

Guns are not a crime issue, Criminal users of guns are the crime issue.

Statement of
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"Carry a gun. Go to jail." Reads the card from Baltimore's Project Disarm (enclosure 1.).

The Sun has given the lie to this card and an explanation for the poor crime rates in Baltimore. In its article, "Tough gun law, timid enforcement," Caitlin Francke, 1/30/00 (enclosure 2.), the Sun finds that less than one in four people charged with gun crimes will get the mandatory 5 year prison sentence already required by Maryland Law. That article blames the revolving door justice system and enforcement failure for criminals being allowed to prey again and again on Maryland residents.

The family of slain police officer Bruce Prothero likewise gives the lie to that card and blames the criminal justice system of Maryland for the loss of Sergeant Prothero (see Channel 2 news report on 2/20/00 and the Baltimore Sun Article, "Bail denied for Moore brothers" 2/21/00 enclosure 3.). The killers of Sargent Prothero included one person awaiting trial on a previous murder charge. The other killers all had prior criminal records also.

An analysis of crime in Baltimore finds murder rates 15 times that of Montgomery County. The rate of violent crimes in Baltimore has averaged more than 9 times that of Montgomery County for more than 23 years. (Ref. **Maryland and Local Crime**, 14 March 1999 study available at URL www.mcdl.org/MD_Info/Crime97/index.htm). Also, Maryland has ranked number one in robbery for the last four years according to data published by the FBI Uniform Crime Report. The reason for this persistently high rate of crime is not the availability of guns -- that availability is the same in Baltimore City as in Montgomery County. Francke's article and Sargent Prothero's family statement gives the reason as the breakdown of law enforcement in Baltimore City.

Nor should Montgomery County be regarded as an ideal for Maryland. The Washington Post article "Crime in Two Counties" By Gareth Davis and David Muhlhausen, 12/9/99, page A45 reports that Montgomery has a violent crime rate of 2.4 times that of Fairfax County (see enclosure 6.). A difference which the Post claims should not be happening since "the two counties have almost identical socioeconomic profiles" and almost identical "racial, ethnic and family composition." The Post recognizes the potential effects on crime because of the deterrence provide by Virginia's concealed firearm carry policy and the stronger Virginia enforcement policies.

We are here to speak truth about gun control. A breakdown in law enforcement will not be cured by gun control measures being offered here.

Maryland doesn't need more gun control laws. Those laws are ineffective against criminals and weaken the law-abiding people's ability to protect themselves.

Maryland doesn't need more politicians posturing with gun control measures to pretend that they care about public safety. Most people are good and decent and the government needs to empower them to protect themselves.

Maryland doesn't need personalized guns (they won't add anything to public safety). Would a personalized gun have the degree of reliability to operate after being neglected for years like the .38-caliber Smith & Wesson which saved the life of 83 year old A. D. Parker (see

“Old, neglected gun kills armed intruder,” San Francisco Examiner, Feb. 22, 2000 – enclosure 5)? Would Mr. Parker have the strength to operate a gun with some of the child-proofing being proposed in Maryland. Well, there are nearly 600,000 Marylanders older than 65 all of whom may have difficulties operating "child-proof" guns. The firearm they use for that purpose they must be able to operate and it must function after years of neglect.

Do Maryland politicians even care about the needs of victims to defend against criminal predators?

Now anecdotes do not give us the broad picture of benefits and costs needed to decide issues of public safety in a rational manner. However, they allow us to put a face to people whose lives would have been effected by policy decisions. Mr. Parker is one such face that made the news because an intruder was killed. For every such case where an intruder is killed, there are many thousands of cases where simple brandishing of a firearm is enough to stop an attack (see Table 5.1, **Targeting Guns: Firearms and Their Control**, Gary Kleck, New York, 1997). While these brandishing cases do not make the news, they happen and are important to public safety. Maryland doesn't need stricter gun control laws because they represent government avoiding positive actions to improve public safety and they reduce the capability of people like Mr. Parker to defend themselves.

Maryland does need to improve performance in law enforcement.

Maryland needs old time enforcement of laws against violent criminals (catch them, try them quickly, and lock them up for a long time). There is no reason to conclude that additional tougher laws will be any more diligently enforced than the existing dormant laws which cry out for enforcement.

Maryland needs concealed carry reform to permit the decent people to protect themselves since the government of Maryland has abdicated its responsibility to protect the public.

Maryland needs to hold adults responsible when they allow children access to guns. The laws to do so already exist, but they must be enforced.

Within the framework just described, we have comments on several bills being proposed in the Maryland Legislature.

Bill Number & Title	Position
SB 5 – Weapons – Disarming Law Enforcement or Correction Personnel - Penalty	<p>Disapprove</p> <p>This bill makes no provisions for citizens defending themselves against unlawful use of authority or force by police officers. For example, if this law were in effect for a Rodney King like beating and a citizen intervened to halt the excessive use of force by taking a policeman's night stick, then that citizen would face a \$10,000. fine and 20 years in prison.</p>
SB 211—Responsible Gun Safety Act of 2000.	<p>Disapprove</p> <p>The bill establishes a quasi-judicial process outside of the courts and not subject to the Administrative Procedure Act to justify seizing handguns. This bill denies due process and gives no compensation for seized property contrary to the U.S. Bill of Rights (Amendment V - ...nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.)</p> <p>This bill permits the destruction of valuable property (firearms) rather than recycling them to law-abiding citizens. This waste of taxpayer funds cannot be justified when insufficient money is available to meet current need as evidenced by the unwillingness to fully sentence violent criminals (Baltimore Sun, Front page 1/30/2000, "Tough gun law, timid enforcement")</p> <p>The bill requires firearm safety training which it does not define. The requirements for this training and the funding of training programs should be addressed.</p> <p>The bill requires firearm fingerprinting which is likely to be expensive without adding much value to crime prevention or to the solving of crimes since it is relatively easy to alter gun signatures. Also, gun tracing stops with the last legal owner. More than 340,000 guns are reported stolen each year to the FBI ("Guns and Crime 1994", Bureau of Justice Statistics Data Brief, NCJ-147003). For stolen guns the fingerprint will be relatively useless. This measure is aimed at crimes committed by a person without a criminal record who buys the gun in a legal market and who is ignorant enough to not alter the signature.</p> <p>The bill establishes a commission to determine when personalized guns are available but does not establish criteria to be used by the commission in making that determination. This lack of criteria is a fatal flaw. Criteria should be defined in terms of reliability, availability, operability, and suitability for use. The bill establishes a commission to effectively make law outside of the legislature of Maryland in the area of these criteria. The bill permits the Governor to disagree with the commission about the availability of personalized handguns without the bill defining what the effect of that disagreement is on handguns sold within Maryland and the operation of this law. A dangerous precedent would be set that would give some future governor absolute power to enact a law conditionally passed by a previous legislature, and at a time of the governor's own choosing.</p>

SB 211—Responsible Gun Safety Act of 2000. (continued)

This bill permits the state to conclude that an 18 year old adult has, "... based on the results of investigation, good and substantial reason to wear, carry, or transport a handgun ..." and still deny a permit. It would seem that the state, concluding that a person's life was in danger, is obliged to permit the carry of a handgun unless the person was an actual threat to public safety.

Personalized guns have a role to protect police when they become suitable for such use since a number of officers lose their lives each year when shot with their own handguns. However, this bill exempts police from using these guns. That exemption suggests these guns cannot be made sufficiently reliable for defensive use and establishes a precedent that sets the police apart in privilege and power.

Conventional wisdom says that "smart" guns could play a role in protecting children, and doing so in a means analogous to that of child "safety" caps on medicine bottles. However, research has shown that, since the advent of so-called "safety" caps in the U.S. in 1972, accidental poisonings of children increased by 3500 cases per year (Viscusi, W.K., "The lulling effect: The impact of child-resistant packaging on aspirin and analgesic ingestions." **American Economic Review**, 74, 324-327 (1984)). Nearly every poisonous or hazardous substance currently sold has a "childproof" cap, yet according to the National Safety Council, poisonings increased 108% between 1980 and 1994. Researchers attribute this alarming increase to a lulling affect on parents who, as a result of blind faith or a false sense of security in "childproof" products, have been less than diligent in taking the appropriate and timeless safety precautions (**Target Risk**, by Gerald J. S. Wilde, Ph.D., Chapter 6.3: "Lulled into an illusion of safety", PDE Publications, Toronto (1994)). The unintended consequences of this legislation will be an increase in child gun accident deaths, and not the decrease being sought by misplaced "common sense." We expect adoption of this law to reverse recent trends in accidental gun deaths which, according to the National Safety Council (www.nsc.org/lrs/statinfo/99008.htm) are at their lowest levels in nearly 100 years. As one Canadian researcher put it, "Safety is in people, or else it is nowhere." (Gerald J. S. Wilde, Ph.D., Professor of Psychology, Queen's University, Kingston, Ontario).

The bill should address attempts to alter personalized guns and establish penalties for such alterations. The bill should also establish criteria for the ability of the personalized handgun to resist tampering.

Paragraph (16) of Article 41 should be changed to prescribe standards for the certified firearms safety training course and require that course to be taught prior to graduation from High School.

The bill establishes a Cease Fire Council to advise on innovative methods to reduce firearms violence. Since murder with knives and blunt objects has increased approximate 60% in 1998 over 1997, we feel that addressing violence is far more important than the tool used for violence. This Council's charter is far too narrow to be useful. Since, in Maryland, the most effective way to reduce violence is through vigorous prosecution with mandatory minimum sentences and in Maryland that use is innovative, we think the answer to violence is already available (and the Baltimore Sun agrees, see enclosure 2.) so this council is a waste of time and money. Maryland's violence problem stems from inadequate prosecution and imprisonment of perpetrators. The whole notion that the tool used for a murder is more important to address than the perpetrator is obscene. The proposed council is a sideshow which appears to be designed to take attention from the real issues.

HB 166 - Firearms Offenses -
Project Exile And Companion Bill SB
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Approve with amendments

This legislation imposes a mandatory 5 year minimum sentence for persons convicted of possession of, intention to use, or threatening display of a firearm while on public school property. We would, however, amend this article to include private schools as well. However, given the reluctance to impose mandatory minimum sentences documented in the Baltimore Sun (1/30/2000, "Tough gun law, timid enforcement") we wonder why these provisions are included here. What makes these sentences more "mandatory" than those of the law passed in 1972?

This law makes simple possession of a firearm or for that matter a pen knife or baseball bat on school property a misdemeanor with a three year prison sentence. The provisions of Article 27 (a 1) are overly broad and should be narrowed and related to an intent to threaten or do harm as is the proposed Article 27 (a 2). Relatively innocent violations, such as a parent bringing a pen knife or a baseball bat onto school property, should not be misdemeanor crimes.

We would like to see a standard set for speedy trial in the case of violent criminal activity or simple possession of a firearm by a person disqualified to do so. Additionally, some provision should be made for additional space in state prisons.

This bill includes additional provisions for conditions that may be imposed by the court in monitoring and limiting the whereabouts and behavior of a defendant during pre-trial release.

SB 234 – Self-Defense Act – Rule of Law

Approve with Amendments

This bill could have a significant impact to improve public safety with some minor amendments.

Firstly, it should be made clear that a permit is not required to transport a handgun to a range, to and from a person’s residence from their place of business, etc.

Secondly, it should be made clear that the permit covers concealed carry and the bill should provide rules for such carry. Those rules should also cover permits issued by other states. See HB 597 Article 27 (F 2 & 3) for suitable wording.

Thirdly, the age limit (para. (a 1) of Art. 27) needs to be modified to leave it as 18 years or older. Much has been made of the handgun crimes of young adults. The statistical graph Figure 1 contained in the attached Enclosure 4 [“Discrimination – New Democratic Party Policy”?] shows such a peak from a histogram published by the ATF of data about possessors of guns submitted for tracing. In this ATF data only 14% of the gun trace requests are from violent crimes. That is, 86% are for cases where the gun was not used for violence (e.g., technical violations). Figure 2 from the same reference shows an age histogram of adjudicated cases of criminals entering Federal prisons. That histogram shows no such peak as the ATF data. Moreover, the ATF data represent only 0.045% of the population of 18, 19, and 20 year old adults or 1 in 2229 citizens. Maryland will place at risk the self-defense rights of 2228 citizens for every 1 who will commit a technical violation of the firearms law. Even worse is that Maryland will place at risk these rights for more than 15,500 residents for every violent criminal in the population group and ignores the benefits of the screening provided by the bill to prevent such criminals from getting the permit. We remind you that this law would have prevented the most decorated American soldier of World War II (Audie Murphy) from obtaining a permit after being released from the Army had it been in effect in 1945 (he was released on 21 September, 1945 at the age of 20 – he lied about his age to enlist at age 17). Since 18 year old citizens marry, have families, support children, vote, serve in our armed forces, engage in contracts and do all manner of things permitted adults, to make it impossible for such a citizen who is threatened to avail himself of otherwise legal means of protection is not justified.

Fourthly, the limitations on calibers of handguns to be used in training (para. (B 2 and 3) of Art. 27) should be modified to permit 0.32 caliber or larger handguns to be used in the training. As written, .45, .44, .41, .40, .380, and .32 caliber handguns are disqualified. Now, some of the smaller caliber handguns may be all that can be handled by women or some of the frail elderly. And we see no reason to disqualify larger caliber guns which are popular with police or surplus military handguns.

Fifthly, the penalty that could be imposed for a permit holder who might transport a firearm in the trunk of his car while under the influence of alcohol seems excessive. We suggest the bill be modified to treat that case separately with loss of permit and fine only.

Approve with Amendments

The age limit (para. (a 2) of Art. 27) should be modified to leave it as 18 years or older. Much has been made of the handgun crimes of young adults. The statistical graph Figure 1 contained in enclosure (4) [“Discrimination – New Democratic Party Policy”?] shows such a peak from a histogram published by the ATF of data about possessors of guns submitted for tracing. In this ATF data only 14% of the gun trace requests is from violent crimes. That is, 84% is for cases where the gun was not used for violence (e.g., technical violations). Figure 2 from the same reference shows an age histogram of adjudicated cases of criminals entering Federal prisons. That histogram shows no such peak as the ATF data. Moreover, the ATF data represents only 0.045% of the population of 18, 19, and 20 year old adults or 1 in 2229 citizens. Maryland will place at risk the self-defense rights of 2228 citizens for every 1 who will commit a technical violation of the firearms law. Even worse is that Maryland will place at risk these rights for 14,000 residents for every violent criminal in the population group and ignores the benefits of the screening provided by the bill to prevent such criminals from getting the permit. We remind you that this law would have prevented the most decorated American soldier of World War II, Audie Murphy, from obtaining a permit after being released from the Army had it been in effect in 1945 (he was released on 21 September, 1945 at the age of 20 – he lied about his age to enlist at age 17). Since 18 year old citizens marry, have families, support children, vote, serve in our armed forces, engage in contracts and do all manner of things permitted adults, to make it impossible for such a citizen who is threatened to avail himself of otherwise legal means of protection is not justified.

The phrase “or an alcoholic” in Article 27 (a 5) should be modified to “HABITUAL DRUNKARD” since being an alcoholic is a physiological condition which does not mean that the person is under the influence of alcohol habitually.

Item (7) of Article 27 (a) is overly broad and denies due process. We recommend it be modified to disqualify on upon an adjudication by a court that the commitment is because the person is a danger to himself or the community by reason of a mental.

We recommend that Article 27 (N) be modified to include: THE SECRETARY SHALL MAINTAIN AN AUTOMATED RECORD OF ALL CRIMES CHARGED AGAINST HOLDERS OF PERMITS AND DISPOSITION OF THOSE CHARGES AND ALL OTHER REASONS FOR REVOCATION OF PERMITS. THE SECRETARY SHALL MAKE AVAILABLE TO THE PUBLIC THESE RECORDS OMITTING ONLY DATA IDENTIFYING THE PERMIT HOLDER.

<p>HB 444 Firearms – Disposal Requirements for Law Enforcement Agencies</p>	<p>Disapprove.</p> <p>HB 444 attempts to hold police departments and the Maryland tax payers responsible for the acts of criminals. Since automobiles are also used in crime, and account for 25 times more accidental deaths than firearms, one would think that this bill should be amended to require that all police cars be melted upon retirement. While that approach might seem ludicrous, it is no less fiscally irresponsible than destroying firearms that could actually cover the costs of providing law enforcement with the latest state-of-the-art weaponry. This is a de facto increase in the tax burden as fiscally-strapped police departments must now find more revenue to cover the purchase of the best equipment for their officers, or use dollars already allotted for ballistic vests, overtime, undercover investigations, or community policing. We view this bill as just another attempt to "spread the guilt" of judicial system failure so as to include the guns of the very men and women who have sworn to defend us. We don't buy it.</p>
<p>HB 1131 – Regulated Firearms License</p>	<p>Disapprove.</p> <p>This bill actually does nothing except issue “licenses” or identification cards to possessors of regulated firearms and open a regulatory door concerning a ill defined safety course. It is a little bit of “big brother” which outlaws nothing and adds nothing to the prevention of crime. Since criminals are unlikely to abandon their activities by reason of a safety course, this is yet one more burden applied to the law abiding gun owner.</p>
<p>HB 1139 - Crimes - Reckless Endangerment - Place in Fear by Use of Handgun</p>	<p>Disapprove</p> <p>The scope of this legislation is too narrow in at least two respects. This bill would establish mandatory penalties for using “a handgun to place a person’s spouse, parent, or child in fear of death or serious physical injury.” One must ponder why a person’s sister, brother, cousin, or uncle are not worthy of this same protection under the proposed law.</p> <p>Once again, the handgun is elevated to a demonic level not reserved for any other tool of violence, including the perpetrator himself. This bill offers no protection to the citizen who is in mortal fear of a person wielding a chainsaw, baseball bat, machete, or sawed-off shotgun. The narrow scope of this bill implies that fear of death from the potential threat of a chainsaw only becomes reckless endangerment if and when the offender also picks up a handgun. This is preposterous. It is also another example of meritless legislation treating implements as more fearful than the perpetrator who wields them. In any instance where one person has placed another in fear of their life, an offense has been perpetrated. It is the actions of offenders that are the universal factor. Threats made with any weapon in hand should not be tolerated, not just threats made with a handgun.</p>

Who We Are

Maryland Citizens Defense League (MCDL) is an organization of responsible gun owners established to defend the rights of law abiding citizens to keep and bear arms for any and all lawful purposes, especially the natural right of self defense. We are composed of engineers, scientists, entrepreneurs, doctors, nurses, college students, programmers, and even former candidates for the Maryland legislature. We style ourselves as a statewide organization to support our goals, and to that end, we currently have members in seven Maryland counties and Baltimore City.

Enclosure 1.

Carry a Gun. Go to Jail

Enclosure 2.

Tough gun law, timid enforcement

Courts: Nearly three decades after Maryland set strict penalties for gun crimes, the law has had little impact in Baltimore. Three out of four people charged with handgun violence serve less than the mandatory five years.

By Caitlin Francke Sun Staff

The case against Donnell Harris seemed rock-solid: When Baltimore prosecutors charged Harris with carjacking two men and shooting one of them, they were armed with a confession from his accomplice, testimony from the two victims and a cache of .38-caliber bullets found at Harris' house.

But when Harris pleaded guilty, he was sentenced only to inpatient alcohol treatment. He left after a month.

Days later, Harris and another man shot and killed a teen-ager and stuffed the body in the trunk of a car.

Like most gun-wielding criminals in Baltimore, Harris did not receive the mandatory five-year, no-parole sentence required by state law for those who use a gun to carry out their crimes.

In this city, where 300 or more people have been killed every year for the past decade, the tough gun law that was designed to help stop shootings and homicides is virtually ignored.

An analysis by The Sun of nearly 3,000 court records and interviews with criminologists, defense lawyers, prosecutors and judges reveals that fewer than one in four people charged with gun crimes will get the required five-year prison sentence.

The gun law was passed in 1972 after then-Gov. Marvin Mandel became alarmed by shootings near city schools. One student was killed. Searches by police turned up more than 125 handguns in students' hands. The law was designed specifically to eradicate gun violence by setting up mandatory penalties for violent offenders.

During a two-year period ending last year, 1,660 people were hauled into Baltimore's Circuit Court to face the strict handgun charges for hundreds of armed robberies, attempted murders, carjackings and homicides. In each case, the defendants, by law, faced prison terms of at least five years.

The Sun's analysis shows what happened instead. Between Jan. 1, 1997, and March 31, 1999:

- **Eighty percent of the tough gun charges were dropped or placed in the inactive file by prosecutors**, many times in an effort to win guilty pleas on the companion -- often lesser -- charges.
- **Of the 1,000 people convicted on those related gun charges, more than half did not go to prison for five years, the minimum sentence they should have received under the law.**
- Scores of defendants were released after pleading guilty, sentenced to the amount of time they had already spent in jail awaiting trial.
- One-third of those charged with using guns on city streets -- about 530 people -- were freed without a trial even though a grand jury or prosecutors found there was probable cause to believe they had committed the crimes.

Light sentences and abandoned cases, analysts say, have likely contributed to the city's persistently high rate of shootings and homicides.

The city's violent street culture "is way worse than being in the infantry in Vietnam," says Harvard University criminologist David Kennedy. "When we're dealing with chronic offending groups who have been arrested 10 times, you've got to use authority. You can't counsel people out of this."

Baltimore State's Attorney Patricia C. Jessamy gives two reasons why the gun law has rarely been enforced here: **To take all such cases to trial would overwhelm an already clogged system.** And, she says, reluctant or recanting witnesses handicap many cases.

"The vast majority of our shooting cases involve one bad boy shooting another," Jessamy says. "The culture [is] built on street vengeance and retaliation, and not giving assistance and support and testimony to police and prosecutors."

"There are some innocent victims, but they are not the vast majority ... not by any stretch of the imagination."

In Kennedy's 18-month analysis of the city's murder culture, he found evidence that supports Jessamy's view. His study showed that the city's violent crime is concentrated among a relatively small number of people. **Each suspect in a homicide had been arrested more than nine times, and each victim had been arrested more than eight times.** Sixty percent of the slayings involved people tied to the drug trade. But many familiar with the legal system say Jessamy's "bad boy" reasoning does not excuse the scattershot prosecution of gun violence by her office and by her predecessors, which, they say, has helped turn parts of this city into urban war zones.

While Jessamy says her office is targeting the city's most violent criminals, hundreds more continue to slide through the system.

Warren A. Brown, one of the city's most active defense attorneys, said in a recent interview that he was so troubled by the light sentences his clients were getting that he approached prosecutors last spring to warn them.

"There is a mentality out there [on the streets] that is created by the way these cases are meted out that says, 'It ain't all that bad,' " Brown says.

"As a professional defense attorney, I am going to keep trying to get these deals for my clients. As a resident of this city, it's frightening.

"It sends a bad message out there that we are not taking guns seriously."

Jessamy says she is doing all she can to crack down on gun violence with limited staff. Two years ago, she secured federal funds to create a unit dedicated solely to handgun violence, the Firearms Investigation Violence Enforcement unit.

That division has convicted more than 400 people for gun crimes in the past two years and is widely praised for its success. More than one-quarter of the convictions resulted in prison terms of 10 years or more. But the unit has only five prosecutors.

Since taking office, Jessamy has not taken meaningful steps to solve the witness problem, a common one for urban prosecutors, interviews and records show. Her office does not have a system to maintain contact with witnesses; nor do her prosecutors routinely enforce laws requiring them to come to court.

Jessamy says she has been hobbled by lack of funds. She has not been able to hire additional investigators to help prosecutors monitor witnesses and is asking the city and state for about \$6 million to increase staff. Police help, she said, but they are often swamped with other duties.

"People don't want to be found," Jessamy said. "If we had more people to develop relationships with these people earlier on, kind of keep their hands on them ... it would help."

She has nine investigators to track down witnesses and work with her 160 prosecutors. Philadelphia has 37 for 260 prosecutors; Chicago has 150 investigators for 935 prosecutors.

What has emerged with the recent rise in criminal cases is a move-the-docket culture in the city courthouse that numbs judges, prosecutors and defense lawyers to the violence outlined neatly in court files.

In one case, a man convicted of battling with a police officer while armed with a loaded .44-caliber revolver was sentenced to the seven months he had served awaiting trial. Prosecutors asked for 10 years, but Judge David B. Mitchell refused, saying the man had "only one gun in his possession."

In another, Judge Clifton J. Gordy remarked that an 18-month sentence was "a pretty good plea" in a shooting case undercut when the victim did not come to testify.

In Harris' case, the armed carjacker was sentenced to the 18 months he served awaiting trial and alcohol treatment -- and then went on to kill a man.

"I feel like the system murdered my son," says Therese Burrell, the mother of Dameon Burrell, Harris' second victim.

"They had a criminal right in their hands, and they chose to send him right back onto the street and not even give him the sentence the law states that he is supposed to get."

Burrell, 34, said she believes her son, who had been arrested twice on marijuana possession charges, was involved with drugs -- activity she tried to prevent by giving him extra pocket money so he would not "hustle."

Last year, Harris was sent to jail for the rest of his life for murdering Dameon Burrell.

Harris' first victim, Roger Mixon, is also devastated. He went to court several times to testify, only to see the case delayed. Finally, prosecutors told him they had worked out a deal that would send Harris to prison for 13 years, 10 without parole.

He was never told about the real sentence.

"We came to court to try to get [Harris] in jail. That guy [Burrell] would probably still be living now," Mixon says. "You got witnesses against a guy, and you let him right back out on the streets?"

Asked about the cases discussed in this article, Jessamy; her deputy, Sharon A. H. May; and her assistant, E. Francine Stokes, responded on behalf of the prosecutors.

May says that in the Harris case, prosecutor Jan Alexander wanted Harris in prison for 12 years but the defense persuaded the judge that Harris needed treatment for alcohol abuse.

Circuit Judge Mabel E. H. Hubbard, now retired, says she did not remember the case. But she says it would be "unusual" for her to give such a short jail term for a violent crime.

"If I gave somebody a 12-year sentence, suspend all but 18 months, I had absolutely no expectation that he would slap someone on the shoulder after that, let alone kill somebody," Hubbard says. "I take my best guess."

That is not what the authors of the law intended.

The law was meant to stop gun violence by creating escalating penalties for people caught carrying or using guns.

Defendants are usually charged with "using a handgun" as part of an armed-robbery or attempted-murder case. The idea was for defendants to receive a conviction on the crime and a separate conviction for using the gun.

First-time offenders must serve no less than five years without parole. If caught again, defendants must have a five- to 20-year sentence tacked onto the end of any other prison term.

The law is clear: The sentences are mandatory. The sentences can't be suspended. Five years, no parole.

"No court shall enter a judgment for less than the mandatory minimum sentence," the law states.

But nearly 30 years later, the law has not been effective in curbing violence in Baltimore. It is a standard charge issued by police and grand juries, but almost never used in the courtroom except as a plea-bargaining chip.

One result is that federal prosecutors have decided to take on more and more city gun cases in a project called DISARM.

In the past five years, prosecutors have used the tough federal laws to go after about 275 defendants, most from Baltimore. In 1999 alone, federal prosecutors indicted 96 people from Baltimore. The average sentence received was about 7.8 years.

Consider how Baltimore prosecutors handled a case against a man nicknamed "Brew."

At 18, Vernon Wright seemed an ideal candidate for the state's mandatory gun sentence, court records suggest.

On Feb. 20, 1998, armed with a .22-caliber revolver loaded with nine bullets, Wright went looking for someone to rob.

He found Charles Davis, 46, who worked two jobs to support his family. He ran a paint store during the week and delivered pizzas for Little Caesar's on weekends.

When Davis walked to his car that February night, \$12 in his pocket from his pizza delivery for a house in the 1100 block of Elbank St., Wright was waiting for him. The teen pointed his gun at Davis, screaming, "Give me your money! Don't look at me!"

Davis quickly gave him the cash. But Wright wanted more, grabbing at Davis' pockets. Davis fought back. The two struggled, and Wright shot Davis once in the right calf. Davis wrenched the gun away, and the teen vanished down the block.

His leg bleeding, Davis returned to the pizza store on York Road. He called police, and a month later he identified Wright from police photographs.

When the case went to court, Davis was ready to testify. Wright faced a maximum sentence of 20 years and a minimum sentence of five years. Davis said that each time he went to the courthouse, the case was delayed.

"It finally came down to, 'We'll call you if we need you.' They never called, and the next thing I knew, the trial was over," Davis says.

In April, prosecutor Andrea Mason dropped the gun charge with the mandatory five-year sentence, and Wright was sent to prison for three years after pleading guilty to armed robbery.

Davis says he spoke with Mason before the guilty plea and relayed to her that he didn't think a 20-year prison term was the best way to resolve the case. But he said he wasn't told about the actual sentence until later.

"It's a pretty crummy sentence," Davis says. "It hardly fits the crime. That's almost like a vacation."

The prosecutors' explanation for the low sentence?

May, the deputy state's attorney, says Davis was "reluctant" to testify because "he did not want to lose time from work." Stokes says Mason thinks she told Davis about the sentence when they talked before the guilty plea.

Told of May's comments, Davis responded: "Excuse me? I went down three days in a row, and nothing happened. I think they have gotten it slightly wrong. They were not very cooperative or accommodating."

The attempted-murder case against Antonio Fowlkes is an example of what happens when a victim is reluctant to testify against his assailant. It is also an example of how prosecutors often don't do all they can to bring the victim or witnesses to court.

On Dec. 2, 1996, Fowlkes shot 19-year-old Keith Patterson with a .38-caliber handgun after a neighborhood dispute. As bullets flew, Patterson leapt from a stoop and started to run away, but a bullet hit him in the buttocks.

Fowlkes and his accomplices vanished into the neighborhood, but several witnesses told police he was the shooter, court records say. He was arrested three weeks later.

Patterson twice failed to show up to testify. Prosecutor Stephanie L. Royster had sent him a letter and summonses to appear in court, but her efforts to secure his testimony stopped there.

When he didn't come to court, Royster could have postponed the trial and ordered him picked up by police - but Judge Clifton J. Gordy wanted the case off his docket.

So Fowlkes' fate was decided in June 1997 in nine minutes of hushed conversation among the prosecutor, the defense lawyer and the judge.

"Make me an offer he can't refuse," the judge told Royster, referring to the defense attorney.

She asked for two years on attempted murder. Defense attorney David R. Eaton counteroffered with 18 months.

"Sold," Gordy said. Eighteen months it was, with credit for the six months Fowlkes had served awaiting trial. But Gordy was concerned.

"Now, does it have to be attempted murder?" Gordy asked. "I gave a guy seven years, suspend all but 18 months on attempted murder? That's kind of like hard to justify on the campaign trail."

"How about assault?" the defense attorney suggested.

Laughter.

Sold.

The prosecutor dropped the mandatory five-year gun sentence, and Fowlkes pleaded guilty to first-degree assault and illegally carrying a handgun.

Fowlkes, then 18, was soon back on the streets -- and back in trouble.

Late at night on July 26, 1999, prosecutors say, Fowlkes was armed again. On an East Baltimore side street, Fowlkes and another man got into a gunbattle.

Twenty yards away, Carlton Valentine; his brother, Arnell Davis; and their cousin, Wayne Johnson, were sitting on the steps of Valentine's home at 821 N. Bradford St., drinking beer and trying to escape the stifling summer heat.

Hearing the shots, the three scrambled off the steps and lay flat on the sidewalk. "It was like the O.K. Corral," Davis says. "The bullets were flying." When the shooting momentarily ceased, the men tried to rush indoors. But more bullets whizzed down the street. One hit Valentine in the back.

"He told me, 'Brother, I'm shot. I got shot in the back,' " Davis, a forklift operator, recalls. "Wayne was screaming for help. I said, 'Man, we're going to get those guys.' "

Valentine, an auto mechanic and father of four, died at Johns Hopkins Hospital 50 minutes later.

Davis, who identified Fowlkes for police as one of the shooters, was furious when told of Fowlkes' previous conviction.

"There shouldn't be no plea bargains," Davis says. "It's bad when you can't sit on your own steps."

In an interview, Judge Gordy says that campaign concerns had nothing to do with his decision in Fowlkes' first case and that the comment was made "in a moment of levity which no one took seriously, including me."

He says the 18-month sentence was a "pretty good plea" since the victim did not come to court. Fowlkes had been awaiting trial for about six months, and Gordy says he did not want to delay the case more because of the defendant's right to a trial within 180 days of arraignment. All parties agreed to the sentence, he says.

"It looked like to me the choice of a postponement, which is a nasty word now, and it was then to me, or a dismissal. I obviously wasn't inclined to postpone the case, nor was the state able to proceed," Gordy says. "I feel horrible now, but I didn't have these facts in front of me. Hindsight is always beneficial."

Sometimes there is little that police, prosecutors or judges can do to persuade witnesses to testify. In all the cases cited by The Sun, victims or witnesses identified the assailants to police, but some stopped cooperating between the police station and the courtroom.

Some witnesses are afraid of retaliation. Some want to settle the score themselves. Some simply get lost in the empty months after police close a case with an arrest and before prosecutors pick it up to take it to court.

Dontaya Preston, 21, has escaped two attempted-murder charges -- and two potential life sentences -- in the past three years because his alleged victims refused to come to court.

Preston is described in court records as a drug dealer who uses a gun to settle scores, even pointing one, police say, in the face of a neighbor who came to the aid of his girlfriend when the pair were arguing.

On an October night in 1996, a man named Pernel Bequette was standing on a dimly lighted corner just south of North Avenue.

Word on the street was that Bequette had stolen a drug dealer's stash. The punishment was swift, severe and bloody.

Bullets ripped through the air. One. Then another. And another. And another, slamming into Bequette's back and neck as he tried to flee. Police found him bleeding on the concrete, left for dead.

After he recovered, Bequette broke the code of silence on the street. He told police who shot him. He picked out the shooter from police mug shots.

Then he vanished.

Police searched for months, even traveling to New York, desperate to make a case against Preston, known on the streets as "Beefcake."

Nearly a year later, with no witness to testify, prosecutor Sylvester Cox had to place the charges in the inactive file.

Preston had also been charged with assault and resisting arrest for fighting with the police officer who picked him up on the Bequette case. So prosecutors forged ahead with that case.

Preston pleaded guilty to assault for trying to wrench the officer's gun away from him during a struggle on the floor of an all-night store. He was given a sentence that amounted to the time he had already served.

The Sun recently found Bequette, 38, living with relatives on Long Island, N.Y., still with all six bullets lodged in his flesh. One "floats" around his neck, he said.

He is unrepentant about his decision not to testify.

"I didn't follow suit with that," Bequette says matter-of-factly when asked about the case. "I was just hoping that they would prosecute him for [another] murder."

He says he worried there would be retaliation against his family, who still live in the neighborhood.

"I know who shot me but, like I said, I didn't want it to backlash."

Preston was accused of shooting another man, Nawann Blandon, records say. Prosecutor Twila Driggins did not take the case to trial because the victim could not be located.

Preston's attorney, Robin Zoll, says no one will ever know who shot Blandon because he did not come to court.

"Who knows?" Zoll says. "The victims don't come to court in many of these cases. In all but one of the attempted-murder cases I have had in the past year, the victims did not come to court."

"One explanation for this may be that they do not want to be part of the court process but would rather settle their scores on the street."

Preston is awaiting trial on two felony drug cases and assault.

Police call Larry Haynes "an animal." With a rap sheet dozens of pages long, he has snaked through Baltimore's justice system time and again.

In 1997 alone, police allege, Haynes threatened his girlfriend at gunpoint in September, shot a man after a bar argument in October, had a loaded .22-caliber revolver in the trunk of a car in November and shot another man in December.

But Haynes has never been sent to jail for longer than a year.

Why? Witnesses recanted or did not show up for trial. Prosecutors dropped charges, or judges refused to give tough sentences.

Police say Haynes' string of violent crimes began in February 1995. Two women said Haynes and another man burst into a house in the 1000 block of Castle St., brandishing a "real big gun," and made off with \$39. Officers spotted Haynes running down Castle Street, jamming his .44 revolver into his waistband.

Officer Kenneth Jeffries gave chase. The two struggled. Haynes pushed the revolver inside Jeffries' vest and tried to pull the trigger. But the hammer of the gun got tangled in the straps of the vest, and it never went off.

Jeffries finally ripped the weapon out of Haynes' hands. After his arrest, Haynes had a message for him.

"I didn't get ya' this time, but I got something for your ass next time," he told Jeffries, according to court records.

Soon the armed-robbery case began to unravel. The two women recanted their allegations to a defense lawyer, then vanished before prosecutors could question them further. Prosecutors had to drop the charges, including two counts of the mandatory five-year-penalty gun charge.

A jury convicted Haynes in September 1995 of resisting arrest and illegally carrying the revolver.

He faced as much as 23 years behind bars. Prosecutor William D. McCollum asked Judge Mitchell to send Haynes to jail for at least 10.

"What we are dealing with here is a violent assault, assault involving weapons of mass destruction, weapons that are carried for the sole purpose of intending serious harm or death," McCollum argued.

But Mitchell was not swayed. "There was only one gun in [his] possession," the judge said.

The sentence? The seven months he had already served.

A year later, Haynes was back in trouble. He was accused of robbing and shooting three men on Oct. 26, 1996, as they lay face down on an East Baltimore street. Paul Preston and his friends were hit in their heads, backs and arms.

One stray bullet hit a 14-year-old girl as she walked down Port Street with a friend. All survived. Six weeks later, Preston identified Haynes for police.

The case was scheduled for trial nearly a year after the shooting. It was the first time Preston had seen Haynes since that night on Port Street. He told the prosecutor, Royster, that he wasn't sure Haynes shot him.

So Royster felt she had to cut a deal. In August 1997, she dropped the most serious charges, which could have sent Haynes to prison for life. Haynes pleaded guilty to carrying a handgun and second-degree assault.

He was sent to jail for a year, with credit for the eight months he had already served.

In a recent interview, Preston said he "wasn't sure right off the bat" whether it was Haynes who shot him. Haynes was heavier after time in prison and had a different haircut, he said. But after the guilty plea, Preston said he learned from "word on the street" that Haynes was the man who shot him. "I wish now I had [testified]."

In November 1997, Haynes was accused of shooting a man in a dispute over a beer, but that case was not prosecuted when the victim did not appear. The next month, he was charged in another shooting, but prosecutors dropped that case when the victim changed his story.

Mitchell declined to comment on the first case, saying he had no memory of it. He referred instead to statements he made in court.

Jack B. Rubin, who has defended Haynes against several criminal charges, said when prosecutors don't have witnesses to prove their case, they have to drop it.

"If these allegations are true, of course he's dangerous," Rubin says. "But the presumption is that he's not. No prosecutor can make a case without evidence."

For those trying to quell the city's violence, men like Haynes are all too familiar.

"He's basically an animal that plays with no rules, he doesn't follow any, and the system protects him," says Jeffries, the police officer who battled with him. "It happens every day, and after a while you become numb to it. If you were to take it personally, it would give you a heart attack.

"He'll do it again."

Originally published on Jan 30 2000

Enclosure 3.

Bail denied for Moore brothers

Extradition hearing set in Philadelphia for suspects in killing; 'No jubilation' for family; Prothero's relatives express frustration with justice system

By Dan Thanh Dang And Dennis O'Brien Sun Staff

As the family of a slain Baltimore County police officer gathered at a somber celebration of his youngest daughter's second birthday, two brothers charged in the fatal shooting were denied bail in Philadelphia yesterday.

Richard Antonio Moore, 29, and Wesley John Moore, 24, were being held in the lockup at Philadelphia police headquarters, awaiting transfer to that city's Curran Fromhold Correctional Facility. An extradition hearing has been set March 6.

The Moores appeared on video monitors for arraignment hearings that started about 6 p.m. and lasted about five minutes each.

After answering a few questions about his public defender, Richard Moore asked only one question of a court commissioner: "What if I was to fight extradition?"

That action would mean a delay in bringing him back to Maryland to stand trial in the death of Sgt. Bruce A. Prothero, who was shot Feb. 7 as he chased four men who fled from a Pikesville jewelry store after a daylight robbery.

The arrest of the Moore brothers Saturday afternoon ended an intensive 12-day manhunt and brought widespread relief to a grieving Baltimore County Police Department. Two other suspects had been arrested earlier.

The Prothero family expressed frustration yesterday over a justice system that fails to keep violent offenders in jail. Police and court records show that all four suspects have lengthy criminal histories ranging from drug possession to attempted murder.

"Too often people are apprehended and out on the street the next day," said Rick Prothero as he wrapped an arm around Bruce's tearful wife at a county Fraternal Order of Police news conference in Carney. "It has been frustrating for us as family of a police officer.

"We are certainly not the only family that has lost a son, a brother, a husband and a father," Rick Prothero said. "We are victims, but there are lots of victims of this kind of thing. Our family felt some instant relief, some momentary joy maybe, but no jubilation."

The aftermath of the shooting has been a "roller coaster" ride of emotions, Prothero family members said.

There was concern that the suspects would not be caught. There was gratitude for the overwhelming support Ann Prothero and her five children received from police officers and the public.

There also was fear that the men would cause more harm while they were at large.

Added to all that, they said, was immense sorrow over their loss mixed with moments of happiness and anger.

Yesterday, 2-year-old Hannah's birthday party brought another surge of feelings.

"Reality is not reality at my house yet," Ann Prothero said. "But we have to go on. It doesn't feel like it will, but it will. [Bruce] would want me to think of the kids."

She added, "My husband's job was to help keep people who do these heinous crimes off the street. The fact that they're out there in public, not behind bars. It is unacceptable."

The other two suspects in the Prothero killing, Donald Antonio White Jr., 19, and Troy White, 25, both of Baltimore, are being held without bail at the Baltimore County Detention Center. The Whites, also charged with first-degree murder, are not related.

The Moore brothers had remained free even as police crisscrossed the Baltimore area searching for them. Tips came from as far as Virginia and Pennsylvania, police said.

"We had spottings right and left," said Cpl. Vicki Warehime, a county police spokeswoman. "We acted on every tip that was given to us."

County police tactical officers combed a North Point neighborhood Tuesday, where the Moores' mother, Mary Moore, lives. On Wednesday night, a police helicopter with searchlights scanned an Essex community where Wesley Moore once lived. Two hours before the Moores' arrest in Philadelphia, county homicide detectives were back in North Point, interviewing residents about the suspects' whereabouts.

Officers in the North Point precinct also received tips that the brothers had been spending a lot of time near Dundalk.

But the breakthrough, police sources said, came after Baltimore City and county officers executed several arrest warrants early Saturday in the Cherry Hill neighborhood in southern Baltimore near Richard Moore's old Baltimore County neighborhood in Lansdowne.

The tip led them to a crime-ridden neighborhood in North Philadelphia. About 3: 30 p.m. Saturday, a fugitive task force of FBI agents, U.S. marshals, and Baltimore County and Philadelphia police raided a three-story brick rowhouse in the 2200 block of N. 19th St.

The brothers immediately "laid down and surrendered and did what they were told," said David Ebron, 66, their great-uncle with whom they had stayed since Thursday.

Ebron said that when the brothers showed up at his door, they did not mention that they were in trouble with the law.

He said he learned that police were searching for them in a letter he received Friday from a niece in Baltimore.

Ebron said he did not have a chance to talk with Richard or Wesley Moore before heavily armed police banged on his door Saturday afternoon.

That evening, Baltimore County and Philadelphia police drove away with two green plastic bags after conducting an hourlong search at Ebron's home.

Yesterday, county police praised the work of Baltimore and Philadelphia police and federal authorities in tracking down the suspects and arresting them without incident.

"Again, we want to say we couldn't have done this without the help of all the other law enforcement agencies," Warehime said.

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Discrimination -- New Democratic Party Policy?

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President Clinton demands that Federal Law should be changed so that 18, 19 and 20 year olds will be disqualified from possessing firearms. This note examines Mr. Clinton’s statistical justification for discrimination against this group of citizens. Legal issues are not examined here.

Figure 1

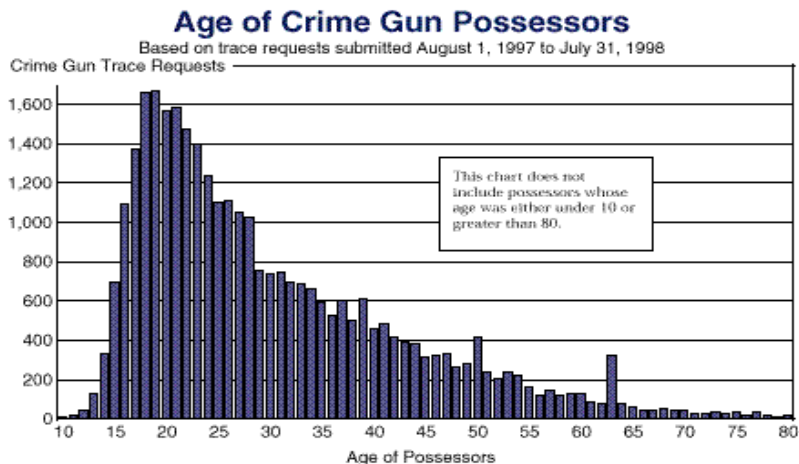
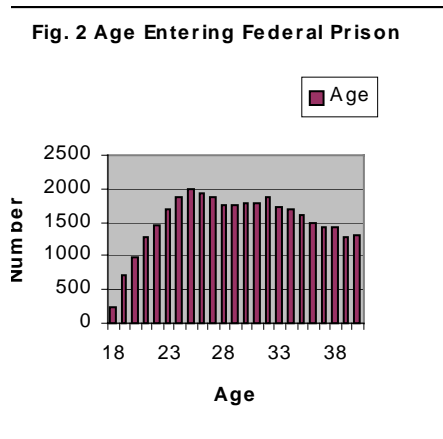


Fig. 2 Age Entering Federal Prison



Mr. Clinton demand for Federal discrimination against 11 million citizens (and potential voters) is based on questionable ATF statistics that contradicts Federal Prison data. Also, the demand is based on data about a very small part of the 11 million -- too small to justify his demand.

Mr. Clinton’s demand is based on the histogram of Figure 1¹. Treasury Under Secretary James E. Johnson testified to the U.S. House of Representatives (May 27, 1999) and used this Figure to support Mr. Clinton’s demand. It shows a histogram distribution by age of 32,653 persons with approximately 5000 persons having ages 18, 19, or 20 (15.3% of the total). The histogram has a peak at age 19. Despite the implication of the title, firearm trace requests do not come from adjudicated cases.

Figure 1 does not include a complete trace data set. It omits 11,061 individuals identified on trace forms submitted to the ATF whose ages were not given (see Ref. 1 below). **This additional set of individuals, being 25% of the possible cases, is large enough to change the population distribution significantly and large enough to invalidate any conclusions based on Figure 1.** The ATF has not explained why it could not obtain the age for the 11,061 persons omitted from Figure 1. By presenting data so incomplete, Mr. Johnson demonstrated carelessness or a willingness to distort truth.

By contrast, the Figure 2 histogram data² includes only adjudicated cases of individuals entering Federal prison in 1996. It peaks at age 25 not age 19 and the proportion of 18, 19, and 20 year old criminals is 4.1% of that population. Approximately 11,143,000 US citizens were between 18 and 21³ in 1996 (4.2% of the U.S. population). So, the proportion of the 18-21 age group in the ATF data matched their proportion in the population. Why should the Figures 1 and 2 histograms have such different peak location? Eliminating 11,061 individuals from Figure 1 gives one reason. Differences between suspected criminals and adjudicated criminals gives a second. **Most importantly, the Federal Prison Data shows that 18-to-21 year old citizens are NOT more inclined to be Federal criminals than other age groups in the U.S.**

The proportion of 18-to-21 year old individuals in the ATF data is 0.045% (= [5000/11143000]*100) or 1 person in every 2229 citizens. **Even if the ATF histogram was valid and included only actual criminals, Mr. Clinton’s proposal is to deny 11 million citizens their civil rights because of the behavior of very a small fraction of the overall population. That proposal is repulsive on its face and establishes a dangerous precedent because other groups can be identified with similar or larger proportions of criminals in their populations.** If Mr. Clinton succeeds in discriminating against the targeted 11 million citizens, we expect he will propose some other groups for discriminatory treatment next.

¹ Crime Gun Trace Analysis Reports, Bureau of Alcohol, Tobacco, and Firearms, Oct. 1998

² Federal Justice Statistics Resource Center Web site at http://fjsrc.urban.org/noframe/wqs/q_intro.htm#1996

³ see U.S. Census Bureau data at the web address <http://www.ballarat.edu.au/~gsimmons/statistics/default.html>; this matches the proportion of 18, 19, and 20 year old citizens in the overall population.

Enclosure 5.

Old, neglected gun kills armed intruder By Jim Herron Zamora OF THE EXAMINER STAFF
San Francisco

A.D. Parker didn't pay much attention to the old revolver he kept stashed under his bed.

He bought the .38-caliber Smith & Wesson 51 years ago and by his own reckoning fired it only seven or eight times — and not at all for about 30 years. He rarely oiled the weapon and, for decades, just left it beneath a rug under his bed.

But in the one brief moment in his life when the 83-year-old Parker really needed a gun, it worked.

San Francisco police say Parker, apparently acting in self-defense, shot and killed an armed burglar who pried open the back door of his home in Hunters Point and tried to enter his bedroom.

"He was there at my bedroom door," Parker said. "I shot him just that once. ... If I had waited a second longer, I don't think I'd be around to tell my story."

"I really wished that he had lived," said Parker, a widower who is often home alone. "I never thought I would kill another person. I just wanted to stay at home and mind my own business."

The intruder, Michael Moore, 49, was pronounced dead a short time after the shooting at San Francisco General Hospital with a gunshot wound in his upper chest.

Police said Moore, a San Francisco resident, was a convicted felon but gave no further details.

Parker said Moore had been carrying a large wrench and a crowbar at the time of the shooting. Police said only that Moore had been armed.

Police did not arrest Parker on Monday but said their investigation was not complete. Inspectors would not say whether they planned to recommend that the district attorney file charges against him.

The incident began at about 2 a.m. Monday when Parker was awakened by loud noises near the back of his home. At first, he didn't realize it was a burglar; he just assumed it was a rowdy neighbor.

"There are people who make noise around here even in the middle of the night ... I thought maybe someone was unloading some lumber or something like that," Parker said. "I was laying in my bed trying to figure out where the noise was coming from. It took me a little bit before I realized the noise was coming from my back door."

As the intruder came closer to his bedroom, Parker said, he grabbed his .38 Special out from under his rug where it was wrapped in wax paper — untouched for at least two years.

"I put my finger on the trigger," Parker said. "Right as I got to the door of my bedroom, I was facing this person as he was coming in here."

The intruder was only inches away and moving toward him, Parker said.

"He was facing me up close so I unloaded that bullet right into him ... then I slammed that (bedroom) door shut in his face and called police," Parker said. "I thought he had a friend with him. I thought the other guy was coming after me. I was real worried."

Parker was terrified and spoke to the 911 operator until police arrived, he said.

It's amazing that the gun still worked properly. Parker, a retired truck driver and shipyard worker, said he had bought the six-shot revolver in 1948 but hadn't fired it for several more years.

"I tried it out a couple times about 1952 or 1953," Parker said. "I wanted my wife to learn how to use it so we shot it a couple times each."

After moving to Hunters Point in 1962, Parker said, he fired the gun once or twice into the air to celebrate the New Year.

"I stopped firing that gun many years ago," he said. "I realized that if I shoot that gun in the air, someone could get hurt."

Parker said he might have fired the gun once in the 1970s but wasn't sure. His maintenance of the gun was sporadic. He used transmission fluid instead of gun oil as a lubricant.

Before Monday, he last checked the gun in early 1998 or late 1997.

"I never thought I would shoot that thing again," he said. "I never wanted to be a tough guy. **But I guess I'm fortunate that gun still worked.**"

Enclosure 6.

Crime in Two Counties

By Gareth Davis and David Muhlhausen, Thursday, December 9, 1999; Page A45

The FBI reported recently that serious crime fell by 10 percent during the first half of 1999, extending the nationwide drop in crime to 7 1/2 years. This is good news, to be sure, but the FBI's national figures tell only part of the story. In some jurisdictions, crime has dropped dramatically, while in others it has gone down only slightly, or even risen. And in some cases, stark differences in crime rates exist between jurisdictions that are nearly identical in every other way.

A perfect example is found in comparing Montgomery and Fairfax counties in the Washington suburbs. While the 1999 data are not yet available for the two counties, the 1998 data show that both are fairly safe places to live, with rates for almost all offenses below the national norm. But the FBI statistics show a striking disparity in crime rates between the two.

For example, although its 1998 population was 11.5 percent larger than Montgomery County's, Fairfax had 1,083 fewer violent crimes. Even after controlling for population size, which works in Montgomery's favor, the Maryland county has a violent-crime rate 2.4 times that of its Virginia neighbor. Crime by crime, a resident of Montgomery is 1.7 times more likely to be raped, 2.2 times more likely to be robbed and 2.8 times more likely to suffer an aggravated assault.

This discrepancy has emerged only in the past 20 years. During the late 1970s, Fairfax and Montgomery had roughly similar crime rates. But crime rates have since plummeted in Fairfax, while dropping only modestly, or even rising, in Montgomery.

Montgomery's average population from 1978 to 1998 was 7 percent smaller than Fairfax's, but the Maryland county had 2,400 more rapes, 6,153 more robberies, 11,770 more aggravated assaults, 38 more murders and 38,087 more burglaries.

From a social-science perspective, this discrepancy shouldn't exist, since the two counties have almost identical socioeconomic profiles. According to the Census Bureau, both have low poverty rates (5.4 percent for each jurisdiction in 1995), similar per-capita incomes (\$41,539 in Montgomery and \$39,951 in Fairfax in 1997) and similar unemployment rates (2.3 percent in Montgomery and 1.6 percent in Fairfax in 1998).

Likewise, the racial, ethnic and family composition of the two counties is almost identical. Fairfax and Montgomery have nearly the same proportions of Asians and Hispanics, and there is only a slightly higher proportion of African Americans on the Maryland side (15.3 percent vs. 8.3 percent in Fairfax). Both counties have also seen rapid population growth and large-scale immigration during the past 30 years, which has changed them from enclaves that were almost completely non-Hispanic white to models of ethnic diversity. Nor does one county have significantly more broken homes than the other: 83 percent of the families with children in Montgomery consist of married couples, compared to 85 percent in Fairfax.

So what accounts for the dramatically different crime rates between the two counties. Is it police policy? Probably not. There is little evidence that the gap in crime rates comes from differences either in the professionalism or the amount of resources devoted to policing. In 1998 Fairfax County Police and Montgomery County Police solved 57 percent and 58 percent of all violent crimes respectively.

Is it gun-control policy? Perhaps. Maryland has stricter gun laws than Virginia, which means that criminals have a greater likelihood of being confronted by an armed citizen in Virginia. Indeed, the gap between the two counties in crimes that involve face-to-face contact with a victim (such as rape, burglary, assault and robbery) is much greater than for offenses in which such contact is unlikely (larceny and car theft, for example). Is it criminal justice policy? This looks like the best explanation. The only significant way Montgomery and Fairfax have differed over the past 20 years is that they have been governed by state legislatures and gubernatorial administrations with vastly different approaches to crime.

While Maryland has largely adhered to older and more lenient criminal justice policies during the past two decades, Virginia has emerged as one of the toughest-on-crime states in the nation. For example, in 1994 Virginia was the first state to abolish parole for violent felons. Maryland has no such law. More recently, Virginia enacted a truth-in-sentencing law requiring all violent prisoners to serve a minimum of 85 percent of their sentences. Maryland law requires only that inmates serve 50 percent of their sentences. Indeed,

looking back over the 20-year period 1978-98, for every 100 Maryland criminals in prison, 66 walked the streets as parolees; in Virginia, only 45 did.

As for capital crimes, Virginia has been far less reluctant to employ the death penalty, executing 11 murderers during the first nine months of 1999 alone. Maryland has executed only three murderers in the past 20 years.

Following the rapid drop in crime in New York City after the institution of police reforms by Mayor Rudolph Giuliani, much attention was focused on better policing as the key to controlling crime. But the sharply different experiences of Montgomery and Fairfax counties offer compelling evidence that criminal justice reforms can also be effective in driving down crime rates. Conversely, lenient criminal justice policies can exact a substantial price, not just in inner cities but in some of the nation's most affluent suburbs.

Gareth Davis is a policy analyst and David Muhlhausen a researcher at the Heritage Foundation.