

Reporting Lost or Stolen Firearms

Background

Laws that require firearm owners to report lost or stolen firearms serve several public safety functions. These laws help deter gun trafficking and discourage straw purchasing, as well as assist lawful gun owners by facilitating the recovery of their lost or stolen property.

Laws requiring the reporting of lost or stolen guns deter gun trafficking (the diversion of firearms from the legal to illegal market) by providing to law enforcement indicators of trafficking and straw purchasing.¹ When a gun is found at a crime scene and traced by law enforcement back to the original purchaser, that gun owner may falsely claim that the gun was lost or stolen to hide their involvement in trafficking or straw purchasing. Reporting laws put law enforcement on notice of such suspicious patterns of behavior by persons who repeatedly fail to file reports yet claim that their guns were lost or stolen after they are recovered from a crime scene. In addition, reporting laws put law enforcement on notice of persons who repeatedly report their guns lost or stolen, another indicator that the person may be trafficking firearms or engaging in straw purchasing.

Reporting laws make gun owners more accountable for their weapons, and protect gun owners by preventing unwarranted criminal accusations against owners who suffer thefts or losses. The requirement also protects law-abiding gun owners by making it easier for law enforcement to locate a lost or stolen firearm and return it to its owner. Timely reporting of gun thefts or losses enables police to trace guns more effectively, and makes the successful prosecution of users of stolen guns more likely.

Stolen guns also supply the market for crime guns. A 2002 Americans for Gun Safety (AGS)² study found that between January 1993 and August 2002 nearly 1.7 million firearms were reported stolen.³ Of those stolen guns, over one million remained missing.⁴ The actual number of gun thefts likely is much larger than reported. Survey research indicates that at least 500,000 firearms are stolen annually from residences.⁵ The number of guns stolen likely is much higher than the number reported stolen.⁶

Many stolen guns are used to commit other crimes. A U.S. Department of the Treasury study revealed that nearly a quarter of ATF gun trafficking investigations involved stolen firearms and were associated with over 11,000 trafficked firearms – including 10%

¹ A “straw purchaser” is a person who buys firearms on behalf of a convicted felon, juvenile or other prohibited purchaser.

² Americans for Gun Safety is no longer an independent organization, but is now an initiative within Third Way, which describes itself as a “non-profit, non-partisan strategy center for progressives.”

³ Americans for Gun Safety, *Stolen Firearms: Arming the Enemy* 6, 8 (Dec. 2002). This equates to 16.8 stolen firearms for every 1,000 U.S. households.

⁴ *Id.* at 6.

⁵ Bureau of Alcohol, Tobacco & Firearms, U.S. Department of the Treasury, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* xi, 41 (June 2000), at http://www.atf.gov/pub/fire-explo_pub/pdf/followingthegun_internet.pdf.

⁶ Bureau of Justice Statistics Selected Findings, U.S. Department of Justice, *Firearms, Crime, and Criminal Justice: Guns Used in Crime* 3 (July 1995), at <http://www.ojp.usdoj.gov/bjs/pub/pdf/guic.pdf>.

percent of the investigations which involved guns stolen from residences.⁷ A 1997 U.S. Department of Justice survey found that 8.4% of state prison inmates who used or possessed a firearm during the offense for which they were incarcerated obtained the gun from the illegal market.⁸

Summary of Federal Law

Federal law does not require individual gun owners or other lawful possessors of firearms to report the loss or theft of a firearm to law enforcement.

Federal law requires that licensed firearms dealers report the loss or theft of any firearm from the dealer's inventory to the U.S. Attorney General or local law enforcement within 48 hours of discovering the loss or theft.⁹

SUMMARY OF STATE LAWS GOVERNING REPORTING OF LOST OR STOLEN FIREARMS

Seven states and the District of Columbia require firearm owners to report the loss or theft of their firearms to law enforcement. Four other states have adopted loss or theft reporting provisions for specific circumstances, but the reporting is not mandatory.

Mandatory Loss/Theft Reporting

Connecticut	Conn. Gen. Stat. § 53-202g
District of Columbia	D.C. Code Ann. §§ 7-2502.08(1)(A), 7-2502.09(4)
Massachusetts	Mass. Gen. Laws ch. 140, § 129C
Michigan	Mich. Comp. Laws § 28.430
New Jersey	N.J. Stat. Ann. § 2C:58-19 (adopted January 2008)
New York	N.Y. Penal Law § 400.10
Ohio	Ohio Rev. Code Ann. § 2923.20(A)(5), (B)
Rhode Island	R.I. Gen. Laws § 11-47-48.1

Other Loss/Theft Reporting Laws

California	Cal. Penal Code § 12072(a)(9)(B)(xi)
Maryland	Md. Code Ann., Pub. Safety § 5-128(a)(8)
New Jersey	N.J. Stat. Ann. § 2C:58-12(g)
Virginia	Va. Code Ann. § 18.2-308.2:2(P)(2)(f)

Description of State Laws Governing Reporting of Lost or Stolen Firearms:

1. *States that Require Loss/Theft Reporting:* In New York and Rhode Island, owners must report the loss or theft of any firearm to local law enforcement within 24 hours of discovery. Local law enforcement in New York then reports the information to the state

⁷ *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers*, supra note 5, at 11, 41.

⁸ Bureau of Justice Statistics Special Report, U.S. Department of Justice, *Firearm Use by Offenders: Survey of Inmates in State and Federal Correctional Facilities* 6 (Nov. 2001), at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fuo.pdf>.

⁹ 18 U.S.C. § 923(g)(6).

police. New Jersey requires owners to report the loss or theft of any firearm to local law enforcement where the loss or theft occurred (or to the Superintendent of State Police if the locality has no police force) within 36 hours of discovery. Connecticut's reporting requirement applies to any firearm¹⁰ or assault weapon, requiring owners to report the loss or theft to local law enforcement within 72 hours of discovery. Local law enforcement in Connecticut reports the information to the state police.

In Massachusetts, firearm owners are required to report the loss or theft of any firearm to the state police and the local licensing authority; no time period is specified for reporting. Penalties for a violation of the Massachusetts law include suspension or permanent revocation of the owners' firearm identification card or license to carry firearms.

The District of Columbia's law applies to any registered firearm,¹¹ and applies "immediately" upon discovery of the loss or theft. Registration certificates are revoked if the owner fails to report any registered firearm that is lost or stolen.

Ohio law requires that an owner report to law enforcement "forthwith" the loss or theft of any firearm "in the person's possession or under the person's control."

Michigan's law applies only to thefts of firearms, which must be reported within five days of discovery to a "police agency having jurisdiction over that theft."¹²

2. *Other Loss/Theft Reporting Laws:* In California and Virginia, persons who report the theft or loss of a handgun may claim an exception to the state's prohibition on the purchase of more than one handgun in any 30-day period. Maryland law is similar, but applies to handguns and assault weapons. In both states, any person whose gun is irretrievably lost or stolen within the 30-day period and who deems it essential that the gun be replaced immediately may apply to purchase another firearm within the period, provided he or she reports the loss or theft to law enforcement, obtains a copy of the official police report, and provides that report to a firearms dealer prior to purchasing the replacement.

¹⁰ Connecticut law defines "firearm" to include any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded, from which a shot may be discharged. Conn. Gen. Stat. § 53a-3(19).

¹¹ The District of Columbia's registration law serves as a ban on most classes of firearms within the District. Sawed-off shotguns, machine guns (including certain semiautomatic assault weapons), short-barreled rifles, and handguns not registered to the current owner before September 24, 1976, may not be registered. Although the statute does not directly identify the types of firearms that *may* be registered, at least one court has stated that long guns may be registered in the District of Columbia. *See Kuhn v. Cissel*, 409 A.2d 182, 186 (D.C. 1979). Note that in 2007 the U.S. Court of Appeals for the District of Columbia Circuit struck down the District of Columbia's strict laws banning most handgun possession in the District, and requiring lawfully owned firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007). The court held that the laws violate the Second Amendment, interpreting the Amendment to protect an individual right to keep and bear firearms unrelated to service in the militia. The U.S. Supreme Court granted *certiorari* on the following question: Whether the challenged provisions violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes? *District of Columbia v. Heller*, 128 S. Ct. 645, 169 L. Ed. 2d 417 (2007). The Supreme Court is expected to issue its ruling in the case by June 2008.

¹² Mich. Comp. Laws § 28.430(1).

In New Jersey, if a registered assault weapon is used in the commission of a crime, the registered owner of that weapon is civilly liable for any damages resulting from that crime. This liability will not apply if the assault weapon was stolen and the registered owner reported the theft to law enforcement within 24 hours of his or her knowledge of the theft.

SUMMARY OF SELECTED¹³ LOCAL LAWS REQUIRING REPORTING OF LOST OR STOLEN FIREARMS

Local Laws Requiring Loss/Theft Reporting

Chicago	Chicago, Ill., Code §§ 8-20-140(a)(1), (b), 8-20-120(d)
Cleveland	Cleveland, Ohio, Code § 627.06(a)(4)
Columbus	Columbus, Ohio, Code § 2323.20(A)(4)
Hartford	Hartford, Conn., Code §§ 21-61 – 21-63
Los Angeles	Los Angeles, Cal., Code ch. V, art. 5, § 55.12
New York City	New York, N.Y., Rules tit. 38, §§ 3-09, 5-30
San Francisco	San Francisco, Cal., Police Code art. 9, § 616

Chicago: Chicago requires registered owners of firearms to report the loss, theft or destruction of a registration certificate or registered firearm immediately upon discovery of the loss, theft or destruction. A firearm registrant must immediately return his or her copy of the registration certificate for any firearm which is lost, stolen or destroyed. The registration certificate will be revoked if the registrant fails to report the loss, theft or destruction of a registered firearm.

Cleveland: Cleveland requires any person with a firearm “in such person’s possession or under his or her control” to report “forthwith” the loss or theft of the firearm. Knowing failure to report imposes criminal liability.

Columbus: Columbus prohibits any person from knowingly failing to report “forthwith” the loss or theft of any firearm in the “person’s possession or under his or her control.”

Hartford: Any lawful firearm owner in Hartford must report the loss or theft of a firearm “from premises in the city or from their person” within 72 hours of becoming aware of the loss or theft. In the event a lost or stolen firearm is determined to have been used to aid or abet the commission of a felony and the Hartford Police determine that the owner of the firearm failed to report its loss or theft as required by ordinance, the City of

¹³ This section is based on research and analysis of existing firearms laws in: Boston, Massachusetts; Chicago, Illinois; Hartford, Connecticut; Los Angeles, California; Newark, New Jersey; New York, New York; Omaha, Nebraska; and San Francisco, California. LCAV selected these cities because they are located in states that grant local jurisdictions broad authority to regulate firearms. It also includes existing laws in Cleveland and Columbus, Ohio. Note, however, that in 2006, the Ohio Legislature passed House Bill 347 (overriding the Governor’s veto), which created Ohio Rev. Code Ann. § 9.68(A), a provision that purports to preempt all local authority to regulate firearms with few, limited exceptions. Legal challenges to the law are pending. Additional information about state laws governing local authority to regulate firearms is contained in the section of this report titled [“The Legal Background.”](#)

Hartford, on a showing of good cause, may sue the owner to recover the costs to the city of police services and other expenses associated with the investigation and prosecution of the felony.

Los Angeles: Owners or possessors of firearms in Los Angeles must report the theft or loss of the firearm within 48 hours of becoming aware of the theft or loss, whenever: 1) the person resides in Los Angeles; or 2) the theft or loss of the firearm occurs in Los Angeles. In addition, any person who has experienced the theft or loss of a firearm within the five years prior to the effective date of the ordinance – December 3, 2006 – without the firearm having been recovered during that period, and who meets the general reporting requirements in the ordinance, was required to report the theft or loss within 60 days of the effective date of the ordinance.

New York City: In New York City, any person with a rifle or shotgun permit must report all lost or stolen permit documents and rifles or shotguns to the precinct where the person resides or where the loss or theft was discovered. A handgun licensee must immediately report an “incident” – which includes the loss or theft of a handgun or license – to the city License Division’s Incident Section for handguns and to the precinct where the loss or theft occurred.

San Francisco: Any firearm owner or possessor in San Francisco must report the theft or loss of his or her firearm within 48 hours of becoming aware of the loss or theft, if: 1) the owner resides in San Francisco; or 2) the theft or loss of the firearm occurs in San Francisco.

FEATURES OF COMPREHENSIVE LAW REQUIRING THE REPORTING OF LOST OR STOLEN FIREARMS

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- Firearm owners are required to report the loss or theft of any firearm as soon as possible after discovery, either immediately or within 24 hours of discovery (*Ohio, District of Columbia, Chicago, Cleveland, Columbus, New York City – immediately; New York, Rhode Island – within 24 hours*)
- Require owners of firearms lost or stolen (and not recovered) within a designated time period prior to the adoption of the law to report to law enforcement within a reasonable period (*Los Angeles – applies to losses/thefts within 5 years prior to effective date of ordinance, owners must report within 60 days*)
- Reporting requirements should apply to all firearm types (*Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Rhode Island, District of*

Columbia, Chicago, Cleveland, Columbus, Hartford, Los Angeles, New York City, San Francisco)

- Lost and stolen firearms are reported to local and state law enforcement (*Connecticut, Massachusetts, New York*)
- Firearm owners are subject to civil liability for failure to report a lost or stolen firearm that is later used in crime (*New Jersey -- assault weapons only, Hartford*)
- Reporting of lost or stolen firearms is a condition of any license or registration required by the jurisdiction, and license/registration is subject to revocation for failure to report (*District of Columbia, Massachusetts, Chicago*)