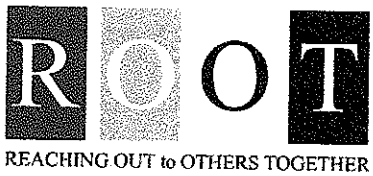

Senate Committee on Labor, Elections and Urban Affairs

2007 Senate Bill 104

Milwaukee, Wisconsin

May 28, 2007

3:00 PM

Testimony submitted by:

Kenneth E. Barnes, Sr., MS

Founder and CEO

ROOT Inc.

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Good afternoon esteemed members of the Senate Committee of Labor, Elections and Urban Affairs. Thank you for affording me this opportunity to speak. My name is Kenneth E. Barnes, Sr. I am from Washington, DC and I represent ROOT INC., the acronym stands for Reaching Out to Others Together. The issue of gun violence is one that is both epidemic and pandemic, not just in city of Milwaukee, but in most major cities throughout the United States of America. In fact based on data for 2005 homicides, according to Federal Bureau of Investigation Uniform Crime Reports, Milwaukee ranked 12th with a murder rate of 20.6.

You see, I for one know first hand the effects of the ravage of homicide. In September of 2001, my only son and eldest child was brutally murdered as a victim of gun violence. The young man who murdered him was 17 years of age at the time and was wanted for at least 2 other murders of which the authorities were aware. Also it was I who got information from the community and was able to provide this information to the authorities. The young man was apprehended within the next week. This young man obviously was either given, bought, or had stolen the weapon that was used to murder my son as well as at least two others.

Why am I here today before this august body offering insight and testimony? First I stand before you as a victim of gun violence, having lost my only son and oldest child. Regardless of how anyone may feel about losing a family member to gun violence, the only way to truly understand is to lose a family member to gun violence. I stand before you as a clinician, having received a MS in clinical psychology and as a third year doctoral student, whose formal education was cut short by the tragedy of my son's murder. I stand before you as someone who grew up in the inner city of Washington DC,

who from empirical knowledge understands the dynamics surrounding poverty, crime, lack of education, and violence - all directly correlating to one another. Let me state emphatically for the record that I agree with the definition by the Center For Disease Control that violence is not the problem but a symptom of the problem. Furthermore there needs to be a national movement and campaign to address the epidemic of the prevalence gun violence facing far too many communities, such as Milwaukee, throughout our nation. ROOT has embarked on such a national movement and campaign that is picking up momentum in cities throughout the country. Our effort is beginning to resonate throughout the halls of Congress. There has to a national cohesive strategy to deal with these issues. Therefore when asked by Senator Coggs and Deborah Fifer to travel hundreds of miles to offer my testimony before your committee regarding Senate Bill 104, I was honored and more than wiling to do so.

There is a quote by me that is on ROOT letterhead, on ROOT's website, all ROOT literature, and my personal ROOT email signature stating, "Too many lives are being lost; too many victims injured; and too many communities are being held hostage to this systemic and endemic tide of violence. As a government and as a community, we must begin to offer proactive, rather than reactive, alternatives." I look at Senate Bill 104 as a proactive approach rather than a reactive alternative. Why do I say this? It is my understanding, to put it simply, that Senate Bill 104 requires a background check before an individual may sell or transfer rights of firearms to another individual. This makes perfect sense to me.

Let me regress to a statement made earlier in my testimony, which was that the young man that had murdered my son had been given, possibly stolen or bought a

handgun. Now according to current laws in Milwaukee County, this same young man could move to Milwaukee and have a family member, friend, or stranger give or sell him a gun without a background check. In Washington, DC our city laws are probably the most stringent in the United States; yet there is a prevalence of hand guns that seem to belie that point. As citizens in Milwaukee County, you legally have the right to gun ownership. As founder and CEO of ROOT, it is not the position of our organization to take a stance either for or against the individual's right to bear arms. It is the position of ROOT to take a stance against gun violence. What I am here to say is that Senate Bill 104 requiring a background check before transferring gun ownership from one individual to another after it has been bought legally, only makes sense as a proactive approach to prevent tragedies from occurring. For example, unless it is something I do not quite understand, a citizen of Milwaukee County can currently give a gun, or sell a gun to another citizen - whether it be a family member, friend, or stranger in Milwaukee County with no background check at all. What, under current law, prevents a citizen of Milwaukee County from giving or selling a gun to a hijacker, murderer, robber, and bank robber, someone who has a restraining order against them or even a serial killer - for God's sake? From my understanding all that this law is asking is to prevent guns from getting into the hands of those who may not have good intentions to be responsible gun owners. To think that this is an attack on the rights of an individual to bear arms or an attack on second amendment issues, in my humble opinion, is totally ridiculous. If that were the case, I can assure you that I would not have traveled from Washington, DC to Milwaukee, Wisconsin no matter who requested to support such an attack.

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May 25, 2007

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Mr. Chairman and members of the committee, my name is Jordan Austin and I am a registered lobbyist speaking on behalf of the National Rifle Association and our members in the state of Wisconsin. I would like to discuss the problems our organization has with Senate Bill 104, and would encourage this committee to not support its passage.

This bill is attempting to solve a problem that does not exist. This bill is attempting to solve the gun-show loophole when in fact less than 1% of criminals obtain firearms at gun shows. SB 104 is also attempting to limit private transfers of firearms, which has somehow been concluded as the reason for the high crime rates in Milwaukee County.

It has recently been brought to my attention that an amendment has been introduced by the Chairman to expand this proposal statewide, affecting all law-abiding firearms owners of Wisconsin, not just Milwaukee County. This amendment and the bill itself will have zero affect on crime and will play no part in getting illegal guns off the streets.

SB 104 will actually create new problems by forcing all TRANSFERS of firearms to go through a FFL for a background check to be done. There is no clear definition of what a transfer "is" located anywhere within the bill. If the bill were intended to deal with private sales of firearms, then that should have been the language used, but in fact it appears that the intent was to go far beyond restricting the private sale of firearms.

Suppose this bill were to become law and two friends decided to go target shooting but one of them didn't have a handgun. In order for one friend to lend a

handgun to the other, they would have to locate a Federal Firearm Licensee to run a background check or else they would be in violation of the law.

Let's say that an individual damaged his gun while hunting and needed to send it back to Smith & Wesson for repairs. This would be classified as a transfer, so a background check would have to be done to send the firearm out and then another one would have to be done to return the firearm. Do you run a background check on the gunsmith at Smith and Wesson, or on every employee who might come in contact with the firearm?

Or more importantly, let's say for instance that a husband happened to be out of town on business and his wife stayed at home. If someone were to break into his home and she were to use his handgun in self-defense then she would be breaking the law because no background check was done on her by an FFL. A $25,000 fine and 10 years in prison seem like a long time to exercise a constitutionally guaranteed right.

The constitution of Wisconsin clearly states: The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose.

Now it would seem illogical to attempt to restrict someone's right to self-defense when they are prevented from using a legally purchased firearm in their home simply because they didn't directly purchase the firearm themselves.

There was an article posted in the Milwaukee Journal on May 10, 2007 that discussed crime statistics in Milwaukee County so far this year in comparison to the same time frame last year. The statistics to date were lower than last year. I'm puzzled why there is such a need to pass legislation that will have no effect on the types of crimes that have been committed? There is no evidence in any of the Milwaukee's statistics that would lead one to believe that any of those firearms were purchased through private sales or at gun shows. The only evidence that was clear was that crimes have gone down since this point last year.

Criminals are by nature law-breakers, so why would a criminal who is selling a firearm to another criminal going to subject him to a background check? That would consequently violate his 5th amendment right of self-incrimination. So again, this bill is only going to affect law-abiding citizens who already live and operate within Wisconsin's state laws.

Imagine this scenario: Mike recently had his home broken into and wants to purchase a handgun for protection but can't afford one at full price from a gun-store. Dave, Mike's friend whom he knows well, is a law-abiding gun owner and wants to sell a handgun to Mike at a reasonable price. Is it your intention that they be forced to go to a gun shop and have an FFL charge them $13, $8 for the state background check, and $5 for the FFL background check fee, so that Dave can sell Mike a handgun that he needs for protection? This bill will only serve to inconvenience law-abiding citizens and force them to pay unnecessary fees. To compound the absurdity of these fees, the Governor

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Gun Facts 4.1 by Gary Smith released in 2006 on www.gunfacts.info is a compilation of data from a variety of sources. I have personally validated some of his findings with FBI, DOJ and CDC data. Here are some excerpts as they pertain to SB104 and the general climate surrounding Article I, Section 25 of the Wisconsin Constitution and the continued disregard for Personal Protection Rights in our state:

Projected year when deaths from gunfire will surpass death from auto accidents: 2001

(Source: CDC National Center for Injury Prevention and Control Fact Sheet, 1/25/96)

Guess what – they were wrong. Since 1996, nearly all states have added CCW laws, Stand Your Ground laws, and Castle Doctrine laws. Since 1996, gun deaths have decreased accordingly across the nation, except Illinois and Wisconsin of course. And the prediction from the CDC has gone exactly the opposite – the gap between automobile accidents and gun deaths has widened even more.

There are more guns in the U.S. than cars (228,000,000 guns according to the 1998 FBI statistics and 207,754,000 automobiles according to the 1998 Federal Highway Administration registrations). Yet, you are 31 times more likely to be accidentally killed by a car than a gun according to the National Safety Council...despite cars having been registered and licensed for more than 100 years.

90% of all violent crime in the U.S. does not involve any gun of any type.

* 1998 Bureau of Alcohol, Tobacco, and Firearms

Less than 1% of all guns will ever be used in the commission of any type of crime (much less violent crime).

*FBI Uniform Crime Statistics, 1994

92.7% of law enforcement officials believe that citizens should be able to purchase firearms for self-defense and sporting purposes.

*1999 Police Survey, National Assoc. of Chiefs of Police

Percentage of Americans who agree that "companies that manufacture guns with no hunting or sporting purpose should be held financially responsible when these guns injure or kill people": 45

(Source: BJS Sourcebook of criminal justice statistics, pg. 190)

My thoughts: Would we even consider holding automobile manufacturers accountable for their vehicles that were not "socially acceptable"? i.e. SUVs being the large gas guzzlers designed for off-road rugged use being driven by soccer moms on public streets or sports cars specifically designed for racing

speeds being driven through residential areas? Shouldn't there be a special use requirements for SUVs, Porsches and Corvettes? Shouldn't those dealers that sell racy red sports cars to young men in High School be held accountable when we all know they are going to speed excessively and they cause so many wrecks? Isn't it the responsible thing to do to hold the car dealer accountable if the buyer uses it in the commission of homicide by reckless use of a motor vehicle? And for that matter, private sellers should also be held responsible for their buyers actions.

Percentage of L.A. High School students who say they could obtain a gun for less than $50: 25
(Source: ACLU report: From Words to Weapons, 3/97)

My thoughts: This law is a waste – it is already illegal to sell to High School kids.

Percentage of arrestees who say it is easy to get a gun illegally: 55
(Source: Arrestees and Guns: Monitoring the Illegal Firearms Market, 5/96)

My thoughts: This law is a waste. It is already illegal to sell to criminals.

Not many BGs will follow the law. I would expect that the sources these High School kids and these criminals are citing would not follow the new law being proposed since they were not following the existing laws anyway.

There are enough laws already on the books that would prevent violent criminals form acquiring weapons that are not or cannot be enforced that adding one more is completely laughable.

This law has no apparent connection to prosecuting the perpetrator of a violent crime.

An interesting news story. Stolen Guns from Maryland story.
This deupty allowed a machine gun, a shotgun with a breaching barrel. I wonder how many weapons used in crime come from LEO, military and similar losses and thefts. Interesting that this LEO will not be held accountable for supplying criminals with weapons because he is the victim of a crime himself.

Homicide by intoxicated use of a motor vehicle does not track the source of the vehicle. Instead we target the offending drunk drivers. Why are we doing different for violent crimes committed with firearms? Why are we targeting the source of the firearms and not the violent criminals?

Road rage is a big topic these days and even though road rage rarely involves a gun, it is a common component of those who speak out against Personal

Protection Rights. Yet, Road Rage always involves a car. It rarely involves a minivan or a fullsize sedan. It typically involves a sports car or SUV. Why do we target firearms that aren't involved and begin tracking cars?

Miami Road Rage story. Interesting that Road Rage doesn't lead to shootouts that the anti-Personal Protection folks always worry about. Miami is one of the first and highest volume of CCW permits in the nation and with the highest Road Rage statistics, I find it interesting that guns aren't an issue there.

Many of the anti-Personal Protection Rights folks will say cars aren't designed for killing people but handguns are and thus need to be tracked more closely. But why? They are so rarely used in crimes as compared to knives, carpentry tools, etc and cars. Every drive-by shooting involves a car. Most other violent crimes do as well. Why are we wasting effort tracking guns when there are so many other weapons used that never get a second thought?

Michael DeBose story from Cleveland.

The situation in the UK

The two 1997 Firearms (Amendment) Acts resulted in the prohibition of the vast majority of handguns in Great Britain. As a result of the prohibition and the surrender exercise, more than 162,000 handguns were handed in to local police forces.

Handgun Surrender and Compensation. Report by the Comptroller and Auditor General NAO, 1999.

The official figures for gun crime in England and Wales in 2002/03 were announced in January 2004. There were a total of 24,070 firearm offences of which 57% (13,822) involved air weapons, the highest number of offences ever. The largest increase in offences was seen with imitation firearms for which there was an annual increase of 46% to 1815 offences.

The latest gun crime figures from Scotland show a total of 970 offences in which a firearm was alleged to have been used in 2003, a reduction of over 9% from 2002. A large proportion of the offences (43 percent) involved air weapons, and 37 percent were committed with unidentified weapons (the latter figure has increased significantly in recent years since Strathclyde (after 2001) and Lothian and Borders (after 2002) stopped making assumptions about what type of weapon was used even if it had not been identified - it was usually assumed that this was an air weapon for statistical returns and this is still likely to be the case). Handguns were involved in 29 offences, the lowest number since 1990. No handgun was used in any offence which caused injury or death.

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Criminal statistics England and Wales 2002/2003. Supplementary Volume 1. Homicide and Gun Crime (edited by David Povey). National Statistics. January 2004

Recorded Crimes and Offences involving Firearms, Scotland, 2003. Scottish Executive National Statistical Bulletin. October 2004

During the month long firearms amnesty in April 2003, over 43,000 guns were surrendered in England and Wales and 3393 in Scotland.

How can there be 43,000 more guns when 262,000 were turned in during the 1997 Act? How many more are there today? How many more will there be in the future? The only folks who have them are CRIMINALS! The Law-Abiding CITIZENS are without!

Gun Control in England has completely failed. The criminals continue to find new ways. Refer to the attached.

The majority (as much as 47 to 85%, based on California statistics) of people actually involved in violent crime as victims and perpetrators are drug using criminals themselves. No law that currently exists or that can be proposed is going to affect these people. They are criminals and by definition don't obey laws. Don't get me wrong, they deserve our attention and our support wherever possible. Social programs and recovery clinics and such do make an impact and should be offered. But further restrictions on Personal Protection Rights will not help those folks.

I know for a fact that monitoring the tools used by violent criminals will not reduce violence. I feel for Debra Fifer and have sat with her to discuss the violence that has affected her life. I also am a victim of violence, not once but twice. I have spoken with Jeri Bonavia personally and attended her informational meeting. It is partly due to her efforts that I have become even more convinced that Personal Protection Rights are more important than the continuing the flawed Utopian idea that weapons technology causes violent behavior. Sticks, stones, knives, arrows, muskets, machine guns, fighter jets, nuclear missiles, etc are not the cause of violent crime. Women have been raped, homes have been ransacked, the strong have preyed upon the weak long before we had instant background checks and serial numbers on firearms.

Tracing legitimate firearms transactions will not stop violent criminals from acquiring the tools to commit their crimes. The only sure way to stop violent crime is to avoid it when possible and to respond in kind when absolutely necessary.

Wi Senate – Committee on Labor Elections & Urban Affairs – May 29, 2007
SB 104 - Mayor Tom Barrett

Good Afternoon. My name is Tom Barrett. I am the Mayor of Milwaukee.

I want to thank my friend, Senator Spencer Coggs and the entire committee for holding today's hearing on this important issue.

Some may say that the purpose of bills like this is to advance an agenda to take guns away from hunters and sportsman. Nothing could be further from the truth. I support the rights of legal gun owners. I am not interested in their guns. But I am interested in the lives and futures of young people and their families. And I am interested in taking the guns from felons, from teens, from those with mental health commitments, and from batterers. And I'll be back before you, before the Congress, at neighborhood meetings, in houses of worship, and in schools until we make responsible policy that helps to prevent guns – handguns in particular - from falling into the hands of the wrong people.
It's a matter of life and death.

Every one of us shares great responsibility for the safety of residents in their communities, yet our ability to ensure safe neighborhoods has been compromised by the guns that flow into our cities and into the hands of those who cannot legally possess them.

In Milwaukee, we have strengthened our public safety efforts by funding 50 additional officers and a community service officer program that will put more police back out on the street fighting crime.

This will provide the Milwaukee Police Department with the largest strength of force since 2000.

We are cracking down on curfew violations and cruising. I sought and received more corrections officers from the state to keep tabs on repeat violent offenders. We are in the midst of a pilot program to put cameras in high-crime areas. And we are very close to kicking off an intensive anti-crime collaboration with police, community groups, and faith leaders in two local police districts.

And although additional police officers and innovative crime prevention programs have a major impact on crime, we must still stem the steady supply of firearms, especially handguns, to those who use them to create havoc in neighborhoods; to intimidate; to disable and to kill - sometimes innocent children who just happen into reckless crossfire.

In 2006, the Milwaukee Police Department seized over 2,400 guns, the majority of which were used in crimes or were in possession of someone who wasn't allowed to have a gun like a teenager or a felon.

As of May 9th of this year, MPD confiscated over 1,000 firearms, up 29% from last year at this time. Like the year before, most of those guns are considered crime guns. And there are thousands more out there.

You can see by the numbers, we do a good job of catching the bad guys. We are getting the guns. We are breaking up the gangs and the prostitution rings. But we need to take a step further. Where are these guns coming from? How are they ending up in the hands of people who should not have them, including felons, teenagers and ex-cons?

In Milwaukee, like in other cities in the state and the country, very few persons who possess guns illegally purchase those guns directly from a licensed gun dealer. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reported that 84% per cent of crime guns recovered in Milwaukee had been transferred to someone other than the original buyer at least one time after the

original purchase. We can trace a crime gun back to the original retail outlet. But in the ensuing years, that gun may have been sold and resold legally on the secondary market, without a background check, without any kind of record, making it nearly impossible to police to track the history of crime guns – and impedes their ability to trace firearms used in violent crimes.
Nationally, about 40% of guns sales are conducted without a background check.

In Wisconsin, young persons between the ages of 18 and 20 years of age may legally buy a handgun or multiple handguns on the secondary market – from unlicensed dealers – at gun shows, flea markets, classified ads, or neighborhood rummage sales. But those same young people are prohibited by federal law from purchasing a handgun – not even one - from a federally licensed dealer. Why the double standard?

Last year, about one-third of suspects arrested in gun homicides were under the age of 21. 12 of the suspects were under the age of 16. We have to find out where these guns are coming from. We need more tools to prevent the sale and distribution of handguns to teens; those who are more at risk to use a gun in a crime or suicide.

And we need more tools, like backgrounds checks on secondary market sales, to weed out those who cannot legally possess a handgun and who may wish to make that purchase away from the scrutiny of a licensed dealer.

And we will to our part to insist that persons who commit crimes with guns are vigorously prosecuted; that straw purchases are not tolerated; that guns are safety stored and locked away in the home.

But we need your help. We ask you to consider sensible firearm safety proposals, like SB 104 and its amendments. According to polls conducted this year show that 92% of Americans, including 91% of gun owners support criminal

background checks for gun purchases which is what this proposal would accomplish.

It cannot be any clearer. We have an opportunity to save lives and prevent injuries by making laws that work for us, not against us. Law abiding residents have nothing to fear from responsible gun legislation and everything to fear from guns in the hands of people who never should have had them in the first place.

Thank you.

REACHING OUT to OTHERS TOGETHER

SENATOR SPENCER COGGS OF MILWAUKEE, WI INVITES KENNETH E. BARNES, SR., MS FOUNDER/CEO OF ROOT (REACHING OUT TO OTHERS TOGETHER) INC. TO ADDRESS WISCONSIN STATE LEGISLATURE ON THE RESPONSIBLE GUN OWNERSHIP BILL

WHO: Senator Spencer Coggs (Milwaukee, WI), Mayor Tom Barrett (City of Milwaukee), Dr. Stephen Hargarten (Medical College of Wisconsin) Debra Fifer, Marna Winbush, and Beverly Anderson (Mothers Against Gun Violence), Kenneth E. Barnes, Sr., MS, Founder/CEO, and Dr. Christopher Thompson, Board member, Boston, MA MPD (ROOT, Inc headquartered in Washington, DC)

WHAT: Mr. Barnes of ROOT is invited by Senator Spencer Coggs of Wisconsin and Debra Fifer, Chair of the Wisconsin Chapter of the Million Mom March, to offer expert testimony at an open hearing regarding Senate Bill 104, requiring background checks on the sales of "gray" or secondary, market handguns and firearms restrictions record searches for certain transfers of handguns involving residents of Milwaukee County, requiring the exercise of rule-making authority, and providing a penalty.

WHEN: Tuesday, May 29, 2007 at 2:30pm, Press Conference
Tuesday, May 29, 2007 at 3:00pm, Testimony

WHERE: Milwaukee Department of Natural Resource Building Office
2300 N. Dr. Martin Luther King Jr. Drive, Milwaukee, WI.
Press Room.

WHY: ROOT is embarking on a national coalition and movement to address the epidemic of gun violence facing major cities throughout the United States of America. Mr. Barnes has been invited to Milwaukee to bring this message and his expertise to state legislators, along with the ROOT Guns Aside Campaign to address the epidemic of violence that exists in Milwaukee,WI and throughout the country. During his visit Mr. Barnes will attend numerous functions and will be the guest of Senator Coggs and Mayor Barrett. Mr. Barnes will also appear on several local radio and television shows, as well as attend the Greater Milwaukee Foundation Luncheon and the New Horizons and Career Youth Development Dinner as an honored guest.

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"Too many lives are being lost; too many victims injured, and too many communities are being held stage to this systemic and endemic tide of violence. As a government, and as a community, we must begin to offer proactive, rather than reactive, alternatives."
Kenneth E. Barnes, Sr., MS

The Responsible Gun Ownership Bill – SB 104 is a statewide bill that will require criminal background checks for private citizen gun sales or transfers. This bill will carry penalties that will encourage responsible gun ownership. Those who violate this bill could face up to 9 months in prison and /or a $10,000 fine. The bill will be introduced in the Labor Election and Urban Affairs Committee on May 29, 2007 in Milwaukee. The chair of the committee is State Senator Spencer Coggs.

ROOT (Reaching Out to Others Together) Inc. a nonprofit, 501(c)(3) organization, is committed to advocacy and intervention on behalf of homicide victims and their families. Our mission is to motivate and mobilize communities to take a proactive approach to reducing homicides and the senseless gun and youth violence plaguing our cities.

Press Info: Priscilla Clarke (pclarkepr@aol.com) Clarke & Associates @ Tel. 202-723-2200 or visit www.clarkepr.com

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