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April 6, 2020

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Written Testimony for the President's Commission on Law Enforcement Crime Reduction Hearing

The Issue: *Reducing Gun Violence in America*

As the chief federal law enforcement officer in Eastern Virginia, reducing gun crime is one of my highest priorities. At a time when our commitment to public safety will be tested, law enforcement must maintain a constant and vigilant presence in our communities. It is in times like these, when we face an unprecedented public safety challenge that is impacting everyone's lives, that it is especially important to uphold the rule of law as a bulwark against social unrest. The destabilizing effect of gun violence in our communities is more important to combat today than ever before.

The number of firearm deaths in America has risen slowly but steadily over the last twenty years. In November 2019, Attorney General Barr announced Project Guardian, an initiative to reduce gun crime, which is particularly important considering there are approximately 40,000 gun deaths every year. In 2017, on average, there were 105 gun fatalities *every day*—a fact often overlooked in light of mass shootings, which amounted to 117 deaths over that entire year. The impact of gun violence extends well beyond those cases that end in death: any shooting results in serious and sometimes debilitating injury, often requiring life-long medical attention.

The Scope of the Problem:

Criminals' accessibility to firearms and the interstate trafficking of firearms are leading causes of the high rate of gun violence in America. Eighty-five percent of criminal firearm possessors were not the original purchaser. Forty percent of those crime guns are from straw purchasers—individuals who “lie and buy” for others—40% are from friends and family members, and about 10% are stolen. Locally, nearly 40% of the crime guns recovered in our nation's capital were purchased in Virginia, which is why responding to straw purchasing of firearms is particularly important. Equally important is the need to aggressively and proactively take on the small number of offenders who are responsible for most gun violence. Nationally, it is estimated that just 6% of criminals are responsible for over 60% of violent crime.

Eastern District of Virginia Response:

Collaboration and strong partnerships are essential to the effective reduction of gun violence. In Eastern Virginia, we have gotten our strongest results when we have taken a proactive and

collaborative approach to our investigations and prosecutions. The following four areas have contributed to the significant strides we have made in reducing the violent crime rates in our area.

1. Federal/State/Local Collaboration:
 - a. *Project Guardian-DMV* (D.C., Maryland, Virginia) is a multi-agency federal and state illegal firearms initiative comprising Assistant United States Attorneys from the Eastern District of Virginia (EDVA), Western District of Virginia, D.C. U.S. Attorney's Office, and Maryland U.S. Attorney's Office; Supervisory ATF Special Agents from D.C., Maryland, and Virginia; a Lieutenant from the Virginia State Police; and a Maryland State Police Commander. The initiative's purpose is to reduce gun violence by quickly coordinating firearms trafficking, false statement, and violent crime investigations and cases among multiple jurisdictions. The group meets bi-monthly to coordinate efforts, share information, and evaluate legal and investigative approaches to combat new firearms trends and technology, such as the rising number of "ghost guns" (firearms made by an individual, without serial numbers or other identifying markings). Similar collaborative models are underway throughout the rest of our District.
 - b. *Operation High Tide*: This ATF-led operation used a team of informants who made controlled purchases of narcotics and firearms in targeted high-crime neighborhoods in the Hampton Roads region in southeast Virginia. As of December 2019, Operation High Tide has resulted in 20 federal convictions and the seizure of 78 firearms from the hands of criminals, many of them felons with prior violent crime convictions. Data on the region's most active violent offenders was consulted as part of the strategy informing this proactive investigation, which was modeled after its successful 2017 predecessor, *Operation Riptide*. That ATF-led operation resulted in 17 federal convictions and the seizure of a significant number of street guns—totaling 10% of the city of Norfolk's annual seizure of firearms. The Norfolk violent crime rate fell to its lowest level in 32 years following the execution of *Operation Riptide*.
 - c. *Violent Crime Initiative (VCI)*: Our Richmond office created the VCI program in Richmond and Petersburg to target illegal gun "hot spots" generating a disproportionate amount of violent crime. For each location, the USAO leads a working group made up of federal, state, and local law enforcement partners focused on reducing crime in violence-plagued areas. The team conducts proactive investigations, re-opens "cold case" homicide and shooting investigations, pursues preventive enforcement operations, and designates cases for federal or state prosecution with an eye towards maximizing our impact and resources. Relying on real-time, street-level intelligence, the VCI identifies and focuses on taking violent criminals and illegal guns off the street.
2. Prioritizing Straw Purchase Cases

Defendants who straw purchase and resell firearms rarely, if ever, do so with any regard for the consequences of their actions or consideration of who might be hurt by the guns they

knowingly put in the hands of felons and other individuals restricted from owning firearms. These criminals cannot be seen as mere “middle men,” but instead should be viewed as enabling criminals who fuel the fire of downstream violent crime. The impact of their trafficking will continue to reverberate throughout our communities long after they are sentenced. For that reason, prioritizing the investigation and prosecution of straw purchasers has significant deterrent value.

In February, a man our office prosecuted was sentenced for straw purchasing 35 firearms, including guns that were recovered by law enforcement after being used in violent crimes in Maryland and Washington, D.C. The month before, EDVA prosecutors convicted a woman of purchasing 31 firearms for her boyfriend, who was legally prohibited from buying them himself and who later resold them on the street. One of the guns in that case was later used in a drive-by shooting. Choking off the source of supply is critical in stopping the flow of firearms to violent criminals.

3. Proactive Investigations Utilizing State-of-the-Art Technology

At the federal level, we are fortunate to have the ability to launch proactive investigations. This allows us the time to cultivate multi-jurisdictional and multi-agency relationships, develop confidential informants, infiltrate and map large-scale criminal enterprises, and better understand how we can maximize impact in our prosecutions. We use those inherent advantages of federal prosecution to backstop our state partners, take on criminal organizations, and target serial violent offenders, which often ends in significant sentences.

Because the same weapon is frequently used in multiple gun crimes, the National Integrated Ballistic Information Network (NIBIN) is an effective tool in reducing gun violence. NIBIN is a specialized computer network that contains digital images of ballistic evidence recovered from crime scenes. This technology allows law enforcement to determine if ballistic evidence is tied to a particular recovered firearm—or whether the same firearm, even when not recovered by police, was used in multiple shooting events. That kind of ballistic linkage was particularly helpful in a racketeering investigation against a violent gang in the Norfolk Division of EDVA. The recovery of just one firearm led police and FBI agents to link evidence from five murders and six attempted murders committed by a small group of gang members over the course of several weeks. The shooters and their gang superiors were all successfully convicted.

Recommendations:

1. *Prosecution Coordination:* Depending on the defendant and the facts of a particular case, prosecuting it in federal rather than state court or vice versa may lead to a more significant sentence, stronger deterrence, and ultimately a reduction in violent gun crime. For this reason, coordination between state and federal prosecutors, in consultation with federal, state, and local law enforcement, is a significant tool law enforcement has at hand simply by virtue of our federal structure. Regular meetings to facilitate information sharing can maximize accountability for violent offenders. This should be done at the community level for maximum effectiveness.

2. *Targeted Enforcement:* A small number of criminals are responsible for a disproportionate number of gun crimes and violence. Additionally, most gun crimes take place in a relatively small geographic area. Focusing on those individuals responsible for driving most of the crime, together with “hot spot” policing and directed patrols, will reduce violent crime.

Predictive policing models can help agencies more effectively deploy resources to support these initiatives.

3. *Enhanced Crime-Gun Intelligence Coordination:* Law enforcement agencies should collect and quickly process ballistics evidence in all shootings, including random shootings and those in which no one is hit. Running all ballistic evidence through NIBIN will help police departments connect crimes and allow for focused deployment of resources and proactive investigations against a community's most violent offenders.

4. *Certainty of Punishment for Illegal Possession of a Firearm:* Because the consequences of illegally possessing a firearm vary state by state, education campaigns alerting the public of the consequences of illegally carrying firearms, together with relentless prosecution of felon-in-possession cases, will help deter the illegal firearm possession at the root of most violent gun crime.

5. *Reduce the Number of Guns Illegally Entering the Black Market:* Because the shooter in a violent crime usually is not the original purchaser of the weapon, law enforcement agencies should vigorously investigate and prosecute straw purchasers.

Conclusion:

The success in any initiative will depend on the concerted effort of a strong team—one that transcends jurisdictional boundaries, goes beyond a single police department or federal agency, and often crosses state lines. This effort must be focused, constant, and play to the strengths of all the participating stakeholders. As I have seen in Eastern Virginia, well-coordinated efforts can make a difference, and our communities are safer as a result.