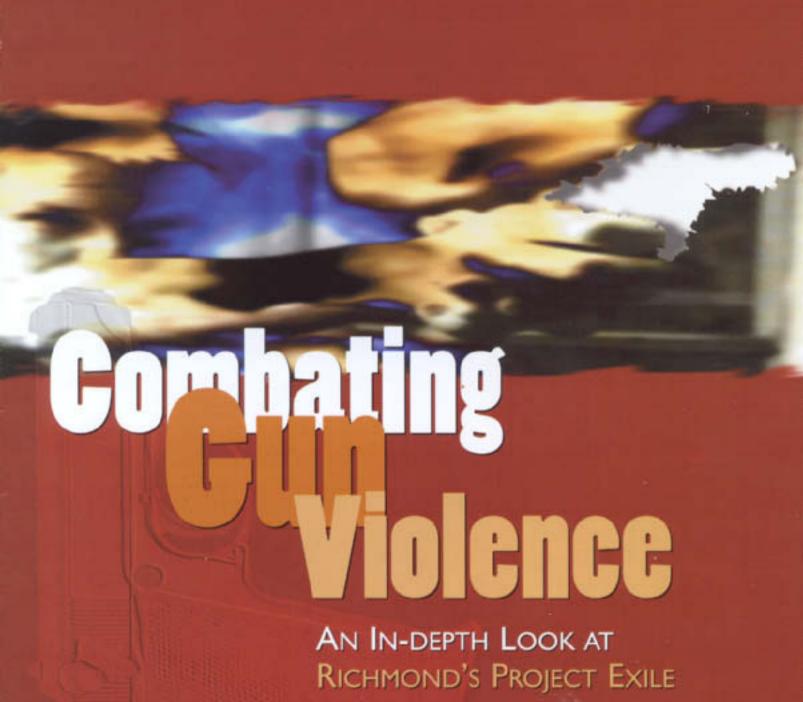
AMERICAN PROSECUTORS RESEARCH INSTITUTE

The nonprofit research, training and technical assistance affiliate of the National District Attorneys Association





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APRI Report

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INTRODUCTION



"This nation must enforce the gun laws which exist on the books. Project Safe Neighborhoods incorporates and builds upon the success of existing programs. In Richmond, Virginia, for example, during the first year of what's called Project Exile, homicides were reduced by 40 percent and armed robberies were reduced by 30 percent, in the first year alone."

-President George W. Bush

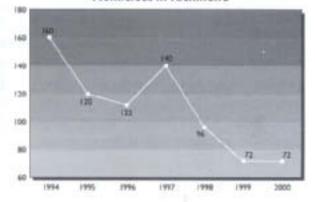
Combating the Scourge of Gun Violence. Despite an overall decline in the number of gun homicides over the last 15 years, gun violence in America remains intolerably high. Of the 15,000 people murdered each year, two-thirds of the victims die at the hands of armed criminals. For every fatal shooting there are roughly three non-fatal shootings. In fact, guns are involved in over one-third of a million violent crimes annually.

Individual cities and states have begun to respond to this epidemic of gun violence. Project Exile in Richmond, Virginia, and Operation Ceasefire in Boston, Massachusetts, have been identified as model programs for reducing gun violence, and replication efforts are underway in many cities and states. The American Prosecutors Research Institute and the U.S. Department of Justice continue to examine these and other promising local and state efforts to prevent and combat gun violence.

Launching Project Exile

Alarmed by the soaring numbers of gunrelated homicides in Richmond, federal and local officials launched Project Exile in 1997 after two years of intense study and discussion. In a nutshell, Project Exile initially sought to supplement local enforcement efforts by prosecuting selected gun offenders under applicable federal law—securing longer prison sentences and also deterring potential gun offenders with a massive, yet targeted, public awareness campaign. The next few years witnessed a sharp decline in the homicide statistics, from 140 in 1997 to just 72 in 2000.

Homicides in Richmond



"Through our major new initiative, Project Safe Neighborhoods, we are demonstrating a nationwide commitment to reduce gun crime in America by networking existing local programs that target gun crime—like Exile and Ceasefire—and providing those programs with additional tools."

—Attorney General John D. Ashcroft



Encouraged by the success in Richmond, the U.S. Attorney's Office announced the expansion of Project Exile to the "tidewater areas" around Norfolk, Virginia. There, law enforcement and prosecution efforts are targeting areas with high rates of gun violence, including several public housing complexes.

In 1999, the impact of Project Exile was felt statewide. The Virginia General Assembly, with strong support from the Virginia attorney general and governor, passed legislation imposing mandatory minimum sentences for selected weapons-related crimes, similar to the federal legislation that is the foundation for Project Exile. The state also has embarked upon a public relations effort that includes highly visible billboards along the interstate highways warning motorists of the strict penalties being enforced pursuant to Project Exile.

Expanding Project Exile

Project Exile has attracted considerable attention outside Virginia. Other states, including Texas and Colorado, are implementing similar programs that include the term "Exile." Other jurisdictions are adopting similar initiatives with different names.

The promise of Project Exile has become a topic of great interest at the federal level as well. In 2000, numerous congressional hearings considered the issue of gun violence and increased enforcement of gun laws. The White House endorsed the Project Exile approach. Consequently, with Project Exile in mind, Congress took action and authorized substantial funding for community prosecution programs aimed at combating gun violence.

Project Exile and "Project Safe Neighborhoods"

In May 2001, President George W. Bush unveiled the administration's "Project Safe Neighborhoods" initiative. Envisioned as a comprehensive, strategic approach to reducing gun violence in America, Project Safe Neighborhoods prominently features gun violence prosecution. Building on Richmond's Project Exile and Boston's Operation Ceasefire, Project Safe Neighborhoods seeks to forge strong partnerships between federal and local law enforcement and prosecutors. The following pages provide a comprehensive overview of Project Exile as it was implemented in Richmond.

COMBATING GUN VIOLENCE

In 1994, the City of Richmond, Virginia, was wracked by violence. With 160 homicides that year, Richmond contributed more than one-fourth of the total homicides recorded statewide. In 2001, there were only 69 homicides in Richmond.

Cities nationwide recorded sizeable decreases in violent crime during this same time period, but the decline in Richmond was significantly steeper. What accounted for this remarkable success story? A large part of the answer is Project Exile, a unique partnership of federal and local law enforcement, the private sector and the citizens of Richmond.

THE CONCEPT AND THE BACKGROUND

The concept is simple: Through a coordinated team effort and extensive community outreach, Project Exile enforces existing gun laws to reduce gun violence and achieve the ultimate goal—saving lives.

Recognizing that the violent crime rate and the number of homicides were extraordinarily high in a city of just 200,000 people, the U.S. Attorney's Office for the Eastern District of Virginia, the Commonwealth's Attorney's Office for the City of Richmond, and the Richmond Police Department came together in 1995 to address these problems and identify solutions. Together, these agencies formed the Project Exile Task Force to explore why the violent crime rate was so high in Richmond and what could be done about it. The task force identified critical factors underlying the high rate of violent crime: high firearms carrying tates, territorial disputes and variability in the application and enforcement of existing laws. To address these issues, the task force designed an approach with three major components:

- Federal prosecution under 18 United States Code Sections 922 and 924, with stiffer sentencing guidelines for those using firearms in the commission of drug offenses or crimes of violence.
- A fully integrated and coordinated partnership between local, state and federal law enforcement agencies including the Federal Bureau of Investigation (FBI); the Bureau of Alcohol, Tobacco and Firearms (ATF); the Commonwealth's Attorney's Office; the Richmond Police Department; and the U.S. Attorney's Office.
- An innovative outreach effort to involve the community in Project Exile, including an extensive media campaign to increase public awareness and to send a deterrent message to would-be armed criminals.





"Our idea was, 'Let's do a lot of cases, we'll incapacitate the worst gun carriers in Richmond and maybe we'll scare the rest of them through word of

mouth into not carrying guns."

—James Comey, Executive Assistant

United States Attorney for the Eastern

District of Virginia

In addition to the dramatic drop in the homicide rate, Project Exile is credited with many other successes, including removal of violent offenders from the community, a high percentage of cases that plead guilty and lengthy prison terms.

What, specifically, about Project Exile makes it so effective? Why does it work? Project Exile's three components—prosecution, partnership and outreach—each contributes to the overall success of the program.

FEDERAL PROSECUTION

One of the most distinguishing and essential characteristics of Project Exile is its prosecutorial approach to firearm crimes. It is an aggressive strategy that faces little legal opposition because it is derived from already existing laws prohibiting felons, drug users, illegal aliens, fugitives and those previously convicted of domestic violence from possessing firearms.

 18 USC § 922 prohibits possession of firearms while possessing drugs; by convicted felons; if a person is a fugitive from another state; if an individual is under a felony indictment; if the person is the subject of a restraining order; by a drug user; if an individual has been involved in prior domestic violence; or if the gun is known (by the possessor) to be stolen.

- 18 USC
 § 924(c) carries a mandatory five-year jail term for carrying a firearm in connection with drug dealing or any prohibitions listed above. It also outlines stiffer bond and "no bail" provisions prior to an offender's first court appearance. It was amended in October 1998 to broaden its applicability to mere possession of a firearm in furtherance of a drug trafficking crime or crime of violence. Increasing the mandatory prison term if a weapon is either brandished (from five to seven years) or discharged (to 10 years) gives prosecutors even more effective tools with which to penalize armed felons.
- 18 USC § 924 (e)(i) carries a mandatory minimum 15-year sentence for a prohibited person with three prior convictions for a violent felony or serious drug offense.

Deporting criminals out of the Richmond area reportedly has a profound impact on the criminal population in Richmond, the community itself and the law enforcement agencies involved in the project.

Reportedly, some defendants express more concern about where they are sentenced rather than whether they actually go to prison. When offenders are imprisoned locally, they see their criminal cohorts every day, and their families are nearby. In contrast, a sentence to federal prison means a long stint out of state—literally, being "exiled." Police officers observe criminals throwing down their guns prior to arrests in an effort to avoid prosecution under Exile. Defendants deny handgun possession to prosecutors even as they admit to other charges. In brief, the Exile name is a salient reminder that hard federal time out-of-state is in store for persons caught illegally carrying guns.

Benefits of Federal Prosecution

Benefits of enhanced enforcement and prosecution of federal criminal statutes include:

- An aggressive position against bond to prevent defendants from re-offending while awaiting trial.
- Penalties for firearms violations that are clear, substantial and served in full without parole.
- Incarceration in a federal penitentiary, far away from family and cohorts.

FEDERAL/STATE/LOCAL PARTNERSHIP

In 2000, Bureau of Justice Statistics victimization surveys reported that more than 6.3 million violent crimes occurred in the United States. According to the FBI's Uniform Crime Reports, law enforcement officials made in excess of 625,000 arrests for serious violent crimes. More than 3,000 violent crime offenses were prosecuted federally by U.S. Attorneys. Still, at least 99 percent of violent crimes were investigated and prosecuted locally. Accordingly, under our federal system of shared responsibilities, there is a compelling need for federal and



"The growth potential comes from bridging the gap between the locals and the feds. Effective partnerships will make the difference." —David Hicks.

Commonwealth's Attorney, City of Richmond.

local law enforcement officials and prosecutors to work in close partnership to reduce gun violence in America.



"Thanks to the success of the Exile Program, gun offenders including murderers, rapists, and robbers are spending more time behind bars

instead of preying on law-abiding citizens."

_Jim Gilmore, Former Virginia Governor

Forming the Task Force

Achieving successful federal prosecutions required state, local and federal law enforcement agencies to form a partnership devoid of territorial strife, organizational differences and managerial disputes. While the initial stakeholders were the City of Richmond Commonwealth's Attorney's Office, the United States Attorney's Office for the Eastern District of Virginia and the Richmond Police Department, the following agencies were also brought on board to comprise the Project Exile Task Force:

- Bureau of Alcohol, Tobacco, and Firearms (ATF);
- · Virginia State Police; and
- Federal Bureau of Investigation (FBI).

The Richmond Police Department, in particular, provided full support and commitment to the program. The department contributed invaluable resources, time and energy to make Project Exile a success. Specifically, the department:

- assigned three full-time officers to Project Exile;
- organized a week-long gun interdiction training program for more than 100 selected officers; and
- organized several training programs for all of its officers on federal firearms statutes and search and seizure issues, in conjunction with the U.S. Attorney's Office.



"My assignment in 1999 as a Special Assistant to the U.S. Attorney's Office proved to be an invaluable experience and assisted in

maintaining the relationship and communication between the Commonwealth's Attorney's Office and the U.S. Attorney's Office."

—Shannon Taylor, Senior Assistant Commonwealth's Attorney

Two prosecutors were specially assigned to assist the federal prosecutors: one from the state Attorney General's Office, and one from the Commonwealth's Attorney's Office for the City of Richmond. Since the project's inception, an average of three Assistant U.S. Attorneys and Special Assistant U.S. Attorneys have been utilized on Project Exile.

According to the Richmond Police
Department, the inclusion of the ATF as
the chief sponsoring federal agency was a
"natural" decision. As David Hicks, local
Commonwealth's Attorney for Richmond,
observes, "the ATF's position as a historically neutral federal agency helped to
smooth things over between the federal
government and the local PD, and established a working relationship between the
local government and the federal side."



"The department appreciates the additional resources and aid provided to make the city safer."

—Lieutenant Michael J. Shamus, tactical lieutenant for the

Richmond Police Department's Field Services and Community Response Team

Managing Cases

The Project Exile Task Force identified three goals pertaining to case management and designed specific responses to each:

 To facilitate information exchange among task force members, the task force meets bi-weekly to discuss current cases and relevant issues.

- To accelerate the investigation process, the task force trained every police officer in Richmond on firearm laws and gun interdiction and detection, and provided each officer with a laminated wallet card summarizing the federal firearm statutes.
- To improve procedures for handling and tracing firearms in Richmond, the task force electronically connected the Richmond Police Department's Firearms Administrator to the ATF Tracing System.

Richmond police officers page the Project Exile Task Force whenever they make an arrest for illegal gun possession in tandem with one of the federal violations defined above. The task force meets bi-weekly to review these cases and determine whether each case should be prosecuted federally or within the state courts, applying two decision criteria:

- Did the possession violate federal law?
- If so, where will the potential sentence be more severe?

Federal sentences are longer than Virginia sentences for offenses involving repeat violent offenders. For example, repeat offenders with three prior convictions receive 15-year sentences under federal law.

These task force meetings, which involve the Commonwealth's Attorney's Office, the U.S. Attorney's Office and ATF, epitomize the partnership component of Project Exile.

Benefits of Federal/State/Local Partnership

Effective partnerships can have numerous benefits, including:

- Shared focus on reducing gun violence, leaving behind personal and political agendas.
- Cross-designation of an Assistant Commonwealth's Attorney as an Assistant U.S. Attorney to handle gun cases in federal court.
- Comprehensive case management, involving task force members in determining how cases should proceed.



"Citizens have always been a part of the decision-making process because you need to build a base in the community (for your programs to work)."

- Jerry A. Oliver, St., Former Chief of Police

COMMUNITY OUTREACH

Very early in its development, the Project Exile Task Force focused on forming a close relationship between the community and law enforcement. Through an aggres-

"Only if the community gets involved, and assists, will the homicide and violent crime rates be reduced."

—Helen Fahey, former U.S. Attorney, Eastern District of Virginia



sive community policing and community prosecution strategy, Richmond police officers handed out cards on the streets and explained Project Exile to local business owners and citizens. Federal and local prosecutors established gun safety programs in schools and appeared on local news broadcasts.

Working with the Media



"Effective coordination and stakeholder commitment are key elements of Project Exile's success."
—Stan Joynes, founder of Project

Exile Citizen Support Foundation

The Project Exile Task Force also launched a massive media campaign to spread this message to the gun-toting criminals and law-abiding citizens of Richmond. To do this, the U.S. Attorney's Office enlisted the help of Stan Joynes, a prominent Richmond attorney, to head this media campaign. Joynes, in turn, enlisted support and resources for the fledgling initiative from legislators, politicians, business owners and community leaders. One of the most beneficial elements at this early stage, says Joynes, was the pre-existing coordinated relationship among the major stakeholders in Project Exile-the local, state and federal law enforcement agencies.

In July 1997, Joynes and his law firm created the Project Exile Citizen Support Foundation, a group of civic and community leaders who initiated a variety of public outreach and education efforts. Among the contributors to this foundation are several prominent community and national organizations:

- The Greater Richmond Retail Merchants' Association:
- The Martin Agency, a national advertising firm;
- The Chamber of Commerce of Greater Richmond:
- The Greater Richmond Partnership;
 and
- The National Rifle Association.

Initially, the foundation met six times a year, but now meets quarterly to discuss what works in terms of the media campaign, fund-raising initiatives and community outreach.

The Martin Agency, a prominent national advertising agency located in Richmond, provided substantial pro bono creative assistance to Project Exile's media campaign. To maximize the impact on the target population of criminal offenders, the agency focused on those zip codes with the highest rates of crime, communities whose billboards were generally empty anyway because of low retailer support.

The first wave of billboards bore a simple message in white-on-black lettering: "An Illegal Gun Gets You Five Years in Federal Prison," along with the Project Exile name and a hotline number set up by the Metro Richmond Crime Stoppers for cit-

An illegal gun gets you 5 years in Federal Prison.

PROJECT EXILE. REPORT ILLEGAL GUNS 780-1000

izens to anonymously report illegal firearms. The task force eventually disseminated this message via multiple venues:

- 15 billboards:
- A fully painted city bus that covered the entire city by changing routes each day (nicknamed "The Death Bus" on the streets of Richmond);
- Television commercials;
- Metro Richmond traffic reports;
- Print advertising;
- Supermarket bags ("Bag a Crook, Support Project Exile."); and
- Business cards distributed by local police (ironically, these business cards were even found on offenders arrested in cities as far away as Los Angeles).

The Martin Agency also created a series of television advertisements to spread Project Exile's message:

 "Crickets" The visual: a black-andwhite city skyline with repeated gunshots, eventually replaced with cricket sounds. The words: "Nice, isn't it?"

- "Prison Food" The visual: a prisoner's tray being filled with slop.
 The words: "This could be your life for five years...if you get caught with an illegal gun."
- "Walls" The visual: an inmate pacing back and forth in his cell continuously. The words: "This could be your life for five years...if you get caught with an illegal gun."
- "My Daddy" The visual: a young African-American child drawing stick figures of his family on a chalkboard, ending with a crime-scene chalk outline of a body identified by the child as "my daddy."

Every advertisement displays Project Exile's essential message: An illegal gun gets you five years in federal prison.

Setting up a Non-Profit Organization

In order to receive tax-exempt deductions for donations to Project Exile, Stan Joynes established the Project Exile Citizen Support Foundation as a nonprofit organization through the State Corporation Committee and IRS Code 501(c)3, which provides tax-exempt status to charitable organizations. Other jurisdictions may wish to replicate this process by:

- Contacting an attorney (preferably one that is well-versed in corporate law) to donate time.
- Completing the articles of incorporation, which establish the organization as a nonprofit, eligible to be placed



under IRS Code 501(c)3. (These forms can be procured through the State Corporation Commission.)

- Setting up by-laws to guide the organization's operations, specifically in terms of meeting times and board members.
- Filing IRS tax-exempt status.

Benefits of Community Outreach

The community outreach component of Project Exile offers numerous advantages, including:

- A strong and consistent deterrent message to potential offenders, delivered through multiple vehicles—a comprehensive media campaign, community groups and law enforcement officers on the street.
- Involvement of the community in the implementation of Project Exile and the media campaign.
- Use of community policing and community prosecution to educate the community about gun violence,
 Project Exile and the criminal justice system.

LEGAL AND JUDICIAL CHALLENGES

Project Exile has encountered and withstood several challenges along the way. These challenges, and Richmond's successful responses, may be instructive to other communities seeking to replicate the key components of Project Exile.

Legal Challenges

At least three convictions have been appealed (unsuccessfully) since the inception of Project Exile. The first claimed that the federal prosecutions were constitutionally defective. The appellate court rejected this claim, holding that the defendant's case did not manifest federal incursions in local laws.

Two subsequent appeals contested Project Exile's federal prosecution strategy as a violation of due process and, specifically, as an attempt to try certain gun-related offenses in federal court rather than state court and to diminish minority representation on the jury. Again, these claims were rejected on the basis that Project Exile does not violate due process and is properly founded on federal and state laws.

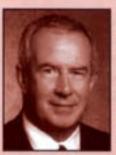
Initial Judicial Resistance

Three federal district court judges initially criticized Project Exile for crossing the line "into a sovereign state's area of authority and responsibility." One complained that the federal court "has been transformed into a minor grade state police court," processing "more than 200 gun possession cases totally lacking in federal significance" and "hitting taxpayers [in their wallets]."

To deflect these criticisms, the Commonwealth's Attorney's Office and U.S. Attorney's Office offered to shift some of the burden from federal courts, at the same time emphasizing the threat of federal prosecution as a major factor in Project Exile's success in reducing gun violence. Once convinced of Project Exile's positive impact on their communities, the judges tempered their concerns.

ACCOUNTABILITY

Too often, programs are implemented with the best intentions but with no solid plan for determining whether these intentions are being met until well after the program has been implemented—or worse, after it has ended. The key to accountability and measuring success lies in the planning stages, at project startup. There are three basic steps: identify the problem using research data; define measurable goals and objectives; and implement strategies that are directly related to attainment of those goals. Project Exile's experience is instructive.



"Remember the two important accountability questions when assessing improvements and public benefits from government action:

- By how much did the public benefit?
- How much of that benefit is the result of your work?"

 Maurice McTigue, Distinguished Visiting Scholar, Mercatus Center, George Mason University

The Project Exile Task Force first identified that the violent crime rate and the number of murders were extraordinarily high in a city of just more than 200,000 people. Drawing on the resources and data brought to the table by task force members, the group identified three root causes of the high crime and murder rate: high "carrying" rates; territorial disputes that resulted in gun crimes; and shortcomings in the legislation that hindered the deterrent effect of arrest and prosecution. Thus, Project Exile defined its goal and objectives accordingly.

Goal: To prevent the use of guns in the commission of crimes.

Objectives: Reduce the carrying rates; enforce existing gun laws; and pursue new legislation, along with the option of federal prosecution, to give the project "teeth."

The Project Exile goals and objectives are clear, reasonable and most importantly measurable. Certain official criminal justice data are monitored and reported regularly:

- crime and murder rate;
- number of gun seizures;
- number of gun cases indicted and prosecuted locally and federally;
- percent of arrestees held without bond;
- number of persons convicted; and
- length of sentences.

While other jurisdictions may implement different strategies based on their unique problems, the overall goals are likely to be the same: to reduce violent crime and save lives. Depending on the strategies implemented, other appropriate measures might include:



- Emergency room admissions for gunshot wounds;
- 911 calls about gunshots;
- Number of Brady denials;
- Community members' perception of safety;
- Sales of certain types of ammunition;
 and
- Awareness of the strategy among the general public and among the criminal population.

KEYS TO SUCCESS

Project Exile serves as a model for similar programs operating in several major cities, including Rochester, NY; Birmingham, AL; Camden, NJ; Philadelphia, PA; Oakland, CA; Dallas, TX; and Baton Rouge, LA. Although Project Exile "can't be franchised out like McDonald's," in the words of former Richmond Police Chief Jerry Oliver, Sr., there are certain key elements that should be considered:

Leave your egos at the door. Project Exile depends on an active team. Every team member must have an assigned role and a clear picture of how that role contributes to the ultimate goal of saving lives.

Celebrate success. Reward the federal/state/local team for its hard work in overcoming traditional rivalries toward the common goal of saving lives. Use the media, billboards and community functions to share the good news with the community.

Work closely with your community.

Build into the program strong community policing and community prosecution initiatives. Make sure law enforcement continues to be visible and active in the community. Commonwealth's Attorney David Hicks has even considered setting up a Project Exile Citizens Committee to strengthen the program's link with the citizens of Richmond.

Keep the message simple, visible, and consistent. The public message must be prominently and repeatedly displayed in a variety of formats and venues that will reach the target audience.

Strengthen penalties and maximize enforcement. In 1999, the Virginia General Assembly passed legislation imposing mandatory minimum sentences for selected weapons-related crimes, similar to the federal legislation that is the foundation for Project Exile. Specifically, Virginia's new statutes substantially increased the amount of time served for certain crimes, as follows:

- § 18.2-308.1 Possession of firearm or weapon on school property: five years
- § 18.2-308.2 Possession of firearm or concealed weapon by violent felon: five years

Possession of firearm or concealed weapon by nonviolent felon: two years

§ 18.2-308.4 Possession of firearm and possession of schedule I or II drug; five years

Possession of firearm and distribution of schedule 1 or II drug: five years

Possession of firearm and distribution of > 1 lb. of marijuana: five years



"Project Exile is a strong deterrent to gun violence in Virginia. As Governor of Virginia, I will continue to support strict enforcement of gun laws and the promotion of effective measures to prevent gun-related violence. The safety of our citizens and communities is my top priority."

-Governor Mark Warner

THE FUTURE OF PROJECT EXILE IN VIRGINIA

Paul J. McNulty, recently sworn in as United States Attorney for the Eastern District of Virginia, has already announced that reducing gun violence will be a major focus of his administration. McNulty intends to aim his office's resources "at trying to help people in communities where violent crime has overwhelmed them."

McNulty's top priority is forming solid relationships with local law enforcement. He is meeting with every local commonwealth's attorney, sheriff and chief of police in his jurisdiction, and has named an Assistant U.S. Attorney in each of his four offices as a coordinator to contact and share information with local prosecutors and police.

Additionally, he has hired a veteran drug enforcement agent to be his liaison to local law enforcement. This individual attends every meeting with police chiefs and prosecutors with the goal of "building and keeping relationships first-rate." In January 2002, McNulty convened a "Summit on Gun Violence" for his district to discuss top criminal justice priorities, including taking more criminals off the streets by using the federal gun charges of Project Exile. He urged local police and prosecutors to bring more cases to his office for federal prosecution, especially when federal tools can be used to convict elusive criminals. "That way, somebody who is a future victim of this guy isn't a victim. That's what this is all about. It's got to be about making people safer."



"If we're going to have a partnership, it has to be built on a shared view of what we're going to do."

—Paul I. McNulty,

U.S. Attorney,

Eastern District of Virginia

RESOURCES

Technical Assistance:

American Prosecutors Research Institute Suite 510 99 Canal Center Plaza Alexandria, Virginia 22314 www.ndaa-apri.org/apri/index.html 703-549-4253

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