

Project Exile may help put teeth in gun-crime sentences in

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SUNDAY GAZETTE-MAIL While an effort to saddle West Virginia's gun-using criminals with tougher federal sentences is still in the planning stages, similar Project Exile initiatives in other cities have resulted in big increases in indictments and convictions.

Prosecutors in U.S. Attorney Rebecca Betts' office have held a few meetings with representatives from police departments across the state to discuss how to funnel gun-crime defendants into federal court.

There, they face longer and more restrictive sentences. For instance, under West Virginia law, a previously convicted felon found with a firearm may be charged with nothing more than a misdemeanor. In the federal system, he'd receive five years in prison.

Another example is a person convicted of selling drugs while carrying a weapon. In state court, the fact he carried a gun during the crime would have no bearing on his sentence, while the feds would tack on five more years.

Such programs depend on local police to recognize the potential for heavier offenses and forward the cases to the Bureau of Alcohol, Tobacco and Firearms or directly to U.S. attorneys.

Richmond, Va., launched its Project Exile program two years ago, to applause from some and criticism from others. Project Exile has been credited with a 36 percent drop in fatal shootings since 1997.

Conviction rates approach 90 percent.

The National Rifle Association is a fan, to the derision of gun-control groups that say its support is a public relations move.

Such projects do seem to meet the NRA's challenge for government to more rigidly enforce laws already on the books.

Some U.S. district judges, however, resent having new cases dumped in their laps. Federal prosecution is more costly than on the state level.

Additionally, black leaders complain that such efforts virtually assure conviction for black youngsters charged. Today's prisons are already predominantly full of young black men.

One thing is undeniable, however. Such projects have the numbers on their side.

'A homicide waiting to happen' In Philadelphia, first assistant U.S. attorney Michael Levy said his office has issued 211 gun-related indictments this calendar year under that city's "Operation Cease Fire" tag, encompassing about 250 individuals.

That's compared with only 60 people indicted in 1998.

The great majority of cases, Levy said, come out of the city of Philadelphia, as opposed to surrounding counties. Philadelphia, Levy said, is the "area with the biggest problem, and the court system the least equipped to handle it." Levy estimates that the city and county of Philadelphia take on 4,000 to 5,000 new gun cases a month. If local judges start handing out stiff sentences,

he said, "everybody starts asking for a jury trial and the whole system will break down." Two assistant district attorneys have been assigned from Philadelphia County to the U.S. attorney's office, Levy said, to handle the heavier load.

A paralegal helps screen cases. After that cut, they're sent to Huntley Palmer, chief of the Philadelphia office's firearms section.

Levy's prosecutors are looking for prior felons who have managed to escape federal prosecution.

"We screen them so we're not taking people with truly minor offenses," he said. "Someone with three prior armed robberies is exactly the type of person we want to see put away for 15 years. He's a homicide waiting to happen, and we don't wish to see it." Prosecutors in Levy's office dub the city/county response to gun crimes as inadequate.

"A lot of these people are getting probation or three months in the county prison for carrying a firearm when they have prior convictions," Levy said.

What additional strain has this placed on his office?

"We're surviving, so far," he said.

The office hired three more people and received two more on loan from the county district attorney's office.

Levy is frank about the impact such enforcement might have on the office's operation.

"I can't believe that all of a sudden we're focusing so heavily on guns that something isn't suffering along the way," Levy said. "It's a trade-off. Right now we feel gun violence is extremely important, and it's something we need to focus on." An advertisement for prison time Charleston's U.S. attorney's office can't yet point to any extraordinary indictment or conviction numbers, says **Mike Callaghan**, chief of the office's criminal division.

"It's an ongoing project," he said. "It's hard for me to tell you it's lined up and done yet. We've started the conversation between everybody." Attempts to reach the police chiefs of Huntington, Parkersburg and Beckley were unsuccessful. Meetings began a few months ago, said Callaghan.

Neither Charleston detectives Pat Epperhart nor Mark Carlson could say how many recent department gun cases have been referred to ATF agents and on to the U.S. attorney's office.

Both Epperhart and Carlson said Charleston police have always handed over to ATF agents cases they see as federal-court material.

Carlson said he wouldn't guess that agents have seen an increase in Charleston police referrals. He said Charleston police procedure is pretty much the way it's always been.

"This is all relatively new to us," Carlson said.

He did say that he and others investigate the criminal histories of those arrested a little more closely to see if they can be handed over. Examples are those arrested for possession of a firearm or for carrying a dangerous weapon.

Callaghan said his office has explored advertising whatever program takes shape. Richmond did just that with billboards that read, "An illegal gun gets you five years in federal prison." One issue to be decided is who will pay for the ads.

"How do we get the word out?" Callaghan asked. "Some of these people don't understand how

harsh the penalties are." Not all cases are hard to figure out.

Last month, Charleston police were looking for Lloyd Frederick Arthur Jr., 42, of Texas, a fugitive.

They discovered a car on the lot of the Elk River Town Center Inn.

Arthur matched the fugitive's description.

When police went to question him, he took off running. He later pulled a pistol from his waistband and jumped behind a van.

Arthur jumped from behind the van with his hands in the air, telling officers to shoot him. They ultimately wound up pepper-spraying him.

They found the pistol under the van.

"There were a number of felony convictions on the guy," Carlson said.

"He certainly got a federal referral." To contact staff writer Greg Stone, call 348-5195.