Community Gun Violence Prosecution Update

Violent crime increased in 2001 for the first time in a decade, according to a recently released FBI report. The numbers of murders increased 2.5% nationally over 2002, and firearms were the primary weapon of choice to facilitate these murders. APRI continues its work to equip prosecutors with skills and strategies to combat gun violence. Between May and October 2002, APRI conducted five trainings on Fundamentals of Firearms Prosecutions, at the Ernest F. Hollings National Advocacy Center, in Columbus, South Carolina, reaching nearly 300 prosecutors and faculty members from jurisdictions across America. These courses were funded by the Department of Justice-Bureau of Justice Assistance and supported by Project Safe Neighborhoods.

Currently, APRI is developing a new course which will build on the Fundamentals course by focusing on the development, implementation and evaluation of community gun violence prosecution initiatives. It is anticipated this course will be offered four times next year and train over 400 prosecutors. Theses courses will particularly emphasize the important role of the community in designing and implementing successful gun violence reduction strategies.

Additionally, APRI has written a second mono-

Prosecutor Cross-Designation

By Stephanie Latour, Special Assistant U.S. Attorney, Philadelphia District Attorney's Office

Title 28 U.S.C. Section 543 gives the Attorney General the authority to appoint local prosecutors as Special Assistant United States Attorneys. Time limits for appointments are discretionary, and are generally set by the Executive Office for United States Attorneys. The SAUSA has all the power and authority of an assistant U.S. attorney, and is charged with prosecuting offenses against the United States.

In this capacity, the SAUSA screens local cases appropriate for federal adoption, prosecute those cases federally, and acts as a liaison between the prosecutor's office and the United States attorney's office. Cases typically accepted for federal prosecution are those where an analogous or relevant federal law exists to charge the offender.

Under Project Safe Neighborhoods, illegal gun possession cases are reviewed for federal prosecution. Not every gun case can be federally prosecuted, however. It is the role of the SAUSA to review each case and determine which jurisdiction is better suited to prosecute. Among the factors taken into consideration are: 1) strength of the case, 2) criminal history of the offender, 3) detention of the offender, and 4) the possible sentence the offender may receive. Cases typically prosecuted federally are those involving repeat offenders. These offenders are classified as "Armed Career Criminals," if they have two or more convictions for either a crime of violence or drugs.

Once jurisdiction is decided, there are three methods through which a case may enter the system. The primary tool is the grand jury, which is an investigative as well as a charging body. It is the duty of the SAUSA to present evidence to the grand jury for it to make a determination of probable cause. If the grand jury determines that probable cause exists, it indicts the offender.

An information is the second method, used in cases not punishable by more than one year in prison. If punishment exceeds one year, this method may be used if the defendant agrees to waive formal indictment by the grand jury. The final method is by way of complaint and warrant. Here, a magistrate judge makes an initial determination of probable cause, but does not supplant the grand jury's responsibility of making the final determination. Once in the system, the case proceeds until its...
final outcome by way of trial or non-trial disposition.

Prosecuting a case federally has several advantages. First, the federal
government has resources not typically available at the local level. If a
case needs further investigation, the various federal agencies have the
means and time to do so. Secondly, the grand jury can use its powers to
subpoena records or compel testimony from witnesses. Also, detaining
repeat offenders prior to trial is much easier due to the presumption that
these offenders are a danger to the community or a flight risk. Finally,
the sentencing guidelines and mandatory minimums for illegal gun pos-
session cases are more severe and as such, encourage guilty pleas and
cooperation from the offenders.

This stated, the job of the SAUSA is not without conflict. The SAUSA
answers to two offices, and must remember to balance the interests of
both in ensuring the proper disposition of the case. Notwithstanding this
dilemma, SAUSAs are rewarded every day. The ability to practice in both
forums—working with federal agencies, overseeing investigations and
seeing the fruits of their hard work when career offenders are properly
sentenced—make this unique job fulfilling.

Community Outreach—“Operation Cease-Fire”

By Phil Archer,
Assistant State’s Attorney, Titusville, FL

Norman Wolfinger, State Attorney for the Eighteenth Judicial
Circuit, Brevard and Seminole Counties, Florida, believes
strongly that community outreach is perhaps the most
important element in the success of a gun violence program.
Community outreach and public awareness are cornerstones of
the program begun under State Attorney Wolfinger and given the
name “Operation Cease-Fire.” Mr. Wolfinger has challenged his
team to create and implement effective strategies that will com-
municate to the community—and, more importantly, to potential
offenders—the message that gun violence will not be tolerated.

Team members have recently begun to implement two new
promising strategies under Operation Cease-Fire. First, “strike
force” teams are being organized that will respond to a neighbor-
hood or other area within 24 hours of a firearm incident. The
team will go door to door, handing out flyers providing brief
information about the incident. In addition, these flyers will con-
tain the Operation Cease-Fire logo, the slogan “Federal Time for
Gun Crime,” a statement about Operation Cease-Fire coming to
the jurisdiction, and several telephone numbers to provide tips
on the crime or to request more information about Operation
Cease-Fire.

This strategy serves several purposes. First, it lets the com-
munity and potential offenders know about the program. Going door
to door allows the team member to introduce the program and
answer questions while the topic is immediately salient. Further, it
sends a message that acts of gun violence will trigger a response
from Operation Cease-Fire and lead to heightened scrutiny of the
area. The team can directly assure neighborhood residents that
action is being taken and that such acts of gun violence will not
be tolerated.

Another strategy is alerting the community to the program’s
successes for example, three of the first defendants indicted
under Operation Cease-Fire recently pled to federal charges less
than 60 days from the date the federal authorities took custody
—far less time than it usually takes in the state system, which fre-
quently allows defendants to be out on bond committing other
crimes. To get the word out, the team printed 200 flyers with the
defendants’ names and information about how quickly the system
worked, along with the Operation Cease-Fire logo, and informa-
tion numbers. In bold letters was displayed the slogan, “Federal
Time for Gun Crime.” These brochures were distributed in areas
where defendants lived or visited.

It is also important to let local law enforcement know about
the program’s success. A separate congratulatory flyer was creat-
ed for law enforcement partners, and the team made sure every
officer received one. Plans are to send out this type of informa-
tion every time there is a successful event with the program to
keep the community informed. When law enforcement and com-

PSN National Conference

Join us at the Project Safe Neighborhoods National Conference,
January 30 – February 1, 2003, in Philadelphia. President George
Bush and Attorney General John Ashcroft are invited to address
the conference. This conference will enable PSN partners from all facets of
gun crime reduction to meet and learn from each other, and APRI will
be teaching several workshops. For further details about the conference,
contact the GVP at (703) 518-4394.