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Special Report: Guns in Orange County

'10-20-Life' for these criminals? Not even close

Few criminals in Orange County get tough penalties for using guns

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Florida threatens criminals with up to life in prison if they use a gun, but few suspects in Orange County get such tough mandatory penalties even as the campaign to end gun violence enters its 10th year, the Orlando Sentinel has found.

Only 5 percent of 7,437 suspects arrested in Orange County on gun charges from 2003 through 2007 received mandatory sentences, court and prison records show.

The record is even worse for suspects arrested with an AK-47 or other assault weapons, those military-style rifles that police officials say warrant the most serious punishment when misused. Just less than 2 percent of such cases in Orange County produced mandatory terms.

The state's 10-20-Life law -- passed by state legislators and signed by then-Gov. Jeb Bush in 1999 -- promised crime-weary voters that armed criminals would face long, no-bargain prison terms. Florida quickly spent \$500,000 on newspaper, radio and TV ads spreading the message: "Pull a gun: 10 years. Fire a gun: 20 years. Shoot someone: 25 years to life."

Despite such tough talk, murders involving guns continue to rise. As of late Saturday, 120 killings had been committed in Orange County so far this year, dangerously close to the record of 121 set in 2006.

The 10-20-Life penalties can be imposed when suspects get caught with a gun in hand or so close it could be grabbed and fired. To find out what happens in court, the Sentinel tracked all 362 incidents where Orange County police agencies confiscated assault weapons from 2003 through

2007. The newspaper also reviewed statistics for all gun arrests during that period.

Records show a third of all gun cases in Orange County were dropped by prosecutors who screen incoming cases. Additional cases were dismissed, bargained down or acquitted -- casualties of evidence problems and the need to keep nearly 80,000 cases moving through justice system every year.

The vast majority of suspects receive very little punishment.

Jail time: 23 days

What happened to Daryl Barndo Ford demonstrates why tough sentences are rare.

Four years ago, the 22-year-old was arrested in Orlando when drug agents seized a fully automatic assault rifle, a pistol and 16 grams of crack cocaine.

Because Ford was a felon with six prior arrests, state and federal laws prohibited him from having any type of firearm. When caught hiding under his mother's bed, Ford had eluded three arrest warrants for weeks by sleeping in local motels rather than the family's Clear Lake home.

The AR-15 rifle found in Ford's locked bedroom had been converted illegally to fire automatically like a machine gun, according to police reports. Two ammunition magazines were taped together so the weapon could be reloaded instantly after firing a 20- or 30-shot burst.

As part of 10-20-Life, Ford faced a minimum three-year sentence if the office of Orange-Osceola State Attorney Lawson Lamar successfully prosecuted him as a felon with a firearm.

Problems arose when police did not want to disclose the identity of an informant who led them to Ford. And Ford's mother would not say whether Ford had exclusive access to the locked bedroom. So prosecutors cut a deal.

Dropped were felony charges of dealing crack, possessing a machine gun, possessing a gun with altered serial numbers -- a common sign of a stolen weapon -- and possession of a firearm by a convicted felon.

Ford pleaded guilty to possession of drug paraphernalia, a misdemeanor.

His punishment: 23 days in jail.

Since then, Ford has been arrested six more times on drug and gun charges. His longest sentence to date: six months in county jail.

80% settled or dropped

State officials credit the 10-20-Life statute with cutting crime statewide. But even though the bumper sticker says, "Use a gun and you're done," fewer than one out of five gun-toting criminals charged under the law in Orange County eventually serve enhanced penalties, records show. More than 80 percent were settled with plea bargains or dropped.

Lamar, re-elected in November to a sixth four-year term, declined several requests to discuss five cases handled by his office. He later offered longtime Assistant State Attorney Joe Cocchiarella to speak for him.

Asked why crimes with mandatory sentences get negotiated, Cocchiarella said cases evolve and have no assured outcomes.

When prosecutors file formal charges, they state what they think they can prove, he said: "The evidence could change dramatically and other circumstances could change dramatically between the time we file a charge and when the decision is made to resolve it."

Orange-Osceola Public Defender Bob Wesley, whose office defends many of the gun suspects, said

Florida justice runs on plea bargains because judges, prosecutors and defense lawyers are in short supply. Most cases never go to trial.

"Three years ago the Legislature told us, 'There's no money; don't come back.' " Wesley said. "It's a horrible problem for the criminal-justice system to decide where to put its emphasis when resources are strained. But even in normal funding, there's no time to handle every single case."

'They have to cut corners'

Some in law enforcement also are critical of the statute.

"When you pass a law like 10-20-Life without additional funding, you're asking for cases not to be prosecuted," said Sgt. Marty Premo, vice president of the Central Florida Police Benevolent Association, which represents more than 600 Orange County deputy sheriffs.

"When they [prosecutors] review a case, it's pretty much got to be delivered to them on a silver platter. They have to cut corners like everybody else."

Shootings and incidents of gunfire have become common in some neighborhoods, sometimes involving assault weapons capable of firing 100 shots without reloading.

Out of the 362 assault-weapon confiscations tracked by the Sentinel, 243 resulted in criminal charges. Of those, 98 percent ended in a plea bargain, dropped charges or an acquittal or are still awaiting trial.

Examination of Lamar's office records show a similar pattern extends to all gun cases.

Last year, prosecutors sought the mandatory penalties in about 35 percent of the 2,250 gun arrests, court records show. Out of those 793 cases, state prison records show 130 inmates from Orange County received mandatory sentences.

Of the remaining cases, at least 337 were resolved by pleas to lesser crimes. More than 200 cases were dropped for various reasons, including witnesses who could not be located and evidence suppressed by judges.

More than half of the confiscated assault-weapon cases involved drugs. But simply having a gun doesn't mean that anyone busted at home with drugs will face an additional charge. The gun has to be used to further the crime, Cocchiarella pointed out.

"People still have a right to have a gun in their house," he said. "Not everybody in the public agrees, and that debate rages on."

Pleas cut penalties

The 130 mandatory-minimum convictions in 2007 represented 16 percent of the 10-20-Life cases that were prosecuted. During the five years, Lamar's office won mandatory sentences in nearly 15 percent of the cases in which it sought the harshest penalties.

Prosecutors are allowed to decide which cases they want to prosecute under 10-20-Life, so some defendants eligible for mandatory sentences can end up serving much less than time.

That's a reason Deandre Omar Brown is not serving at least 20 years in prison.

Brown, a 23-year-old Pine Hills resident, was arrested after a woman told deputy sheriffs he shot at her four times with an AK-47 as she ran for help.

Records show deputies seized a stolen AK-47 and three loaded, 30-shot magazines from Brown, along with \$2,554 in cash, more than an ounce each of heroin and cocaine, 153 pills of MDMA (ecstasy) and 84 pills of codeine.

The list of criminal charges included several eligible for 10-20-Life prosecution: attempted murder with a firearm and aggravated assault with a firearm. He also faced armed trafficking in heroin, cocaine, MDMA and codeine, grand theft of a firearm, battery (domestic violence), and fleeing and eluding police.

All gun charges punishable by the mandatory terms were dropped in a plea deal.

On May 16, Brown pleaded guilty to trafficking in MDMA and cocaine and fleeing from police. He is

serving seven years in prison, minus 288 days served in Orange County Jail.

112 convictions, 7 terms

Light sentences are no rarity in assault-weapons cases. In the 243 cases analyzed by the Sentinel that went to court, prosecutors won 112 convictions, but just seven suspects received the 10-20-Life penalties. In 43 cases, the state dropped the gun-related charges in return for pleas to lesser crimes, such as possession of drug paraphernalia.

Of those convicted, 83 served less than a year in jail. The median sentence was six months. The longest term went to Junior Anenas, 18, who refused to negotiate, according to police and court records. He is serving 35 years for robbing a Haitian gambling club in Orlando with a .45-caliber tommy gun.

All charges were dropped in 40 percent of the 243 cases. Reasons for those 97 dismissals included insufficient evidence and problems with victims and witnesses.

The remaining 34 cases include defendants still awaiting trial, fugitives and seven defendants tried in U.S. District Court under federal law. Two of the federal suspects were acquitted over an invalid search warrant. The other five received sentences of five to 17 1/2 years.

Criminologists say crime with little risk of serious punishment sends the wrong message to offenders on the street.

"The bottom line is that the certainty of punishment is a deterrent to criminal behavior," said Jay Corzine, a professor and violent-crime specialist at the University of Central Florida, "and the failure to use a law will be recognized by some people in the criminal subculture."

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