



LCAV Model Resolution
**URGING LAW ENFORCEMENT TO SEND LETTERS TO PROSPECTIVE HANDGUN
PURCHASERS
(LOCAL GOVERNMENTS IN CALIFORNIA)**

November 2010

About LCAV and Our Model Laws

Legal Community Against Violence (LCAV) is a national public interest law center dedicated to preventing gun violence. As the first and only lawyers' organization in the gun violence prevention movement, LCAV focuses on policy reform at the state and local levels, marshaling the expertise and resources of the legal community in support of gun violence prevention.

LCAV serves governmental entities and nonprofit organizations nationwide. Our services include legal and technical assistance in the form of legal research and analysis, development of regulatory strategies, legislative drafting, and in certain circumstances, calling upon our network of attorney members to help secure *pro bono* litigation assistance. We also engage in educational outreach and advocacy, producing reports, analyses and model laws. Our website, www.lcav.org, is the most comprehensive resource on U.S. firearm laws in either print or electronic form.

Model laws provide a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. California jurisdictions using this model must integrate it with existing ordinances as appropriate.

This model resolution does not offer, and is not intended to constitute, legal advice.

Executive Summary

Legal Community Against Violence (LCAV) has developed a model resolution for use by California jurisdictions urging law enforcement to send letters to prospective handgun purchasers who reside in the jurisdiction to inform them of their responsibilities as firearm owners.

This model resolution is based upon a program pioneered by the City of Los Angeles. From July 2005 through July 2009, the Los Angeles City Attorney's office, in cooperation with the California Department of Justice (DOJ) and the Los Angeles Police Department, distributed letters to persons who resided in targeted areas of the City and had applied to purchase a handgun. These letters were distributed to prospective handgun purchasers during the ten-day waiting period required by California law prior to a firearm purchase.

The letter, signed by the California Attorney General, the City Attorney, and the Chief of Police, reminded the handgun purchaser, in English and Spanish, that if he or she decides to give or sell the handgun to someone else, he or she must process the transaction through a licensed gun store, where a background check is conducted on the purchaser. The letter also mentions that if the

gun is recovered in connection with a crime, the Los Angeles City Attorney will prosecute the gun's previous owner if the owner did not process the transaction through a gun store. A copy of the Los Angeles letter is attached to the resolution as Exhibit A.

While the distribution of these letters in Los Angeles was originally funded through grants from a federal program known as Project Safe Neighborhoods, the City decided to provide its own funding for the letters after the federal funding ended. According to the Los Angeles City Attorney's Office, the letters are an effective way to inform gun purchasers of their legal obligations, and have had a constructive impact on the behavior of gun purchasers.

In August 2010, the RAND Corporation completed a study describing the results of the Los Angeles program. The study found that prospective gun purchasers who received the letter were twice as likely to report to law enforcement that those guns were stolen as purchasers who did not receive the letter.¹ The study noted that it was unclear whether the guns that were reported stolen were actually stolen or were being falsely reported as stolen to break the paper trail between the initial purchaser and the eventual criminal owner of the gun. Either way, the knowledge that a handgun is no longer in the hands of the initial buyer is important to law enforcement in its own right.²

The City of Los Angeles is considering extending the gun purchaser letter program citywide. For more information about the program in Los Angeles, please contact Peter Shutan, Assistant Supervising Attorney, Gang Division, Office of the Los Angeles City Attorney, (213) 978-4089. In addition, Attorney General Jerry Brown agreed that the DOJ may extend the Los Angeles program to other cities or counties in California. In November 2009, the County of San Mateo enacted a resolution similar to this model resolution encouraging the Sheriff to establish a similar program in the County, and the County has begun sending the letters.

A city or county interested in establishing a program to send letters to prospective handgun purchasers should contact Steve Buford at the Bureau of Firearms, California Department of Justice, (916) 227-4340. Note that a jurisdiction may consider including in its letter to prospective handgun purchasers information about the particular firearms ordinances in effect in that jurisdiction, such as ordinances that require firearm owners to report lost or stolen firearms.

LCAV is available to provide additional legal research, analysis, and drafting assistance to those seeking to pass this resolution or enact other measures to reduce gun violence. Please see www.lcav.org for more information about our services, and contact us at 415-433-2062 if we can be of assistance.

¹ Greg Ridgeway et al., *Intervening in gun markets: An experiment to assess the impact of targeted gun law messaging*, J. Experimental Criminology (2010), at <http://www.springerlink.com/content/v164617884153g11/fulltext.pdf>.

² When a gun is falsely reported as stolen, the report puts law enforcement on notice of possible gun traffickers. Guns that are actually lost or stolen also put the public at risk. As noted in a 2007 report by the International Association of Chiefs of Police, "law enforcement's early awareness of every lost and stolen gun will enhance their ability to recover those guns and reduce gun violence." International Association of Chiefs of Police (IACP), *Taking a Stand: Reducing Gun Violence in Our Communities* 16, 22 (Sept. 2007). For information about local ordinances requiring firearm owners to report lost or stolen firearms to law enforcement, see *LCAV's Model Law Requiring the Reporting of Lost or Stolen Firearms*, at http://www.lcav.org/publications-briefs/model_laws/LCAV_Model_Loss_Theft_Reporting.pdf.

Text of Model Resolution

_____ City Council/County Board of Supervisors*

Resolution No. _____

RESOLUTION URGING THE CHIEF OF POLICE/SHERIFF TO SEND LETTERS TO PROSPECTIVE HANDGUN PURCHASERS WHO RESIDE IN THE JURISDICTION INFORMING THEM OF THEIR RESPONSIBILITIES AS FIREARM OWNERS

[Findings regarding the need for and benefits of this resolution should be included. Findings in support of a resolution are most effective when they are specific and localized. When possible, local data from law enforcement, the public health community, and the media should be added. General findings are provided below.]

Whereas, in 2006, 3,253 people died from firearm-related injuries in California³ and 4,305 other people were treated for non-fatal gunshot wounds,⁴

Whereas, California Penal Code § 11106 requires the Department of Justice (DOJ) to compile information about prospective handgun purchasers based on information received from firearms dealers at the time of application, and to furnish this information to peace officers of the state upon any proper request,

Whereas, Penal Code § 12071(b)(3)(A) prohibits delivery of a firearm until ten days have passed since the purchaser has submitted an application to purchase the firearm,

Whereas, California law imposes certain responsibilities on firearm owners, including the responsibility to process all secondary transfers of firearms through a licensed firearms dealer, thereby allowing DOJ to run a background check on every recipient of a firearm,⁵

Whereas, from July 2005 through July 2009, the Los Angeles Police Department received the names and addresses of prospective handgun purchasers residing in targeted areas of the City from DOJ, and distributed letters during the ten-day waiting period to those purchasers informing them of their responsibilities as firearm owners,⁶

* Where the words "Chief of Police/Sheriff," "City/County" or similar variations appear, simply select the appropriate designation for your jurisdiction.

³ California Dep't of Health Servs., Epidemiology & Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Fatal Injury Data Custom Data Tables* (2009), at http://www.applications.dhs.ca.gov/epicdata/content/TB_fatal.htm.

⁴ California Dep't of Health Servs., Epidemiology & Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Nonfatal Injury Data Custom Data Tables* (2009), at http://www.applications.dhs.ca.gov/epicdata/content/tb_nonfatal.htm.

⁵ Penal Code §§ 12072(d), 12076.

⁶ Mayor Antonio R. Vallaraigosa, City of Los Angeles, *2008 Gang and Gun Violence Enforcement Initiative*, May 29, 2008.

Whereas, the letter sent out to prospective handgun purchasers by the Los Angeles Police Department stated that it is a crime to sell or give a gun to anyone without first completing a Dealer Record of Sale (DROS) form at a gun store, and if the police recover a gun involved in a crime, the City Attorney will prosecute the previous owner if he or she did not fill out a DROS form,

Whereas, the Los Angeles City Attorney's office has found that the letters are an effective way to inform gun purchasers of their legal obligations, and have had a constructive impact on the behavior of gun purchasers,

Whereas, the RAND Corporation has recently completed a study describing the results of the Los Angeles program. The study found that prospective gun purchasers who received the letter were twice as likely to report to law enforcement that those guns were stolen as purchasers who did not receive the letter.⁷ The study noted that it was unclear whether the guns that were reported stolen were actually stolen or were being falsely reported as stolen to break the paper trail between the initial purchaser and the eventual criminal owner of the gun. Either way, the knowledge that a handgun is no longer in the hands of the initial buyer is important to law enforcement in its own right,⁸

Whereas, Attorney General Jerry Brown agreed that DOJ may extend the Los Angeles program to other cities and counties in California that wish to send letters to prospective handgun purchasers, and

Whereas, in November 2009, the County of San Mateo enacted a resolution encouraging the Sheriff to send similar letters to prospective handgun purchasers in the County, and the County has begun sending these letters,

NOW, THEREFORE, BE IT RESOLVED: That the City Council/County Board of Supervisors by adoption of this resolution hereby urges the Chief of Police/Sheriff to request assistance from the Department of Justice so that the City/County may send letters to prospective handgun purchasers who reside in the City/County during the ten-day waiting period advising them of their obligations as firearm owners, and

FURTHER RESOLVED: That the letters sent by the Chief of Police/Sheriff should inform the purchaser that it is a crime to sell or give a gun to someone else without first completing a Dealer Record of Sale (DROS) form at a gun store, and if the police recover a gun involved in a crime, the City Attorney may prosecute the previous owner if he or she did not fill out a DROS form.

⁷ Greg Ridgeway et al., *Intervening in gun markets: An experiment to assess the impact of targeted gun law messaging*, J. Experimental Criminology (2010), at <http://www.springerlink.com/content/vl64617884153g11/fulltext.pdf>.

⁸ Because some reports of lost or stolen firearms are false, these reports put law enforcement on notice of possible gun traffickers. Guns that are actually lost or stolen also put the public at risk. As noted in a 2007 report by the International Association of Chiefs of Police, "law enforcement's early awareness of every lost and stolen gun will enhance their ability to recover those guns and reduce gun violence." International Association of Chiefs of Police (IACP), *Taking a Stand: Reducing Gun Violence in Our Communities* 16, 22 (Sept. 2007).