is needed which utilizes non-traditional criminal justice statistics. This data should include, but not necessarily be limited to, emergency room data, coroners' report data, National Incident Based Reporting System (NIBRS) data, types and calibers of firearms obtained through gun buy-back programs, ATF tracing reports, interviews of adult and juvenile inmates, Drug Use Forecasting data, as well as other sources.

Action Needed to Implement: Legislation.

Fiscal Impact: Undetermined.

Recommendation 37: Ohio should conduct a survey of juveniles and adults, upon entrance into Department of Youth Services (DYS) and Department of Rehabilitation and Correction (DRC) Institutions, to determine the source of firearms.

Immediately upon disposition, the prosecutor may request an on-the-record examination under oath with any child who used or possessed firearms and/or dangerous ordnances in the commission of an act that would be a felony or misdemeanor if committed as an adult. This interview shall be conducted to ascertain the source of the dangerous ordnance and any other information which would allow law enforcement to prohibit the illegal possession of dangerous ordnances by minors.

A study would take place after adjudication and upon entrance to a DRC or DYS facility in Ohio, for a period of 60 days. The Office of Criminal Justice Services could create the interview form and DRC and DYS staff could conduct the interviews during the inmates' reception process.

Rationale: Sound public policy and legislation regarding gun violence depends on valid, reliable data. This is especially true for determining the avenues offenders use to acquire their firearms. Inmate interviews have been used successfully by the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms to glean important data from confined, violent felons.

Action Needed To Implement Recommendation: Legislation or Governor's Executive Order.

Fiscal Impact: Funds need to be appropriated for extra staff time costs at the Office of Criminal Justice Services, the Department of Rehabilitation and Correction and the Department of Youth Services to develop survey questions, conduct interviews, and analyze the results.

Recommendation 38: The Youth Risk Behavior Study currently administered by the Ohio Department of Education and the Ohio Department of Alcohol and Drug Addiction Services should be continued and expanded in an effort to gauge the contours of violence among youth.

Rationale: Currently the Youth Risk Behavior Study provides essential information for policy decisions on the behavior of Ohio's youth.

This study should be continued and expanded to provide more information. This information could be used to help educate the public and media surrounding violence and our youth. Contributing data bases could include the National Incident Based Reporting System, the National Center for Health Statistics, the Ohio Department of Health, hospital emergency room data, family practitioners, as well as other services. In addition, more information could be very beneficial in the development of policy and determining where funds are allocated.

Action Needed to Implement: The Centers for Disease Control and Prevention should be contacted regarding expansion and funding.

Fiscal Impact: This will be determined by the Ohio Department of Education, Ohio Department of Alcohol and Drug Addiction Services and the Office of Criminal Justice Services.

Recommendation 39: An objective study should be conducted pertaining to the need for a state license to carry concealed firearms.

It is recommended that the Office of Criminal Justice Services and the Ohio Peace Officer's Training Council jointly conduct a study, to be completed by the end of 1994, pertaining to the creation of a state licensing procedure involving the carrying of concealed firearms.

The statutory procedure contemplated would authorize local law enforcement and/or BCI&I to issue or deny a permit or license to carry a concealed handgun, within a specified period of time, upon submittal and review of an application, a criminal background check and completion of an appropriate firearm safety course.

Rationale: A study needs to be commenced to determine the need for the licensure of certain persons to carry concealed weapons to protect themselves. In most cases, it is currently against the law in Ohio to carry a concealed weapon.

Action Needed to Implement: The Governor should direct the Office of Criminal Justice Services or another agency to conduct the study.

Fiscal Impact: Undetermined.