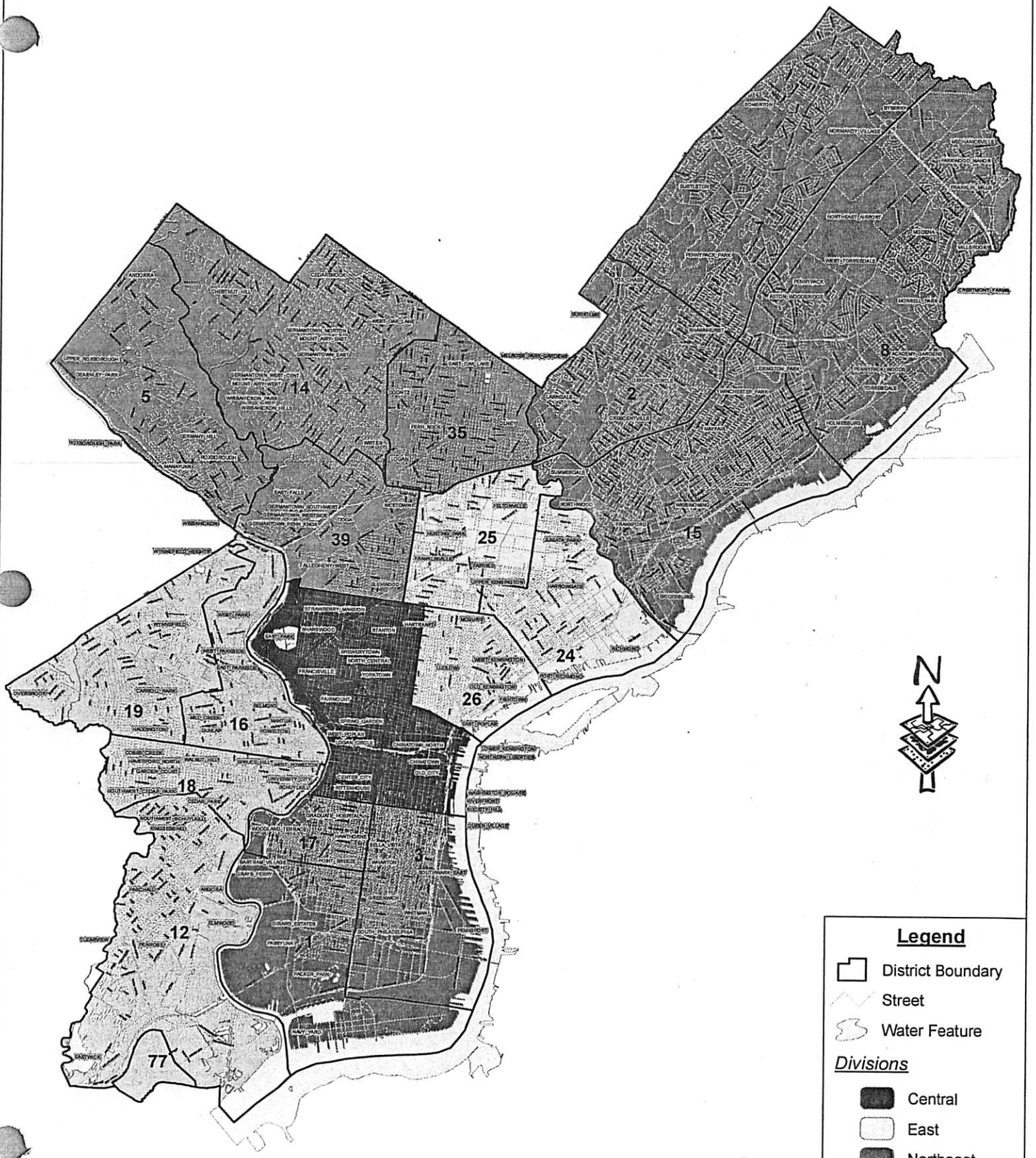
City of Philadelphia



Legend

- District Boundary
- Street
- Water Feature

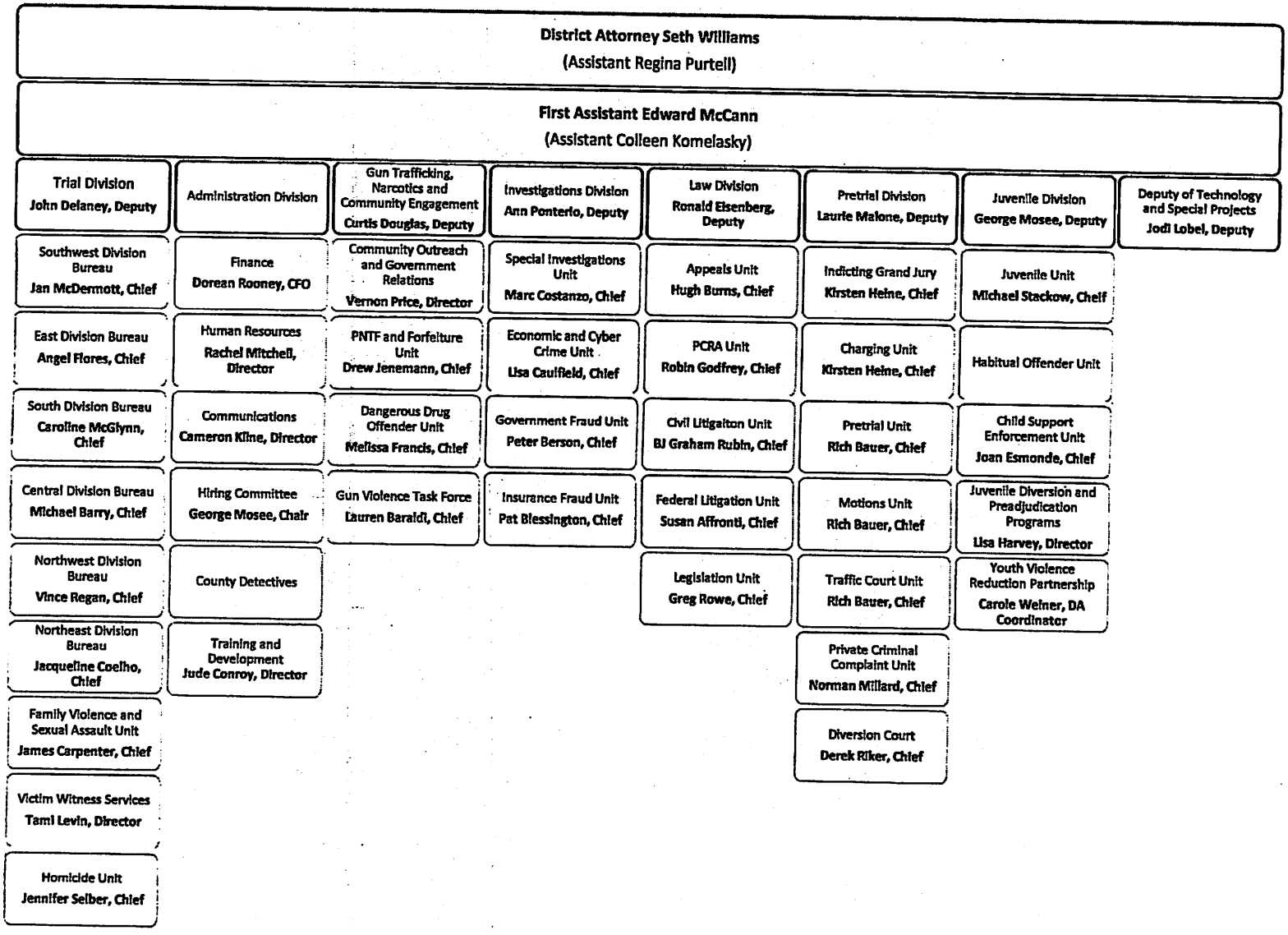
Divisions

- Central
- East
- Northeast
- Northwest
- South
- Southwest

Philadelphia Police Department
Crime Analysis and Mapping Unit

8th & Race Sts., Room 211
Philadelphia, PA 19106
215-686-1577

Map Production Date: 6/13/2011


District Attorney Seth Williams
(Assistant Regina Purtell)
First Assistant Edward McCann
(Assistant Colleen Komelasky)
Trial Division
John Delaney, Deputy
Southwest Division Bureau
Jan McDermott, Chief
East Division Bureau
Angel Flores, Chief
South Division Bureau
Caroline McGlynn, Chief
Central Division Bureau
Michael Barry, Chief
Northwest Division Bureau
Vince Regan, Chief
Northeast Division Bureau
Jacqueline Coelho, Chief
Family Violence and Sexual Assault Unit
James Carpenter, Chief
Victim Witness Services
Tami Levin, Director
Homicide Unit
Jennifer Selber, Chief
Administration Division
Finance
Dorean Rooney, CFO
Human Resources
Rachel Mitchell, Director
Communications
Cameron Kline, Director
Hiring Committee
George Mosee, Chair
County Detectives
Training and Development
Jude Conroy, Director
Gun Trafficking, Narcotics and Community Engagement
Curtis Douglas, Deputy
Community Outreach and Government Relations
Vernon Price, Director
PNTF and Forfeiture Unit
Drew Jenemann, Chief
Dangerous Drug Offender Unit
Melissa Francis, Chief
Gun Violence Task Force
Lauren Baraldi, Chief
Investigations Division
Ann Ponterio, Deputy
Special Investigations Unit
Marc Costanzo, Chief
Economic and Cyber Crime Unit
Lisa Caulfield, Chief
Government Fraud Unit
Peter Berson, Chief
Insurance Fraud Unit
Pat Blessington, Chief
Law Division
Ronald Eisenberg, Deputy
Appeals Unit
Hugh Burns, Chief
PCRA Unit
Robin Godfrey, Chief
Civil Litigation Unit
BJ Graham Rubin, Chief
Federal Litigation Unit
Susan Affronti, Chief
Legislation Unit
Greg Rowe, Chief
Pretrial Division
Laurie Malone, Deputy
Indicting Grand Jury
Kirsten Heine, Chief
Charging Unit
Kirsten Heine, Chief
Pretrial Unit
Rich Bauer, Chief
Motions Unit
Rich Bauer, Chief
Traffic Court Unit
Rich Bauer, Chief
Private Criminal Complaint Unit
Norman Millard, Chief
Diversion Court
Derek Riker, Chief
Juvenile Division
George Mosee, Deputy
Juvenile Unit
Michael Stackow, Chief
Habitual Offender Unit
Child Support Enforcement Unit
Joan Esmonde, Chief
Juvenile Diversion and Preadjudication Programs
Lisa Harvey, Director
Youth Violence Reduction Partnership
Carole Weiner, DA Coordinator
Deputy of Technology and Special Projects
Jodi Lobel, Deputy

Small Amount Marijuana (SAM)

- ADA Derek Riker: 215-683-7601

Defendants arrested with possessing less than 30 grams of marijuana are eligible to have their case withdrawn and record expunged if they attend a class focusing on marijuana abuse and a pay a $200 fee. Defendants are diverted to this program at the time of charging.

SPECIALIZED DIVERSION

Project Dawn

- ADA Derek Riker: 215-686-8087

This program seeks to rehabilitate the recidivist prostitute (more than three arrests and/or convictions for prostitution). Project Dawn provides drug treatment as well as trauma counseling for the abuse (physical, sexual, and emotional) that often dates back to early adolescence. If a defendant successfully completes the program, she will graduate without a new conviction and within one year if she remains arrest free, the underlying case may be expunged. A defendant must have an open prostitution case in order to be eligible for participation.

Mental Health Court

- ADA Noel Ann DeSantis: 215-686-8993

Non-violent offenders with mental illness and co-occurring disorders are provided with alternatives to incarceration by preparing them for re-entry into more effective treatment modalities in supervised community settings. Defendants must be currently serving and/or awaiting sentencing on a non-violent felony case, meet the medical necessity criteria for Intensive Case Management services, be Philadelphia residents, be Medicaid eligible, have at least 12 months of court supervision remaining, and be willing to comply with court supervision.

Veteran's Court

- ADA Rich Bauer: 215-686-9610

Veteran's Court integrates mental health and drug and alcohol treatment and requires participants to report to the Court for monitoring and evaluation. Eligible defendants must be charged with a misdemeanor crime and be a former or active member of the military. Felony and gun related offenses or those defendants with convictions for those types of crimes within the last ten years are ineligible. Candidates meet with Veteran's Administration (VA) officials to develop a treatment plan and defendants will then proceed by way of a pretrial statusing, no contest plea with verdict withheld, stipulated trial or guilty plea. Defendants will be responsible for completing their treatment program under Court supervision. Defendants' supervision may be reporting, non-reporting or through a Veteran's Court assigned mentor. If applicable, completion of treatment can count as credit towards a portion of any unserved prison sentence. Additionally, statused cases are eligible for expungement.

Summary Charges Program

- ADA Derek Riker: 215-686-8087

As an alternative to entering a guilty plea or appearing for trial, defendants may, one-time, opt to attend the Summary Diversion program. Upon successful completion of the program, the defendant will not have to appear for any future court date pertaining to their matter and the summary arrest record will be expunged. The program takes place on Saturdays and full payment of $200 is required. If a defendant has been charged with underage drinking or false ID, upon successful completion of the program the Court will amend the charge to disorderly conduct and the defendant will not lose their license. Charges of: Cruelty to Animals; Cutting Weapons / Weapons; and Criminal Mischief are ineligible. Additionally, citations issued by the following agencies also are not eligible: PA SPCA, Dept. of Agriculture; Vehicle Fraud Investigations; and the Dept. of Revenue.

Philadelphia District Attorney's Office

Pre-Trial Diversion Programs

Preventing Future Crime and Preserving Judicial Resources Through Non-Traditional Prosecution

Philadelphia District
Attorney's Office
Three South Penn Square
Philadelphia, PA 19107
Phone: 215-686-8000
www.phila.gov/districtattorney
Follow us - www.twitter.com/Philly_DAsOfc

Philadelphia District Attorney's Office

Pre-Trial Diversion Programs

Preventing Future Crime and Preserving Judicial Resources Through Non-Traditional Prosecution

Derek Riker
Chief, Diversion Courts Unit
Philadelphia District Attorney's Office
Three South Penn Square
Philadelphia, PA 19107
Phone: 215-686-8087
Email: Derek.Riker@phila.gov

Accelerated Misdemeanor Program – Tier I (AMP I)

- **Program Eligibility**

Non-violent first time offenders charged with a misdemeanor are the typical candidate for this program. Defendants are accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

No plea is entered and the case is maintained in a pre-trial statusing posture. Upon successful completion of the program, the Commonwealth withdraws prosecution.

- **Details and Length**

Defendants accepting the program are required to complete either 12 or 18 hours of community service and pay court costs. Defendants accepting an AMP I offer are colloquied by the sitting Judge and must meet with the community service coordinator prior to leaving court. Details on community service sites are provided by the coordinator. Community service must be completed at an approved non-profit location. Payment is made in the basement of the Criminal Justice Center.

Generally, defendants are expected to have their requirements fulfilled within five weeks of accepting the terms. They may finish them earlier if they so desire. If a defendant is unable to complete either the community service portion or pay the court costs in full after five weeks, the Judge may provide an extension. The defendant must provide proof that at least half of their community service is complete and more than half of their fines and costs have been paid.

- **Program Completion**

Defendants are expected to provide verification to court staff showing all requirements are satisfied five days prior to their next court listing. By completing their terms of the program and submitting them in advance, a defendant's presence can be waived from future court dates. Once verified that it is complete, prosecution is withdrawn. Should a defendant fail to comply with the terms of the program or get arrested on new charges before completing the program, AMP will be revoked and the case will be sent to a trial room.

- **Expungement Eligibility**

Upon successful completion, defendants are eligible for expungement without opposition.

- **Contact**

DA_AMP@phila.gov

Accelerated Misdemeanor Program – Tier II (AMP II)

- **Program Eligibility**

Candidates primarily include defendants charged with non-violent misdemeanor offenses with a recent history of non-violent prior arrests and limited number of convictions. Defendants are accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

Defendants are offered a Negotiated Stipulated Trial with a disposition of Guilty or admission into the Section 17 or Section 18 programs without entering a guilty plea.

- **Details and Length**

Defendants are required to complete either community service or a dependency treatment program and pay court costs. A determination of whether community service or a dependency treatment offer is conveyed is made on a case-by-case basis and at the discretion of the ADA assigned to the AMP room and in consultation with staff from the Philadelphia Health Management Corporation (PHMC). Defendants will receive an initial screening in court. Should they require dependency treatment, PHMC court staff will provide additional instructions for compliance. Based upon the results of the evaluation, a course of treatment will be prescribed for the defendant. Defendants who reside out-of-county or who have private insurance will be provided instructions on how to seek treatment on their own. Once the defendant returns to court with proof of treatment, it will be verified by PHMC staff, and then a disposition may be entered. Defendants who are determined not to be drug and alcohol dependent are offered community service (generally between 24-36 hours) in lieu of treatment and they can enter a disposition at their first status listing.

Program length varies for each defendant. The primary factor for those defendants participating in dependency programs is compliance with treatment requirements and negative drug testing results. Defendants who are able to arrange for treatment and make exceptional progress can complete AMP II within three court listings (roughly three months). Defendants who have community service obligations can satisfy their court ordered requirements at a much quicker rate.

- **Program Completion**

After entering their disposition, defendants are required to provide continuing proof of treatment (or proof of completing community service hours) and pay court costs. Once a defendant fulfills their required obligations, the case is marked complete. The defendant is not required to return to court or register with probation. Should a defendant fail to comply with treatment requirements, complete community service or get convicted on new charges before completing the program, they will be found in violation of the program and sentenced to new terms which may include probation or jail.

- **Expungement Eligibility**

Cases disposed of by Negotiated Stipulated Trial are not eligible for expungement. Cases that are disposed of via the Section 17 or Section 18 programs may be eligible for expungement depending on the defendant's criminal history.

- **Contact**

DA_AMP@phila.gov

Accelerated Rehabilitation Disposition (ARD)

- **Program Eligibility**

Defendants are first time offenders charged with relatively minor offenses requiring a more lengthy period of supervision than the AMP program provides. Defendants are accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

Prior to entering the ARD program, defendants must agree to a probationary sentence with conditions imposed. A final disposition is held in abeyance by the court.

- **Details and Length**

Defendants seeking ARD must first agree to give up their right to a speedy trial while their case is being considered. Once accepted, conditions of ARD generally include: payment of court costs, participation in rehabilitative classes and/or community service, payment of restitution (if restitution is requested by a victim, the defendant is expected to pay half of the restitution up front at the first ARD listing date). Defendants complete the terms of ARD under the supervision of the probation department. They are generally expected to comply with the terms of the program for a period ranging from six months to, no more than, two years. Specific lengths are based upon the nature of the crime and charges. If the defendant fails to complete the sentence, they will be removed from the program and the case will go to trial. Examples of grounds for removal include: committing another crime while participating in ARD, failure to make required restitution payments, and failure to complete special mandates such as attending anger management.

- **Program Completion**

Once the program is completed, the original criminal charges are dismissed.

- **Expungement Eligibility**

Defendants who successfully comply with the terms of ARD are eligible to have their cases expunged automatically by the First Judicial District.

- **Contact**

  DA_ARD@phila.gov

Domestic Violence Diversion

- **Program Eligibility**

The target participant is a defendant charged with a first-time domestic violence misdemeanor. The charged offense cannot be a felony, nor can it involve strangulation, the use of a weapon, serious injury, or sexual abuse. Defendants must not have any previous arrests or convictions for domestic abuse-related charges. They cannot be on probation/parole for a felony, have records of revoked probation, have two or more open misdemeanor cases, have been sentenced to a prison sentence for a violent felony within the past 10 years, or have an extensive bench warrant history.

Eligible cases and participants will be identified by the District Attorney's Office Charging Unit. Referral requests for defendants who were not initially flagged by DACU for diversion will be considered for participation; however, these referrals must be received by the District Attorney's Office DV Diversion ADA within two weeks of arrest and/or at least one week before the trial listing in order to be considered. Continuances at the first trial listing for DV Diversion Court referrals and consideration will not be granted absent extenuating circumstances. There are two Tiers to this program. The defendant's prior history of arrests, convictions and severity of the incident are used in making a determination of either Tier I or Tier II.

- **Disposition**

Outcomes are based upon specific tiers of the program. In order for a defendant to be admitted into Tier II DV Diversion, s/he must enter a conditional guilty plea, which will remain in "open" status until completion of treatment and all program requirements. Tier I DV Diversion does not require a guilty plea, but Tier I offenders must still complete all treatment requirements to remain compliant with the diversion program.

- **Details and Length**

The program addresses perpetrators of domestic violence against both intimate and non-intimate partners. Intimate partner DV Diversion involves cases where the perpetrator and victim are spouses, former spouses, boyfriend/girlfriend, or same sex partners. Non-intimate partner DV Diversion allows for the diversion of cases where the perpetrator and victim have a blood or otherwise familial relationship. Both intimate partner and non-intimate partner offenders will be classified into one of two Tiers. The Tier determination is based on the offender's past criminal history and the circumstances of the instant arrest.

The main difference between intimate partner and non-intimate partner diversion is the type of treatment required for completion of the program. Intimate partner diversion defendants will be required to complete treatment at Menergy (currently the only Philadelphia-based batters' intervention program) or another recognized BIP in order to complete the terms of DV Diversion. Non-intimate partners will be required to complete outpatient treatment in a program designed to teach coping skills to individuals with impulsivity and anger control issues.

Generally, the program lasts for a six-month period; however, if treatment is recommended, the length of the status period will be determined by the length of treatment, but not less than six months. Both intimate partner and non-intimate partner offenders will be evaluated by the Public Health

Management Corporation's Forensic Services Department (FIR). If defendants are deemed amenable to treatment, they must complete any and all treatment recommended by the FIR evaluation, as well as BIP treatment for intimate partner offenders.

For each Tier category, the initial status listing will occur within 30 days of the offender's official entry into the program, and subsequent status listings will be held every 45 days.

- **Program Completion**

The BIP (or other service provider for non-intimate partner DV Diversion defendants) is charged with determining successful treatment completion by program participants. Additionally, DV Diversion Court defendants must have incurred no new arrests and have no reported incidents of further domestic violence. The defendant must pay any restitution owed to the complainant, pay court costs and fines, and comply with the services required as a condition of the treatment program. Prosecution will be withdrawn by the Commonwealth when all terms of the program have been fulfilled.

- **Expungement Eligibility**

If a Tier I defendant successfully completes the conditions of DV Diversion Court, after one year, the defendant may file a motion for expungement. The Commonwealth reserves the right to oppose the expungement request.

- Contact

[redacted]@phila.gov

Drug Treatment Court

- **Program Eligibility**

Defendants are non-violent drug or drug related offenders with no more than two previous juvenile adjudications or adult convictions. Most often the lead charge is Possession with Intent to Deliver. Arrests involving guns and mandatory sentences based upon weight are not eligible (school zone mandatory cases are treated on a case-by-case basis).

- **Disposition**

Defendants plead no contest and have this plea held in abeyance until completion of the program.

- **Details and Length**

The program covers four phases over a twelve month period. These phases are steps towards sobriety and include mandatory drug and alcohol treatment, regular urine testing, meetings with case managers, and attendance at monthly progress listings before a supervising judge. Infractions of the program will result in the defendant receiving one of the program's graduated sanctions. Sanctions include writing essays, increased reporting and short jail stays.

Phase 1 lasts one month and focuses on non-medical detoxification and assessment of the defendant. The assessment determines the severity of the defendant's substance abuse issues and whether the defendant is in need of dual diagnosis treatment. Dual Diagnosis treatment focuses simultaneously on a defendant's substance abuse treatment and their mental health treatment. During Phase 1 a housing assessment is completed to establish whether the defendant is in need of alternative housing. Phase 2 lasts three months and is the most intensive treatment part of the program. In addition to treatment, the defendant will receive needed life skills training and counseling. Phase 3 lasts four months and focuses on relapse prevention as well as an aftercare plan for the defendant. An aftercare plan is created for the defendant to facilitate their transition from treatment to a sober lifestyle via the implementation of relapse prevention tools. The defendant may be encouraged to attend 12 step meetings, obtain a sponsor and continue to work towards establishing a sober network. Phase 4 lasts four months. During these four months the defendant must maintain 100% abstinence from drugs and alcohol and is encouraged to implement their treatment aftercare plan. It is important to note that any missed treatment sessions or relapses will hinder the defendant's progression through the program, causing their length of time in Drug Treatment Court to exceed the twelve month period.

- **Program Completion**

Upon completion of the four phases, defendants graduate, whereupon their no contest plea is withdrawn and charges are dismissed with prejudice. The case is marked closed at that point.

- **Expungement Eligibility**

If the defendant remains crime-free and drug and alcohol free during the following year, their case will be expunged.

- **Contact**

DA_DTC@phila.gov

DUI Treatment Court

- **Program Eligibility**

Defendants are non-violent DUI offenders with no more than two previous lifetime convictions for DUI and face a mandatory 90 day or one year sentence.

- **Disposition**

Defendants plead guilty and some of their mandatory jail time is converted to house arrest. Defendants facing a 90 day mandatory sentence serve 10 days in county custody followed by 80 days house arrest with a concurrent period of two years probation. Defendants may work and go to substance abuse treatment while on house arrest. Defendants facing a one year mandatory sentence serve six months in county custody followed by six months house arrest with a concurrent period of three years probation. Defendants may work and go to substance abuse treatment while serving the six months county sentence through work release and while on house arrest.

- **Details and Length**

The program covers four phases over a twelve month period. Phase 1 lasts one month and focuses on treatment after an assessment of the defendant. The assessment determines the severity of the defendant's substance abuse issues and whether the defendant is in need of in-patient, intensive out-patient or out-patient treatment. The goal is to be sober and clean and to begin work on an individual treatment plan. Phase 2 lasts two months. The goal is to be sober and clean and to complete the individual treatment plan. Phase 3 lasts one month. The goal is to be sober and clean and to complete a sober support plan. Phase 4 lasts eight months. During these eight months the defendant must maintain 100% abstinence from drugs and alcohol and is encouraged to implement their treatment aftercare plan. It is important to note any missed treatment sessions or relapses will hinder the defendant's progression through the program, causing their length of time in DUI Treatment Court to exceed the twelve month period.

These phases are steps towards sobriety and include mandatory drug and alcohol treatment, regular urine testing, meetings with case managers, and attendance at monthly progress listings before a supervising judge. Infractions of the program will result in the defendant receiving one of the program's graduated sanctions. Sanctions include writing essays, increased reporting and short jail stays.

- **Program Completion**

Upon completion of the four phases, defendants graduate and their probation is terminated. They will no longer be under court supervision. The case is marked closed at that point.

- **Expungement Eligibility**

Defendants are not eligible to have their records expunged at the termination of their case.

- **Contact**

DA_DUITC@phila.gov

Intermediate Punishment (County and State)

- **Program Eligibility**

County Intermediate Punishment-- Defendants are non-violent offenders with no convictions for crimes of violence and they are dependent on drugs/alcohol.

State Intermediate Punishment-- Defendants are non-violent drug-offenders with no convictions for crimes of violence; however, they have a more extensive criminal history and they are dependent on drugs/alcohol.

- **Disposition**

County Intermediate Punishment – Defendants enter a guilty plea.

State Intermediate Punishment – Defendants enter a guilty plea.

- **Details and Length**

County Intermediate Punishment

Defendants get a FIR (Forensic Intensive Recovery) evaluation. This evaluation will let the court know what kind of treatment a defendant needs. Usually three types of treatment are recommended: Intensive Outpatient, Short-term Inpatient and Long-term Inpatient. County IP is divided into two Tiers.

1) Tier 1: This is a non-house arrest IP program for defendants in Level 3 of the Sentencing Matrix. Defendant must follow the treatment recommendations of the FIR evaluation and they will be placed on intensive probation during the IP probation. Intensive probation will include monthly home visit and increased office visits. After the defendant successfully completes one year of IP, he will be placed on a general probation for an additional year. Total sentence is 2 years of supervision.
2) Tier 2: This is the traditional IP-house arrest program for defendants in Level 4 of the Sentencing Matrix. The type of treatment needed will determine the length of house arrest which will be served. Generally, the length and details of the County Intermediate Punishment program are as follows, though probation tails will be determined on a case by case basis.
    - Intensive Outpatient —will require one year of IP which consists of six months of house arrest, 40 hours community service, followed by two years of reporting probation.
    - Short term Inpatient— will require one year of IP which consists of three months of house arrest, 40 hours community service, followed by two years of reporting probation.
    - Long term Inpatient-- will require one year of IP which consists of 40 hours community service, followed by two years of reporting probation.

State Intermediate Punishment

Defendants will generally get offered State Intermediate Punishment and an alternative State Prison Sentence. If agreeable, the defendant is then committed to Department of Corrections for a thorough drug evaluation. The Department of Corrections conducts an assessment of the defendant and provides

a report to the court within 60 days. If the Department of Corrections determines that the offender is suitable, then the defendant is sentenced to a 24 months of Intermediate Punishment. This flat two year sentence begins in a state institution and continues to the community. The sentence compromises of the following:

- A minimum of seven months in SCI and no less than two months must be spent in an institutional drug/alcohol treatment program.
- A minimum of two months in a community based inpatient drug/alcohol treatment program.
- A minimum of six months in treatment through a drug/alcohol outpatient treatment facility.
- A period of reintegration into community for the balance of the sentence.

If the defendant is deemed to not be in need of drug/alcohol treatment, he or she will automatically get the alternative state sentence offered by the Commonwealth at the time of their plea. The defendant's plead guilty knowing that if they are not accepted into the program the alternative state sentence automatically applies. The alternative state sentence is at the discretion of the DA's Office and based on the facts of the case and the defendant's record (arrest and convictions).

- **Program Completion**

Defendants are considered to have satisfied their IP requirements upon completion of their sentence. Infractions of the program will result in the defendant receiving one of the program's graduated sanctions. Examples of sanctions include, extending the defendant's probation period or having to repeat certain treatment requirements.

- **Expungement Eligibility**

Defendants are not eligible to have their records expunged at the termination of their case.

- **Contact**

  DA_IP@phila.gov

Mental Health Court

- **Program Eligibility**

Defendants in Mental Health Court are serving a county sentence and/or probation for a non-violent felony crime and have been diagnosed with a serious mental illness. Defendants are accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

Mental Health Court is a "Re-entry" program as opposed to a "Diversion" Court. Defendants must be currently serving a sentence, and/or is in custody awaiting sentencing.

- **Details and Length**

Mental Health Court is a collaborative problem solving court which provides an alternative to incarceration for non-violent felony offenders with mental illness and co-occurring disorders by preparing individuals for re-entry into more effective treatment modalities in supervised community settings. The FJDMHC employs a multidisciplinary, collaborative approach that combines intensive wrap-around treatment and individualized probation supervision. The court identifies individuals who are willing to accept a higher level of supervision in exchange for being placed in treatment facilities outside the Philadelphia Prison System. Participants are monitored throughout the re-entry process through a continuum of care through Department of Behavioral Health treatment teams.

Participants receive routine court status where progress and compliance is closely monitored. Those who show a record of compliance may earn rewards, which could include less frequents court dates, gift cards, recognition in yearly achievement ceremonies, or even early termination of their sentence. Those who are non-compliant receive sanctions, which may include jury box observations, written essay assignments, increased frequency of court dates and/or probation visits, short or longer term custody, or removal from the program.

- **Program Completion**

Defendants remain under the supervision of Mental Health Court until the presiding Judge terminates their case because they have: 1) complied with all the treatments goals 2) have met the max treatment they can receive 3) are living an independent life with mental health meds and/or treatment 4) and are not a danger to themselves or the community. The program can also expire when the supervision legally terminates, but probation will be revoked and a new period will be ordered if the defendant needs the supervision services and treatment.

- **Expungement Eligibility**

There is no opportunity for expungement, as felony dispositions have already been entered on the defendant's case.

- **Contact**

DA_MHC@phila.gov

Mental Health Court - Competency

- **Program Eligibility**

Defendants must be found legally incompetent due to their mental illness and have active cases pending in either the Municipal Court or the Court of Common Pleas.

- **Disposition**

Generally, no disposition is entered while defendants' cases are being statused for mental health competency.

- **Details and Length**

The court orders mental health evaluations for defendants and orders mental health treatment, either through inpatient commitments to the Forensic Unit of the Philadelphia Detention Center or Norristown State Hospital, or outpatient treatment services as a condition of bail. Cases are brought back for periodic status dates for as long as competency remains an issue or until the case expires.

- **Program Completion**

Once competency is established, cases either return to the docket of the judge from which the case came, or for some Common Pleas level cases, they may formally be moved to the First Judicial District's Mental Health Court for disposition and supervision.

- **Expungement Eligibility**

There are generally no dispositions entered as a part of this program, therefore there are no expungement issues.

- **Contact**

  DA_MHC@phila.gov

Project Dawn Court

- **Program Eligibility**

Targeted defendants are women with open prostitution cases, who have a non-violent record, and history of convictions for prostitution. Defendants are accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

When a defendant enters into Project Dawn Court, her plea is held in abeyance while she undergoes the program. If the defendant successfully completes the program, the Commonwealth will withdraw prosecution and she will graduate without a new conviction.

- **Details and Length**

Project Dawn seeks to connect non-violent repeat prostitution offenders with therapeutic and reentry services, while attempting to reduce recidivism of prostitution and related crimes. The program provides drug treatment as well as trauma counseling for abuse (physical, sexual and emotional) that often dates back to adolescence. Once a defendant enters Project Dawn she must complete four phases of treatment. Specifically she is required to: 1) stay clean for 30 days; 2) attend 90 days of out-patient services; 3) undergo 120 days of intensive treatment for sexual trauma; and 4) participate in 120 of days of reintegration preparation. Specific services are based upon the results of a Forensic Intensive Recovery (FIR) evaluation. Services include counseling for post-traumatic stress disorder, childhood sexual abuse, drug treatment and, parenting classes. Defendants are required to appear in court monthly (or more if deemed necessary by the Court and Project Dawn team) where her progress is assessed before a judge. Violations of the program's terms result in the defendant facing a series of escalating sanctions. She is also required to restart the particular phase of the program they are undergoing. Defendants can complete the program within one year of acceptance.

- **Program Completion**

Once all four phases have been completed, the defendant graduates the program and their case is dismissed with prejudice.

- **Expungement Eligibility**

Upon successful completion of Project Dawn, if the defendant remains arrest free for one year, the underlying case may be expunged.

- **Contact**

  DA_PDC@phila.gov

Sexual Education and Responsibility (SER)

- **Program Eligibility**

Defendants are non-violent offenders charged with Patronizing a Prostitute who have limited prior contacts with the criminal justice system. Defendants are accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

If a defendant would otherwise qualify for AMP I, no plea is entered and the case is maintained in a statusing posture. Upon successful completion of the program, the Commonwealth withdraws prosecution. Defendants are offered a Negotiated Stipulated Trial with a disposition of Guilty or admission into the Section 17 or Section 18 programs via No-Contest Plea if they would otherwise qualify for AMP II.

- **Details and Length**

Cases are listed under the auspices of the the AMP program. In lieu of serving probation or doing community service, defendants are required to attend a one day program offered by the Joseph J. Peters Institute. The program focuses on the impact of patronizing prostitutes on defendants, their families, victims and the community. Defendants are required to pay a one-time $250 program fee. They are also liable for court costs consistent with the AMP program.

- **Program Completion**

By attending the program, paying the $250 program fee, and related court costs the case will be closed. The defendant is required to follow the same procedures as other AMP defendants as it relates to future court appearances consistent with whether they have been designated AMP I or AMP II.

- **Expungement Eligibility**

Expungement follows the AMP program policy. Defendants who have cases listed in AMP I will be eligible for expungement without opposition upon successful completion. Cases disposed of by Negotiated Stipulated Trial under AMP II are not eligible for expungement. Cases that are disposed of via the Section 17 or Section 18 programs under AMP II may be eligible for expungement depending on the defendant's criminal history.

- **Contact**

  DA_AMP@phila.gov

Small Amount of Marijuana (SAM)

- **Program Eligibility**

Defendants arrested with less than 30 grams of marijuana may be eligible for this program. Defendants are accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

By agreeing to enter the program, defendants enter no plea. The case is maintained as an open pre-trial matter. However, upon successful completion of the class, the Commonwealth withdraws prosecution.

- **Details and Length**

Defendants must appear before a trial commissioner for a status hearing. At that time they are offered the opportunity to enter the SAM program or ask for a trial. Should they choose to enter the program; the SAM program has two requirements. First, defendants must attend a class about the criminal justice system and the consequences of committing crimes. The class takes place one Saturday a month at the Criminal Justice Center. Second, defendants must bring a money order in the amount of $200 to the class. The $200 covers the costs associated with this program. No cash or personal checks are accepted.

If a Defendant is currently on probation, choosing this Diversion Program will typically not result in a violation of probation. However they may be asked to submit to additional drug testing by the Probation Department or asked to begin taking drug tests if they were not already ordered as part of their probation.

- **Program Completion**

By attending the class and paying the $200 program fee, the case will be closed. Defendants will not need to return to court. The District Attorney's Office will automatically withdraw the charges.

- **Expungement Eligibility**

Upon successful completion, defendants' cases are automatically expunged by the First Judicial District.

- **Contact**

DA_SAM@phila.gov

Summary Diversion Program

- **Program Eligibility**

The majority of defendants charged with a summary citation who have not previously participated in the program are eligible, with the exception of the following charges due to the nature of the charge and therefore are automatically scheduled for trial:

- Cruelty to Animals;
- Criminal Mischief;
- Cutting Weapons / Weapons.

Any defendant issued citations by the following agencies also are not permitted to enroll and are automatically scheduled for trial:

- Pennsylvania SPCA;
- Department of Agriculture;
- Vehicle Fraud Investigations;
- Department of Revenue.

- **Disposition**

No plea is entered. Upon successful completion of the class, the Commonwealth withdraws prosecution.

- **Details and Length**

Defendants attend the Summary Diversion Program on a Saturday in the Criminal Justice Center. The cost of the Summary Diversion Program Class is $200. Full payment must be made by money order and payable on the day they attend the program. If this is the first time, a defendant has been charged with underage drinking or false ID, upon successful completion of the program the Court will amend the charge to disorderly conduct and the defendant will not lose their license. This will only apply once, if the defendant is cited again with underage drinking / false ID, PennDOT will be notified of the license or permit suspension.

- **Program Completion**

Upon successful completion of the program and payment of court costs, the defendant will not have to appear for any future court date pertaining to this matter. Failure to complete the program will result in the matter being referred for a trial.

- **Expungement Eligibility**

The defendant's summary arrest record will be automatically expunged. The expungement process takes approximately nine months to complete and is coordinated by the First Judicial District.

- **Contact**

Please contact the First Judicial District's Municipal Court office

The Choice is Yours (TCY)

- **Program Eligibility**

Targeted defendants are between the ages of 18-30 year old. They are first-time felony drug offenders charged with Possession with Intent to Deliver a Controlled Substance (PWID), with no more than one prior misdemeanor conviction. Defendants are not drug dependent and accepted at the discretion of the District Attorney's Office and after a careful review of their case.

- **Disposition**

Defendants enter a nolo contendere plea and the Court defers entry of judgment while the defendant completes the program

- **Details and Length**

Once the TCY Program is offered to a defendant, to accept, he/she must waive their preliminary hearing and enter the one month TCY Orientation. Successful completion of the orientation requires a defendant to: 1) be on time and attend the program everyday; 2) compile personal documents; 3) participate in workshops, classes and individual coaching sessions; 4) complete a required number of community service hours; and, 5) other activities as determined by the TCY staff. After a defendant successfully completes the orientation they will officially enter the TCY Program by entering a nolo contendere plea and begin the one year TCY Program. During the TCY Program defendants engage in a variety of activities including: 1) job readiness training; 2) computer classes; 3) education and skills training; 4) community service; 5) job placement and advancement; 6) mentoring; and, 7) regular court check-ins with the TCY judge. If a defendant is not recommended for the TCY Program, after the orientation, then their case will be removed from the TCY Program and proceed along a normal trial path. For those defendants who are in the TCY Program and fail to comply with the requirements of the program, graduated sanctions are imposed.

- **Program Completion**

If the defendant successfully completes the TCY Program, the Court will dismiss the case with prejudice. They will then participate in a graduation ceremony. Individuals who are terminated from the program prior to completion will have a guilty verdict entered by the Court and they will be sentenced accordingly.

- **Expungement Eligibility**

If the defendant does not get arrested, and subsequently convicted, within one year from successful completion of the TCY Program and all court costs and lab fees are paid, the TCY case will be expunged.

- **Contact**

DA_TCY@phila.gov

Veteran's Court

- **Program Eligibility**

Eligible defendants must be charged with a non-violent misdemeanor crime and be a former or active member of the military. Felony and gun related offenses or those defendants with convictions for those types of crimes within the last ten years are ineligible. Participants are generally targeted for consideration after being interviewed by the First Judicial District's Pre-Trial Unit.

- **Disposition**

Each case is reviewed for offers by the District Attorney's Office on a case-by-case basis. Defendants proceed by way of either pretrial statusing, no contest plea with verdict withheld, negotiated stipulated trial or guilty plea. The majority of the cases are resolved without a verdict being entered.

- **Details and Length**

Candidates meet with Veteran's Administration (VA) officials who are located at the Criminal Justice Center. The VA staff schedules eligible defendants for an assessment to determine appropriate needs and levels of care, and directs them to benefits to which they may be entitled. Based upon the results of the assessment, the VA staff is able to make a recommendation as to the particular needs of a defendant and the programs available within the VA to aid them. Programs include: drug and alcohol treatment; mental health treatment; medical referrals; as well as housing; and employment training and assistance. Defendants will be responsible for completing their treatment program under Court supervision. If they chose to enter the program, and fulfill its terms, they will be assigned a "Mentor" from the VA to guide them through the process and provide assistance as they work to resolve their criminal matters. Court ordered supervision for cases where a plea or stipulated trial takes place may be reporting or non-reporting. If applicable, completion of treatment can count as credit towards a portion of any unserved prison sentence. Specific program lengths vary by crime and disposition; however, Veteran's Court oversight will not exceed the length of any probation sentence.

- **Program Completion**

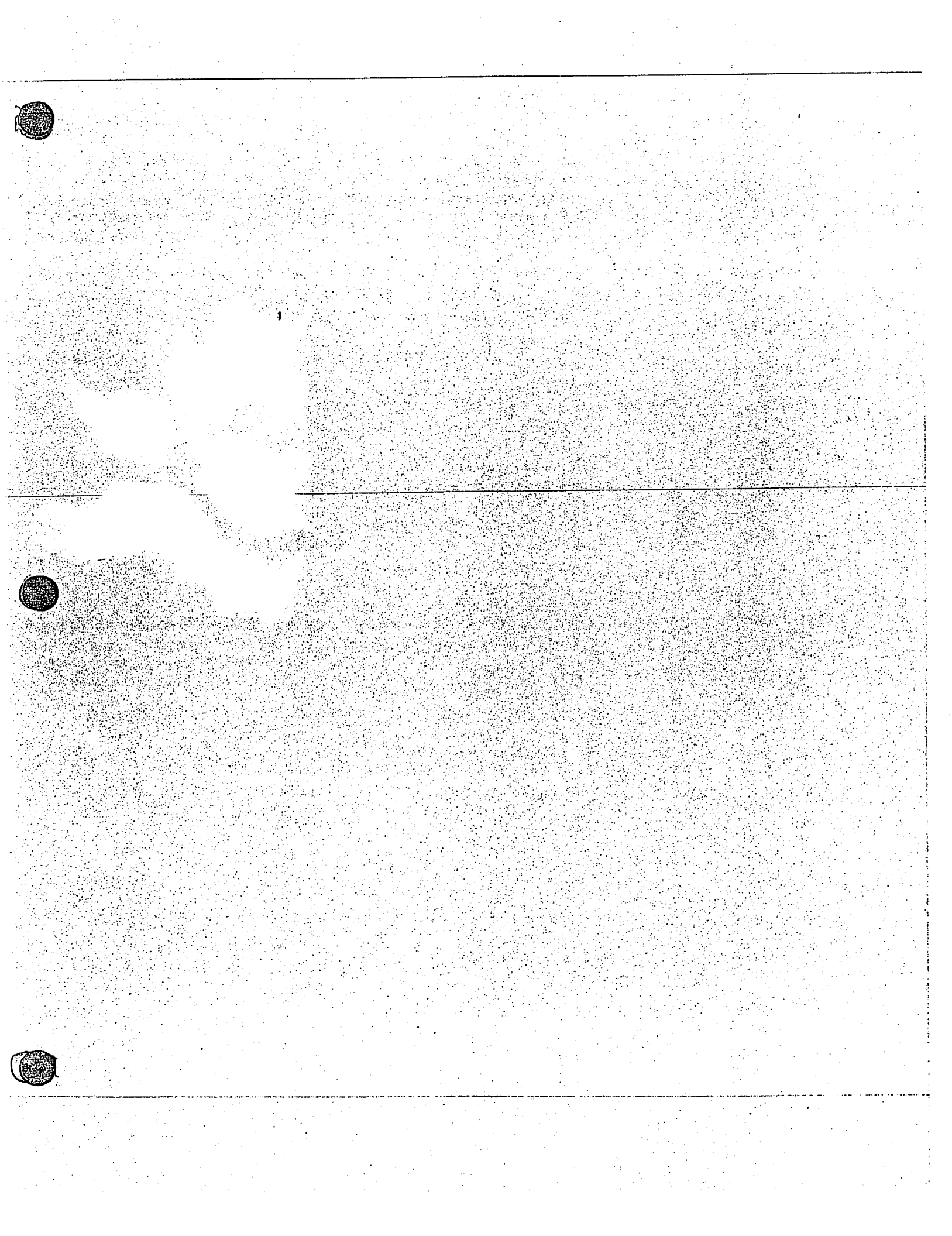
Cases are resolved on a case-by-case basis depending on the specific legal status of the case. Upon a successful conclusion to a participant's case, they will be eligible to attend a graduation ceremony recognizing their achievement.

- **Expungement Eligibility**

Cases that are entered into the program as pre-trial statuses may be expunged once it is dismissed by the Court.

- **Contact**

DA_Vet@phila.gov



ZONE PROSECUTION

Chiefs:

Michael Barry – Central Division Bureau

Angel Flores – East Division Bureau

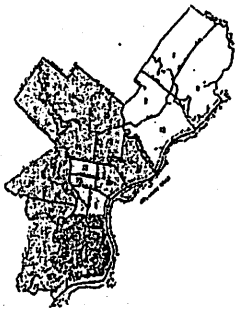
Vince Regan – Northwest Division Bureau

Geographic and Community Based Prosecution

Michael Barry, Chief of Central Bureau

Vince Regan, Chief of East Bureau

The Geographic Bureaus



Green = Northwest

Orange = East

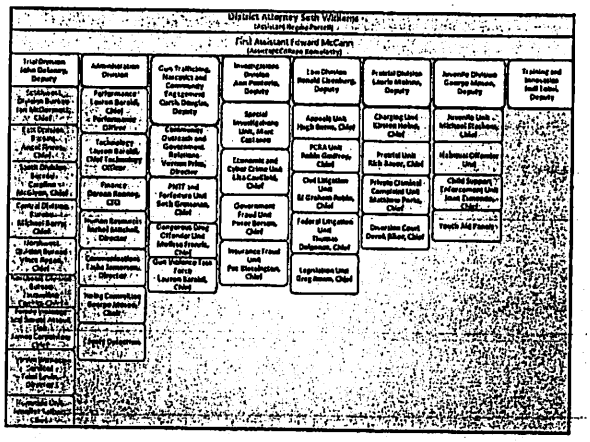
Blue = Central

Purple= Southwest

Red= South

The Geographic Bureaus

Northwest	Vince Regan, Chief
	Kristen Powers, Asst. Chief
East	Angel Flores, Chief
	Jennifer Mitrik, Asst. Chief
Central	Michael Barry, Chief
	Stacy Hughes, Asst. Chief
Southwest	Jan McDermott, Chief
	Jennifer Hoffman, Asst. Chief
South	Caroline McGlynn, Chief
	Nicole Pedecino, Asst. Chief



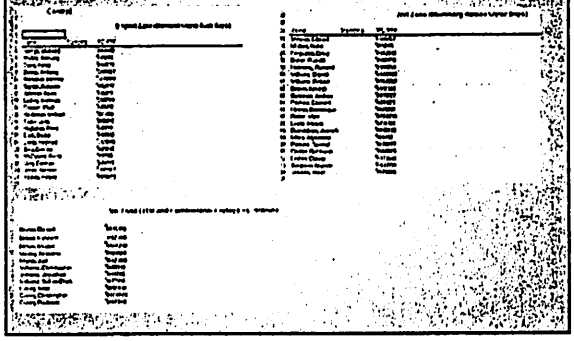
GunStat

GunStat

- Conceived By Bryan Lentz and First Assistant Ed McCann
- Rolled Out In 22nd, 24th and 25th
- GunStat Standards:
  1. Indentify Geographic Hotspots.
  2. Develop a List of Priority Violent Offenders who are the violent actors with each identified hotspot.
  3. Track all pending cases of identified priority violent offenders and obtain above average outcomes.
  4. Track all non-fatal shootings within each Bureau.
  5. Track and specially assign all VUFA cases within each Bureau.
  6. Track all Gun Point Robberies within each Bureau.
  7. Develop Working Relationships with Community Groups active in and around each hotspot.

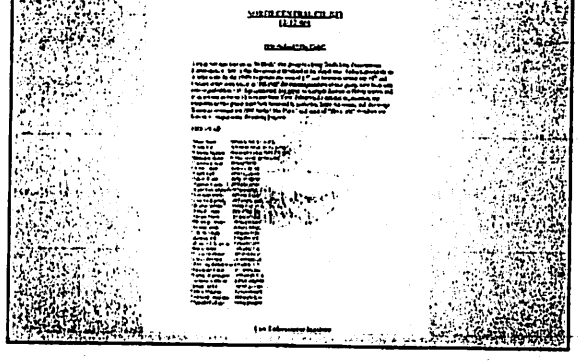
Developing a List of Violent Offenders

Violent Offender Lists



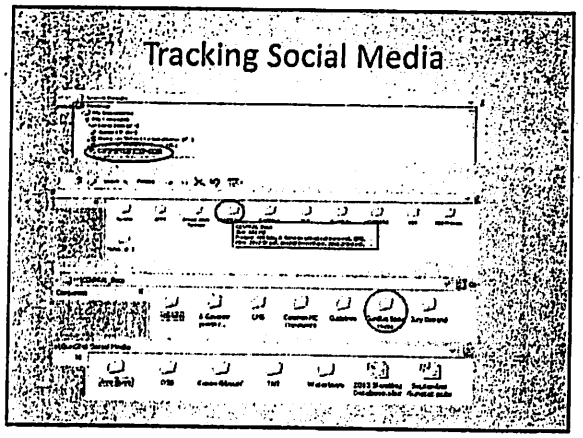
Use Of Data And Criminal Intelligence

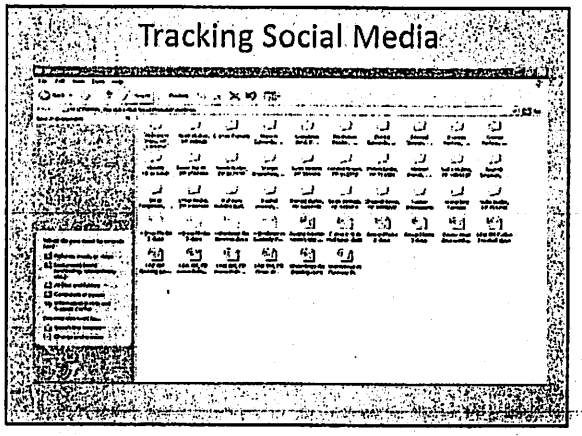
Police Criminal Intelligence

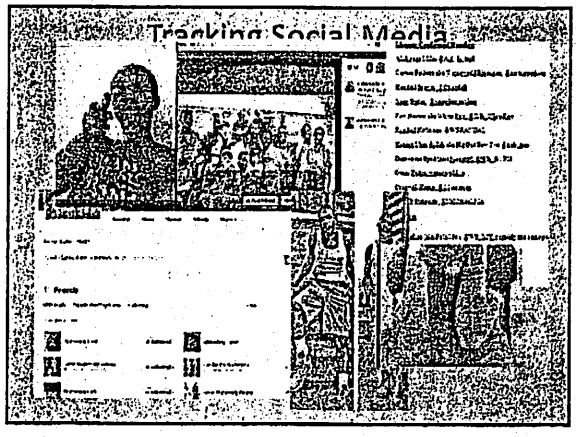


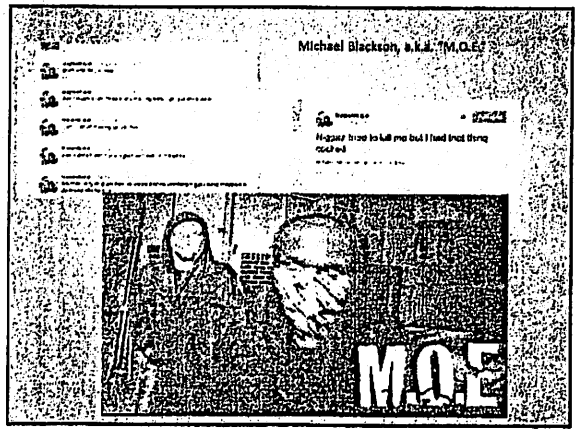
Use Of Social Media

Tracking Social Media




Tracking Social Media


Tracking Social Media

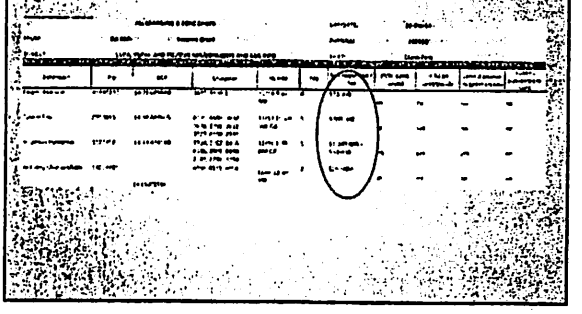

Michael Blackson, a.k.a. "M.O.E."
M.O.E

Other Steps

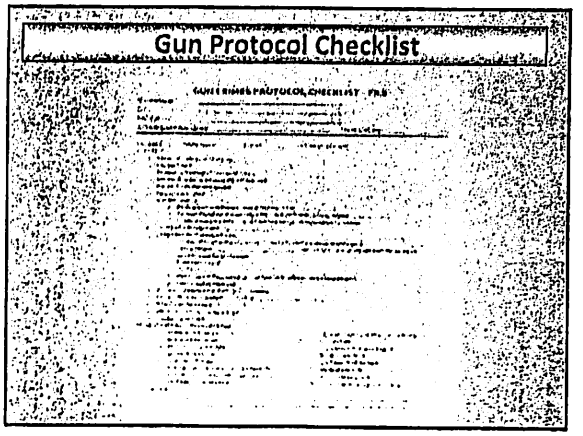
Other Gun Protocols:

- Higher Bail on VUFA Matters
- Gun Protocol Checklist
- Use of Sentencing Memorandums
- Community Testimony at Sentencing
- Criminal Intel. Testimony at Sentencing

Higher Bail of VUFA Arrests

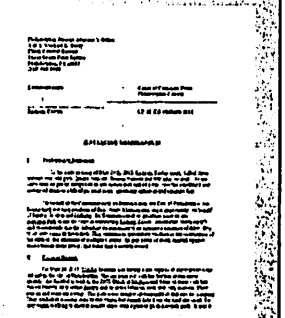


Gun Protocol Checklist



Thorough Sentencing Hearings

- We now insist on a sentencing hearing in every GunStat matter, most often requesting a deferred sentencing date.
- A sentencing memorandum is written on every GunStat matter.
- Whenever possible we bring member of the community to the sentencing and ask for Community Impact Testimony.
- Whenever possible we presnt police testimony about the defendant, his criminal history and associates and his impact on the community.
- Steps taken at sentencing are documented in GunStat reports.



Community Engagement

- Engaging the community should be a top priority if you are moving into a Community Based Prosecution Model:

- Community engagement boils down to two things: partnerships and problem-solving. We cannot hope to build partnerships or solve neighborhood problems without investing significant time and energy in engaging the community.

- The process of engaging the community is unavoidably labor-intensive and time-consuming. Community engagement is not built in a day and certainly not built by us sitting in our downtown office. This process takes many months and years to develop into meaningful relationships and partnerships.

- How to engage the community? You need to identify the following entities and team up with them in order to ingratiate yourself into the community:
  - Political leaders – city council members, state representatives, state senator
  - Clergy members
  - Community/neighborhood groups
  - Social services agencies
  - Individual leaders

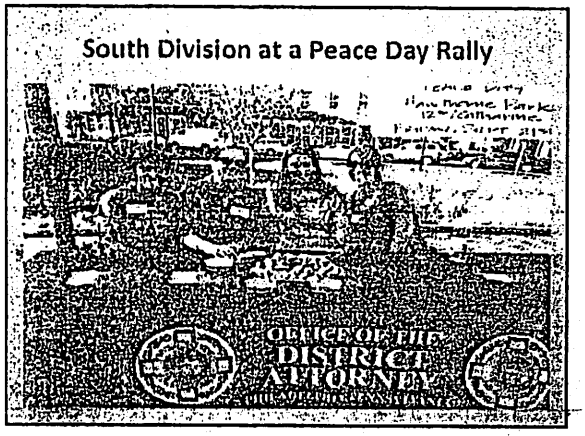
- The best way to develop credibility is to deliver something tangible to the neighborhood (i.e., have the alley light fixed)

- Don't limit your presence to just meetings or law enforcement events. You must attend neighborhood functions to prove you are vested in the community. (I.e., health fairs, block parties, ribbon cutting ceremony for a new school in the neighborhood.)
- Be genuine and straight up with people, they will accept you and begin working with you.
- The community truly want us in their neighborhood. Even in the most crime-infested neighborhoods that have experienced bad relationship with the police, they want us there.

Grand Opening of the First Community Action Center in East Division's Northern Liberties Neighborhood

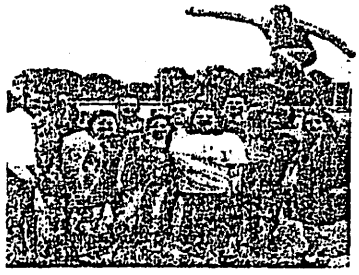
Southwest Division at a Community Event

South Division at a Peace Day Rally

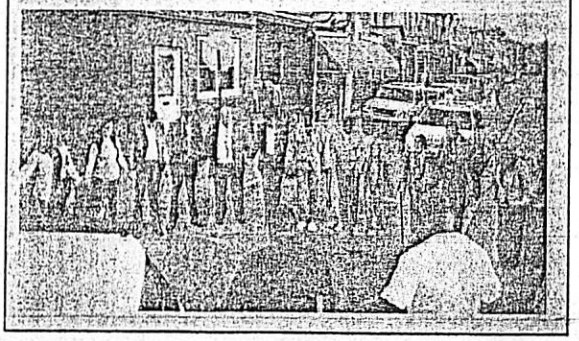


Northwest Division Working on a Neighborhood Garden

Northeast Division Participates in the Fox Chase National Night Out Event



Central Division Participating in 22nd District Chaplain's Prayer March for Peace



Sample Monthly Report

GunStat Central

September 2014

Gun Crimes 2014

Events		2013 Aug	2014 Aug	Sep	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	13	8	7	5	2	7	9	11	11	9	9							
	Shot At	7	0	0	0	0	1	0	0	2	0	0							
Arrests	Shot	5	3	1	6	1	1	1	2	4	2	1							
	Shot At	1	0	0	0	0	0	0	0	0	0	0							
	VUFA LEAD	12	13	9	10	11	21	16	13	12	10	12							
	GPR	6	4	5	4	3	5	2	3	8	2	4							

Gun Crimes (6th) September, 2014

6th

Event		2013 Mo/Ave	2014 Mo/Ave	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	0.7	0.2	0	0	1	0	0	1	0	0	0			
	Shot At	0.2	0	0	0	0	0	0	0	0	0	0			
Arrests	Shot	0.3	0.1	0	0	0	0	0	1	0	0	0			
	Shot At	0	0	0	0	0	0	0	0	0	0	0			
	VUFA LEAD	1.2	1.5	2	2	0	5	3	0	1	0	1			
	GPR	0.4	0.2	1	0	0	0	0	1	0	0	0			

Gun Crimes (9th) September, 2014

9th

Event		2013 Mo/Ave	2014 Mo/Ave	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	0.6	0.1	0	0	0	0	0	0	1	0	0			
	Shot At	0	0	0	0	0	0	0	0	0	0	0			
Arrests	Shot	0	0	0	0	0	0	0	0	0	0	0			
	Shot At	0.1	0	0	0	0	0	0	0	0	0	0			
	VUFA LEAD	1.6	1.4	0	3	1	1	3	2	0	1	2			
	GPR	1	0.6	0	0	0	1	0	0	4	1	0			

Gun Crimes (22nd) September, 2014

22nd

Event		2013 Mo/Ave	2014 Mo/Ave	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	11.3	7.2	7	5	1	7	9	10	10	9	9			
	Shot At	6.3	0.3	1	0	2	0	0	0	0	0	0			
Arrests	Shot	4.2	2	1	6	1	1	1	1	4	2	1			
	Shot At	0.3	0.1	0	0	1	0	0	0	0	0	0			
	VUFA LEAD	9.3	10.3	7	5	10	15	14	11	11	9	9			
	GPR	4.1	3.1	4	5	3	4	2	2	4	1	4			

- Don't limit your presence to just meetings or law enforcement events. You must attend neighborhood functions to prove you are vested in the community. (I.e., health fairs, block parties, ribbon cutting ceremony for a new school in the neighborhood.)
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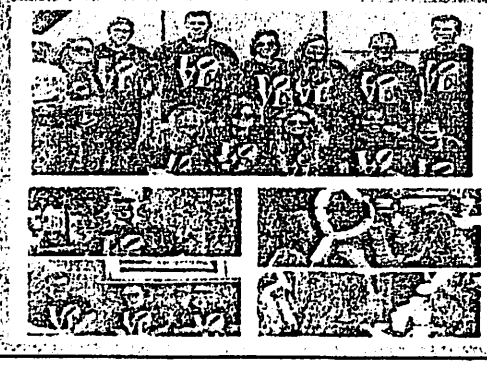
Southwest Division at a Community Event



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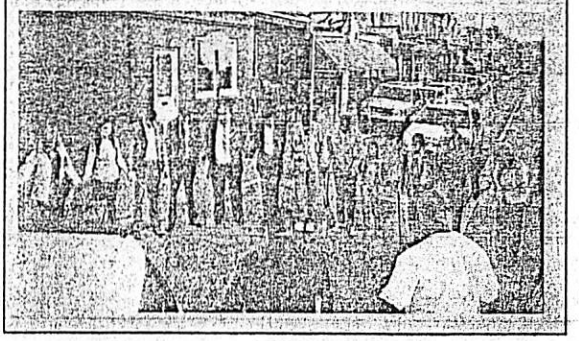


Sample Monthly Report

GunStat Central

September, 2014

Gun Crimes 2014

Event		2013 Avg	2014 Avg	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	13	8	7	5	2	7	9	11	11	9	9			
	Shot At	7	0	0	0	0	1	0	0	2	0	0			
Arrests	Shot	5	3	1	6	1	1	1	2	4	2	1			
	Shot At	1	0	0	0	0	0	0	0	0	0	0			
	VUFA LEAD	12	13	9	10	11	21	16	13	12	10	12			
	GPR	6	4	5	4	3	5	2	3	8	2	4			

Gun Crimes (6th) September, 2014

6th

	Event	2013 Mo/Avg	2014 Mo/Avg	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	0.7	0.2	0	0	1	0	0	1	0	0	0			
	Shot At	0.2	0	0	0	0	0	0	0	0	0	0			
Arrests	Shot	0.3	0.1	0	0	0	0	0	1	0	0	0			
	Shot At	0	0	0	0	0	0	0	0	0	0	0			
	VUFA LEAD	1.2	1.5	2	2	0	5	3	0	1	0	1			
	GPR	0.4	0.2	1	0	0	0	0	1	0	0	0			

Gun Crimes (9th) September, 2014

9th

	Event	2013 Mo/Avg	2014 Mo/Avg	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	0.6	0.1	0	0	0	0	0	0	1	0	0			
	Shot At	0	0	0	0	0	0	0	0	0	0	0			
Arrests	Shot	0	0	0	0	0	0	0	0	0	0	0			
	Shot At	0.1	0	0	0	0	0	0	0	0	0	0			
	VUFA LEAD	1.6	1.4	0	3	1	1	3	2	0	1	2			
	GPR	1	0.6	0	0	0	1	0	0	4	1	0			

Gun Crimes (22nd) September, 2014

22nd

	Event	2013 Mo/Avg	2014 Mo/Avg	J	F	M	A	M	J	J	A	S	O	N	D
Incidents	Shot	11.3	7.2	7	5	1	7	9	10	10	9	9			
	Shot At	0.3	0.3	1	0	2	0	0	0	0	0	0			
Arrests	Shot	4.2	2	1	6	1	1	1	1	4	2	1			
	Shot At	0.3	0.1	0	0	1	0	0	0	0	0	0			
	VUFA LEAD	9.3	10.3	7	5	10	15	14	11	11	9	9			
	GPR	4.1	3.1	4	5	3	4	2	2	4	1	4			

Open NFS Cases in Central as of September 30, 2014

- Total Open NFS in Bureau: 58
- Total NFS arrests in September 2014: 1
  - Number in custody: 0
  - Number on probation/parole @ arrest: 0
  - Number with open case(s) @ arrest: 0
  - Number with prior VUFA arrest: 0
    conviction: 0
  - Number with prior PWID arrest: 0
    conviction: 0

Oldest NFS Cases

[illegible] Austin	[illegible]	9/9/2010	Frantz	Dke Req granted re: health of Dke counsel	12/10/2014
Jaid Martin	CP-51-CR-0012633-2011	5/25/2011	Whitehead	4th Dke Cont Granted, Dke claim of bias/duty	11/19/2014
[illegible]	[illegible]	6/15/2011	Ruth	M/P Act, Murder and Consp, 2 1-5 x 10	None
[illegible]	[illegible]	4/26/2011	Powell	M/P Act, Murder and Consp, 2 1-5 x 10	None
[illegible]	[illegible]	7/[illegible]/12	Rouse	Atr Murder D/C in 2012, V-1 6/10; 9/30/14	12/1/2014
[illegible]	CP-51-CR-0011675-2012	12/16/12	Shields	Tried to Hung Jury 9/30/14	10/31/2014
[illegible]	CP-51-CR-0007006-2012	8/1/2012	Moore	Def RW, + Two Ms Sayer Cont.	12/8/2014
[illegible]	[illegible]-2012	1/24/12	Moore	Multiple Dke Cont, Dke in Dke Health	12/8/2014
[illegible]	[illegible]-2012	12/1/12	Ruth	Stated for 701, Dke Sawion Paying Games	11/10/2014
[illegible]	[illegible]-2012	3/8/12	Frantz	Dke Glenmead HR 1 Listings, Removed	9/14/2015
[illegible]	[illegible]-12	12/13/2012	Frantz	Two Dke Continuances	11/3/2014
[illegible]	[illegible]-12	11/17/2012	Frantz	Two Dke Continuances	11/3/2014
Owen Curtis	[illegible]-12	7/24/2013	Ruth	Trnd to Hung Jury 9/23/14	1/13/2015
Anthony Reed	[illegible]	11/5/2012	Frantz	CRIA for Waiver, D Jury Demands/ D Upstate	10/8/2014
Faheem Davis***	CP-51-CR-0012811-2012	7/8/2013	Frantz	Co-Dke Atty Alternating Continuances	1/5/2015
[illegible] Hughes***	CP-51-CR-0008352-2012	3/20/2012	Frantz	Co-Dke Atty Alternating Continuances	1/5/2015
[illegible] Dudley	CP-51-CR-0013053-2011	3/25/2011	Whitehead	Multiple Cont to Investigate ID Issues	11/14/2014
[illegible]	CP-51-CR-0007503-2012	4/17/2012	Ruth	Awaiting DNA Results	1/12/2015
[illegible]	CP-51-CR-0011681-2012	12/11/2012	Moore	Multiple Dke Cont. (Expire)	11/3/2014
[illegible]	[illegible]-2012	9/8/2012	Frantz	Switch From Waiver to Jury (24)	6/8/2015

Log N[illegible] Co-Defendants
*[illegible]mphrey are Co-Defendants
**McKnight and [illegible]utes are Co-Defendants
***Davis and Hughes are Co-Defendants

VUFA, September, 2014

DISTRICT	MP	PIKE	POT	FELONY CULP	DO CULP	HOM	REASON CASE CONTINUED / DISPOSITION
[illegible]	0	1	0	3	0	0	DLOD Vernon Green. Defendant stopped at CIC motel detected odor of liquor pistol in waistband. Says he is a CM/PA way to support a friend. Starter Pistol PIC no definition of a gun, PIC of POWL. Investigation - Continues
[illegible]	2	1	0	1	0	0	DLOD Shawn Morgan. Def. arrested along with two others for conspiracy to possess gun, suspected GPR. This case beyond mere presence. Other two NPC. Reasonable DLOD, no probs.
[illegible]	8	0	0	3	0	0	

VUFA Sentences September 2014

Name	Docket	Vehicle	Sentence	Sentence	Sentencing Hearing	Sentencing Statement	Community Testif	Community Present
Watson, Eyon	CP0014416-2013	NGP	Prob	4 Yrs Probation	Yes	Yes	No	No
Powell, Kayne	CP0003123-2014	NGP	State	2.5-5 Yrs + 5 Prob	No	No	No	No
Anderson, Robina A	CP5000[illegible]-2013	OGP	Prob	2 Yrs Probation	Yes	Yes	No	No
Benjamin, Aquil	CP0007[illegible]-2013	OGP	State	3-10 Yrs + 5 Prob	Yes	Yes	No	Yes- Police
Woods, Anwar	CP0008421-2013	OGP	State	5-10 yrs	Yes	Yes	no	Yes- Police
Williams, Lelena	CP0009797-2013	OGP*	Prob	4 Yrs Probation	Yes	No	No	No
Tydings, Calvin	CP0014454-2013	OGP	County	11.5-23 m + 5 Pr	Yes	Yes	No	No
Rivera, Abraham	CP1131101-2010	OGP	Prob	4 Yrs Probation	Yes	Yes	No	No

* MIS originally granted on Watson because police drew weapons on defendant and made them lay on the ground before patting them down. Judge Erdus probably wrong on motion. At reconsideration said he wasn't going to change his ruling but advised defense it was a close call in his opinion. Had ADA contact us, we agreed to a compromise sentence to get the verdict.

** Anderson arrested with gun in car, claimed he was returning from range, although firearm not properly secured. Gun lawfully purchased, defendant true zero. Def claimed immigration issues if sentenced to more than 2 years.

*** Ms. Williams was originally an OGP. She provided exceptionally extensive and helpful intelligence information on 18th and Cumberland drug organizations and continues to work with P/O Wallace as C/I. By the time of sentencing we agreed to probation.

**** Ms. Rivera arrested in 2000 on Greyhound bus stopping in Philadelphia on its way to NYC from Harrisburg. Gun found in defendant's bag. We asked for 1-2 years, but judge minimized his contacts in recent years and found he had no intent to use or brandish the gun in this community and posed no threat.

Gunpoint Robberies September, 2014

Date	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	2	0	0	0	0	0	
[illegible]	5	0	0	0	0	0	
[illegible]	0	0	0	6	0	0	
[illegible]							

Gunpoint Robbery Sentences September, 2014

Name	Docket	Vehicle	Sentence Type	Sentence Time	Sentencing Hearing	Sentencing Statement	Community Testif	Community Present
Harris, Jamil	CP0010432-2012	OGP	State	6-16 yrs.	Yes	Yes	No	No

Non-Fatal Shootings September, 2014

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	0	0	0	1	0	0	
[illegible]	0	0	0	0	0	0	
[illegible]	3	0	1	8	0	1	DLON L. Alexander. Police unable to locate witness after four listings. Victim's family overtly told he disappears when he hears court dates are approaching. Case remains with ADA pending review. ROLLE PROB E. Walters. NP approved in advance due to witness credibility issues. Witness caught on prison calls soliciting [illegible] (hold detectives for [illegible] treatment). Witnesses statements did not match ballistics, other eyewitness or common sense.
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Non-Fatal Shooting Sentences September, 2014

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
McKnight, Omar	CP0003044-2011	NGP	State	4-10 + 10	No	No	No	No
Jacobs, Sergio	CP0010434-2010	NGP	State	2.5-5 + 10	No	No	No	No
Brown, Terrance	CP0004541-2012	NGP	State	8-20	No	No	No	No

Omar McKnight given mitigated sentence for strategic reasons. He was the non-shooting co-defendant of def. Owen Cortes. Cortes put McKnight in his line-up as a filler, victim ID'd both Cortes and McKnight. Judge was going to suppress the ID of McKnight which was our only corroboration of ID of Cortes (the shooter) and only proof they knew each other. Cortes trial hung.

Sergio Jacobs was 2010 NFS that tried to hung jury once. Victim high on PCP when shot and has alternated between two completely incompatible versions of facts with no consistent predictor of which version he will tell next.

Community Outreach September, 2014

-Total Number of Community meetings: 4

-Total Number of Sentencings involving a gun crime where a community witness presented at sentencing: 2

-Total Number of Sentencings of any type where community was present: 2

Priority Offender/Hotspot Update

Number of Hotspots: 4

Total Number of Priority Offenders: 56

Total With Open Cases: 20

Total on Probation/Parole: 32

GunStat Activity in September 2014

- On September 3rd, attended Central Gang Audit with ADA Baraldi from GVTF. Reviewed over 200 Members of Criminal Organizations rom 6th, 9th and 22nd Districts.
- Met with 22nd District Capt. Glenn and various 22nd District Police Officers regarding the status of GunStat and various other on-going projects.
  - Agreed to meet alternating months to update all projects, including GunStat, "Enhanced Crime Briefings" and "Special Services Zones".
  - Remains completely unwilling to recognize any GunStat Zone except 29th to 33rd Lehigh to Cumberland (what we call Zone 3). They will continue to target old offenders from Zones One and Two but will not add new members to list. Will not acknowledge 18th and Cumberland Zone. Left list with all the offenders and he said he will have his police familiarize themselves with the defendants.
  - Expressed strong concern over the return of the Broaster family and uptick in violence around 22nd and Huntingdon.
- Attended September 18 Enhanced Crime Briefing. Not asked to do much participation. Was thanked by DC Patterson for all of GunStat's accomplishments.
- Sentenced 18th and Cumberland Cooperator Vienna Williams to probation. Ms. Williams now a registered C/I with CIU.
- Continued Assistance to FBI/DEA regarding Waterboys operation.
- Meeting with ADA Francis to see if DDOU can assist with 18th and Cumberland.

Individual Offender Update

Name	Age	Number	Notes
Michael Blackston	24	1006833	Defendant had been fugitive for over 200 days, during which time he was active on twitter bragging about a new gun and testing friends about a gun selling connection in Ottsburgh. Arrested during routine traffic STOP. Sentenced to 30-60 days contempt and bail increased to $250,000. Hi, 1/25/15 for PWID trial.
Edward Stinson	24	980187	Defendant has violated "(d)(1)" DUI probation repeatedly for past two years. Jail is not an option on that statute. ADA Krouse wrote brief in attempt to have defendant held in contempt for violations. Judge refused to do so and gave new probation. Made a condition of the new probation that defendant cannot associate with anyone else who is on probation. Krouse had P/O Wallace compile a list of all Waterboys and associates on probation and distribute to 22nd District cops.

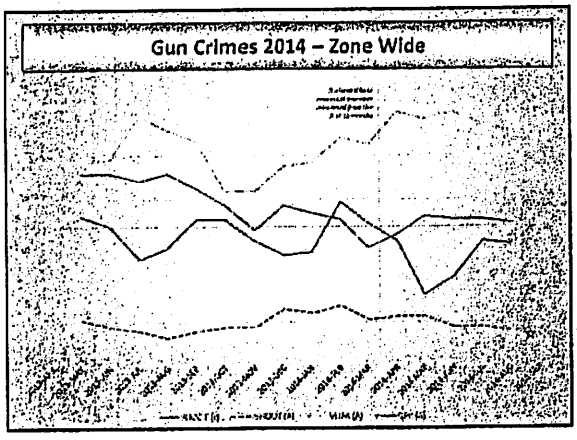
Plan for September 2014

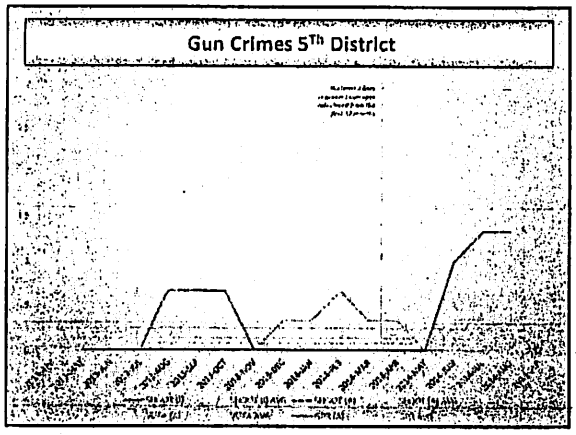
- Continue to work with Federal Authorities building a case against Water Boys drug organization. Working with Federal Authorities and East regarding new possible Waterboys cooperator with open East case.
- Continue to utilize Criminal Intelligence Unit to obtain social media for sentencing and bad revocation hearings.
- Work with 22nd District, GVTF and CIU on development of TNT.
- Begin scheduled working group meeting with 22nd District.

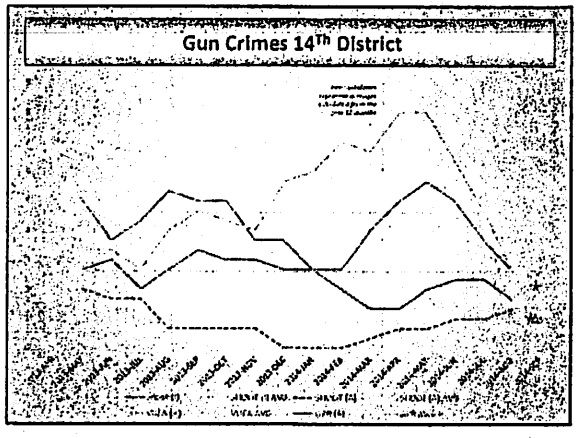
Sample Quarterly Report

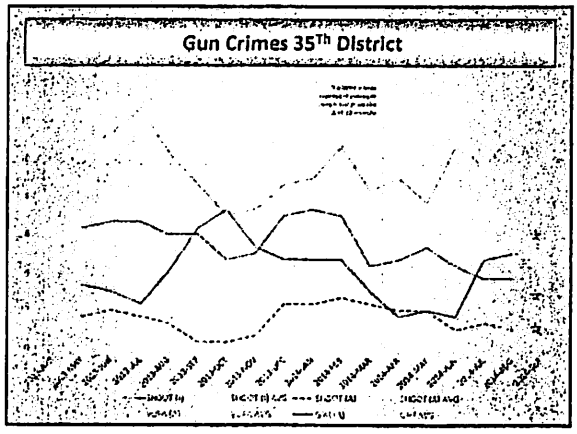
GunStat
Northwest Bureau
2014

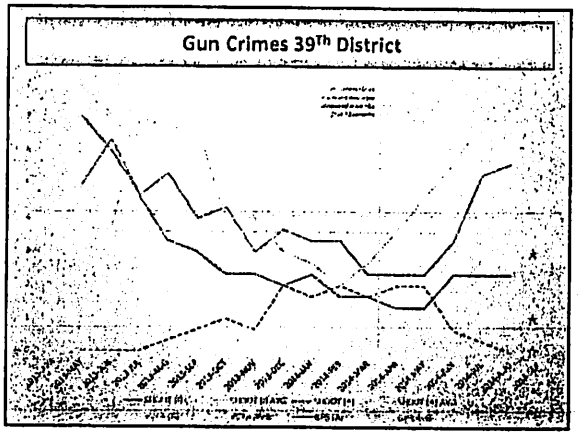
Gun Crimes 2014 – Zone Wide

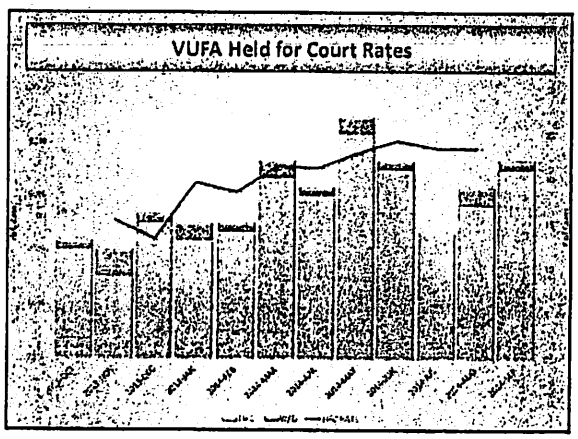


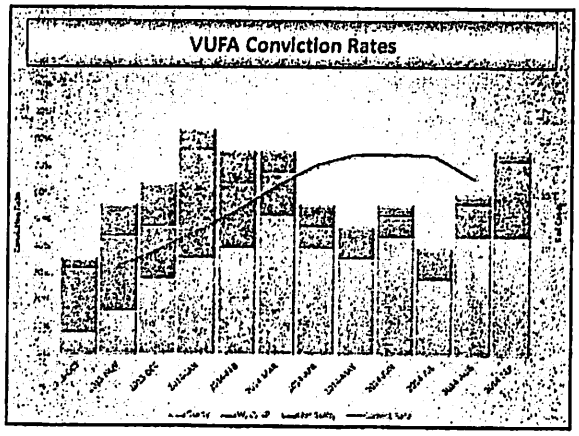

Gun Crimes 5Th District

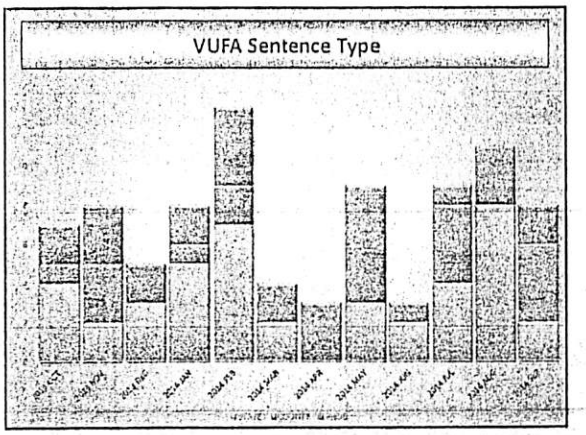

Gun Crimes 14Th District

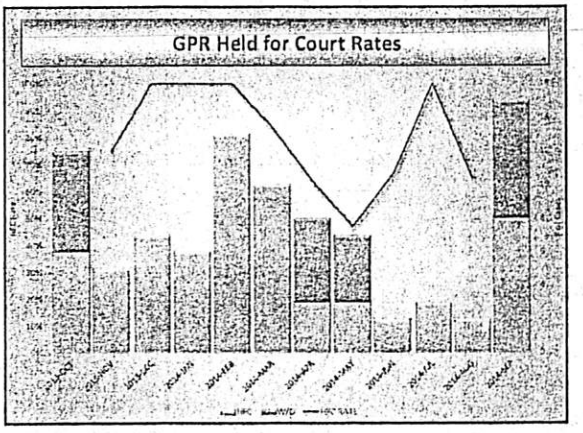

Gun Crimes 35Th District

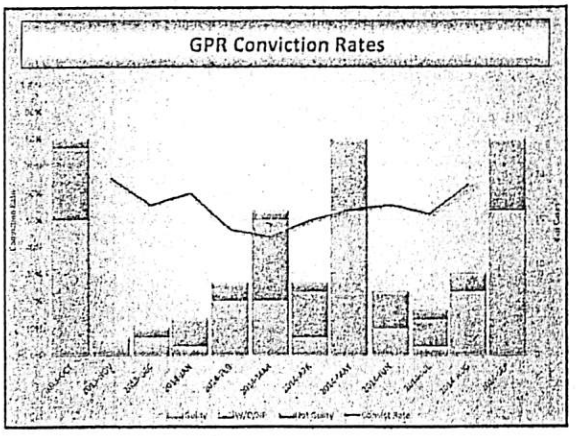

Gun Crimes 39Th District

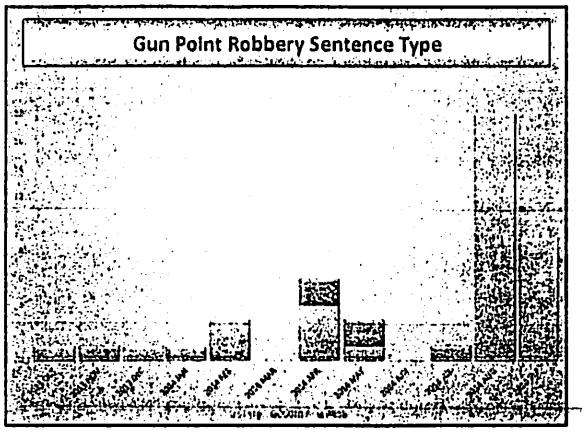

VUFA Held for Court Rates

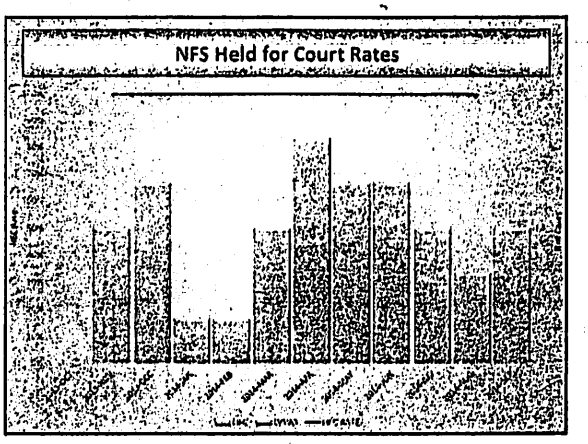

VUFA Conviction Rates

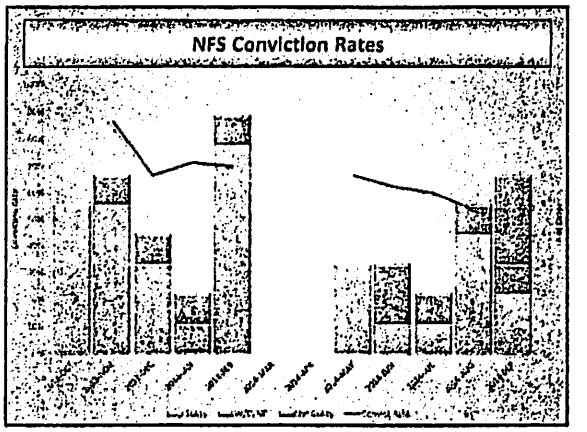

VUFA Sentence Type

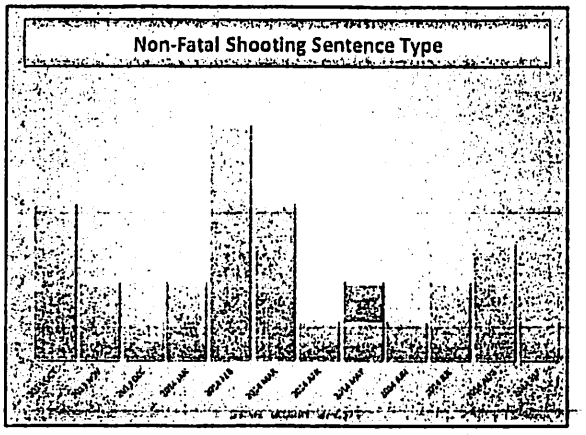

GPR Held for Court Rates

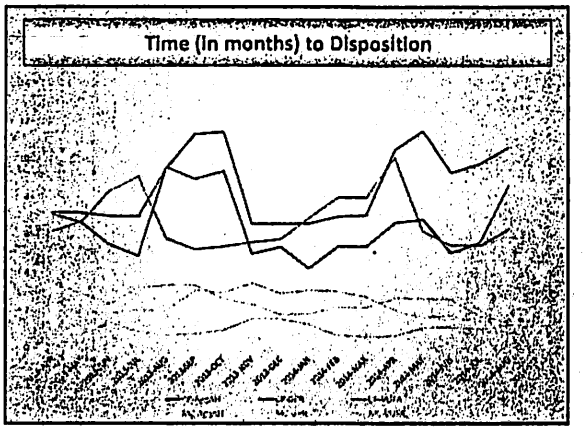

GPR Conviction Rates


Gun Point Robbery Sentence Type


NFS Held for Court Rates

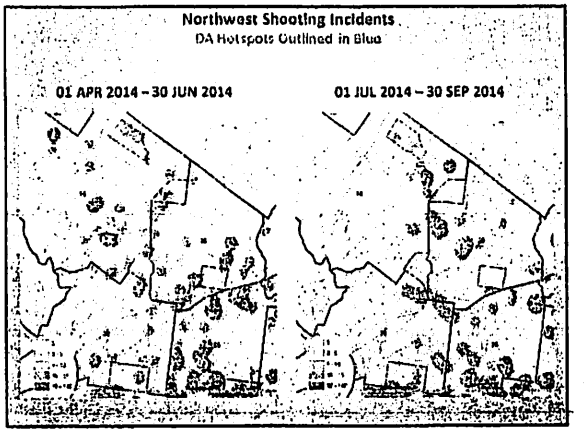

NFS Conviction Rates

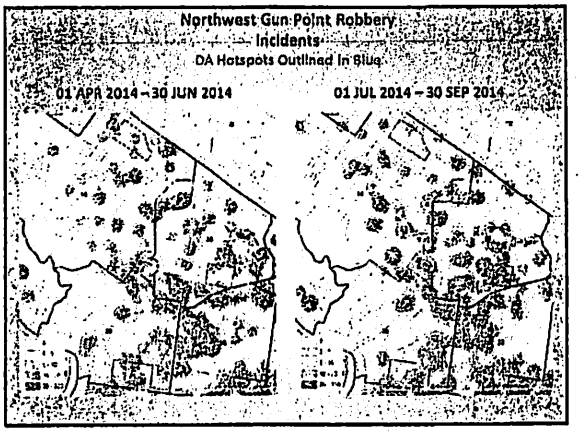




Priority Offender/Hotspot Update

	3	4	4	4
	30	63	63	69
	15	29	29	35
	15	13	14	16





Improvement(s) Made

Issue(s): Last Minute Lack of Preparedness for Gun Crimes.
Corrective Action(s): Reiterated to ADAs that a temporary chaotic work environment does not have to mean chaotic prosecution.
Taken by: Chief

Factor: NW is currently experiencing the perfect storm of staffing issues and a sudden interest in judicial economy. Due to maternity leave, a sudden injury, and two recent departures, NW has been struggling to juggle cases and court rooms. This issue is happening at the same time as the normal fall surge of judges pushing and opening cases to make up for a slow summer. As a result of these issues, gun crimes (mainly preliminary hearings and waivers) are being handed off at the last minute or in an isolated incident, not at all.

Response: In the short term, there is nothing to be done to increase our numbers. The issue will hopefully rectify itself in the coming months with the return of 2 ADAs on leave and the new class coming in. In the meantime, though, we have all discussed the fact that while the atmosphere is chaotic now, these cases remain vitally important to NW. We now all speak daily to ensure that all cases are accounted for, even if ADAs suddenly find themselves spun to other rooms. The more senior ADAs have taken leadership roles in not only identifying where our gaps will potentially be, but also in finding solutions so that all cases are accounted for, passed off in advance, and prosecuted to the best of our ability.

Success as a Result of GunStat

As a result of early screening and assignment of all gun related cases, problematic cases are identified and found much more quickly. As a result, true justice is achieved.

Commonwealth v. Eric Flowers – ADA Dunsing investigated this shooting in which an ex-boyfriend was alleged to have shot at the current boyfriend, but accidentally shot his own cousin instead. As a result of ADA Dunsing's investigation it was determined that the defendant could not have been the shooter. This determination was made by interviewing additional witnesses, and locating corroborative video after the arrest had already been made.

Commonwealth v. Patrick Wideman – ADA Sand used social media to determine that the stranger that allegedly robbed the victim was in fact the married known doer who was having an affair with the complainant. The robbery complaint was made after the defendant returned to his wife.

Commonwealth v. Cooper et al – Seven defendants were arrested at the scene for robbing one victim. Knowing that this number of defendants was unusual, Asst. Chief Powers gathered evidence and re-interviewed the arresting officer and the victim to determine that 4 of the defendants were not actively involved. They were merely bystanders that the victim pointed out.

This early investigation is a major change from previous practice. ADAs now comb over their discovery before even receiving a file, and use that jump start to build their cases. In some cases, though, it uncovers evidence proving that the defendant is not actually guilty. In either scenario, justice is served.

Plan for Upcoming Months

Issue(s): There continues to appear to be some disconnect in the heat maps and hotspots.

Action(s): At this time, I agree with and support the hotspots in the 14th and 35th Districts. I remain concerned about the hotspot in the 39th. Two new Intel officers have begun working in the 39th. I plan to meet with the 39th district to have a real conversation about where all of our efforts should be focused.

Taken by: Chief

Is It Working?

Statistics: First 6 months of 2012 vs. 2013

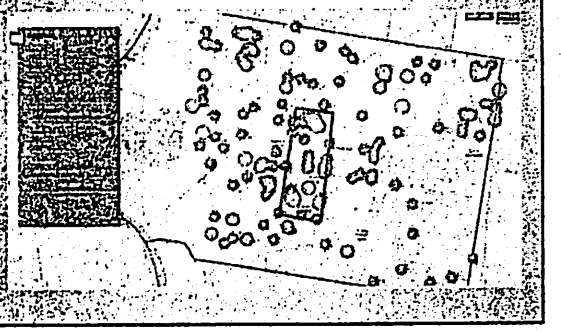
City-wide

- As of 6/30/13: 115 Homicides, down 38%.
- Shooting Victims: 633 to 518, down 18%.
- Robberies: 2,424 to 2,252, down 7%.
- All Assaults: 2,727 to 2,494 , down 9%.

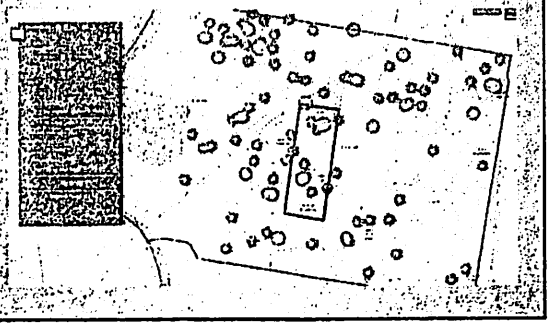
Central Division

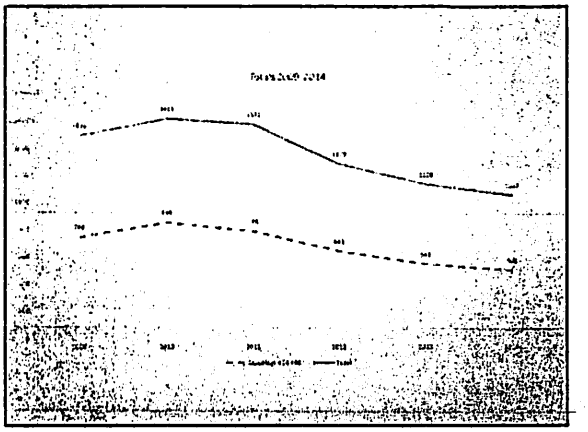
- Total Homicides: 21 to 7, down 67%.
- Robberies: 274 to 234, down 15%
- All Assaults: 412 to 348, down 16%
- Total Crime: 707 to 589, down 17%.

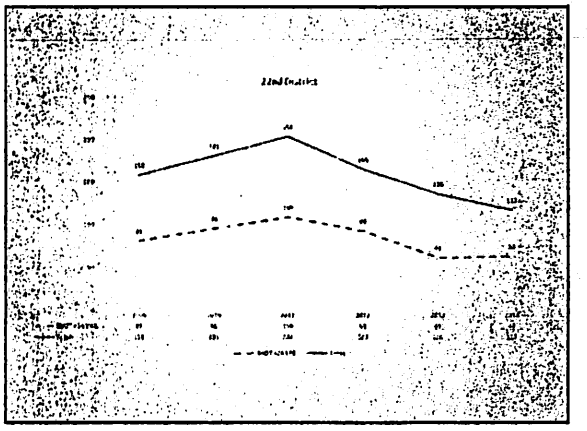
22nd District Shooting Victims 2011- 187

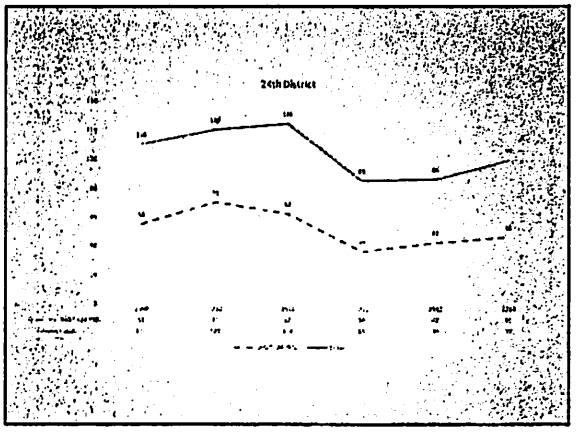


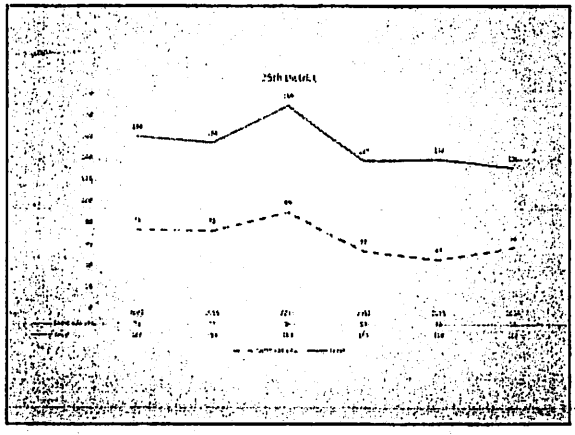
22nd District Shooting Victims 2014- 117








24th District



Written Guilty Plea Colloquy

PERSONAL

Defendant's Name: _____

Address: _____

Age: _____ years. Education: Finished _____ grades in school.

I can read and write English.

I have never seen a doctor or been in a hospital for any mental problems — I can understand what is going on.

I am not under the influence of drugs or alcohol. I have not taken any medicine in the last week.

THE CHARGES

I admit I committed the crime(s) of _____

_____, and I want to plead guilty.

My lawyer told me what the elements of the crime(s) are that the District Attorney must prove to convict me.

I know I can go to jail for up to _____ years and be fined $_____ for the crimes I committed.

NO PROMISES OR THREATS

Nobody promised me anything or threatened me or forced me to plead guilty. I, myself, have decided to plead guilty. I know what I say today is final.

PLEA BARGAIN OR AGREEMENT

There is no plea bargain or agreement of any kind.

There is no plea bargain of any kind, except that the District Attorney promised to:

Recommend a sentence of not more than _____ to _____ [years] [months].

Make no recommendations about my sentence.

Drop the charges of _____

_____

Nobody else promised me anything if I plead guilty.

I know if the judge does not agree with the plea bargain or agreement, I can withdraw my guilty plea and have a trial before a judge and jury or before a judge alone.

RIGHTS AT TRIAL

I do not have to plead guilty, even if I committed the crimes. I have an absolute right to plead not guilty and have a trial. I can have a jury trial or, if I give up my jury trial rights, I can have a trial by a judge alone. When I plead guilty, I give up my right to have a trial. If I went to trial, I would have all the rights listed below plus others.

I am presumed to be innocent. That means that I start out innocent — and stay innocent unless the District Attorney proves I committed the crime(s). I do not have to prove anything.

To convict me, the District Attorney must prove more than that I probably committed the crimes. The District Attorney has to prove me guilty "beyond a reasonable doubt". A reasonable doubt is the kind of doubt which would cause a normal, reasonable person to hesitate or halt or refuse to take any action at all in something very important to them.

I have the right to remain silent. Nobody can make me testify or talk about the case. No one can hold it against me if I remain silent. However, if I want to, I can testify (tell my story) at the trial. Also, I may call other people who will be my witnesses and testify for me. If I plead guilty, I give up this right.

I give up many important rights if I plead guilty. For example, if I do not plead guilty and have a trial, all the witnesses for the District Attorney must come to court and testify under oath. My lawyer may cross-examine them. My lawyer can ask them questions to see if they are telling the truth and if what they say is correct. I give up this right to confront and cross examine witnesses and many other rights if I plead guilty. The witnesses do not have to come in to Court – the District Attorney just reads to the judge a summary of what happened.

JURY TRIAL OR TRIAL BY JUDGE

My lawyer has fully explained to me that I have a right to a jury trial. Nobody can take that right away from me. At a jury trial, twelve (12) people, all from Philadelphia, would be on the jury and hear the facts of my case.

If all twelve were convinced beyond a reasonable doubt that I was guilty, I would be found guilty.

If all twelve were not convinced beyond a reasonable doubt that I was guilty, I would be found not guilty.

If all twelve could not agree, I would not be convicted, although I might have another trial before a different jury.

I can help pick my jurors. Each juror would be questioned to make sure they would be fair. I can keep anyone off the jury who is shown to the judge to be unfair.

I can also keep [seven (7)] [_____ (_____)] people off the jury without giving any reason why I don't want them on the jury, and so can the District Attorney. My lawyer and I would decide together which people we want to keep off the jury.

If I give up my right to a jury trial, I still can be tried by a judge alone without a jury. The same rules would apply, except the judge alone decides whether or not I have been proven guilty beyond a reasonable doubt.

If I plead guilty, I give up my right to a jury trial, and I also give up my right to have a trial by a judge who would decide the case alone without a jury.

PRE-TRIAL RIGHTS

I am also giving up my pre-trial rights. If I went to trial, before trial my lawyer could file motions, such as motions to keep out or "suppress" evidence. That means my lawyer could try to convince the judge that some of the evidence against me cannot be used at trial. This includes:

(1) statements I made to the police or other people;

(2) identifications people made of me; and

(3) anything that the police or others seized to use against me.

If I plead guilty, I also give up speedy trial rights and my right under Rule 600 to be tried within 180 days from the filing of the complaint.

I am also giving up all other pre-trial rights I might have.

I already had a hearing on pre-trial motions, when I plead guilty I give up my right to appeal the decisions on those motions.

APPEAL RIGHTS

If I am found guilty at a trial, I can appeal to a higher court. I can ask to have my conviction overturned and my case discharged because there was not enough evidence, because I did not get a speedy trial or for other reasons. I can ask for a new trial because a mistake was made before or during the trial.

I understand that if I plead guilty instead of having a trial, I give up almost all of my rights to appeal. If I plead guilty, my appeal rights will be very limited.

After I plead guilty, I can only appeal if:

(1) I did not know what I was doing when I pled guilty, or somebody forced me to do it – it was not voluntary.

(2) I was in the wrong court – the court did not have jurisdiction over my case; or

(3) The sentence the judge gave me was for some reason illegal or improper.

Before I can appeal even these three things, I must ask my lawyer to file a motion with the trial judge to allow me to withdraw my plea and go to trial. I lose my right to appeal if I do not ask to withdraw my plea before sentencing. I have ten (10) days after sentencing to file a motion to complain about the sentence or I lose the right to do that.

PROBATION OR PAROLE RIGHTS (*If on Probation or Parole*)

I know a guilty plea has the same effect as if I went to trial and were found guilty. The guilty plea may violate my probation or parole. Therefore, in addition to my sentence in this case, I can get more time in jail for a violation of my probation or parole. This plea may also cause me to be sentenced as a second or third strike offender if I am ever convicted again and it will increase my prior record score. The sentence on this guilty plea may not run concurrent to (at the same time as) a state (back time) sentence for a parole violation. It can be concurrent with a sentence I am currently serving.

RISK OF DEPORTATION (*If an Alien*)

I know that if I am not a United States citizen, it is possible I may be deported if I plead guilty to the crime(s) charged against me.

SATISFIED WITH MY LAWYER

I am satisfied with the advice and service I received from my lawyer. My lawyer spent enough time on my case and I had enough time to talk with my lawyer about the case. My lawyer left the final decision to me and I decided myself to plead guilty.

FACTS OF MY CASE AND ELEMENTS OF THE CRIME(S)

The facts of the case have been read to me. The crimes and elements of the crime(s) have been explained to me. I committed the crime(s), and that is why I am pleading guilty.

GIVING UP DEFENSES

If I plead guilty, I am giving up the right to defend my case. I cannot come back to court later and say that I was not guilty. Once I plead guilty, I can no longer complain that I was innocent and did not commit the crime.

I HAVE READ ALL OF THE ABOVE, OR MY LAWYER READ IT TO ME. I UNDERSTAND IT. MY ANSWERS ARE ALL TRUE AND CORRECT.

_____ _____

Print Name *Sign Name*

RE: Commonwealth v.

(1) I am an attorney admitted to the Supreme Court of Pennsylvania.

(2) I represent the defendant herein.

(3) I know of no reason why the defendant cannot fully understand everything that is being said and done here today.

(4) The defendant read the above form in my presence and appeared to fully understand it. I have gone over the form completely with the defendant, explained all of the items on the form, and answered any questions he had. The defendant understands the information and my explanation.

(5) I see no reason why the defendant cannot and is not knowingly, intelligently and voluntarily giving up his or her rights to trial and pleading guilty.

(6) I made no promises to the defendant other than any listed on this form.

Attorney for Defendant *Date* *Address*

DISTRICT ATTORNEY'S CERTIFICATION

I certify that I am the assigned District Attorney in this case and that any plea negotiation agreements mentioned herein are true and correct as they are set forth above. I have asked the defendant if there is anything on the Guilty Plea Colloquy form or anything else about this case that the defendant does not understand, and the defendant has indicated that the defendant understands everything that is set forth. The defendant said that any questions he or she had have been answered by the defense attorney. I have set forth a summary of facts which would support a conviction of defendant.

Assistant District Attorney *Date*

JUDGE'S CERTIFICATION

I certify that I am the Judge, having the jurisdiction to hear this case and that I am satisfied the defendant understands fully the nature and quality of the Guilty Plea that the defendant is entering before me. The defendant has exercised a knowing, intelligent, voluntary Guilty Plea to the charge mentioned above. In addition, I have personally explained to the defendant, on the record:

(1) the charges to which the defendant is pleading guilty, and the maximum sentence which could be imposed, as well as any mandatory minimum sentences;

(2) that the defendant is presumed to be innocent and has a right to a trial by jury or by a Judge without a jury;

(3) the elements of the crime the District Attorney would be required to prove to convict the defendant at trial; and

(4) that, by pleading guilty, the defendant is giving up all rights to trial and almost all rights to appeal.

I have asked the defendant on the record if the defendant understands that everything that is being said and done here today, as well as whether the defendant is pleading guilty of the defendant's own free will.

Judge *Date*

Commonwealth of Pennsylvania
Court of Common Pleas
County of: Philadelphia
1st Judicial District

Colloquy for Plea of Guilty / Nolo Contendere

COMMONWEALTH OF PENNSYLVANIA
v.

Docket No: _____ _____

I, _____, the defendant in the above-captioned case, am charged with the following offense(s):

_____

It is my desire to enter a plea to the following offense(s) as set forth below:

Nolo Contendere Plea: [ ]

Check One: Negotiated Guilty Plea: [ ]
Open Guilty Plea: [ ]

Offense	Plea	Permissible Range of Sentence			
		Incarceration		*Plea*	
		Minimum	Maximum	Minimum	Maximum

☐ Additional Pages Attached

I understand the nature of the charges to which I am pleading guilty/nolo contendere.
I acknowledge that there is a factual basis for this plea.
I understand that I have a right to a trial by jury.
I understand that I am presumed innocent until I am proven guilty.
I am aware of the permissible range of sentences and/or fines for the offense(s) with which I am charged.
I understand that the judge is not bound by the terms of any plea agreement between myself, my attorney, and the attorney for the Commonwealth unless the judge accepts such agreement.
I voluntarily and understandingly make this plea of _____.

Defendant's Address: _____

_____ _____
Signature of Defendant Date

CHAPTER 21. ADMINISTRATION OF THE LETHAL WEAPONS TRAINING PROGRAM

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Authority

The provisions of this Chapter 21 issued under the Lethal Weapons Training Act (22 P. S. § § 41—50), unless otherwise noted.

Source

The provisions of this Chapter 21 adopted September 12, 1975, 5 Pa.B. 2362; amended through November 2, 1984, effective April 1, 1985, 14 Pa. B. 3962, unless otherwise noted. Immediately preceding text appears at serial pages (90147), (46833) to (46838), (49214) to (49215), (46841) to (46842), (49216), (28687) to (28688) and (23337) to (23338).

GENERAL PROVISIONS

§ 21.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Lethal Weapons Training Act (22 P. S. § § 41—50).

Certification—The Commissioner's written authorization under the act and this chapter.

Certification card—A laminated wallet or billfold size, written authorization issued by the Commissioner which identifies the bearer as being a certified agent.

Certified agent—A privately employed agent who possesses a current and valid certification issued by the Commissioner.

Commissioner—The Commissioner of the Pennsylvania State Police.

Conviction—Includes being found guilty, or entering a plea of guilty or *nolo contendere* to a crime in a court of competent jurisdiction in this Commonwealth or elsewhere.

Crime of violence—Any of the following crimes, or an attempt, solicitation or conspiracy to commit any of the same in this Commonwealth or elsewhere, namely: murder, rape, aggravated assault, robbery, burglary, entering a building with intent to commit a crime therein, kidnapping, voluntary manslaughter, involuntary deviate sexual intercourse, arson, recklessly endangering another person or terroristic threats.

Department—The Pennsylvania State Police.

Disqualifying criminal offense—

(i) A conviction for a crime of violence shall be a disqualifying criminal offense; or

(ii) A conviction for any other crime may be a disqualifying criminal offense. Note: Conviction of a criminal offense which is equivalent to subparagraphs (i) and (ii) may constitute a disqualifying criminal offense.

Firearm—A pistol, revolver, rifle or shotgun.

Full-time police officer—A person who is employed by a city, borough, town, township or county police department (including sheriffs, deputy sheriffs and county detectives) assigned to law enforcement duties, and who works a minimum of 200 calendar days per year. The term does not include persons employed to check parking meters or to perform only administrative

duties, nor does it include auxiliary and fire police. For the purposes of § 21.16 (relating to exemption for retired police officers), the term includes a person employed by the Pennsylvania State Police.

Instructional hour—At least 50 minutes of a clock hour.

Law enforcement officer—A sheriff, deputy sheriff, constable, deputy constable, detective, police officer of this Commonwealth, or any political subdivision, school district, or municipal authority thereof.

Lethal weapons—Include, but are not limited to, firearms and other weapons calculated to produce death or serious bodily harm. A concealed billy club is a lethal weapon. The chemical mace or any similar substance shall not be considered as a lethal weapon for the purposes of the act. For purposes of this chapter, a nonconcealed billy club shall also be considered a lethal weapon.

Privately employed agent—Any person who is employed for the purpose of providing watchguard, protective patrol, detective or criminal investigative services either for another for a fee or for his employer. Privately employed agents do not include local, State or Federal government employes or those police officers commissioned by the Governor under 22 Pa.C.S. § § 3301—3305 (relating to railroad and street railway police), while performing their public/railroad employment duties. The term shall include a police officer of a municipal authority.

Program—The education and training program established, administered or approved by the Commissioner under the act.

Revocation—The permanent invalidation of certificate/ approval issued by the Commissioner.

Suspension—The temporary invalidating of a certificate/approval issued by the Commissioner.

Cross References

This section cited in 37 Pa. Code § 21.15 (relating to exemption for active full-time police officers).

§ 21.2. Mandatory certification.

Privately employed agents, regardless of their place of residence or employers' location who, as an incidence to their employment, carry a lethal weapon within this Commonwealth. Training schools or instructors shall be certified by the Commissioner prior to engaging in any activity which is regulated by the act.

§ 21.3. Law enforcement officers.

A law enforcement officer or other peace officer of this Commonwealth who performs activities which are regulated by the act and receives a form of compensation, gift, donation, or gratuity for these services, from a private person, association, or corporation, shall be deemed to be a privately employed agent.

§ 21.4. Employer responsibilities.

A person, association, corporation, or other entity who employs a privately employed agent under the act shall first ensure that the agent possesses a current and valid certification card from the Commissioner. Whenever an employer of a certified agent discharges him for cause which would have prohibited certification, the employer shall forward written notification of the discharge to the Commissioner within 5 days. Failure of an employer to ensure that a privately employed agent is currently and validly certified by the Commissioner may constitute a violation of 18 Pa.C.S. § § 306 and 903 (relating to liability for conduct of another and complicity and criminal conspiracy).

§ 21.5. Certified agent/applicant responsibilities.

When a certified agent or applicant has a change in physical, psychological, or criminal history circumstances which would have prohibited certification, he shall immediately forward written notification of the change to the Department. When a certified agent or applicant changes his address, he shall forward written notification of the change to the Department within 5 days.

§ 21.6. Program administration.

Correspondence, inquiries, and the like shall be directed to the State Police, Bureau of Training and Education, Post Office Box AA, Hershey, Pennsylvania 17033.

CERTIFIED AGENTS

§ 21.11. Applicant qualification requirements.

A person who desires to be certified by the Commissioner under the act must satisfy the following requirements:

(1) *Age.* The applicant must be at least 18 years of age.

(2) *Documents and fees.* The applicant must properly complete all necessary application documents and tender appropriate fees.

(3) *Physical standard.* The applicant must be personally examined by a doctor of medicine licensed by the Pennsylvania Board of Medical Education and Licensure or a doctor of osteopathy licensed by the Pennsylvania Board of Osteopathic Examiners and found to be physically fit to handle a lethal weapon. The examination shall include the following elements:

(i) *Neurological condition.* The applicant must be free from a debilitating condition, such as tremor, uncoordination, convulsion, fainting episodes, and the like.

(ii) *Cardiovascular condition.* The applicant's physical condition must be such that he could reasonably be expected to withstand significant cardiovascular stress.

(iii) *Intoxicants.* The applicant must be free from the addictive or excessive use of either alcohol or drugs.

(iv) *Visual acuity.* The applicant must have a visual acuity of at least 20/70, uncorrected in the stronger eye, correctable to at least 20/20; and 20/200, uncorrected in the weaker eye, correctable to at least 20/40, and must be free of any significant visual abnormality.

(v) *Audio acuity.* The applicant must be able to distinguish a normal whisper at a distance of 15 feet. The test shall be independently conducted for each ear while the tested ear is facing away from the speaker and the other ear is firmly covered with the palm of the hand.

(vi) *Other conditions.* The applicant must be free from any other significant physical defect or disorder which would, in the physician's opinion, impair the applicant's ability to handle a lethal weapon.

(vii) *Submission.* The examining physician must forward the physical examination form to the Department within 15 days, even if the applicant is found to be unfit. The Commissioner may utilize the results of the physical examination for up to 6 months from the date of the examination after which the applicant must be reexamined.

(4) *Psychological standard.* The applicant shall be personally examined by a psychologist who is licensed by the Pennsylvania Board of Psychologist Examiners and found to be psychologically capable to exercise appropriate judgment or restraint to handle a lethal weapon at the time of the examination. The examination shall include the following elements:

(i) *Interview and history.* The psychologist must personally interview the applicant, which interview shall include a summary of the applicant's personal, educational, employment, and criminal history, if any.

(ii) *Required personality test.* The applicant must be administered any current standard form of the Minnesota Multiphasic Personality Inventory (MMPI) which shall be administered by the licensed psychologist or a paraprofessional employed by and under the direct control and supervision of the licensed psychologist.

(iii) *Other testing methods.* If the licensed psychologist is unable to certify the applicant's psychological capability or risk to exercise appropriate judgment and restraint in the handling of a lethal weapon at this time, after conducting the test, the psychologist must personally employ whatever other psychological measuring instruments and techniques are deemed necessary to form his professional opinion. The use of these instruments and techniques requires a full and complete written explanation to the Department.

(iv) *Submission.* The examining psychologist must forward the psychological examination form to the Department within 15 days of the examination, even if the applicant is found to be psychologically at risk. The Commissioner may utilize the results of the psychological examination for up to 6 months from the date of the examination after which the applicant must be reexamined. No person who has been found psychologically at risk in the exercise of appropriate judgment and restraint in the handling of a lethal weapon may reapply for certification until after 1 year from the date of being found psychologically at risk.

(5) *Criminal conviction standard.* A review must be made of the applicant's criminal history record, if any, to determine qualification for certification. The criminal history review shall be based upon the record of conviction, if any, generated by the classification and subsequent examination of the applicant's fingerprints or another valid method. A person whose criminal history record evidences a conviction for a disqualifying criminal offense may be barred from certification under the act.

(6) *Training.* The applicant must successfully complete the training program prescribed by the Commissioner.

Notes of Decisions

Visual Acuity

Federal regulations regarding visual acuity standards for persons to carry lethal weapons at atomic facilities do not preempt the State's standards. *Demmy v. State Police*, 611 A.2d 782 (Pa. Cmwlth. 1992).

Cross References

This section cited in 37 Pa. Code § 21.21 (relating to conditions of certification).

§ 21.12. Classes of agent certification.

An applicant may apply for either of the following classifications:

(1) *Firearms.* This classification will be granted upon the successful completion of both the academic and firearms training modules. This classification entitles the certified agent to be armed with a lethal weapon.

(2) *Nonfirearms.* This classification will be granted upon the successful completion of the academic training module. This classification entitles the certified agent to be armed with a lethal weapon, except a firearm. No certified agent holding this type of classification may be armed with a firearm while on duty.

§ 21.13. Initial application procedure.

A person who desires to apply to the Commissioner for certification under the act shall complete the following initial application procedure:

(1) Complete an application for agent certification which is available at any State Police station, except a Turnpike or Interstate station. Statements on the application must be reviewed for accuracy and truthfulness. A material falsification must constitute the basis for denying/revoking an approval/certification, and may result in criminal prosecution.

(2) Submit the following items with the completed application:

(i) Two recent unmounted color photographs, which are approximately 1-1/4 inch by 1-1/4 inch in size; full faced and measure 1 inch from the top of the head to the point of the chin, without hat.

(ii) A certified check, cashier's check or money order in the amount of $45, made payable to the "Pennsylvania State Police." Personal checks will not be accepted. This fee is not refundable.

(3) Upon presentation of a satisfactorily completed application form, together with the items listed in paragraphs (1) and (2), at a State Police station, except a Turnpike or Interstate station, undergo fingerprinting by the receiving State Police Officer. The applicant must provide identification as required by the receiving State Police Officer.

(4) Undergo a physical examination which is sufficient to permit a licensed physician to complete the physical examination form which is furnished with the application for agent certification.

(5) Undergo the psychological examination and interview which is sufficient to permit a licensed psychologist to complete the psychological examination form which is furnished with the application for agent certification.

(6) Ensure that the appropriate part of the application for agent certification is completed in accordance with § 21.14 (relating to waiver of training), if an applicant desires to request a waiver of the training requirements.

(7) Ensure that the police officer exemption application is completed in accordance with § 21.15 (relating to exemption for active full-time police officers), if the applicant is a full-time police officer and requests an exemption of the application fee, physical testing requirement or psychological testing requirement.

(8) Ensure that the police officer exemption application is completed in accordance with § 21.16 (relating to exemption for retired police officers), if the applicant is a retired police officer and requests an exemption of the application fee, training and qualification standards, physical qualification and psychological qualification.

Cross References

This section cited in 37 Pa. Code § 21.19 (relating to training enrollment); 37 Pa. Code § 21.22 (relating to lost or damaged certification cards); and 37 Pa. Code § 21.24 (relating to renewal procedure).

§ 21.14. Waiver of training.

A person who has completed a course of instruction in a training program approved by the Commissioner may request a waiver of the academic or firearms training provisions in accordance with the following:

(1) *Academic waiver.* The applicant must have successfully completed a formal course of instruction comparable to the academic course prescribed by the Commissioner, within 5 years prior to receipt of the application by the Department. The applicant must have the verified waiver certificate on the application form completed by the certifying official.

(2) *Firearms waiver.* The applicant must have successfully completed a formal combat firearms course of instruction comparable to the firearms course prescribed by the Commissioner, within 1 year prior to receipt of the application by the Department. The applicant must have the verified waiver certificate on the application form completed by the certifying official.

Cross References

This section cited in 37 Pa. Code § 21.13 (relating to initial application procedure).

§ 21.15. Exemption for active full-time police officers.

(a) An applicant who is employed as a full-time police officer, as defined in § 21.1 (relating to definitions), shall be granted an exemption from the application fee.

(b) An applicant who was employed as a full-time police officer, as defined in § 21.1, before June 19, 1974, and who has continuously maintained full-time police officer employment since that date, shall be granted an exemption from the following application requirements:

(1) Physical testing.

(2) Psychological testing.

(c) An applicant who is employed as a full-time police officer, as defined in § 21.1, and who, either as a prerequisite to his police employment, or as a requirement for continued police employment, successfully completed a physical or psychological examination or both shall be granted an exemption from the physical or psychological requirements or both of the act, as the case may be.

(d) The granting of an exemption is conditioned upon the applicant providing documentary proof of eligibility by completing and forwarding a police officer exemption application which is available, upon request, at a State Police station, except a Turnpike or Interstate station.

Cross References

This section cited in 37 Pa. Code § 21.13 (relating to initial application procedure).

§ 21.16. Exemption for retired police officers.

(a) An applicant who is a nondisability retired police officer of a Commonwealth municipality or the State Police shall be initially certified under the act, and need not meet the training and qualification standards or physical and psychological qualifications, if he was a full-time police officer for at least 20 years, retired in good standing and has assumed the duties of a privately employed agent on or before 3 years from the date of his retirement. If a retired police officer commences his duties as a privately employed agent after 3 years from the date of his retirement he must meet the physical and psychological requirements of the act for certification.

(b) A retired police officer who is initially certified shall not be required to pay the application fee, but he shall be required to pay the appropriate certification fee.

(c) The granting of the exemptions and certification is conditioned upon the applicant providing documentary proof of eligibility by completing and forwarding a police officer exemption application which is available, upon request, at a State Police station, except a Turnpike or Interstate station.

Cross References

This section cited in 37 Pa. Code § 21.1 (relating to definitions); and 37 Pa. Code § 21.13 (relating to inital application procedure).

§ 21.17. Approval of application.

Upon receipt of the required application documents, a review will be made to determine if the applicant is qualified for training or waiver, as the case may be.

(1) *Training approval.* If the applicant qualifies for training, an approval to attend a certified training program will be issued to the applicant.

(2) *Waiver approval.* If it is determined that the applicant qualifies for a full or partial waiver of the training requirements, one of the following approvals will be issued to the applicant:

(i) *Full waiver.* The applicant will receive written notification of his full waiver status with instructions for further processing.

(ii) *Partial waiver.* The applicant will receive written notification of the type of partial waiver which is granted with written training approval for the remaining required training.

§ 21.18. Denial of application.

If it is determined that an applicant is not qualified for training, waiver or exemption, as the case may be, a written adverse determination notification will be issued. The applicant may have the right to appeal the determination under § 21.51 (relating to adverse determination).

§ 21.19. Training enrollment.

An approved applicant shall be subject to the following provisions:

(1) *School selection.* The applicant shall select a certified training school from a list provided by the Commissioner.

(2) *Length of approval eligibility.* The Commissioner's written approval to attend a certified training program will be valid for 6 months from date of issue.

(3) *Training program.* Upon completion of the required training program, the applicant shall proceed as follows.

(i) *Successful completion.* To successfully complete the required training program, an applicant must attain a minimum score of 70% in the academic module and, if applicable, 75% in the firearms module. Upon notification of successful completion of the required training program, the applicant shall immediately tender to the certified training school, a certified check, cashier's check or money order, in the amount of $25, made payable to the "Pennsylvania State Police." Personal checks will not be accepted. This fee is not refundable.

(ii) *Unsuccessful training.* An applicant who does not successfully complete either or both of the training modules shall be permitted to re-enroll in that training module which he failed, if the re-enrollment occurs prior to the expiration of the Commissioner's approval to attend training. The applicant must repeat the entire training module which he previously failed and attain a successful score.

(4) *Expired approval.* An applicant who fails to succesfully complete the required training program prior to the expiration of the Commissioner's written approval to attend training, must initiate a new application, including requirements prescribed by § 21.13 (relating to initial application procedure), to be eligible for approval to attend training.

§ 21.20. Agent certification.

Upon receipt of notification of successful completion of the required training program, or the granting of a waiver of the required training program, together with the appropriate fee, the Commissioner will issue a certification card. This certification card must be in the form of a laminated, wallet or billfold size card containing identifying information, type of certification,

and a color photograph of the applicant. The certification card is issued to the agent but will remain the property of the Department and must be surrendered upon demand. The certification card must be valid for 5 years.

§ 21.21. Conditions of certification.

When there is reasonable cause to believe that a certified agent has had a change in physical or psychological circumstances which would render the agent ineligible for original certification, the following action must be taken:

(1) *Physical reexamination.* A written notice will be issued informing the agent that he must undergo a physical examination conducted by a physician at the agent's expense. The examination must be identical to the original physical examination which is required for initial certification. The examining physician must submit the physical examination form as prescribed by § 21.11 (relating to applicant qualification requirements).

(2) *Psychological reexamination.* A written notice will be issued informing the agent that he must undergo a psychological examination conducted by a psychologist at the agent's expense. The examination must be identical to the original psychological examination which is required for initial certification. The examining psychologist must submit the psychological examination form as prescribed by § 21.11.

(3) *Mandatory provisions.* A certified agent who is directed to undergo either, or both, of the reexaminations must cooperatively participate in the examinations. Failure to comply with this section shall result in the immediate suspension of the agent's certification.

§ 21.22. Lost or damaged certification cards.

When a certified agent's wallet or billfold size certification card is lost or damaged, it will be replaced by the Commissioner if the certified agent supplies:

(1) An affidavit describing the circumstances under which the original card was damaged or lost.

(2) Two color photographs as described in § 21.13 (relating to initial application procedure).

§ 21.23. Certification status change.

When a certified agent desires to change his certification from nonfirearm to firearm status, he shall satisfy the following requirements:

(1) He shall make a written request for approval to attend a certified firearms training module. The certified agent must include two recent unmounted color photographs, which are approximately 1-1/4 by 1-1/4 inch in size; full faced and measure 1 inch from the top of the head to the point of the chin, without hat.

(2) Upon receipt of the Commissioner's written approval to attend a certified firearms training module, he shall be subject to the following:

(i) *School selection.* The applicant shall select a certified training school from a list provided by the Commissioner.

(ii) *Length of approval eligibility.* The Commissioner's written approval to attend a certified firearms training module will be valid for 6 months from date of issue.

(iii) *Training program.* Upon completion of the required firearms training module the applicant shall proceed as follows:

(A) *Successful completion.* Upon notification of successful completion of the required firearms training module, the applicant shall immediately tender to the certified training school, a certified check, cashier's check or money order, in the amount of $25 made payable to the "Pennsylvania State Police." Personal checks will not be accepted. This fee is not refundable.

(B) *Unsuccessful training.* An applicant who does not successfully complete the firearms training module shall be permitted to re-enroll in that training module, if the re-enrollment occurs prior to the expiration of the Commissioner's approval to attend training. The applicant must repeat the entire firearms training module and attain a successful score.

(iv) *Expired approval.* An applicant who fails to successfully complete the required firearms training module prior to the expiration of the Commissioner's written approval to attend training, must initiate a new request for approval to attend training as outlined in paragraph (1).

(v) *Agent certification (reissued).* Upon receipt of notification of successful completion of the required firearms training module, with the appropriate fee, the Commissioner will reissue his written certification with the appropriate change of status. Reissued certification shall be valid for the remainder of the term of the original certification. The certified agent, within 5 days of receipt of the reissued certification card must return the original certification card to the Department. Failure to strictly comply with this return provision shall result in the immediate suspension of the agent's certification.

§ 21.24. Renewal procedure.

(a) A certified agent may renew his initial certification for an additional 5 year period on a form supplied by the Commissioner. A completed application for renewal of agent certification must be accompanied by two recent color photographs and a renewal fee. Renewal application must be made within 6 months prior to the expiration of the current certification. The necessary application form will be forwarded by first class mail to the renewal applicant's last known address at least 8 months prior to the expiration of the current certification. Certified agents who fail to apply for a renewal of their certification prior to the expiration thereof, must make application under § 21.13 (relating to initial application procedure). Expired certification cards are void.

(b) Certified agents who desire to have their certifications renewed shall be required to attend a renewal training program at a certified school.

(1) Agents who are certified with a firearm shall have both classroom instruction and firearms range training totaling 8 hours. Agents who are certified to carry a lethal weapon other than a firearm shall attend a 3 hour program.

(2) Either certified training program may only be taught by a certified instructor at a certified school.

(c) Agents who are seeking renewal of their firearms certification shall be required to successfully complete the full renewal course with a minimum grade of 70% in the academic renewal module and 75% in the firearms renewal module. The minimum renewal course training standards consist of those required hours of instruction as prescribed by the Commissioner.

(d) Agents who are seeking renewal of their nonfirearms certification shall be required to successfully complete the academic renewal module with a minimum classroom examination grade of 70%.

§ 21.25. Approval of renewal application.

(a) An agent applying for renewal of certification shall submit a completed application for renewal of agent certification with:

(1) A certified check, cashier's check or money order made payable to the "Pennsylvania State Police," in the amount of $25. Personal checks will not be accepted. This fee is not refundable.

(2) Two recent unmounted color photographs, which are approximately 1¼ inch x 1¼ inch in size; full faced and measure 1 inch from the top of the head to the point of the chin, without hat.

(b) If the renewal applicant meets the requirements of the act and this chapter, an approval—with a list of certified schools attached—to attend training will be issued to the applicant. If the renewal applicant does not meet the requirements of the act and this chapter, a written adverse determination will be issued.

(c) Upon receipt of approval, the renewal applicant shall immediately apply for admission to a certified school of his choice. The required renewal training shall be completed within 6 months from the date of approval.

(d) Upon completion of each renewal training course, the certified school must furnish the Commissioner with a completed grade report sheet for each enrolled student.

(e) Upon notification of the successful completion of the renewal certification course by a certified school, the Commissioner will renew the applicant's certification. The renewal will be issued approximately 1 month prior to the expiration of the current certification. The renewed

certification will be valid for a 5 year period unless the certification is suspended/revoked or otherwise invalidated for cause.

§ 21.26. Certified agent prohibitions/restrictions.

(a) *Unauthorized use.* No certified agent shall permit any other person to possess or otherwise physically control his certification card.

(b) *Identification.* Every certified agent shall carry his certification card on his person while armed with a lethal weapon on duty or going to or from duty while armed.

(c) *Display of certification.* A certified agent shall exhibit his certification card for inspection by a law enforcement officer on demand.

(d) *Carrying firearms.* The issuance of a certification card to a privately employed agent does not grant the agent the right or privilege to carry, possess, own, or have under his control a firearm contrary to 18 Pa.C.S. § § 6101—6120 (relating to Uniform Firearms Act).

§ 21.27. [Reserved].

§ 21.28. [Reserved].

§ 21.29. [Reserved].

§ 21.30. [Reserved].

CERTIFIED SCHOOLS

§ 21.31. Administrative responsibilities.

Each certified school, including its school director, assistant school director, administrators, owners or corporate officers, as the case may be, must be responsible for the proper administration and operation of the school in conformance with the act and this chapter.

§ 21.32. Applicant qualification requirements.

A person or entity desiring certification to operate a lethal weapons training school shall satisfy the following requirements:

(1) *Geographic location.* Schools must be located within this Commonwealth. No school may conduct training at a location other than that specified on the application for school certification submitted to the Department.

(2) *Administrative structure standard.* An individual, partnership, corporation, vocational/technical school, private trade school, college, university, or similar entity may apply for certification to operate a lethal weapons training school. An individual, partnership, corporation, or similar entity must comply with the requirements of the Fictitious Names Act, 54 Pa.C. S. § § 301—332, if the school is to be operated under an assumed or fictitious name. Each school applicant must furnish the Department with a copy of the Fictitious Name Certificate or Articles of Incorporation or both, as the case may be, by attaching same to the application for school certification.

(3) *School director standard.* Each school applicant must designate a person as school director. A school director is the individual who bears primary responsibility and authority to administer and operate a certified school. No certified school may continue to operate without an approved school director. A designated school director shall comply with the following criteria to be approved by the Commissioner:

(i) Not have been convicted of a disqualifying criminal offense.

(ii) Complete the school director portion of the application for school certification or an application for approval of school director, as the case may be.

(iii) Undergo fingerprinting by the receiving State Police Officer upon presentation of a satisfactorily completed application for school certification or application for approval of school director at a State Police station, except a Turnpike or Interstate station.

(4) *Physical and environmental facilities standard.* Schools must satisfy the following minimal physical and environmental facilities standards:

(i) Buildings or other facilities must be approved from a standpoint of public safety by either State or local fire marshals, or inspectors of the Department of Labor and Industry in accordance with the statutes of the Commonwealth and any local ordinances relating to building regulations for the protection from fire and panic.

(ii) Sufficient facilities and space shall be available for both classroom and practical training.

(iii) The furniture, equipment, and supplies of the school must be of sufficient type, quality, and amount to adequately accomplish the required training.

(iv) Every firing range facility must comply with the minimum range safety standards of the National Rifle Association, and the school applicant must provide documentary proof thereof. Additionally, every indoor firing range must comply with minimum air quality standards.

(5) *Curriculum standard.* The course prescribed by the Commissioner must constitute the following minimum basic and renewal education and training programs for certified agents:

(i) *Lesson plans.* A comprehensive set of lesson plans for the entire established program must be maintained and utilized by each certified school in its presentation of the required course.

(ii) *Course materials.* Each school must maintain a complete listing of books, handouts, training aids, or other course materials.

(iii) *Copies of the act.* Each student must be provided with a copy of the act and this chapter as a part of the regular school tuition.

(iv) *Final examinations.* Each school must maintain, for 5 years, a copy of final examinations with correct answers indicated.

§ 21.33. Application procedure.

(a) An applying school must complete an application for school certification, which is available from the Director, Bureau of Training and Education, State Police, Post Office Box AA, Hershey, Pennsylvania 17033.

(b) An applying school must submit the following documents, where applicable, with the completed application:

(1) A copy of the approval document for the range facility, issued by the National Rifle Association.

(2) A copy of the lease or other appropriate document which was executed between the school applicant and the owner/operator of the range facility, if applicable.

(3) A copy of the applying school's Articles of Incorporation, if applicable, or a copy of the applying school's Certificate of Fictitious Name registration or both.

(c) After review of the completed school application and required documents, a comprehensive on-site school inspection will be conducted by a Department representative. The Commissioner's approval to operate a certified training school will not be issued until the applying school has satisfied the inspection requirements. The inspection will include but is not limited to an examination of the physical facilities, instructional equipment, records, files, lesson plans, course materials and final examinations.

§ 21.34. Approval for school and course certification.

(a) If the Commissioner determines that the application for certification meets the requirements of the act and this chapter, he will issue his written approval. If the Commissioner determines

that the applicant does not meet the requirements of the act and this chapter, he will issue his written adverse determination.

(b) The approval will be valid unless suspended, revoked or withdrawn.

§ 21.35. School inspections.

(a) *Annual inspections.* Each certified school must be completely inspected by a Department representative at least once during each calendar year. The school director shall be responsible for providing the Department inspector with the following:

(1) Comprehensive rules and regulations for student trainees.

(2) Complete student application procedures.

(3) Schedules of training courses.

(4) Complete schedules of tuition charges, and other training related charges.

(5) Complete current rosters of certified instructors, including designation of authorized instructional areas.

(6) Copies of lesson plans for the entire established course.

(7) Testing and grading systems, including copies of final examinations.

(8) Course materials, including books, handouts, and training aids.

(9) Records of class rosters, attendance lists, grades, firearms scores, and the like.

(10) Access to physical facilities used for training purposes.

(b) *Written notice.* The Department inspector will provide the school director with a written notice indicating whether or not the certified school passed inspection. In the event that the certified school does not pass inspection, the school director will be provided a written statement indicating the specific inspection deficiencies and required corrective action. The certified school may be subject to a follow-up inspection if the Department deems such to be appropriate.

(c) *Other inspections.* The Department reserves the right to inspect a certified school at any time. Each certified school must make its facilities, records, and classes available for inspection at any time during business hours, upon the demand of a Department representative.

§ 21.36. Operating provisions.

Each certified school must adhere to the following operating provisions:

(1) *Testing and grading.* Each certified school must ensure that the integrity of the testing and grading of student performance, under the course requirements established by the Commissioner, is constantly maintained as follows:

(i) Each student shall be administered a final examination for the basic academic module. The examination must consist of 50 multiple choice questions, with not less than two nor more than four valid distractors per question. Each question must count as two points.

(ii) Each certified school must develop not less than three complete final examinations for the academic module. No final examination shall be administered to a student class on a consecutive basis. The final basic examination must be of a 2 hour duration.

(iii) A student must attain a minimum score of 70% in the academic module and, if applicable, 75% in the firearms module to be eligible for certification.

(2) *Course attendance.* Each student must attend all instructional hours in order to be eligible for certification. No excused or unexcused absences from full course attendance are permitted. A student who is absent, shall be required to attend the instructional hours which he missed, at a subsequent date, prior to certification.

(3) *Class size.* A certified school must not conduct a training course with more than 40 students.

(4) *Final grades and fees.* Each certified school, within 5 working days of the close of a training course, must forward the following items to the Department:

(i) A fully executed original grade report sheet for each student in the course, regardless of whether or not the student successfully completes such course. The grade report sheet must contain the original signature of the school director. Grade report sheets are available from the Director, Bureau of Training and Education, State Police, Post Office Box AA, Hershey, Pennsylvania 17033.

(ii) An individual certified check, cashier's check or money order in the amount of $25, payable to the "Pennsylvania State Police," for each student who has successfully completed the required course. Personal checks will not be accepted.

(5) *Instructional personnel.* Each certified school must employ sufficient instructional personnel to ensure that the school can meet its course requirement obligations under the course schedule established for each course. Each certified school must have a copy of each instructor's current instructor certification in its files, prior to the person performing instructional services.

(6) *School certificate.* Each certified school must prominently display the certification to operate a lethal weapons training school issued by the Commissioner on the school premises. A certified school must immediately surrender certificate to a Department representative upon service of a notice of suspension/revocation issued by the Commissioner.

§ 21.37. School prohibitions.

(a) *Testing.* No school director, instructor, or other person associated with a certified school shall aid or counsel an applicant or other person in regard to the required final examination, physical examination and psychological examination.

(b) *Violation/penalty.* A violation of subsection (a) may result in a suspension/revocation of school certification.

CERTIFIED INSTRUCTOR

§ 21.41. Applicant qualification requirements.

A person who desires to be certified by the Commissioner to instruct a portion of a lethal weapons training course, must satisfy the following requirements:

(1) *Age.* The applicant must be at least 18 years of age.

(2) *Documents and fees.* The applicant must not have been convicted of a disqualifying criminal offense.

(3) *Education and experience.* The applicant must meet the minimum education and experience standards.

(i) *Academic instructor rating.* An instructor receiving this certification shall be authorized to teach one or more of the following course elements: Legal Authority, Constitutional Restrictions, Principles of Justification, Pennsylvania Crimes Code, Limited Authority, Incident Investigation and Reporting, Testifying in Court. An applicant for the Academic Instructor Rating must have, in addition to a course of study in 18 Pa.C.S. § § 101—9183 (relating to the Crimes Code) and 234 Pa. Code (relating to Rules of Criminal Procedure), at least one of the following:

(A) An Associate Degree from a college or university located within this Commonwealth in which the course major was Police Science, Police Administration, Law, Criminology, or a similar Criminal Justice/Law Enforcement curriculum.

(B) An Associate Degree from a college or university located outside of this Commonwealth in which the course major was Police Science, Police Administration, Law, Criminology, or a similar Criminal Justice/Law Enforcement curriculum.

(C) A combination of education, which in the opinion of the Commissioner is equivalent to the educational standards in clause (A) or (B), and a minimum of 2 years experience as an instructor in a police or security academy teaching similar course material.

(ii) *Skills instructor rating.* An instructor receiving this certification shall be authorized to teach the armed and unarmed defense course element. An applicant for the skills rating must have at least one of the following:

(A) An undergraduate degree in Physical Education and 1 year of experience in law enforcement, criminal justice, or the security industry.

(B) A high school diploma, or GED equivalent, and 3 years of full-time experience as a physical education or martial arts instructor.

(C) A combination of education/training, which in the opinion of the Commissioner is equivalent to the standard in clause (A) or (B).

(iii) *Firearms instructor rating.* An instructor receiving this certification shall be authorized to teach the firearms module. An applicant for the firearms instructor rating must be certifed as a police firearms instructor, or an equivalent thereto, by one of the following recognized organizations:

(A) National Rifle Association.

(B) Smith & Wesson Academy.

(C) Federal Bureau of Investigation.

(D) State Police.

§ 21.42. Application procedure.

(a) An applying instructor must complete an application for instructor certification, which is available from the Director, Bureau of Training and Education, Pennsylvania State Police, Post Office Box AA, Hershey, Pennsylvania 17033.

(b) An applying instructor must submit the following items, where applicable, with the completed application:

(1) A certified copy of the college/university transcript which evidences compliance with the education standard.

(2) Documentary evidence of employment experience.

(3) Documentary evidence of instructor experience.

(4) A copy of the firearms instructor certification issued by a recognized organization.

(c) Upon presentation of a satisfactorily completed application for instructor certification with all applicable attachments, at a State Police station, except a Turnpike or Interstate station,

except a Turnpike or Interstate station, the receiving State Police Officer shall fingerprint the instructor applicant and further process the form.

§ 21.43. Approval of instructor certification.

If the Commissioner determines that the applicant meets the requirements of the act and this chapter, he will issue his written approval. If the Commissioner determines that the applicant does not meet the requirements of the act and this chapter, he will issue his written adverse determination.

ADMINISTRATIVE ADJUDICATIONS

§ 21.51. Adverse determination.

When it is determined that a person or entity who has applied for certification/approval/exemption under the act is unqualified for the certification/approval/exemption, a written notice of adverse determination which must contain specific information regarding the applicant's right to a hearing will be issued.

Cross References

This section cited in 37 Pa. Code § 21.18 (relating to denial of application).

§ 21.52. Suspension/revocation.

(a) *Proposed suspension/revocation.* A notice of proposed suspension/revocation to a certified/approved person or entity may be issued. The notice will contain an explanation of the basis for his proposed suspension/revocation, with specific information regarding the individual's or entity's right to a hearing. If the notified party timely requests a hearing, the request shall serve to stay the proposed suspension/revocation pending the outcome of the hearing and the Commissioner's final determination. The notice may be issued whenever:

(1) False fraudulent or misstated information is found to appear on any application or other document associated with the person or entity.

(2) A change of circumstances occurs that would render the person or entity ineligible, unqualified or otherwise unfit for certification/approval.

(3) A substantial violation of the act or this chapter is committed by the certified/approved person or entity.

(b) *Summary suspension/revocation.* In the event that the Commissioner determines that a certified/approved person or entity has a significant change of circumstances or has committed a serious violation of the act or this chapter which he determines to constitute a clear and present

danger to the interests of the citizens of this Commonwealth, he will issue a notice of summary suspension/revocation. In these cases, the person or entity will have the right to a hearing within 15 days of the suspension/revocation.

§ 21.53. Hearings.

If a hearing is requested as a result of an adverse determination, proposed suspension/revocation or summary suspension/revocation, an administrative hearing will be scheduled and a notice of hearing will be sent to all parties to the proceedings. Hearings will be held at a location as determined by the Commissioner.

§ 21.54. Hearing examiner.

(a) A hearing examiner will be appointed by the Commissioner to conduct requested hearings.

(b) Subsection (a) supplements 1 Pa. Code § 35.185 (relating to designation of presiding officers).

§ 21.55. Evidence.

(a) Parties have the right of presentation of evidence, cross-examination, objection, motion, and argument. The hearing examiner will not be bound by technical rules of evidence, but all relevant and material evidence of reasonable probative value shall be admissible. The hearing examiner may limit the number of witnesses upon an issue and may require a party to present additional evidence on an issue. Witnesses shall be sworn or shall affirm.

(b) Applications, certifications, orders, and formal notices relating to the proceedings may be considered by the hearing examiner in deciding the case even though they have not been made a part of the record or referred to therein. The hearing examiner may also take official notice of an official or public document not relating to the proceeding and of a matter subject to judicial notice.

(c) Subsections (a) and (b) supplement 1 Pa. Code § § 35.161—35.169 and 35.173 (relating to evidence and official notice).

§ 21.56. Briefs.

(a) The parties may, and upon request shall, submit briefs within such time as the hearing examiner will prescribe and will serve a copy of the brief on the other parties.

(b) Subsection (a) supersedes 1 Pa. Code § 35.191 (relating to proceedings in which briefs are to be filed).

§ 21.57. Transcript.

(a) Hearings must be stenographically reported and a transcript of the report must be a part of the record.

(b) Parties desiring copies of the transcript may obtain copies from the official reporter. Parties will also have the opportunity to review a copy of the transcript on file with the Department.

(c) Subsections (a) and (b) supplement 1 Pa. Code § § 35.131—35.133 (relating to transcript).

§ 21.58. Witness fees.

(a) Witnesses subpoenaed by the State Police shall be paid the same fees and mileage as are paid for like services in the Courts of Common Pleas.

(b) Subsection (a) supersedes 1 Pa. Code § 35.139 (relating to fees of witnesses).

§ 21.59. Continuances.

Hearings will only be continued for compelling reasons. Requests for continuances shall be submitted to the hearing examiner, in writing, with a copy served upon other parties to the proceedings.

§ 21.60. Subpoenas.

(a) Upon request of a principal to the Director, Bureau of Training and Education, State Police, Post Office Box AA, Hershey, Pennsylvania 17033, the hearing examiner will for cause, issue subpoenas under the signature of the Commissioner and Seal of the Department. The subpoenas must be for the attendance of witnesses or production of documentary evidence, and shall be served in person or by certified mail, return receipt.

(b) Compliance with a subpoena may be excused by the Hearing Examiner when he determines that the testimony or documents are not relevant or material to the issues in hearing, or for other just causes.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.142 (relating to subpoenas).

§ 21.61. Hearing examiner's recommendation.

(a) At the conclusion of the proceedings, the hearing examiner will submit a written report to the Commissioner. His report will contain findings of fact, conclusions of law and recommendations.

(b) The recommendations will be reviewed and considered by the Commissioner in his disposition of the matter.

(c) The Commissioner will serve a copy of his decision on the principals to the proceedings or their representatives.

(d) Subsections (a)—(c) supersede 1 Pa. Code § § 35.201—35.207 (relating to proposed reports generally).

APPENDIX I [Reserved]

APPENDIX I-A [Reserved]

APPENDIX II [Reserved]

APPENDIX III [Reserved]

APPENDIX IV [Reserved]

APPENDIX V [Reserved]

APPENDIX VI [Reserved]

APPENDIX VI-A [Reserved]

APPENDIX VII [Reserved]

APPENDIX VIII [Reserved]

APPENDIX IX [Reserved]

APPENDIX X [Reserved]

APPENDIX XI [Reserved]

APPENDIX XII [Reserved]

APPENDIX XIII [Reserved]

APPENDIX XIV [Reserved]

APPENDIX XV [Reserved]

APPENDIX XVI [Reserved]

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2010 Pennsylvania Code
Title 42 - JUDICIARY AND JUDICIAL PROCEDURE

Chapter 97 - Sentencing

§ 9712. Sentences for offenses committed with firearms.

(a) Mandatory sentence.--Except as provided under section 9716 (relating to two or more mandatory minimum sentences applicable), any person who is convicted in any court of this Commonwealth of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses), shall, if the person visibly possessed a firearm or a replica of a firearm, whether or not the firearm or replica was loaded or functional, that placed the victim in reasonable fear of death or serious bodily injury, during the commission of the offense, be sentenced to a minimum sentence of at least five years of total confinement notwithstanding any other provision of this title or other statute to the contrary. Such persons shall not be eligible for parole, probation, work release or furlough.

(b) Proof at sentencing.--Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(c) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Appeal by Commonwealth.--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Firearm." Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or the expansion of gas therein.

"Replica of a firearm." An item that can reasonably be

perceived to be a firearm.
(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; June 13, 1995, 1st Sp.Sess., P.L.1024, No.17, eff. 120 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days)

1995 Amendments. Act 17, 1st Sp.Sess., amended subsecs. (a) and (e) and Act 21, 1st Sp.Sess., amended subsec. (a). See the preamble to Act 17, 1st Sp.Sess., in the appendix to this title for special provisions relating to legislative purpose. Section 6 of Act 21, 1st Sp.Sess., provided that the amendment of subsec. (a) shall apply to all offenses committed on or after the effective date of Act 21.

Cross References. Section 9712 is referred to in sections 9712.1, 9715 of this title

9712.1 - Sentences for certain drug offenses committed with firearms.

§ 9712.1. Sentences for certain drug offenses committed with firearms.

(a) Mandatory sentence.--Any person who is convicted of a violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, when at the time of the offense the person or the person's accomplice is in physical possession or control of a firearm, whether visible, concealed about the person or the person's accomplice or within the actor's or accomplice's reach or in close proximity to the controlled substance, shall likewise be sentenced to a minimum sentence of at least five years of total confinement.

(b) Limitation on aggregate sentences.--Where a defendant is subject to a mandatory minimum sentence under 18 Pa.C.S. § 7508(a) (relating to drug trafficking sentencing and penalties) and is also subject to an additional penalty under subsection (a) and where the court elects to aggregate these penalties, the combined minimum sentence may not exceed the statutory maximum sentence of imprisonment allowable under The Controlled Substance, Drug, Device and Cosmetic Act.

(c) Proof at sentencing.--Provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(d) Authority of court in sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede

the mandatory sentences provided in this section.

(e) **Appeal by Commonwealth.**--If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(f) **Definition.**--As used in this section, the term "firearm" shall have the same meaning as that given to it in section 9712 (relating to sentences for offenses committed with firearms).

(Dec. 1, 2004, P.L.1747, No.225, eff. 60 days)

Commonwealth v. Phillips, ___ A.2d ___ (Pa. Super. 3/5/08)
2008 WL 588369 2249 EDA 2006, 2008 PA Super 30, Philadelphia

Commonwealth v. Dickson, 591 Pa. 364, 918 A.2d 95 (3/29/07), held that the mandatory minimum sentence for crimes committed with firearms, found at 42 Pa.C.S. § 9712, applies only to the principal who brandished the firearm, not to an accomplice. However, The *Dickson* decision does not apply to the deadly weapons enhancement (DWE) under the sentencing guidelines. For purposes of the guidelines enhancement relating to possession of a deadly weapon, the term "possessed" means "on the defendant's person or within his immediate physical control." A deadly weapon may be within the immediate physical control of an accomplice if the accomplice is in close physical proximity to the person brandishing the deadly weapon. *Commonwealth v. Pennington*, 751 A.2d 212 (Pa. Super. 4/19/00), *appeal denied*, 564 Pa. 729, 766 A.2d 1246 (10/2/00).

In this case, two men approached the victim on the night of the robbery. One man carried a handgun and told the victim to empty his pockets. Thereafter, the robbers took the victim's belongings and fled. Like *Pennington*, the evidence demonstrated that this defendant was in the immediate vicinity of his co-conspirator when the gun was used to threaten the victim. Defendant had knowledge of the existence of the weapon, and he "could easily have been given or taken the gun at any moment" during the robbery. *See Pennington.* As such, Superior Court held that the sentencing court properly applied a deadly weapon enhancement.

However, the case was remanded for resentencing because the sentencing court incorrectly relied upon relied upon the DWE/Used Matrix (§ 303.18), when the court should have relied only upon the DWE/Possessed Matrix (§ 303.17). The sentencing court utilized the wrong guidelines matrix because defendant did not "use" the gun; he only "possessed" it.

§ 303.10. Guideline sentence recommendations: enhancements.

(a) *Deadly Weapon Enhancement.*

(1) When the court determines that the offender possessed a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Possessed Matrix (§ 303.17). An offender has possessed a deadly weapon if any of the following were on the offender's person or within his immediate physical control:

(i) Any firearm, (as defined in 42 Pa.C.S. § 9712) whether loaded or unloaded, or

(ii) Any dangerous weapon (as defined in 18 Pa.C.S. § 913), or

(iii) Any device, implement, or instrumentality designed as a weapon or capable of producing death or serious bodily injury where the court determines that the defendant intended to use the weapon to threaten or injure another individual.

(2) When the court determines that the offender used a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Used Matrix (§ 303.18). An offender has used a deadly weapon if any of the following were employed by the offender in a way that threatened or injured another individual:

(i) Any firearm, (as defined in 42 Pa.C.S. § 9712) whether loaded or unloaded, or

(ii) Any dangerous weapon (as defined in 18 Pa.C.S. § 913), or

(iii) Any device, implement, or instrumentality capable of producing death or serious bodily injury.

(3) There shall be no Deadly Weapon Enhancement for the following offenses:

(i) Possessing Instruments of Crime

(ii) Prohibited Offensive Weapons

(iii) Possession of Weapon on School Property

(iv) Possession of Firearm or Other Dangerous Weapon in Court Facility

(v) Simple Assault (18 Pa.C.S. § 2701(a)(2))

(vi) Aggravated Assault (18 Pa.C.S. § 2702(a)(4))

(vii) Theft when property stolen is a firearm (18 Pa.C.S. Chapter 39)

(viii) Violations of the Pennsylvania Uniform Firearms Act

(ix) Any other offense for which possession of a deadly weapon is an element of the statutory definition.

(4) The Deadly Weapon Enhancement shall apply to each conviction offense for which a deadly weapon is possessed or used.

(b) *Youth/School Enhancement.*

(1) When the court determines that the offender distributed a controlled substance to a person or persons under the age of 18, the court shall consider the range of sentences described in § 303.9(c).

(2) When the court determines that the offender manufactured, delivered or possessed with intent to deliver a controlled substance within 250 feet of the real property on which is located a public or private elementary or secondary school, the court shall consider the range of sentences described in § 303.9(c).

(3) When the court determines both (b)(1) and (b)(2) apply, the court shall consider the range of sentences described in § 303.9(c).

(4) The Youth/School Enhancement only applies to violations of 35 P. S. § 780-113(a)(14) and (a)(30).

(5) The Youth/School Enhancement shall apply to each violation which meets the criteria above.

Source

(2) When the court determines that the offender used a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Used Matrix (§ 303.18). An offender has used a deadly weapon if any of the following were employed by the offender in a way that threatened or injured another individual:

(i) Any firearm, (as defined in 42 Pa.C.S. § 9712) whether loaded or unloaded, or

(ii) Any dangerous weapon (as defined in 18 Pa.C.S. § 913), or

(iii) Any device, implement, or instrumentality capable of producing death or serious bodily injury.

(3) There shall be no Deadly Weapon Enhancement for the following offenses:

(i) Possessing Instruments of Crime

(ii) Prohibited Offensive Weapons

(iii) Possession of Weapon on School Property

(iv) Possession of Firearm or Other Dangerous Weapon in Court Facility

(v) Simple Assault (18 Pa.C.S. § 2701(a)(2))

(vi) Aggravated Assault (18 Pa.C.S. § 2702(a)(4))

(vii) Theft when property stolen is a firearm (18 Pa.C.S. Chapter 39)

(viii) Violations of the Pennsylvania Uniform Firearms Act

(ix) Any other offense for which possession of a deadly weapon is an element of the statutory definition.

(4) The Deadly Weapon Enhancement shall apply to each conviction offense for which a deadly weapon is possessed or used.

(b) *Youth/School Enhancement.*

(1) When the court determines that the offender distributed a controlled substance to a person or persons under the age of 18, the court shall consider the range of sentences described in § 303.9(c).

(2) When the court determines that the offender manufactured, delivered or possessed with intent to deliver a controlled substance within 250 feet of the real property on which is located a public or private elementary or secondary school, the court shall consider the range of sentences described in § 303.9(c).

(3) When the court determines both (b)(1) and (b)(2) apply, the court shall consider the range of sentences described in § 303.9(c).

(4) The Youth/School Enhancement only applies to violations of 35 P. S. § 780-113(a)(14) and (a)(30).

(5) The Youth/School Enhancement shall apply to each violation which meets the criteria above.

Source

The provisions of this § 303.10 adopted February 15, 1994, effective August 12, 1994, 24 Pa.B. 2483; amended March 14, 1997, effective June 13, 1997, 27 Pa.B. 1252; amended February 9, 2005, effective June 3, 2005, 35 Pa.B. 1508; amended September 5, 2008, effective December 5, 2008, 38 Pa.B. 4971; amended September 13, 2012, effective December 28, 2012, 42 Pa.B. 6072. Immediately preceding text appears at serial pages (338773) to (338774) and (337777).

Notes of Decisions

School Enhancement

The court vacated the judgment that sentenced appellant after appellant was convicted on a controlled substance offense and a criminal conspiracy offense because the trial court erroneously applied the school enhancement provisions to the count of criminal conspiracy. *Commonwealth v. Adams*, 760 A.2d 33 (Pa. Super. 2000).

In prosecution arising out of a sale of cocaine near a parochial school, the trial court did not err in imposing a sentence applying the school enhancement provisions of the sentencing guidelines based on a measurement from the school playground area rather than from the school building, where a school encompasses not only the school building itself, but includes all of the school property located in a zone where children have access such as a school playground, and where the purpose of the school enhancement provisions is to create a drug-free zone around schools. *Commonwealth v. Davis*, 734 A.2d 879 (Pa. Super. 1999).

Weapons Enhancement

While sentencing court erred in applying weapon enhancement "used" guidelines rather than "possessed" guidelines, court's application of the deadly weapon enhancement for defendant convicted of robbery and criminal conspiracy was appropriate; defendant was in the immediate vicinity of co-conspirator when gun was used to threaten victim, he had knowledge of the existence of weapon, and he could easily have been given or taken the gun at any moment during the robbery. *Com. v. Phillips*, 946 A.2d 103, 114-115 (Pa. Super. 2008).

Where defendant was convicted of cruelty to animals for shooting a dog, under the plain meaning of § 303.10(a)(1) (relating to guideline sentence recommendations: enhancements), the defendant possessed a firearm, as defined in that section, in the commission of the offense. Therefore, the enhancement section applies to defendant. *Commonwealth v. Hackenberger*, 795 A.2d 1040 (Pa. Super. 2002).

Because a deadly weapon was used by the defendant in committing the crime of cruelty to animals, which is not an excluded offense, the deadly weapon enhancement applies even though the victim was not a person. *Commonwealth v. Hackenberger*, 795 A.2d 1040 (Pa. Super. 2002).

Defendant claimed ineffective assistance of counsel when his trial attorney failed to request jury determination of whether his sentence should be subject to weapons enhancement. In accord with *U. S. v. Williams*, 235 F.3d 858 (3rd Cir. 2000), since defendant's actual sentence was less than the maximum allowed by statute, he was not entitled to a jury determination of the applicability of the weapons enhancement. *Commonwealth v. Lowery*, 784 A.2d 795 (Pa. Super. 2001).

Where the defendant fired a deadly weapon in connection with the offense to which he entered a guilty plea, and the court noted the standard range in light of the deadly weapon enhancement, the court's imposition of a sentence beyond the standard range was an abuse of discretion where the record indicates the judge failed to consider all factors relevant to the determination of a proper sentence. *Commonwealth v. Ritchey*, 779 A.2d 1183 (Pa. Super. 2001).

Where defendant was in close proximity to accomplice's weapon during the entire carjacking incident, the court properly applied the deadly weapon enhancement to defendant's carjacking sentence. *Commonwealth v. Burnside*, 32 Phila. 276.

Cross References

This section cited in 204 Pa. Code § 303.2 (relating to procedure for determining the guideline sentence); and 204 Pa. Code § 303.9 (relating to guideline sentence recommendation: general).

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Prove they were coming from work

"LETHAL WEAPONS TRAINING ACT"
Act of 1974, P.L. 705, No. 235

AN ACT

Providing for the training and licensing of watch guards, protective patrolmen, detectives and criminal investigators, carrying and using lethal weapons in their employment; imposing powers and duties on the Commissioner of the Pennsylvania State Police; and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.--This act shall be known and may be cited as the "Lethal Weapons Training Act."

Section 2. Legislative Findings and Purpose.--(a) The General Assembly finds that there are private detectives, investigators, watchmen, security guards and patrolmen, privately employed within this Commonwealth who carry and use lethal weapons including firearms as an incidence of their employment and that there have been various tragic incidents involving these individuals which occurred because of unfamiliarity with the handling of weapons. The General Assembly also finds that there is presently no training required for such privately employed agents in the handling of lethal weapons or in the knowledge of law enforcement and the protection of rights of citizens, and that such training would be beneficial to the safety of the citizens of this Commonwealth.

(b) It is the purpose of this act to provide for the education, training and certification of such privately employed agents who, as an incidence to their employment, carry lethal weapons through a program administered or approved by the Commissioner of the Pennsylvania State Police.

Section 3. Definitions.--As used in this act:

"Commissioner" means the Commissioner of the Pennsylvania State Police.

"Full-time police officer" means any employee of a city, borough, town, township or county police department assigned to law enforcement duties who works a minimum of two hundred days per year. The term does not include persons employed to check parking meters or to perform only administrative duties, nor does it include auxiliary and fire police. (Def. added Feb. 20, 1982, P.L.88, No.32)

"Lethal weapons" include but are not limited to firearms and other weapons calculated to produce death or serious bodily harm. A concealed billy club is a lethal weapon. The chemical mace or any similar substance shall not be considered as "lethal weapons" for the purposes of this act. (Def. amended Nov. 23, 1976, P.L.1155, No.254)

"Privately employed agents" include any person employed for the purpose of providing watch guard, protective patrol, detective or criminal investigative services either for another for a fee or for his employer. Privately employed agents do not include local, State or Federal Government employees or those police officers commissioned by the Governor under the act of February 27, 1865 (P.L.225, No.228). The term shall include a

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police officer of a municipal authority. (Def. amended Dec. 14, 1982, P.L.1209, No.278)

"Program" means the education and training program established and administered or approved by the commissioner in accordance with this act.

Section 4. Education and Training Program.--(a) An education and training program in the handling of lethal weapons, law enforcement and protection of rights of citizens shall be established and administered or approved by the commissioner in accordance with the provisions of this act.

(b) All privately employed agents, except those who have been granted a waiver from compliance herewith by the commissioner who, as an incidence to their employment, carry a lethal weapon shall be required to attend the program established by subsection (a) of this section in accordance with the requirements or regulations established by the commissioner and, upon satisfactory completion of such program, shall be entitled to certification by the commissioner. ((b) amended Nov. 23, 1976, P.L.1155, No.254)

(c) Except for colleges and universities, no nongovernment employer of a privately employed agent who, as an incidence to his employment, carries a lethal weapon, shall own, operate, or otherwise participate in, directly or indirectly, the establishment or administration of the program established by subsection (a) of this section.

Section 5. Power and Duties of Commissioner.--The commissioner shall have the power and duty:

(1) To implement and administer or approve the minimum courses of study and training for the program in the handling of lethal weapons, law enforcement and protection of the rights of citizens.

(2) To implement and administer or approve physical and psychological testing and screening of the candidate for the purpose of barring from the program those not physically or mentally fit to handle lethal weapons. However, candidates who are full-time police officers and have successfully completed a physical and psychological examination as a prerequisite to employment or to continued employment by their local police departments or who have been continuously employed as full-time police officers since June 18, 1974 shall not be required to undergo any physical or psychological testing and screening procedures so implemented. ((2) amended Feb. 20, 1982, P.L.88, No.32)

(3) To issue certificates of approval to schools approved by the commissioner and to withdraw certificates of approval from those schools disapproved by the commissioner.

(4) To certify instructors pursuant to the minimum qualifications established by the commissioner.

(5) To consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses in handling lethal weapons, law enforcement and protection of the rights of citizens.

(6) To consult and cooperate with departments and agencies of this Commonwealth and other states and the Federal Government concerned with similar training.

(7) To certify those individuals who have satisfactorily completed basic educational and training requirements as

established by the commissioner and to issue appropriate certificates to such persons.

(8) To visit and inspect approved schools at least once a year.

(9) In the event that the commissioner implements and administers a program, to collect reasonable charges from the students enrolled therein to pay for the costs of the program.

(10) To make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

(11) To grant waivers from compliance with the provisions of this act applicable to privately employed agents who have completed a course of instruction in a training program approved by the commissioner. ((11) added Nov. 23, 1976, P.L.1155, No.254)

Section 6. Certificate of Qualification.--(a) Any person desiring to enroll in such program shall make application to the commissioner, on a form to be prescribed by the commissioner.

(b) The application shall be signed and verified by the applicant. It shall include his full name, age, residence, present and previous occupations and such other information that may be required by the commissioner to show the good character, competency and integrity of the applicant.

(c) The application shall be personally presented by the applicant at an office of the Pennsylvania State Police where his fingerprints shall be affixed thereto. The application shall be accompanied by two current photographs of the applicant of a size and nature to be prescribed by the commissioner and a thirty-five dollar ($35) application fee, unless the applicant is a full-time police officer, in which case no application fee shall be required. Thereafter the application shall be forwarded to the commissioner. ((c) amended Feb. 20, 1982, P.L.88, No.32)

(d) The fingerprints of the applicant shall be examined by the Pennsylvania State Police and the Federal Bureau of Investigation to determine if he has been convicted of or has pleaded guilty or nolo contendere to a crime of violence. The commissioner shall have the power to waive the requirement of Federal Bureau of Investigation examination. Any fee charged by the Federal agency shall be paid by the applicant. ((d) amended Dec. 14, 1982, P.L.1209, No.278)

(e) No application shall be accepted if the applicant is under the age of eighteen.

(f) After the application has been processed and if the commissioner determines that the applicant is eighteen years of age and has not been convicted of or has not pleaded guilty or nolo contendere to a crime of violence, and has satisfied any other requirements prescribed by him under his powers and duties pursuant to section 5, he shall issue a certificate of qualification which shall entitle the applicant to enroll in an approved program.

Compiler's Note: The act of July 1, 1981, P.L.143, No.48, which provided for the fixing of fees charged by administrative agencies also repealed subsection (c) of section 6 of this act insofar as it establishes a set fee for any activity inconsistent with the fees set forth in the 1981 act.

Section 7. Certification and Fee.--(a) A certification fee

of not more than fifteen dollars ($15) shall be paid by each individual satisfactorily completing the program prior to the receipt of a certificate.

(b) The commissioner shall furnish to each individual satisfactorily completing the program, an appropriate wallet or billfold size copy of the certificate, which shall include a photograph of the individual thereon.

(c) Every certified individual shall carry his wallet or billfold size certificate on his person as identification during the time when he is on duty or going to and from duty and carrying a lethal weapon.

(d) Certification shall be for a period of five years.

(e) Privately employed agents who, as an incidence to their employment, carry a lethal weapon shall be required to renew their certification within six months prior to the expiration of their certificate. The commissioner shall prescribe the manner in which the certification shall be renewed, and may charge a nominal renewal fee therefore, not to exceed fifteen dollars ($15).

Compiler's Note: The act of July 1, 1981, P.L.143, No.48, which provided for the fixing of fees charged by administrative agencies also repealed subsections (a) and (e) of section 7 of this act insofar as it establishes a set fee for any activity inconsistent with the fees set forth in the 1981 act.

Section 8. Good Standing.--(a) Privately employed agents must possess a valid certificate whenever on duty or going to and from duty and carrying a lethal weapon.

(b) Whenever an employer of a privately employed agent subject to the provisions of this act discharges him for cause, the employer shall notify the commissioner of such within five days of the discharge.

(c) The commissioner may revoke and invalidate any certificate issued to a privately employed agent under this act whenever he learns that false, fraudulent or misstated information appears on the original or renewal application or whenever he learns of a change of circumstances that would render an employee ineligible for original certification.

Section 8.1. Retired Police Officer.--(a) A nondisability retired police officer of a Pennsylvania municipality or the Pennsylvania State Police shall be initially certified under this act, and need not meet the training and qualification standards or physical and psychological qualifications hereunder, if he was a full-time police officer for at least twenty years, retired in good standing and has assumed the duties of a privately employed agent on or before three years from the date of his retirement. If a retired police officer commences his duties as a privately employed agent after three years from the date of his retirement he must meet the physical and psychological requirements of this act for certification under this section.

(b) A retired police officer initially certified under this section shall not be required to pay the application fee but shall pay the certification fee upon the submission of a completed application provided by the commissioner.

(8.1 added Dec. 14, 1982, P.L.1209, No.278)

Section 9. Penalties.--(a) Any privately employed agent who in the course of his employ carries a lethal weapon, and who fails to comply with subsection (b) of section 4 or with subsection (a) of section 8 of this act, shall be guilty of a misdemeanor and upon conviction shall be subject to imprisonment of not more than one year or payment of a fine not exceeding one thousand dollars ($1,000), or both.

(b) Any privately employed agent who in the course of his employ carries a lethal weapon, and who violates subsection (c) of section 7 of this act shall be guilty of a summary offense, and, upon conviction, shall pay a fine not exceeding fifty dollars ($50).

Section 10. Prohibited Act.--No individual certified under this act shall carry an inoperative or model firearm while employed and he shall carry only a powder actuated firearm approved by the commissioner.

Section 10.1. Active Police Officers.--All active police officers subject to the training provisions of the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law, shall be granted a waiver of the training requirements of this act upon presentation to the commissioner of evidence of their completion of the training requirements of the Municipal Police Education and Training Law and the successful completion of a biennial firearms qualification examination administered by their respective police agency.

(10.1 added Apr. 4, 1990, P.L.112, No.26)

Section 11. Effective Date.--Sections 1, 2, 3, subsections (a), (b) and (c) of section 4, sections 5, 6, 7, subsections (a), (b) and (c) of section 8, and sections 9 and 10 of this act shall take effect December 31, 1975.

(11 amended July 25, 1975, P.L.101, No.52)