



County of Milwaukee

Office of the Sheriff

David A. Clarke, Jr.
Sheriff

Assembly Committee on Criminal Justice and Public Safety
Re: AB 13
February 3, 2015

Chairman Kleefish, and members of the committee.

I have provided the committee with a copy of my brief remarks today.

This important bill, a first step that my office has supported with Representative Knodl, constitutes an admirable effort to reinforce the protection of the Second Amendment to private citizens in Wisconsin. As such, it will surely generate a fair amount of attention, as all such matters seem to do. I applaud the author, Representative Knodl, and cosponsors including the venerable Chair of this committee and Representative Joe Sanfelippo, of the Milwaukee Delegation, for their willingness in taking on a highly charged issue such as this, and beginning a discussion in this legislative session on how best to maintain one's Constitutional protections. Sheriff Clarke of Milwaukee County, for whom I work, believes that AB 13 may constitute a strong step towards law enforcement's desire to see the rights of potential victims safeguarded to the greatest degree possible under law. I am confident that, should this legislation pass, my peers in Milwaukee area law enforcement are of one voice: We all concur that any proposed changes that strengthen our resolve relative to crime guns, and the accessibility of crime guns, including moves to make it a felony for people to illegally possess a firearm, or to strengthen the penalties for those who fraudulently attempt or participate in one's illegal purchase, are needed. But we are not talking in this bill about crime guns...we're talking about guns seized, very reasonably I might add, by law enforcement in matters in which guilt was not the final outcome of a criminal referral. The so-called "trigger events" contemplated by this bill bear that out. Quite simply, the proposed legislation begins the process, Sheriff Clarke believes, of affirmatively putting the onus of the return of this seized property where it belongs: On the government, not the citizens...and, for the first time, under some reasonable timetable. I know the issue may seem benign...what is the difference of one firearm? But in Milwaukee, an area with some unfortunately deep pockets of entrenched poverty, that is what some households have. And I have personally worked with persons involved in self-defense or defense of other shootings, in which the subject's only firearm was seized, again very responsibly and reasonably, in connection with the ensuing investigation...with that seizure stretching on, in the eyes of the person from whom the property was taken, interminably...month after month. And in terms of a position of reasonableness, I would be shocked to hear that anyone's position on this occurrence might properly be, as I've heard from within the Criminal Justice system, "Well, tell them to buy another one." We don't do that with vehicles...we don't do that with expensive jewelry...we don't do that with Stradivarius Violins...and we ought not to do it with the tools of their right to self-protection. Thank you for your time today, and I wish this committee the best of continued good luck in your important work.

Cordially Yours,

S:// Inspector Edward H. Bailey, 17

Edward H. Bailey, Inspector
Adjutant to Sheriff Clarke

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February 3, 2015

Dear Members of the Assembly Committee on Criminal Justice and Public Safety,

My name is Mark Buetow, I am the Vice president of the Milwaukee Police Association, and our organization represents 1575 sworn law enforcement personnel from the City of Milwaukee Police Department. I wanted to express our support of AB13.

During their normal course of duty, police officers often seize firearms and ammunition, as required by law or standard operating procedures. Getting these firearms back to their rightful owners often times is an introduction to true government bureaucracy, taking many months and numerous court proceedings. The common sense changes in this bill will hopefully take the personal agendas and opinions out of the hands of decision makers and return property back to the legal owners in a timely fashion when appropriate.

There are two concerns that I think could easily be addressed to improve this bill even more. First, the reference to returning the firearm within ten business days, if requested within eight days of the event, and five business days, if requested after eight days of the event; is unnecessarily complex. Make it the same amount of days either way, because the court rarely notifies a law enforcement agency about a specific case. Which leads me to the second issue, clarify that the agency holding the firearm has the specified time to return the firearm after they are notified, not the date of court judgment. Often times the rightful owner waits many days to go to the agency and pick up their property, after the court order was given.

I appreciate the opportunity to provide input in this matter.

Respectfully,

MILWAUKEE POLICE ASSOCIATION

Mark Buetow
Vice President
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City of Milwaukee Testimony on AB-013 to Assembly Committee on Criminal Justice and Public Safety
February 3, 2015

I would like to thank Representative Kleefisch and committee members for their time this morning. The City of Milwaukee is testifying for informational purposes only, providing committee members with important background information regarding the Milwaukee Police Department's gun return process.

The Milwaukee Police Department (MPD) recovers, on average, over 2,000 firearms annually. The MPD can recover a firearm in certain scenarios, and they include: if it is evidence of a crime; voluntarily turned over by a citizen; for safekeeping (e.g. individuals dealing with a mental health crisis); or if it must be confiscated when an individual is prohibited from possessing firearms (e.g. domestic violence restraining order, a condition of bail).

Professionally trained sworn officers manage nearly all aspects of the gun return process within the MPD. Finalizing the process requires the signature of an executive level commander for release of the property. The MPD makes a good faith effort to expeditiously identify and return all legal firearms to their rightful owners, while at the same time ensuring that the criminal justice process is carried out.

The timeline by which a firearm is returned is based solely on the individual facts of the case. Those facts that impact the timeline include the circumstances of the recovery and the legal status of the owner and firearm, as well as the investigation. The process always includes individual criminal background checks, confirmation of ownership, legal status of the firearm, and a review of dispositions on any possible criminal proceedings related to the individual and the firearm. The timeframe that a firearm remains in MPD's inventory can range from a few days to several years, the latter being less common than the former.

A large portion of the work completed by MPD's gun return process involves returning stolen firearms to their proper owners after a burglary or theft. In fact, over half of all firearm returns involve circumstances in which the MPD voluntarily returned a firearm to its lawful owner without a court order. None of the MPD's efforts regarding the safekeeping and lawful return of firearms incurs a cost to either the lawful owner or any party involved in a crime.

The MPD recommends the following amendments to the language of AB-013 to provide the clearest timeline, ensuring a fair and equitable process:

1. Add language to provide exception in cases of long-term investigations to Page 3, Line 1 (c) "...the court shall order the property returned to the person who displays evidence of ownership of the firearm if any one of the following occurs: (c) six months have passed since the seizure and no charges in connection with the seizure are filed against the person."
 - o Since the return would be mandated by the court, it could effectively change the statute of limitations on potential firearm charges down to 6 months on these firearms.
 - o This could potentially negatively impact any local, state, or federal law enforcement agency currently working on a long term criminal investigation.

For more information, please contact:
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2. Amend Page 3, Line 8 to reflect a standard 10 business days for return after the court's signed order has been served to the agency holding the firearm regardless of when the petition was filed with the court.
 - o The MPD has no way of knowing when the petitioner submitted their petition.
3. Include specific language reflecting proper notification to the agency that holds the firearm that a court's order has been granted.

We ask the committee to consider including aforementioned amendments to better serve the citizens of Wisconsin. Thank you for your time.