

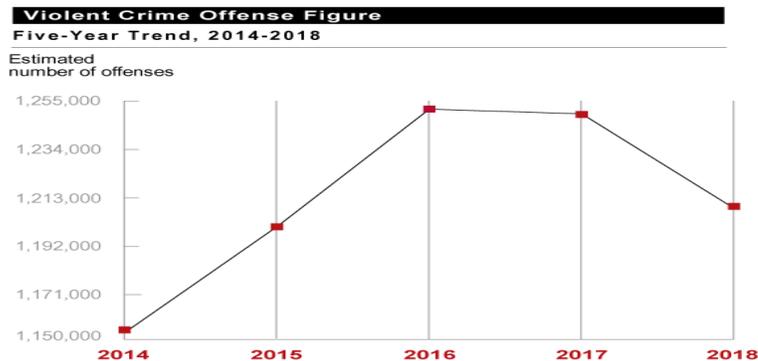
## Deliberative and Pre-decisional

### Chapter 9. Reduction of Crime

#### Introduction of the Issue

According to the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) program, approximately 1.2 million violent crimes were committed in the United States in 2018. Between 2017 and 2018, crime decreased across the board. Although the rate of violent crimes such as murder, robbery, and aggravated assault declined, rape was the only crime that increased (up 2.7 percent).<sup>1</sup> In 2018, the rate of violent crime is at 381 offenses per 100,000 people, a significant decline from 758 offenses per 100,000 people in 1991.<sup>2</sup>

Source: Federal Bureau of Investigation, Uniform Crime Reporting Program <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/violent-crime>



The causes of violent crime are many and varied. Crime affects all types of communities; however, the crime problems in these communities look different from one another. Violence involving the illegal use, possession, and transfer of firearms by members of gangs or cliques may drive violence in one community, as the protection and promotion of the illegal drug trade may drive violence in another. While crime reduction strategies should be tailored to the problems facing different communities, certain general principles that underlie reduction strategies can be applied across the board. These principles include developing effective relationships between law enforcement and the communities they serve and encouraging proactive and strategic collaboration among federal, state, local, tribal, and territorial law enforcement.

Reducing violent crime requires a comprehensive approach that addresses how law enforcement responds to calls for assistance and the social and economic factors that contribute to violence (e.g., poverty, lack of education, family dissolution, unemployment, drug use, and mental illness). It is equally important to partner with communities to prevent crime before it occurs. These recommendations examine targeted deterrence approaches to reduce violent crime, and new and developing methodologies, technologies, and approaches to combat criminal activity, delinquency, and public disorder that increase public safety and enhance community policing.

#### 9.1 Gangs and Criminal Organizations

##### Background

<sup>1</sup> Federal Bureau of Investigation, "FBI Releases 2018 Crime Statistics," September 30, 2019, <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2018-crime-statistics>.

<sup>2</sup> Samuel Stebbins, "Dangerous States: Which States Have the Highest Rates of Violent Crime and Most Murders?," *USA Today*, January 13, 2020, <https://www.usatoday.com/story/money/2020/01/13/most-dangerous-states-in-america-violent-crime-murder-rate/40968963/>.

## Deliberative and Pre-decisional

The number of gang members in the United States likely exceeds one million.<sup>3</sup> The FBI states that “approximately 33,000 violent street gangs, motorcycle gangs, and prison gangs are criminally active in the U.S. today.”<sup>4</sup> While some may be sophisticated and well organized, others are best described as cliques that control smaller territories or crews that engage in particular types of concerted criminal activity.

The structure and organization of a gang is often dependent upon the type. Prison gangs begin in prisons and jails and operate mainly in the prison system, but they also continue their criminal activity outside of the prison system.<sup>5</sup> Outlaw motorcycle gangs are extremely structured, and their members participate in violent crime and weapons and drug trafficking. Their crimes are facilitated through motorcycle clubs. National-level gangs are also structured and run their operations in a formal manner. They have a hierarchy and expect their members to abide by their constitution. Neighborhood-based gangs are primarily located in the specific area where gang members reside. While they may use the names of national-level gangs and may even pattern their operations after them, they do not embody the sophistication and level of organization of a national-level gang. Finally, hybrid gangs are not structured; they are made up of members from different gangs, and the members move around to different hybrid gangs depending on their own need for profit.<sup>6</sup>

Gangs are often designed to protect and promote illegal money-making activities, including robbery, extortion, drug tracking, gun trafficking, prostitution and human trafficking, and other theft and fraud schemes. Sometimes, these groups exist to protect specific neighborhoods, and they commit acts of violence against rival groups who they perceive as breaching their territory. Many gang members continue to commit crimes after being sent to jail. Often, members of all such criminal organizations require other members to commit homicides, shootings, and other violent acts.

### Current State of the Issue

According to the National Gang Center, gangs have “become more entrenched over the past 25 years,” but “gang activity is localized in nature and tends to follow a cyclical pattern with upswings followed by downturns.”<sup>7</sup> The cycles largely emanate from the transient nature of conflict and competition from other gangs and criminal organizations. Gangs are mostly found in highly populated areas, as “more than 50 percent of the net increase in gangs and gang members over the past five years was due to overall increases in larger cities.”<sup>8</sup>

In the 2019 National Threat Picture provided by the Major Cities Chiefs Association (MCCA), 65 percent of agencies placed criminal gangs and organizations as one of their top five major issues. The central region of the United States ranked gangs as their second biggest concern, and both the eastern and western regions ranked gangs as their third largest concern.<sup>9</sup> In 2019, gang activity increased more than 25 percent.<sup>10</sup> While drug and weapon trafficking have been major components of criminal activity in gangs, an increasing trend of gangs are involved in human trafficking. Often, the internet helps gangs further human trafficking efforts for their own gain.<sup>11</sup> Although there is a significant gang issue, interventions are available to law enforcement to reduce gang activity.

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<sup>3</sup> David C. Pyrooz and Gary Sweeten, “Gang Membership Between Ages 5 and 17 Years in the United States,” Abstract, *Journal of Adolescent Health* 56, no. 4 (2015), <https://doi.org/10.1016/j.jadohealth.2014.11.018>.

<sup>4</sup> “Gangs,” Federal Bureau of Investigation, accessed June 19, 2020, <https://www.fbi.gov/investigate/violent-crime/gangs>.

<sup>5</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment* (Washington, DC: Drug Enforcement Administration, 2019), 126, [https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020\\_Low\\_Web-DIR-007-20\\_2019.pdf](https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf).

<sup>6</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*.

<sup>7</sup> “Frequently Asked Questions About Gangs,” National Gang Center, accessed June 19, 2020, <https://www.nationalgangcenter.gov/about/FAQ>.

<sup>8</sup> National Gang Center, “Frequently Asked Questions About Gangs.”

<sup>9</sup> “Measuring the Extent of Gang Problems Estimated Number of Gangs,” National Gang Center, accessed June 27, 2020, <https://www.nationalgangcenter.gov/survey-analysis/measuring-the-extent-of-gang-problems>.

<sup>10</sup> Major Cities Chiefs Association, *2019 National Threat Picture: Top Threat Issues of Major City Law Enforcement Agencies* (Washington, DC: Major Cities Chiefs Association, 2019), [https://majorcitieschiefs.com/pdf/news/2019\\_mcca\\_us\\_national\\_threat\\_picture\\_report.pdf](https://majorcitieschiefs.com/pdf/news/2019_mcca_us_national_threat_picture_report.pdf).

<sup>11</sup> “Gangs and Human Trafficking,” National Gang Center (blog), January 31, 2020, <https://www.nationalgangcenter.gov/Blog/47/Gangs-and-Human-Trafficking>.

## Deliberative and Pre-decisional

### [CROSS REFERENCE SOCIAL PROBLEMS and JUVENILE JUSTICE]

#### **9.1.1 Law enforcement should conduct operational meetings at the federal, state, local, tribal, and territorial levels to identify the most violent criminal organizations in their communities. Law enforcement should develop joint strategies to disrupt those organizations and eliminate their illegal activities.**

Law enforcement should focus their limited resources on conducting complex investigations of individuals and groups that commit most of the violence in their communities. Local law enforcement agencies should use intelligence effectively to combat criminal gangs.<sup>12</sup> Increasing collaboration with jail intelligence teams and data sharing between local jurisdictions of low level enforcement will help law enforcement identify leaders of gangs or criminal organizations.

Timothy D. Sini, the District Attorney of Suffolk County, New York, noted how collaborating with the Drug Enforcement Administration and other law enforcement professionals allowed his team to take down the MS-13 gang. In 2012, pursuant to Executive Order 13581, the Department of Treasury designated MS-13 a Transnational Criminal Organization (TCO).<sup>13</sup> This involved, the DA explained, “wiretaps on approximately 215 phone lines and communication applications over the course of about two years. The amount of intelligence generated off those approximate 215 phones was enormous and led to the arrests of more than 230 MS-13 gang members and close associates worldwide.”<sup>14</sup> As a result of this take down, they were able to intercept 10 planned murders on Long Island, capture high-ranking leaders in the gang, and end the MS-13 New York Program.<sup>15</sup>

#### **9.1.2 Law enforcement agencies should fund crime analysts to identify violent crime trends among individuals and groups.**

The analysts may provide more accurate data (e.g., affiliations, current charges, or social media) to law enforcement officers whose areas are most likely affected by these individuals or groups. These investigations should endeavor to remove the leaders of these criminal organizations. Often, specific gangs or gang members, commonly referred to as shot callers or shooters, are primarily responsible for a large share of gang violence. Law enforcement should employ technologies (e.g., wiretaps and other forms of electronic surveillance) to gather evidence against these organizations and organizational leaders. Technology companies should provide access to such information when law enforcement has lawful authority to obtain it, including using court orders.

The FBI Cleveland Office initiated Operation Hadley’s Hope when they received intelligence from the Metropolitan Richland County (METRICH) drug task force. They used wiretaps, which resulted in the dismantling of three large drug trafficking organizations in October 2017, February 2019, and March 2020. As Justin Herdman, the U.S. Attorney for the Northern District of Ohio, states, “the investigation resulted in the seizure of 51 firearms and the arrest of 145 individuals. And most importantly, violent crime was reduced by 19 percent in 2018 (following the first takedown) and a further 6.2 percent decrease in 2019 (following the second takedown).<sup>16</sup>

### [CROSS REFERENCE TECHNOLOGY]

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<sup>12</sup> United Nations Office on Drugs and Crime, *Criminal Intelligence: Manual for Analysts* (Vienna, Austria: United Nations, 2011), [https://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Analysts.pdf](https://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Analysts.pdf).

<sup>13</sup> Angel M. Melendez and John Gibbons, “The Perfect Storm: The Convergence of Gangs and Transnational Crime,” *Police Chief Magazine*, August 2017, <https://www.policechiefmagazine.org/the-perfect-storm-gangs-and-transnational-crime/>.

<sup>14</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 9, 2020) (statement of Timothy Sini, District Attorney, Suffolk County, NY), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>15</sup> Sini, *President’s Commission on Law*, April 9, 2020.

<sup>16</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 7, 2020) (statement of Justin Herdman, U.S. Attorney, Northern District of Ohio), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

## Deliberative and Pre-decisional

### **9.1.3 Local law enforcement should create and/or participate in regionalized gang task forces made up of agencies from their region, state, and the federal government.**

Law enforcement agencies often solely rely on their own personnel to combat ever-growing violence and criminal enterprises as they relate to gang activity.<sup>17</sup> As a result, many agencies lack proper personnel and resources to control the accelerated growth of criminal street gangs.<sup>18</sup> The ideal task force should include investigators from at least three local agencies within the affected region in addition to probation, state parole, state police, prosecuting bodies, corrections, the FBI, and the Department of Homeland Security (DHS).<sup>19</sup> The task force may improve resources as well as drug and gun expertise by partnering with the Federal Bureau of Alcohol, Tobacco and Firearms (ATF) and the Drug Enforcement Administration (DEA).<sup>20</sup>

To dismantle the criminal organization, law enforcement should use wiretaps and other court-authorized investigative techniques to gather valuable criminal evidence and intelligence as to the leadership of a criminal street gang. A task force is ideal for financing and staffing wiretap investigations because it can use resources from several involved agencies.<sup>21</sup> Additionally, the combination of federal and state participation in such wiretap investigations allows law enforcement to draw intelligence from a larger base and pool enforcement resources from more agencies.<sup>22</sup> It also provides a collaborative working group for law enforcement to exploit wiretaps and other investigative techniques that are authorized by both federal and state courts. Federal law enforcement agencies should adopt state investigations—including those involving court-authorized state wiretaps—to exploit that evidence and work further up the criminal organization’s leadership ranks, including towards organizational leaders located out of state.

Finally, every gang task force should deploy a corrections-based intelligence strategy. It is common practice for gang members to continue to facilitate criminal activity after incarceration. Wiretaps used in correctional settings can assist in investigations. Gang members are becoming more sophisticated in using fraud and identity theft to generate funding. Funds received from these types of crimes are used to purchase drugs and firearms to be sold to other criminal entities and underprivileged youth within communities.<sup>23</sup> Bryan Stirling, Director of South Carolina Department of Corrections noted that “the hands of inmates, cell phones undermine the foundation of the criminal justice system by allowing convicted criminals to further their criminal activities behind bars. Through the use of contraband cell phones, inmates are able to coordinate illegal drug shipments, direct acts of violence, perpetuate gang activity, commit acts of fraud, and plan escapes.”<sup>24</sup>

### **9.1.4 Local law enforcement, in collaboration with federal law enforcement, should implement targeted enforcement and patrols in designated and confined geographical areas to gather, collect, and share intelligence of known gang members for arrest and prosecution.**

An important part of targeted enforcement is accurately identifying gangs and hot spots that disproportionately contribute to violent crime. Hotspot mapping or risk terrain modeling are used to direct patrol assignments, allocate resources, and supplement initiatives that benefit the mission of violent crime reduction. Such techniques denote trends and patterns on crime displacement and crime diffusion that result

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<sup>17</sup> John McMahon, Sheriff, San Bernardino County Sheriff’s Office, CA, email communication with Kristie Brackens, Federal Program Manager, Reduction of Crime Working Group, May 29, 2020.

<sup>18</sup> McMahon, email communication with Kristie Brackens, May 29, 2020.

<sup>19</sup> Gang Intelligence Strategy Committee, *Guidelines for Establishing and Operating Gang Intelligence Units and Task Forces* (Washington, DC: Bureau of Justice Assistance, 2008), <https://it.ojp.gov/documents/d/guidelines%20for%20establishing%20Gang%20Intelligence%20units.pdf>.

<sup>20</sup> Gang Intelligence Strategy Committee, *Guidelines for Establishing and Operating Gang*.

<sup>21</sup> John Lausch, U.S. Attorney, Northern District of Illinois, email communication with Kristie Brackens, Federal Program Manager, Reduction of Crime Working Group, May 29, 2020.

<sup>22</sup> Lausch, email communication with Kristie Brackens, May 29, 2020.

<sup>23</sup> Lausch, email communication with Kristie Brackens, May 29, 2020.

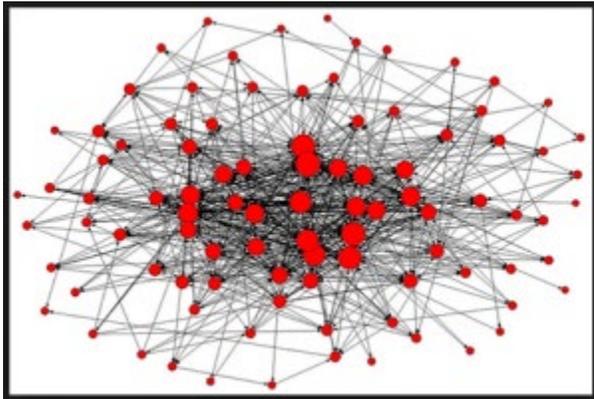
<sup>24</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 15, 2020) (statement of Bryan Stirling, Director, South Carolina Department of Corrections), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

## Deliberative and Pre-decisional

from law enforcement crime control efforts.<sup>25</sup> These techniques should be incorporated into broader community-oriented approaches to crime prevention, as community members frequently exhibit positive reactions to such targeted police actions.<sup>26</sup>

David Kennedy, Professor at the John Jay College of Criminal Justice and the executive director of National Network for Safe Communities, explains that “there exist extreme concentrations of violence” within the country.<sup>27</sup> He states, “The fact is one of extraordinary geographic and demographic concentration. One-half of the entire country’s homicides are committed in about only about twenty-five cities and towns. The concentrated areas of homicides are overwhelming committed in areas of color.”<sup>28</sup>

Social Network Analysis (SNA) provides an analytical assessment of the connections among individuals and identifies gang structures, drug market networks, and key individuals to investigate. Social networks can explain criminal relationships, behaviors, and patterns that may exist. SNA reveals these links and allows researchers to understand criminal relationships, networks, and influences.<sup>29</sup>



Source: *Police Chief Magazine*, “The Power of Social Network Analysis”  
<https://www.policechiefmagazine.org/power-social-network-analysis/>

It is critical for local law enforcement to understand the structure of the criminal network to predict future crimes. Many departments use SNA in conjunction with intelligence and data analysis to identify individuals to target for focused deterrence intervention. The real “concentration of risk, is not by demographic or community or neighborhood, but is of real small groups or networks within those communities.”<sup>30</sup>

Several departments across the country have successfully used SNA to disrupt gangs. In New Haven, Connecticut, Project Longevity was implemented and resulted in a 73 percent decline in monthly shootings related to gangs following the institution of call-ins.<sup>31</sup> Similar effects were noticed in cities such as New

<sup>25</sup> Kate Bowers et al., “Spatial Displacement and Diffusion of Benefits Among Geographically-Focused Policing Initiatives,” *Campbell Collaboration* 7, no. 1 (2011), <https://campbellcollaboration.org/better-evidence/geographically-focused-policing.html>; and Weisburd et al., “Does Crime Just Move Around the Corner? A Controlled Study of Spatial Displacement and Diffusion of Crime Control Benefits,” *Criminology* 44, no. 3 (2006), <https://doi.org/10.1111/j.1745-9125.2006.00057.x>.

<sup>26</sup> Anthony A. Braga, Andrew V. Papachristos, and David M. Hureau, “The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-Analysis,” *Justice Quarterly* 31, no.4 (2014), <https://doi.org/10.1080/07418825.2012.673632>; Anthony Braga, et al., “Hot Spots Policing and Crime Reduction,” *Journal of Experimental Criminology* 15 (2019), <https://link.springer.com/article/10.1007/s11292-019-09372-3>.

<sup>27</sup> Stephen Lurie, “There’s No Such Thing as a Dangerous Neighborhood,” Bloomberg City Lab, February 25, 2019, <https://www.bloomberg.com/news/articles/2019-02-25/beyond-broken-windows-what-really-drives-urban-crime>.

<sup>28</sup> Aliza Aufrichtig et al., “Want to Fix Gun Violence in America? Go Local,” *Guardian*, January 9, 2017, <http://www.theguardian.com/us-news/ng-interactive/2017/jan/09/special-report-fixing-gun-violence-in-america>.

<sup>29</sup> Jason Gravel and George E. Tita, “Network Perspectives on Crime,” *Oxford Research Encyclopedia of Criminology and Criminal Justice* (Oxford, UK: Oxford University Press, 2017), <https://oxfordre.com/criminology/view/10.1093/acrefore/9780190264079.001.0001/acrefore-9780190264079-e-251>.

<sup>30</sup> Aliza Aufrichtig et al., “Want to Fix Gun Violence in America?”

<sup>31</sup> Andrew V. Papachristos and Michael Sierra-Arévalo, *Policing the Connected World: Using Social Network Analysis in Police-Community Partnerships* (Washington, DC: Office of Community Oriented Policing Services, 2018), 12, <https://www.nationalpublicsafetypartnership.org/clearinghouse/Content/ResourceDocuments/COPS%20SNA%20Community%20Policing.pdf>.

## Deliberative and Pre-decisional

Orleans and Cincinnati.<sup>32</sup> Chicago's Violence Reduction Strategy noticed a 23 percent decrease in total shootings and a 32 percent decrease in shootings among gangs following call-ins compared to gangs that did not attend call-ins.<sup>33</sup>

### **9.1.5 Local law enforcement should use the results of crime analysis, local environmental factors, and intelligence gathering to select, develop and implement crime reduction strategies backed by evidence to address the identified local problems. Throughout development and implementation of these strategies, local law enforcement should engage the communities they serve.**

Once law enforcement compiles the results of crime analysis and intelligence gathering, considers local environmental factors, and identifies the problem people and problem areas within the jurisdiction, law enforcement should develop and implement evidence-based strategies to address local problems. These strategies may include focused deterrence and disorder policing.

The focused deterrence model maintains that a disproportionately small group of individuals is responsible for the majority of criminal activity. Focused deterrence intervention programs emphasize the accurate identification of prolific criminal actors and use the support of community, law enforcement, and social services to offer a pathway to law-abiding behavior. With this model, criminals are offered social service assistance and notified of the consequences for any additional criminal activity.<sup>34</sup>

Evaluations of focused deterrence strategies (the "pulling levers" policing method) showed a significant decrease in violent crime, including a 44 percent decrease in gun assault offenses in Lowell, Massachusetts; a 42 percent decrease in gun homicides in Stockton, California; a 41 percent decrease in homicides of members within criminal organizations in Cincinnati, Ohio; and a 34 percent decrease in total homicides in Indianapolis, Indiana.<sup>35</sup>

The Tampa Police Department in Florida used a modified focused deterrence approach and decided to target specific offenders who were the biggest contributors to local crime with greater efficiency and accuracy.<sup>36</sup> As Dr. Briana Fox, an associate professor from the Department of Criminology at the University of South Florida, notes, "after a three-year evaluation, even when controlling for the decline in violent crime since 2016, Tampa still had an additional 23 percent reduction in violent crime and 47 percent reduction in gun violence, compared to the other agencies in the surrounding area."<sup>37</sup>

Disorder policing addresses neighborhood social and physical disorder which serve as a precursor to more serious forms of delinquent and criminal behavior, fear of crime, and neighborhood decline.<sup>38</sup> Disorder policing maintains that visual signs of disorder (e.g., litter, graffiti, abandoned property, aggressive panhandling, or prostitution) signal to residents and non-residents that mechanisms of informal social control within their communities have broken down, initiating a chain of events which leads to elevated levels of

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<sup>32</sup> Papachristos and Sierra-Arévalo, *Policing the Connected World*, 12.

<sup>33</sup> Anthony A. Braga, David Weisburd, and Brandon Turchan, "Focused Deterrence Strategies Effects On Crime: A Systematic Review," *Campbell Systematic Reviews* 15, no. 3 (2019): e1051, <https://doi.org/10.1002/cl2.1051>; Mike McLively and Brittany Nieto, *A Case Study In Hope: Lessons from Oakland's Remarkable Reduction in Gun Violence* (San Francisco, CA: Giffords Law Center to Prevent Gun Violence, 2019), <https://lawcenter.giffords.org/wp-content/uploads/2019/05/Giffords-Law-Center-A-Case-Study-in-Hope.pdf>; and *In Pursuit Of Peace: Building Police-Community Trust to Break the Cycle of Violence* (San Francisco, CA: Giffords Law Center to Prevent Gun Violence, 2020), <https://lawcenter.giffords.org/wp-content/uploads/2020/01/Giffords-Law-Center-In-Pursuit-of-Peace.pdf>.

<sup>34</sup> "Practice Profile: Focused Deterrence Strategies," CrimeSolutions.gov, accessed June 19, 2020, <https://www.crimesolutions.gov/PracticeDetails.aspx?ID=11>.

<sup>35</sup> The Bridgespan Group, *Needle-Moving Community Collaboratives Case Study: Boston* (Boston: The Bridgespan Group, 2012), 5, <https://www.bridgespan.org/bridgespan/images/articles/needle-moving-community-collaboratives/profiles/community-collaboratives-case-study-boston.pdf>.

<sup>36</sup> Bryana Fox, Associate Professor, University of Florida Department of Criminology, in discussion with Reduction of Crime Working Group, virtual meeting, April 23, 2020.

<sup>37</sup> Fox, in discussion with Reduction of Crime, April 23, 2020.

<sup>38</sup> Anthony A. Braga, Brandon C. Welsh, and Cory Schnell, "Can Policing Disorder Reduce Crime? A Systematic Review and Meta-analysis," *Crime & Delinquency* 52, no. 4 (2015), <https://journals.sagepub.com/doi/10.1177/0022427815576576>.

## Deliberative and Pre-decisional

crime.<sup>39</sup>

Furthermore, such strategies may use code enforcement measures to combat signs of physical disorder (e.g., dilapidated buildings or abandoned cars).<sup>40</sup> Due to the substantial flexibility of this approach, there is no set standard for implementing disorder policing and the application of this method can vary within and across police departments.<sup>41</sup>

Any crime reduction strategies should consider community members' perception of their local police and promote cooperation between police and community stakeholders. Such efforts are critical for programs to be implemented successfully, and they should be prioritized. Scott Thomson, retired chief from Camden County, New Jersey, states, "the only way to significantly reduce fear, crime, and disorder, and then sustain these gains is to leverage the greatest force multiplier: the people of the community themselves."<sup>42</sup> People who do not trust the police or who feel alienated from them are less likely to cooperate with the police, provide information to them, or serve as witnesses in criminal proceedings.<sup>43</sup> Communities with higher rates of legal cynicism (i.e., an overall distrust in the law and its agents, most notably the police) have higher rates of violence.<sup>44</sup> "Without effective crime control and community engagement best practices, community policing will remain a catch phrase and not an actionable activity," Phil Keith, Director of Office of Community Oriented Policing Services.<sup>45</sup>

In 2016, Camden County, New Jersey, had more than 175 open air drug markets. In the past, the Camden County Police Department focused their efforts on arresting the offenders, which caused more harm than good and did not fulfill their objective. After shifting to a community policing culture where they had walking beats and bicycle patrols, the department prevented drug-related crimes, and drug selling was replaced with "pickup games of street ball, foot races, and pushup competitions between the neighborhood cop and the kids. Police must use a holistic approach to reducing crime."<sup>46</sup> By communicating and getting to know the members of the community, they were more effective in their policing efforts. As Chief Thomson notes, by "[fishing] with a spear and not a net . . . murders have been reduced by 67 percent, shootings by 66 percent,

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<sup>39</sup> Joshua C. Hinkle and David Weisburd, "The Irony of Broken Windows Policing: A Micro-Place Study of The Relationship Between Disorder, Focused Police Crackdowns And Fear Of Crime," *Journal of Criminal Justice* 36, no. 6 (2008), <https://doi.org/10.1016/j.jcrimjus.2008.09.010>; and George L. Kelling and James Q. Wilson, "Broken Windows: The police and neighborhood safety," *The Atlantic*, March 1982, <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

<sup>40</sup> George L. Kelling and William H. Sousa, *Do Police Matter? An Analysis of the Impact of New York City's Police Reforms* (New York: Manhattan Institute for Policy Research, 2001), [https://media4.manhattan-institute.org/pdf/cr\\_22.pdf](https://media4.manhattan-institute.org/pdf/cr_22.pdf); Wesley Skogan, *Disorder and Decline: Crime and the Spiral of Decay in American neighborhoods* (New York: The Free Press, 1990), <https://www.jstor.org/stable/30012173?seq=1>; John L. Worrall, *Does 'Broken Windows' Law Enforcement Reduce Serious Crime?* (Sacramento, CA: California Institute for County Government, 2002), <https://www.ncjrs.gov/pdffiles1/Photocopy/202166NCJRS.pdf>.

<sup>41</sup> "Practice Profile: Disorder Policing," CrimeSolutions.gov, accessed June 19, 2020, <https://www.crimesolutions.gov/PracticeDetails.aspx?ID=68>.

<sup>42</sup> *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 7, 2020) (written statement of J. Scott Thomson, Chief of Police (Ret.), Camden County Police Department, NJ), <https://www.iustice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>43</sup> Fiona Brookman, Edward R. Maguire, and Mike Maguire, "What Factors Influence Whether Homicide Cases Are Solved? Insights From Qualitative Research With Detectives in Great Britain and the United States," *Homicide Studies* 23, no. 2 (2019), <https://doi.org/10.1177/1088767918793678>; Tom R. Tyler, "Why People Obey the Law," in *Trust in the Law: Encouraging Public Cooperation with the Police and Courts* (New York: Russell Sage Foundation, 2002), [http://www.psych.nyu.edu/tyler/lab/Chapters\\_1-4.pdf](http://www.psych.nyu.edu/tyler/lab/Chapters_1-4.pdf); and Jason Sunshine and Tom R. Tyler, "The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing," *Law and Society Review* 37, no. 3 (2003), <https://doi.org/10.1111/1540-5893.3703002>.

<sup>44</sup> Nicholas Corsaro, James Frank, and Murat Ozer, "Perceptions of Police Practice, Cynicism of Police Performance, and Persistent Neighborhood Violence: An Intersecting Relationship," *Journal of Criminal Justice* 43, no. 1 (2015), <https://doi.org/10.1016/j.jcrimjus.2014.10.003>; and David S. Kirk and Andrew V. Papachristos, "Cultural Mechanisms and the Persistence of Neighborhood Violence," *American Journal of Sociology* 116, no. 4 (2011), <https://doi.org/10.1086/655754>.

<sup>45</sup> Phil Keith, Director, Office of Community Oriented Policing Services, email communication with Reduction of Crime Working Group, July 29, 2020.

<sup>46</sup> J. Scott Thomson, "As Camden's Police Chief, I Scrapped the Force and Started Over. It Worked. The City Needed Guardians, Not Warriors," *Washington Post*, June 18, 2020, [https://www.washingtonpost.com/outlook/camden-police-chief-old-new-department/2020/06/18/37407536-b0b8-11ea-856d-5054296735e5\\_story.html](https://www.washingtonpost.com/outlook/camden-police-chief-old-new-department/2020/06/18/37407536-b0b8-11ea-856d-5054296735e5_story.html); and Thomson, *President's Commission on Law*, April 7, 2020.

## Deliberative and Pre-decisional

and total violent crime by 42 percent” since 2012.<sup>47</sup>

### [CROSS REFERENCE BUSINESS AND COMMUNITY DEVELOPMENT CHAPTER]

#### **9.1.6 Federal, state, local, and tribal governments should increase funding for jurisdictions to implement evidence-based community-oriented crime reduction programs focused on both adult and youth populations.**

These programs focused on the adult population include hospital-based violence intervention programs; place-centric or community-based crime reduction programs; programs designed to modify a community’s physical and social environment; prevention and reentry programs, such as those implemented under Project Safe Neighborhoods (PSN) and other comprehensive anti-violence initiatives, including parolee and offender call-in meetings; and street outreach and intervention programs (e.g., Cure Violence or Ceasefire). In 2018 the Grady Memorial Hospital in Atlanta, GA launched the Program to Interrupt Violence Through Outreach and Treatment (PIVOT) in partnership with the Atlanta Metropolitan Police Department. PIVOT is a hospital-based prevention program focused on preventing repeat gunshot victimization and retaliatory violence through providing social services with intensive follow-up, community policing, and data sharing.<sup>48</sup>

Interventions that include street outreach address violence risk factors like community-level trauma and cultural or society norms that normalize violence as a way to resolve problems. Such interventions include having trained personnel reach out to community residents that are known to have engaged in or who may be at increased risk for violence, promoting non-violence norms and non-violent conflict mediation, and connecting community members to available social supports and services.<sup>49</sup>

Long-term, comprehensive interventions for children with conduct and behavioral problems can reduce violent crime in adulthood. Youth violence, which includes fighting, bullying, gang activity, and dating violence, has been described by the Centers for Disease Control (CDC) as a significant public health problem.<sup>50</sup> Local school districts should incorporate interventions to increase protective factors that can reduce crime for children, youth, and families, such as quality early childhood programs (e.g., early Head Start and Head Start), good school attendance programs (e.g., Check and Connect and Positive Action), after school and youth development programs (e.g., GEAR UP), literacy programs (e.g., READ 180), social-emotional interventions, and mentoring programs.<sup>51</sup> These programs have a far-reaching, positive effects. Head start programs, followed by effective and well-funded K–12 schools, are related to positive outcomes, including reduced adult incarceration.<sup>52</sup>

### [CROSS REFERENCE JUVENILE JUSTICE]

## 9.2 Illegal Possession, Use, and Trafficking of Firearms

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<sup>47</sup> Thomson, *President’s Commission on Law*, April 7, 2020.

<sup>48</sup> Lisa Hagen, “A Decades-Old Approach To Prevent Gunshot Wounds Is Catching On In Hospitals Around The U.S.,” *WAMU* (blog), January 23, 2019, <https://wamu.org/story/19/01/23/a-decades-old-approach-to-prevent-gunshot-wounds-is-catching-on-in-hospitals-around-the-u-s/>.

<sup>49</sup> National Network of Hospital-based Violence Intervention Programs, *Hospital-based violence intervention: Practices and Policies to End the Cycle of Violence* (Jersey City, NJ: National Network of Hospital-based Violence Intervention Programs, 2019), <https://static1.squarespace.com/static/5d6f61730a2b610001135b79/t/5d83c0d9056f4d4cbb9acd9/1568915699707/NNHVIP+White+Paper.pdf>.

<sup>50</sup> Corinne David-Ferdon et al., *A Comprehensive Technical Package for the Prevention of Youth Violence and Associated Risk Behaviors* (Atlanta, GA: Centers for Disease Control and Prevention, 2016), <https://www.cdc.gov/violenceprevention/pdf/yv-technicalpackage.pdf>

<sup>51</sup> “Applying for the Head Start Program,” Early Childhood Learning and Knowledge Center, accessed June 19, 2020, <https://eclkc.ohs.acf.hhs.gov/how-apply>; “Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP),” U.S. Department of Education, November 21, 2019, <https://www2.ed.gov/programs/gearup/index.html>; and “Read 180 Unlock Whole-Brain Reading Through Blended Learning Intervention,” Houghton Mifflin Harcourt, accessed June 26, 2020, <https://www.hmhco.com/programs/read-180-universal>.

<sup>52</sup> Rucker C. Johnson and C. Kirabo Jackson, “Reducing Inequality through Dynamic Complementarity: Evidence from Head Start and Public School Spending,” *American Economic Journal: Economic Policy* 11, no. 4 (2019), <https://doi.org/10.1257/pol.20180510>.

## Deliberative and Pre-decisional

### Background

In 1968 the U.S. Congress passed the Gun Control Act (GCA) in response to rising violent crime rates and the political assassinations of President John F. Kennedy, Dr. Martin Luther King Jr., and Senator Robert F. Kennedy. The GCA expanded interstate commerce controls over common firearms, like pistols, revolvers, shotguns and rifles. Further, it required those “engaged in the business” of manufacturing or dealing in firearms to be licensed by ATF (i.e., Federal Firearms Licensees, or FFLs). The GCA also required licensed manufacturers to mark firearms with serial numbers, and that all FFLs must keep records of the transfer of firearms.<sup>53</sup>

The GCA prohibits certain categories of persons from possessing and receiving firearms.<sup>54</sup> To help enforce those prohibitions and keep guns out of the hands of people who cannot legally possess them, Congress passed the Brady Handgun Violence Prevention Act (Brady Act) in 1993. The Brady Act created the National Instant Criminal Background Check System (NICS), which is run by the FBI and requires FFLs to submit a potential buyer’s information to NICS before transferring a firearm. NICS searches available records and attempts to determine if the buyer is someone who is prohibited from receiving firearms.<sup>55</sup>

### [BEGIN TEXT BOX]

#### Criteria that prohibits individuals from possessing and receiving firearms:

- a person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year
- a fugitive from justice
- an unlawful user of or addicted to any controlled substance
- a person who has been adjudicated as a mental defective or has been committed to any mental institution
- an illegal alien
- a person who has been dishonorably discharged from the Armed Forces
- a person who has renounced their United States citizenship
- a person who is subject to a court order restraining
- a person who has been convicted of a misdemeanor crime of domestic violence<sup>56</sup>

### [END TEXT BOX]

While the majority of firearms will never fall into criminal hands, the accessibility of firearms and the interstate trafficking of firearms contribute to the high rate of gun violence. Eighty-five percent of criminal firearm possessors are not the original purchaser. Evidence suggests that illegal guns (those that are unlawfully obtained or possessed) are used more often in crimes than legal guns.<sup>57</sup>

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<sup>53</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 8, 2020) (written statement of Thomas Chittum, Assistant Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>54</sup> “Identify Prohibited Persons,” Bureau of Alcohol, Tobacco, Firearms and Explosives, accessed June 22, 2020, <https://www.atf.gov/firearms/identify-prohibited-persons>.

<sup>55</sup> Chittum, *President’s Commission on Law*, April 8, 2020.

<sup>56</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, “Identify Prohibited Persons.”

<sup>57</sup> Anthony A. Braga et al., “The Illegal Supply of Firearms,” *Crime and Justice* 29 (2002), <https://doi.org/10.1086/652223>; National Research Council, *Understanding and Preventing Violence: Volume 1* (Washington, DC: The National Academies Press, 1993), <https://www.nap.edu/catalog/1861/understanding-and-preventing-violence-volume-1>; and James D. Wright and Peter H. Rossi, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* (Hawthorne, NY: Aldine de Gruyter Publishing Co., 1994), <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=155885>.

## Deliberative and Pre-decisional

Criminals arm themselves through the following methods; firearm traffickers, thefts, retail market (e.g., lie-and-try), privately made firearms, and private market sales (e.g., gun shows and flea markets). A 2016 study conducted by the Bureau of Justice statistics found that an estimated 287,400 state and federal prisoners had possessed a firearm during their offense with more than half (56 percent) having acquired it by purchasing it “on the street” (43 percent), finding it at the crime scene (7 percent), or stealing it (6 percent).<sup>58</sup> Research on gun violence illustrates the importance of focusing on the highest-risk places, people, and weapons.<sup>59</sup> Equally important is the need to aggressively and proactively take on the small number of offenders who are responsible for most gun violence. Nationally, just 6 percent of criminals are likely responsible for more than 60 percent of violent crime.<sup>60</sup>

### Current State of the Issue

**PULL QUOTE:** “In 2017, on average, there were 105 gun fatalities every day—a fact often overlooked in light of mass shootings, which amounted to 117 deaths over that entire year. The impact of gun violence extends well beyond those cases that end in death: any shooting results in serious and sometimes debilitating injury, often requiring life-long medical attention.”<sup>61</sup> – G. Zachary Terwilliger, Honorable U.S. Attorney for the Eastern District of Virginia

As the New York Times has reported, the rate of gun deaths in the United States increased from 11.8 per 100,000 in 2016 to 12 deaths in 2017.<sup>62</sup> This was the third consecutive year that the rate of firearm deaths increased in the United States, after remaining relatively steady throughout the 2000s and the first part of the decade.<sup>63</sup>

ATF established the National Integrated Ballistic Information Network (NIBIN) in 1997 with a mission to provide partner agencies around the country - local, state, and federal law enforcement - with an automated ballistic imaging network. NIBIN is the only national network for compiling ballistic evidence and is used to help solve violent crimes involving firearms by making it available for comparison with ballistics evidence from other violent crimes around the country. Therefore, the technology provides investigators with the ability to determine potential links between crimes that they would not have been able to realize without it. NIBIN data, in conjunction with comprehensive firearms tracing, forms the cornerstone of crime gun intelligence (CGI).<sup>64</sup>

Research performed at the ATF Forensic Science Laboratory and several other laboratories in the United States and Europe have recently developed methods to successfully obtain DNA profiles from fired cartridge cases. Forensic DNA analysis compares DNA recovered from biological material deposited on items of evidence to individuals potentially related to the criminal investigation. DNA profiles that are developed from crime scene evidence can be compared to a national database of convicted offenders and other crime scene DNA profiles to generate leads (i.e., Combined DNA Index System, CODIS). DNA analysis can now be combined with the CGI tools to provide investigators more information to solve firearm-related crimes.<sup>65</sup>

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<sup>58</sup> Mariel Alper and Lauren Glaze, “Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016 (Washington, DC: Bureau of Justice Statistics, 2019), 1, <https://www.bjs.gov/content/pub/pdf/suficspi16.pdf>.

<sup>59</sup> Lawrence W. Sherman and Dennis P. Rogan, “Effects of gun seizures on gun violence: ‘Hot spots’ patrol in Kansas City,” *Justice Quarterly* 12, no. 4 (1995), <https://doi.org/10.1080/07418829500096241>.

<sup>60</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 8, 2020) (statement of Zachary Terwilliger, U.S. Attorney, Eastern District of Virginia), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>61</sup> Terwilliger, *President’s Commission on Law*, April 8, 2020.

<sup>62</sup> Sarah Mervosh, “Nearly 40,000 People Died from Guns in U.S. Last Year, Highest in 50 Years,” *New York Times*, December 18, 2018, <https://www.nytimes.com/2018/12/18/us/gun-deaths.html>.

<sup>63</sup> Mervosh, “Nearly 40,000 People Died from Guns.”

<sup>64</sup> “Fact Sheet - National Integrated Ballistic Information Network,” Bureau of Alcohol, Tobacco, Firearms and Explosives, June 2020, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-national-integrated-ballistic-information-network>.

<sup>65</sup> Todd W. Bille et al., “An Improved Process for the Collection and DNA Analysis of Fired Cartridge Cases,” *Forensic Science International: Genetics* 46 (2020), <https://doi.org/10.1016/j.fsigen.2020.102238>.

## Deliberative and Pre-decisional

### 9.2.1 Federal and local law enforcement agencies should partner to increase investigations and prosecutions of individuals who illegally possess, use, and traffic firearms.

Gun traffickers, unlicensed dealers, and straw purchasers should be prosecuted to deter the illegal use of such weapons. Research indicates that offenders who use firearms in the commission of their crimes are more like to recidivate than non-firearms offenders. Additionally, when those offenders were rearrested, it was for more serious crimes than offenders who did not use a firearm during their initial offense.<sup>66</sup> Reoffenders who were firearms offenders were commonly charged with assault (29 percent). That was followed by drug trafficking (13.5 percent) and public order crimes (12.6 percent).<sup>67</sup> The successful prosecution of individuals who unlawfully supply firearms is critical to stopping the flow of firearms to criminals who commit violent acts.<sup>68</sup>

Voluntary gun buyback programs are ineffective at reducing violence because they typically attract weapons that are not used in crime.<sup>69</sup> A study of the proactive patrol unit in the Houston, Texas, police department found that increasing the number of illegal gun possession arrests reduced gun violence.<sup>70</sup> To successfully prosecute prolific shooters in her jurisdiction, Florida State Attorney Melissa Nelson created a targeted prosecution division, which focuses on the drivers of violent crime. This division is staffed with experienced and talented prosecutors who are integrated with law enforcement partners.<sup>71</sup>

### 9.2.2 Law enforcement agencies should collect and quickly process ballistics evidence in all shootings and gun recoveries, regardless of whether there is an immediately identifiable offender or victim. Agencies should also receive training on best practices for collecting ballistics evidence.

Comprehensive collection is the foundation of NIBIN. Partner agencies should collect and submit all evidence suitable for entry into NIBIN, regardless of the severity of a crime. Evidence includes cartridge cases recovered from crime scenes and test fires from recovered crime guns. Shooting events tend to escalate, so agency policies should be instituted to recover all suitable ballistic evidence from crime scenes and process it through NIBIN. A Rutgers University study detailed that when three or more shooting events are linked by NIBIN, 50 percent of the time the third shooting occurred within 90 days of the second.<sup>72</sup> Low-priority shooting events routinely link with higher-priority events. Law enforcement should prioritize a victimless shot fired call with the same urgency and attention as a homicide case.<sup>73</sup> Nonfatal shootings constitute the majority of all gun assaults, occurring approximately four times as often as gun homicides.<sup>74</sup>

Timely turnaround is crucial, as violent crime investigations turn cold fast.<sup>75</sup> As a result, timely intelligence gained through NIBIN is critical to solving violent crimes and stopping violent offenders before they can

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<sup>66</sup> U.S. Sentencing Commission, *Recidivism Among Federal Firearms Offenders* (Washington, DC: U.S. Sentencing Commission, 2019), <https://www.uscc.gov/research/research-reports/recidivism-among-federal-firearms-offenders>.

<sup>67</sup> U.S. Sentencing Commission, *Recidivism Among Federal Firearms Offenders*.

<sup>68</sup> Terwilliger, *President's Commission on Law*, April 8, 2020.

<sup>69</sup> EM Kuhn et al., "Missing the Target: A Comparison of Buyback and Fatality Related Guns," *Injury Prevention* 7, no. 2 (2002), <https://injuryprevention.bmj.com/content/8/2/143.long>; and Michael P Romero, Garen J Wintemute, and Jon S Vernick, "Characteristics of a Gun Exchange Program, and an Assessment of Potential Benefits," *Injury Prevention* 4, no. 3 (1998), <https://injuryprevention.bmj.com/content/4/3/206>;

<sup>70</sup> William Wells, Yan Zhang, and Jihong Zhao, "The Effects of Gun Possession Arrests Made by A Proactive Police Patrol Unit," *Policing: An International Journal of Police Strategies & Management* 35, no. 2 (2012), <https://doi.org/10.1108/13639511211230020>.

<sup>71</sup> *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 8, 2020) (statement of Melissa Nelson, State Attorney, Florida's 4th Judicial Circuit), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>72</sup> Sue Weston, "Ballistics Analysis Project Externship," University of Rutgers, accessed June 22, 2020, <https://mbs.rutgers.edu/articles/ballistics-analysis-project-externship>.

<sup>73</sup> *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 16, 2020) (written statement of Christopher Amon, Division Chief, Firearms Operations Division, Bureau of Alcohol, Tobacco, Firearms and Explosives), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>74</sup> Natalie K. Hipple and Lauren A. Magee, "The Difference Between Living and Dying: Victim Characteristics and Motive Among Nonfatal Shooting and Gun Homicides. *Violence and Victims* 32, no. 6 (2017), <https://doi.org/10.1891/0886-6708.vv-d-16-00150>.

<sup>75</sup> Bureau of Alcohol, Tobacco, Firearms, and Explosives, "Fact Sheet - National Integrated Ballistic."

## Deliberative and Pre-decisional

reoffend. Quick turnaround is vital during all phases of NIBIN analysis, including the entry and acquisition into NIBIN, correlation reviews, and the dissemination of NIBIN leads.<sup>76</sup>

### **9.2.3 The Department of Justice should provide additional grant funding to the Local Law Enforcement CGIC Integration Initiative, administered by the Bureau of Justice Assistance through the Edward Byrne Memorial Justice Assistance Grant program in partnership with the Bureau of Alcohol, Tobacco, Firearms and Explosives. This funding should be used to acquire crime gun intelligence tools and hire personnel to effectively use these tools.**

The Crime Gun Intelligence Centers (CGICs) model is built on partnerships with local law enforcement, district attorney offices, and U.S. attorney's offices. CGICs disrupt the shooting cycle by using forensic science and data analysis to identify offenders and the sources of crime guns. The forensic technology used by CGICs to focus law enforcement investigations helps state and federal courts prosecute the most violent armed offenders.<sup>77</sup>

CGIC tools, such as gunshot detection and NIBIN, have been widely recognized to reduce crime. CGIC help law enforcement disrupt criminal gangs. Comprehensive collection of ballistic evidence is critical for NIBIN to be successful and gunshot detection technology alerts law enforcement to shooting incidents where there may not be a victim or witness. NIBIN can serve as tool to point law enforcement towards violent gang members. A 2017 Police Foundation brief ranked ballistic imaging as the most useful federal resource in preventing gun violence through the expedited identification and arrest of shooters and gun traffickers.<sup>78</sup> In three years, the Cincinnati Police Department reduced the number of people shot in Cincinnati, Ohio, from 479 in 2015 to 333 in 2018, representing a 30 percent reduction.<sup>79</sup> Assistant Police Chief Paul Neudigate attribute this substantial reduction to a layered strategy based upon the principles of CGI: NIBIN, e-Trace, gunshot detection systems, identifying priority offenders, enhanced federal prosecution, and relationships.<sup>80</sup>

The CGIC program has great potential to reduce gun crime.<sup>81</sup> Departments should use NIBIN consistently and adhere to each phase of the CGIC model (i.e., comprehensive evidence collection, timeliness, follow-up, and implementing a feedback loop) to realize its full potential.<sup>82</sup>

### **9.2.4 Congress should provide additional funding to the Department of Justice to increase the number of National Integrated Ballistic Information Network (NIBIN) sites. In addition, Congress should continue to fund the NIBIN National Correlation and Training Center.**

As mentioned, NIBIN is the only automated ballistic imaging network in the United States, and it is mostly found in major cities. There are currently 225 NIBIN sites in the country. In 2018, violent crime in rural areas increased above the national average for the first time in a decade.<sup>83</sup> To effectively navigate this increase in crime, NIBIN should be expanded to fill gaps across the country in urban and rural areas.

NIBIN involves a multi-step process. The cartridge case must be acquired by law enforcement, uploaded into

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<sup>76</sup> Amon, *President's Commission on Law*, April 16, 2020.

<sup>77</sup> National Police Foundation, *5 Things You Need To Know About Crime Gun Intelligence Centers* (Washington, DC: National Police Foundation, 2018), <https://www.policefoundation.org/publication/5-things-you-need-to-know-about-crime-gun-intelligence-centers-2/>.

<sup>78</sup> National Police Foundation and Major Cities Chiefs Association, *Reducing Violent Crime in American Cities: An Opportunity to Lead - Full Report* (Washington, DC: National Police Foundation, 2017), 38, <https://www.policefoundation.org/publication/reducing-violent-crime-in-american-cities-an-opportunity-to-lead-full-report/>.

<sup>79</sup> *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 8, 2020) (written statement of Paul Neudigate, Assistant Chief of Police, Cincinnati Police Department, OH), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>80</sup> Neudigate, *President's Commission on Law*, April 8, 2020.

<sup>81</sup> Christopher Koper, Heather Vovak, and Brett Cowell, *Evaluation of the Milwaukee Police Department's Crime Gun Intelligence Center* (Washington, DC: National Police Foundation, 2019), <https://www.policefoundation.org/new-report-the-evaluation-of-the-milwaukee-police-departments-cgic/>.

<sup>82</sup> National Police Foundation, *"5 Things You Need To Know."*

<sup>83</sup> Shibani Mahtani, "Nothing But You and the Cows and the Sirens' - Crime Tests Sheriffs Who Police Small Towns," *Wall Street Journal*, May 12, 2018, <https://www.wsj.com/articles/nothing-but-you-and-the-cows-and-the-sirens-crime-tests-small-town-sheriffs-1526122800>.

## Deliberative and Pre-decisional

NIBIN via an acquisition machine, and reviewed via correlation review software. Through additional funding to the ATF's National Correlation and Training Center (NNCTC), local law enforcement partners would no longer be required to purchase correlation review equipment. Instead, they can focus on timely acquisitions.

Currently, NNCTC conducts ballistics image correlations and returns investigative leads to more than 500 law enforcement agencies across the nation.<sup>84</sup> This accounts for approximately 35 percent of all ballistic image acquisitions in the United States.<sup>85</sup> Working in tandem with NIBIN, the NNCTC give sites the ability to concentrate limited resources on other critical aspects of the NIBIN process, thereby increasing their ability to provide critical violent gun crime leads to investigators in a timely fashion.<sup>86</sup>

As of May 2020, the NNCTC has conducted 277,445 correlation reviews, resulting in more than 71,669 leads to partner sites while maintaining a 99.6 percent confirmation rate of the leads disseminated to partner sites.<sup>87</sup> NNCTC help solve homicides, attempted homicides, robberies, and other shooting incidents.<sup>88</sup> Further funding of the NNCTC will aid both large and small law enforcement organizations to reduce firearm violence in their communities.<sup>89</sup>

### **9.2.5 Law enforcement agencies that have purchased or been provided National Integrated Ballistic Information Network technology should share this tool with additional state or local partners within their geographical area.**

Criminals conduct firearm-related crimes across jurisdictional boundaries and areas. NIBIN technology helps identify criminals who intentionally attempt to conceal their identities by residing in one jurisdiction and committing firearm-related crimes in another. Through partnerships with both large and small law enforcement agencies, ATF has established regional joint initiatives to combat firearm violence.

In 2018, Special Agent in Charge Robert Cekada established one of ATF's first regional NIBIN joint initiative programs with the Frederick County Sheriff's Office in Frederick County, Maryland. This NIBIN site serves all of law enforcement in Western Maryland. All of the equipment and the technicians trained on the NIBIN program are located at the Frederick County Law Enforcement Center, where they rapidly process the ballistic evidence for law enforcement officers from these four counties. Technicians then quickly provide those same officers with potential leads. Through the ATF NIBIN consortium program, smaller law enforcement agencies that may not have had the ability to timely enter ballistic information into the NIBIN system can now do so.<sup>90</sup>

Frederick County Sheriff Chuck Jenkins states, "It's an evidence processing resource that will provide fast and accurate results in linking shooting incidents not only locally but regionally or across the country. This NIBIN network, located at the Law Enforcement Center, will not only support law enforcement agencies in Frederick County, but will support law enforcement throughout western Maryland."<sup>91</sup> In addition, he notes, "NIBIN is a crucial resource for law enforcement, one that grows more effective every day as more and more law enforcement agencies gain access to it."<sup>92</sup>

### **9.2.6 Congress should enact a federal firearms trafficking statute.**

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<sup>84</sup> Bureau of Alcohol, Tobacco, Firearms, and Explosives, "Fact Sheet - National Integrated Ballistic"; and Christopher Amon, Division Chief, Firearms Operations Division, Bureau of Alcohol, Tobacco, Firearms and Explosives, email communication with Kristie Brackens, Federal Program Manager, Reduction of Crime Working Group, July 10, 2020.

<sup>85</sup> Amon, email communication with Kristie Brackens, July 10, 2020

<sup>86</sup> National Police Foundation, "5 Things You Need To Know."

<sup>87</sup> Amon, email communication with Kristie Brackens, July 10, 2020.

<sup>88</sup> Amon, email communication with Kristie Brackens, July 10, 2020.

<sup>89</sup> Amon, email communication with Kristie Brackens, July 10, 2020.

<sup>90</sup> "New Ballistic Forensic Resource Established in Frederick County," Bureau of Alcohol, Tobacco, Firearms and Explosives, November 13, 2018, <https://www.atf.gov/news/pr/new-ballistic-forensic-resource-established-frederick-county>.

<sup>91</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, "New Ballistic Forensic Resource."

<sup>92</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, "New Ballistic Forensic Resource."

## Deliberative and Pre-decisional

The trafficking of firearms to violent criminals, gangs, and drug trafficking organizations—whether into our cities or across the U.S.-Mexico border—presents a grave threat to public safety. Straw purchasers (i.e., individuals without a criminal record who purchase firearms for drug dealers, violent criminals, or persons who are prohibited by law from receiving firearms) are the linchpin of most firearms trafficking operations. Straw purchasers may acquire firearms directly for prohibited persons or purchase them for other middlemen on behalf of violent criminals. Not only do straw purchasers allow prohibited persons to come into possession of firearms, they make it extremely difficult for law enforcement officers to trace firearms to aid law enforcement in the investigation of crimes.<sup>93</sup>

Federal law could deter firearms traffickers by expressly prohibiting and imposing mandatory minimum penalties for straw purchasing and illicit diversion of firearms. Under current law, there is no statute specifically directed at straw purchasing or firearms trafficking. Instead, prosecutors rely primarily on 18 U.S.C. § 922(a)(6), which prohibits making a material false statement, typically on a Firearms Transaction Record (ATF Form 4473) in connection with the purchase of a firearm from an FFL. Prosecutors also rely on 18 U.S.C. § 924(a)(1)(A), which prohibits making a false statement with regard to any information that FFLs are required by law to keep on file, including the identity of the actual purchaser.<sup>94</sup>

It is difficult to prove the intent of a straw purchaser or firearms trafficker to transfer a firearm to other persons; therefore, Congress should authorize the use of Title III electronic surveillance to investigate violations of such a firearm trafficking statute. Additionally, Congress should amend federal law to add straw purchasing and firearms trafficking as predicates for racketeering violations, including Racketeer Influenced and Corrupt Organizations Act and Violent Crimes in Aid of Racketeering, and make them specified unlawful activities for money laundering.<sup>95</sup> The effective use of such law enforcement tools could deter straw purchasers and other traffickers by depriving them and their organizations of the proceeds they use to acquire additional weapons or otherwise support their illicit activities.

### **9.2.7 The Department of Justice should increase the sworn complement of Bureau of Alcohol, Tobacco, Firearms and Explosives Special Agents.**

Given the current focus on firearm-related violence across the United States, ATF shares an important mission with law enforcement to identify and arrest violent firearm offenders. ATF continues to accomplish this mission with a staff of approximately 5,100 employees, including 2,630 special agents and 842 industry operations investigators. Its 2018 budget was nearly \$1.3 billion. Since 1972, this represents an increase of only 1,272 employees.<sup>96</sup>

Assistant Chief Neudigate recommends, “If addressing gun violence is a national priority, and as ATF has the most co-aligned mission with local law enforcement and the least amount of sworn agents of any of the major federal law enforcement agencies, increase the sworn complement of ATF field agents.”<sup>97</sup>

### **9.2.8 The Bureau of Alcohol, Tobacco, Firearms and Explosives should partner with local law enforcement and external partners to launch a public education campaign to publicize firearms trafficking prosecutions.**

Attorney General Barr states, “Gun crime remains a pervasive problem in too many communities across America. Today, the Department of Justice is redoubling its commitment to tackling this issue through the launch of Project Guardian.”<sup>98</sup> He continues, “Building on the success of past programs like Triggerlock, Project Guardian will strengthen our efforts to reduce gun violence by allowing the federal government and

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<sup>93</sup> Eric M. Epstein, Senior Policy Counsel, Bureau of Alcohol, Tobacco, Firearms and Explosives, email communication with Reduction of Crime Working Group, May 1, 2020.

<sup>94</sup> Epstein, email communication with Reduction of Crime, May 1, 2020.

<sup>95</sup> Epstein, email communication with Reduction of Crime, May 1, 2020.

<sup>96</sup> “Fact Sheet – Staffing and Budget,” Bureau of Alcohol, Tobacco, Firearms and Explosives, May 2019, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-staffing-and-budget>.

<sup>97</sup> Neudigate, *President’s Commission on Law*, April 8, 2020.

<sup>98</sup> “About Project Guardian,” U.S. Department of Justice, December 13, 2019, <https://www.justice.gov/ag/about-project-guardian>.

## Deliberative and Pre-decisional

our state and local partners to better target offenders who use guns in crimes and those who try to buy guns illegally.”<sup>99</sup> Project Guardian’s implementation is based on five principles: coordinated prosecution, enforced background checks, improved information sharing, coordinated response to mental health denials, and coordinated CGI.<sup>100</sup>

This public education campaign can build upon previous campaigns such as “Don’t Lie for the Other Guy.” The goal of the “Don’t Lie for the Other Guy” program is to reduce firearm straw purchases at the retail level and to educate would-be straw purchasers of the penalties of knowingly participating in an illegal firearm purchase. The denial of guns to prohibited persons is critical to preventing violent crime and protecting the nation.<sup>101</sup> Additionally, campaigns centered on operations (e.g., Project Guardian) will help deter crime.

### **9.2.9 Congress should provide additional funding and guidance to help state agencies improve the accuracy of reporting mental health records and protection orders to the National Instant Check System.**

The Brady Act requires FFLs to use the NICS to determine whether a prospective firearm transfer would violate state or federal laws. NICS is critical to help keep firearms out of the hands of those who are legally prohibited from purchasing or possessing them. To function effectively, NICS requires access to complete, accurate, and timely information submitted by relevant agencies in all levels of government nationwide.

However, key information on prohibiting factors is missing from NICS, such as those regarding mental health adjudications. The NICS Improvement Act Amendment (NIAA) addressed this gap in information and further improvements to NICS occurred with the passage of the Fix NICS Act of 2018 (e.g., military reporting requirements).<sup>102</sup><sup>103</sup> However, while significant improvements have been made to the Brady Act, a background check is only as good as the records in the database, and further improvements are needed.

As detailed by the National Sports Shooting Foundation (NSSF), states should improve the NICS database by submitting any and all records establishing an individual is a prohibited person (e.g., mental health records showing someone is an “adjudicated mental defective” or involuntarily committed to a mental institute) and official government records showing someone is the subject of a domestic violence protective order, has a substance use disorder, or is subject to another prohibited category.<sup>104</sup> Including these missing records will help ensure more accurate and complete background checks.<sup>105</sup>

Expanded direct funding and guidance will help state agencies further improve the accuracy of reporting to the NICS in relation to prohibiting records and will help ensure firearms do not fall into the hands of prohibited persons.

### **9.2.10 Congress should mandate that federal firearm licensees immediately report any firearm burglary or robbery upon discovery directly to the Bureau of Alcohol, Tobacco, Firearms and Explosives, instead of the current timetable of 48 hours.**

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<sup>99</sup> U.S. Department of Justice, “About Project Guardian.”

<sup>100</sup> U.S. Department of Justice, “About Project Guardian.”

<sup>101</sup> “Don’t Lie for the Other Guy,” Bureau of Alcohol, Tobacco, Firearms and Explosives, accessed June 22, 2020, <https://www.atf.gov/firearms/dont-lie-other-guy>.

<sup>102</sup> “The NICS Improvement Amendments Act of 2007,” Bureau of Justice Statistics, accessed June 22, 2020, <https://www.bjs.gov/index.cfm?ty=tp&tid=49>.

<sup>103</sup> U.S. Department of Justice, *The Attorney General’s Semiannual Report on The Fix NICS Act* (Washington, DC: U.S. Department of Justice, 2019), <https://www.justice.gov/ag/page/file/1217396/download>; The Firearms Industry Trade Association, *FixNICS* (Newtown, CT: National Shooting Sports Foundation, 2020), <http://www.fixnics.org/files/FixNICSReport.pdf>.

<sup>104</sup> “NSSF Praises States for Record Submission of Disqualifying Mental Health Records to Background Check System,” National Shooting Sport Foundation, September 25, 2019, <https://www.nssf.org/nssf-praises-states-for-record-submission-of-disqualifying-mental-health-records-to-background-check-system>.

<sup>105</sup> “NSSF, ATF Jointly Launch Operation Secure Store,” National Shooting Sport Foundation, January 23, 2018, <https://www.nssf.org/nssf-atf-jointly-launch-operation-secure-store>.

## Deliberative and Pre-decisional

Thousands of firearms are stolen from FFLs each year.<sup>106</sup> When such an event occurs, the FFL is required by law to report to ATF the theft or loss from its inventory within 48 hours of the time they discover it. These reports are then received by the National Tracing Center (NTC) which develops investigative leads when any of the stolen firearms are recovered by law enforcement.<sup>107</sup>

The enforcement of the GCA is ATF's primary mission and the organization immediately assigns significant resources to any notification of an FFL burglary or robbery. In February 2019, five individuals burglarized Smokin' Aces Armory in Ohio and stole 30 firearms. Within 24 hours, one of the guns was used to shoot an officer who was responding to a call at a local bar.<sup>108</sup>

The timetable to report FFL burglaries or robberies should be changed so that ATF can provide immediate federal resources to these critical cases. These resources may include additional investigators to conduct interviews or surveillances, timely requests for cell tower data covering the crime scene, identifying witnesses and evidence (e.g., video footage), and forensic lab assistance. As soon as ATF responds, the serial numbers of the stolen firearms can be documented, and the NTC can be alerted to look out for a firearm recovery trace.

### **9.2.11 The Bureau of Alcohol, Tobacco, Firearms and Explosives should partner with local law enforcement to launch public campaigns to educate private gun owners and federal firearms licensees.**

Firearm theft is a serious threat to public safety. In 2019, ATF documented the theft of 12, 815 firearms from FFLs.<sup>109</sup> These thefts often involve smash-and-grab burglaries. Federal law does not require FFLs to implement any particular security measures.<sup>110</sup> Local ATF field offices should work with FFLs to implement security standards, such as installing an active alarm system that is appropriate for the FFLs size and space, installing an active video camera system, having secured display cases and secured firearms throughout the store, and storing all firearms inventory in a secondary secured location within the business after hours (e.g., a gun vault).

FFLs are required to report stolen firearms, but laws requiring private owners to report vary by state. As such, thefts of guns from private gun owners are often underreported to law enforcement. Five of the six Alabama law enforcement officers killed in the line of duty in 2019 were killed with guns that had been stolen from private owners.<sup>111</sup> The education campaign should inform people how to protect themselves against firearm theft and how to keep personal records so they can accurately describe stolen firearms to police.

The Miami-Dade, Florida, police department, in partnership with local law enforcement agencies and ATF, launched a campaign focusing on underscoring the importance of firearms safety as it pertains to firearm thefts.<sup>112</sup> Some of the topics in this campaign include urging lawful firearm owners to store their firearms securely and not in a vehicle or other conveyance, and recommending that lawful firearm owners store firearms in a firearm safe whenever possible. Additionally, the department provides tips to lawful firearm owners on how to keep accurate firearm ownership records that may help law enforcement recover

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<sup>106</sup> "Diary of an FFL Theft/Loss," Bureau of Alcohol, Tobacco, Firearms and Explosives, April 26, 2018, <https://www.atf.gov/resource-center/diary-ffl-theftloss>.

<sup>107</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, "Diary of an FFL Theft/Loss."

<sup>108</sup> "ATF, Firearms Industry Offer Reward in Plain City Gun-Store Burglary," Bureau of Alcohol, Tobacco, Firearms and Explosives, February 11, 2019, <https://www.atf.gov/news/pr/atf-firearms-industry-offer-reward-plain-city-gun-store-burglary>; and Natasha Anderson, "Police Investigate Officer Involved Shooting at Columbus Nightclub," Fox 8, last modified October 19, 2019, <https://fox8.com/news/police-investigate-officer-involved-shooting-at-columbus-nightclub/>.

<sup>109</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, *Federal Firearms Licensee (FFL) Theft/Loss Report* (Washington, DC: Bureau of Alcohol, Tobacco, Firearms and Explosives, 2020), <https://www.atf.gov/file/142186/download>.

<sup>110</sup> Chittum, *President's Commission on Law*, April 8, 2020.

<sup>111</sup> Chittum, *President's Commission on Law*, April 8, 2020.

<sup>112</sup> Alfredo Ramirez III, Director, Miami-Dade Police Department, FL, email communication with Kristie Brackens, Federal Program Manager, Reduction of Crime Working Group, May 4, 2020.

## Deliberative and Pre-decisional

firearms.<sup>113</sup>

### [CROSS REFERENCE CRIMINAL JUSTICE INTERSECTION]

#### 9.2.12 The Federal Bureau of Investigation should include non-fatal shootings as a separate category in the National Incident-Based Reporting System.

In 2021, the FBI will complete the transition from the UCR program to NIBRS. NIBRS provides an extensive view of crime in the United States by compiling comprehensive data on individual crime incidents in the country. An update to the Summary Reporting System, NIBRS offers greater flexibility in the compilation of data compilation and its analysis. NIBRS can identify details about the crime such as where and when a crime occurred, the characteristics of its victims and offenders, and whether it has been cleared.<sup>114</sup>

Currently, murders are the only direct measure of local gun violence captured by UCR Law enforcement agencies cannot extract non-fatal shooting incidents that meet the recommended definition. Adding non-fatal shootings as a UCR category will allow for a more accurate understanding of local gun violence and will allow agencies to better address community concerns and allocate resources. A person who has been involved in prior non-fatal shootings is at high risk for being involved in future shootings and homicides.<sup>115</sup> The ability to only capture murders does not provide an accurate picture of gun violence in communities. Natalie Hipple notes, "Comprehensive nonfatal shooting data can assist law enforcement in understanding the context of local gun violence and serve to better inform policy and practice."<sup>116</sup>

### 9.3 Drug Trafficking

#### Background

Mexican transnational criminal organizations (TCOs) continue to control lucrative drug trafficking corridors, primarily across the U.S.-Mexico Border. TCOs are responsible for the vast majority of illicit, fentanyl, methamphetamine, and cocaine trafficked in the United States.<sup>117</sup> These TCOs work with transnational, U.S.-based street gangs, and prison gangs to distribute deadly substances across the nation.<sup>118</sup> The gangs engage in and expand their drug operations through violent criminal activity that accompanies drug trafficking and distribution. The DEA notes, "Drug traffickers—including cartels and street gangs—will stop at nothing to turn a profit, often using violence and intimidation to expand their reach."<sup>119</sup> Although gangs are involved in different criminal acts including "murder, robbery, extortion, sex and weapons trafficking, and burglary, street-level drug trafficking remains one of their most profitable endeavors."<sup>120</sup>

The pervasive criminal acts of gangs are a consistent issue for many communities.<sup>121</sup> A 2017 National Gang Intelligence Center report indicates that "neighbor based gangs (NBGs) and local street gangs presented the greatest threat in their communities, in large part due to the gun violence caused by turf wars fought for lucrative drug-trafficking territories, while national-level gangs proved the second most significant threat."<sup>122</sup>

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<sup>113</sup> Ramirez III, email communication with Kristie Brackens, May 4, 2020.

<sup>114</sup> "National Incident-Based Reporting System (NIBRS)," Federal Bureau of Investigation, accessed July 27, 2020, <https://www.fbi.gov/services/cjis/ucr/nibrs>.

<sup>115</sup> Andrew V. Papachristos, Christopher Wildeman, and Elizabeth Roberto, "Tragic, But Not Random: The Social Contagion of Nonfatal Gunshot Injuries," *Social Science & Medicine* 125 (2015), <https://doi.org/10.1016/j.socscimed.2014.01.056>.

<sup>116</sup> Edmund F. McGarrell et al., *Tale of Four Cities: Improving our Understanding of Gun Violence* (n.p., 2019), <https://www.ncjrs.gov/pdffiles1/nij/grants/254127.pdf>.

<sup>117</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*.

<sup>118</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*.

<sup>119</sup> Office of Public Affairs, "Attorney General William P. Barr Announces Launch of Operation Relentless Pursuit," U.S. Department of Justice, December 18, 2019, <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-announces-launch-operation-relentless-pursuit>.

<sup>120</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*, 125.

<sup>121</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*.

<sup>122</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*, 126.

## Deliberative and Pre-decisional

Due to the monetary gains that gangs receive by participating in street-level drug sales, gangs continue to capitalize on selling drugs. In addition to criminal gangs and organizations, the 2019 National Threat Picture provided by the MCCA highlights that drug trafficking, proliferation, and drug-user derivative crime are three of their top five major issues.<sup>123</sup>

### Current State of the Issue

The fundamental motivation of drug traffickers remains money, and TCOs will continue to adapt to make profits through drug production, trafficking, and money laundering. Per the DEA, Mexican TCOs remain the greatest criminal drug threat to the United States, and no other organizations are positioned to challenge them.<sup>124</sup> While Mexican TCOs have relied in the past on heroin, cocaine, and marijuana to drive their business model, they have increasingly shifted to producing and trafficking potent synthetic illicit substances: methamphetamine and fentanyl. These synthetic drugs can be produced in clandestine labs with precursor chemicals, which substantially reduces production costs that are associated with plant-based illicit drugs, which require land, water, and manpower to harvest them.

Additionally, traffickers of these highly potent substances mitigate risks to their supply chains by frequently exploring novel ways to hide their products as well as finding new routes into the country. Methamphetamine and fentanyl can be smuggled in via modest amounts given their synthetic development and, therefore, can be more easily concealed than naturally-derived narcotics which tend to be larger and bulkier. Synthetic drugs can also be found and bought on the dark web more cheaply by clients using cryptocurrencies which enable them to do so anonymously. These drugs are then often shipped through international mail or in express consignment. As the Office of National Drug Control Policy found, this “combination of low production cost, the anonymity of the dark web and cryptocurrencies, and drugs with higher potency than their plant-based counterparts creates a favorable risk-reward structure.”<sup>125</sup>

Meanwhile, drug overdose deaths in 2018 totaled more than 67,000 Americans.<sup>126</sup> These deaths were driven by fentanyl, which increased 10 percent compared to 2017. Additionally, between 2012 and 2018, deaths from cocaine overdose tripled and deaths from methamphetamine increased five-fold.<sup>127</sup> Over the past few years, deaths from cocaine and methamphetamine overdoses have risen due to drug trafficking organizations mixing fentanyl in these substances. In addition, TCOs have been producing counterfeit controlled prescription drugs (e.g., oxycodone) as a way to capitalize on opioid addiction. These counterfeit pills are pressed with heroin and fentanyl and are virtually indistinguishable from licit opioid pills. Federal, state, and local law enforcement partners should continue to adapt to aggressively target, disrupt, and dismantle these TCOs.

### 9.3.1 Local law enforcement should actively participate and contribute personnel or resources to a regional high-intensity drug trafficking area or task forces led by the Drug Enforcement Administration.

DEA’s Task Force Program builds on the successful collaboration of DEA with its state and local law enforcement partners. Because it has fewer than 5,000 DEA special agents, DEA could not effectively conduct its mission without the more than 3,000 sworn task force operators (TFOs).<sup>128</sup> As part of the TFO program, DEA funding supports overtime, training, and operational expenses for state and local TFOs.

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<sup>123</sup> Major Cities Chiefs Association, *2019 National Threat Picture: Top Threat Issues of Major City Law Enforcement Agencies* (Washington, DC: Major Cities Chief Association, 2019), [https://majorcitieschiefs.com/pdf/news/2019\\_mcca\\_us\\_national\\_threat\\_picture\\_report.pdf](https://majorcitieschiefs.com/pdf/news/2019_mcca_us_national_threat_picture_report.pdf).

<sup>124</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*.

<sup>125</sup> Executive Office of the President of the U.S., *National Drug Control Strategy Report by the Office of National Drug Control Policy*, (Washington, DC: Executive Office of the President of the U.S., 2020), 3, <https://www.whitehouse.gov/wp-content/uploads/2020/02/2020-NDCS.pdf>.

<sup>126</sup> Holly Hedegaard, Arialdi M. Miniño, and Margaret Warner, *Drug Overdose Deaths in the United States, 1999–2018* (Washington, DC: National Center for Health Statistics, 2020), <https://www.cdc.gov/nchs/data/databriefs/db356-h.pdf>.

<sup>127</sup> Hedegaard, Miniño, and Warner, *Drug Overdose Deaths*.

<sup>128</sup> Shawn Miller, Chief, Intergovernmental Affairs, Drug Enforcement Administration, email communication with Kristie Brackens, Federal Program Manager, Reduction of Crime Working Group, July 7, 2020

## Deliberative and Pre-decisional

Since 2017, the DEA has increased the number of its TFOs by nearly 400 (20 percent). Operation Chicago Connection is an example of the impact of DEA's TFO program, especially in rural areas. In 2017, state and local law enforcement collaborated with a DEA TFO to conduct an investigation into an overdose death of a university student in Manhattan, Kansas. This led to a three-year, joint investigation into a fentanyl and heroin ring with origins in Chicago. The case culminated in U.S. Attorney Stephen McAllister announcing the indictments of 54 defendants in *Operation Chicago Connection* in August 2019.<sup>129</sup> He notes, "It's one of the largest operations we've ever conducted through the U.S. Attorney's Office in the state of Kansas, and certainly one of the largest, if not the largest, takedown we have ever conducted."<sup>130</sup>

Among the many benefits of participating in a regional HIDTA task force is the deconfliction system supported by many of the HIDTA regions. The Los Angeles (LA) HIDTA deconfliction system performed 75,384 event deconfliction actions, which alerts agencies when their tactical operations are occurring in the same general location and timeframe as operations by other agencies.<sup>131</sup> Approximately 164 law enforcement agencies participate in the LA HIDTA event deconfliction system. As a result, LA HIDTA compiled 251,274 pieces of case information, observing for connections between cases that would be of interest to investigators.<sup>132</sup>

The LA HIDTA facilitates cooperation and joint efforts among more than 83 federal, state, and local law enforcement agencies and has more than 582 personnel. This region has been designated as one of the nation's major narcotic gateways for cocaine, heroin, marijuana, methamphetamine, fentanyl, MDMA (ecstasy), and PCP. In 2019, the LA HIDTA seized nearly \$27 million in currency, which was 1.7 times the amount of federal funds appropriated for the program.<sup>133</sup> Since 2010, the LA HIDTA has seized more than \$651.3 million in currency and more than \$41 million in other assets from traffickers. The combined value of the illegal drugs seized, currency, and other assets taken from traffickers equates to a return on investment of \$124.48 for every LA HIDTA dollar budgeted in 2019, excluding funding for treatment and prevention.<sup>134</sup>

### **9.3.2 Sheriffs should partner with local and state law enforcement to implement flexible cooperative criminal highway interdiction efforts in contiguous counties that cover major national or state highways designated as drug transportation corridors.**

An interdiction unit is a cost-effective way to use one of a sheriff's key strengths—jurisdiction—over miles of state and federal highways and roads to fight the smuggling of illegal narcotics, weapons, bulk cash, and victims of human trafficking by organized crime in a location they must use: highways and roads.<sup>135</sup> Highway interdiction is effective in terms of arrests; seizures of illegal drugs, weapons, and bulk cash; recovery of stolen vehicles; and the rescue of children and undocumented immigrants. This can be enhanced by DOJ offering state law enforcement grants to fund highway criminal interdiction units.

The North Texas Criminal Interdiction Unit (NTXCIU) is a cooperative interdiction effort between sheriffs in eight counties in Northeast Texas. In just over two years of operations, the NTXCIU has arrested more than

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<sup>129</sup> U.S. Attorney's Office, District of Kansas, "Investigation in Manhattan Results in 50+ People Indicted in Federal Drug Trafficking Charges," U.S. Department of Justice, August 28, 2019, <https://www.justice.gov/usao-ks/pr/investigation-manhattan-results-50-people-indicted-n-federal-drug-trafficking-charges>.

<sup>130</sup> U.S. Attorney's Office, District of Kansas, "Investigation in Manhattan Results in 50+."

<sup>131</sup> Los Angeles High Intensity Drug Trafficking Area, *Program Effectiveness Report, 2019* (Los Angeles: Los Angeles High Intensity Drug Trafficking Area, 2019); and Los Angeles High Intensity Drug Trafficking Area, *Strategy Report, 2020* (Los Angeles: Los Angeles Region High Intensity Drug Trafficking Areas, 2020).

<sup>132</sup> Los Angeles High Intensity Drug Trafficking Area, *Program Effectiveness Report, 2019*; and Los Angeles High Intensity Drug Trafficking Area, *Strategy Report, 2020*.

<sup>133</sup> Los Angeles High Intensity Drug Trafficking Area, *Program Effectiveness Report, 2019*; and Los Angeles High Intensity Drug Trafficking Area, *Strategy Report, 2020*.

<sup>134</sup> Los Angeles High Intensity Drug Trafficking Area, *Program Effectiveness Report, 2019*; and Los Angeles High Intensity Drug Trafficking Area, *Strategy Report, 2020*.

<sup>135</sup> *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 7, 2020) (statement of John Skinner, Sheriff, Collin County, TX). <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

## Deliberative and Pre-decisional

130 smugglers; seized tons of illegal narcotics and marijuana, several military-style weapons, and more than \$1.5 million in bulk cash; and recovered approximately 100 stolen vehicles.<sup>136</sup> The NTXCIU's deputy sheriffs have also stopped three cargo loads of undocumented immigrants. More importantly, the NTXCIU has rescued three missing or abducted children in unrelated highway stops.<sup>137</sup>

### **9.3.3 Congress should implement regulations and laws that require internet service providers and companies that provide commercial virtual private network services to retain certain records and set record retention periods.**

The Stored Communications Act (SCA) of 1986 requires data to be stored for up to 180 days upon request by the government. Providers must also disclose private information in emergency cases where individuals or groups may be in danger. In addition, a “court order is required for access to digital information. An administrative subpoena may be issued to gain access to specific data such as usernames, addresses, telephone numbers, and call transcripts.”<sup>138</sup>

Recently, the FBI investigated a gang task force case where it was revealed that the primary suspect of a homicide case used FaceTime to orchestrate the crime. Because Apple uses end-to-end encryption, it allows criminals to coordinate their crimes through this avenue. If law enforcement is given lawful access, they can then intercept the plans of criminals and gain evidence to prosecute those who break the law.

### **[CROSS-REFERENCE TECHNOLOGY AND HOMELAND SECURITY]**

### **9.3.4 The federal government should develop a national automatic license plate reader clearinghouse for all data from automatic license plate readers.**

Many police departments across the country are experiencing budget cuts and a reduction in force.<sup>139</sup> ALPR technology can serve as force multiplier for police departments.<sup>140</sup> ALPR data (i.e., an aggregate data set consisting of a license plate's letters and number, location, and date and time of reading) is commonly used to detect stolen vehicles and license plates, can help ongoing investigations.<sup>141</sup>

Sheriff John Skinner notes that a national database for law enforcement ALPR data would bring, “1) uniform standards for the inclusion of data, 2) uniform policies for access to, maintenance of, and use or dissemination of data, 3) appropriate standards for data or cyber security such as CJIS compliance, 4) a single location law enforcement quality data thus reducing the need for deputies to check multiple vendor databases, . . . and 5) a platform for officers to communicate about their interdiction operations and investigations.”<sup>142</sup>

While DEA and CBP have strong centralized capabilities, a national database would combine the benefits of uniform standards and a platform for sharing intelligence. The uniform standards would provide guidance to states on storage of data, retention, and sharing of information to be used for law enforcement purposes. A 2014 study by RAND found that ALPR systems can help provide assistance in any type of investigation as long

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<sup>136</sup> Skinner, *President's Commission on Law*, April 7, 2020.

<sup>137</sup> Skinner, *President's Commission on Law*, April 7, 2020.

<sup>138</sup> “How Data Retention Legislation Impacts VPN Providers for the Better,” Finjan Mobile (blog), August 1, 2017, <https://www.finjanmobile.com/how-data-retention-legislation-impacts-vpn-providers-for-the-better/>.

<sup>139</sup> Jessica Mansourian et al., *The Impact of the Economic Downturn on Policing on American Police Agencies* (Washington, DC: Office of Community Policing Services, 2011), [http://www.ncdsv.org/images/COPS\\_ImpactOfTheEconomicDownturnOnAmericanPoliceAgencies\\_10-2011.pdf](http://www.ncdsv.org/images/COPS_ImpactOfTheEconomicDownturnOnAmericanPoliceAgencies_10-2011.pdf).

<sup>140</sup> Keith Gierlack et al., *License Plate Readers for Law Enforcement: Opportunities and Obstacles* (Santa Monica, CA: RAND Corporation, 2014), [https://www.rand.org/pubs/research\\_reports/RR467.html](https://www.rand.org/pubs/research_reports/RR467.html)

<sup>141</sup> David J. Roberts and Meghann Casanova, *Automated License Plate Recognition Systems: Policy and Operational Guidance for Law Enforcement* (Washington, DC: International Association of Chiefs of Police, 2012), <https://www.ncjrs.gov/pdffiles1/nij/grants/239604.pdf>.

<sup>142</sup> *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 7, 2020) (statement of John Skinner, Sheriff, Collin County, TX), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

## Deliberative and Pre-decisional

as the necessary data are available to support the system.<sup>143</sup> ALPR data can help ongoing investigations by providing information such as where a vehicle has been, whether it was at a crime scene, and its travel patterns.<sup>144</sup> ALPR data can be used to analyze crime patterns. Officers can cross reference ALPR data with information in Amber alerts for missing or abducted children or other missing-person alerts.

### [CROSS-REFERENCE TECHNOLOGY]

#### **9.3.5 The U.S. Postal Service and private parcel delivery services should increase their ability to investigate the transportation of illegal drugs.**

The most prevalent and commonly used method to transport illegal drugs domestically is the U.S. Postal Service (USPS).<sup>145</sup> The USPS processes more than 470 million pieces of mail each day.<sup>146</sup> Narcotics traffickers view USPS as a safe and reliable method of shipping drugs due to the sheer volume of mail, the lack of drug interdiction being a priority for the USPS, the ability to track their shipments, and the lack of federal prosecution for shipping drugs via the U.S. mail.<sup>147</sup> The USPS is understaffed, technology does not exist to effectively identify illegal drugs, and archaic USPS rules prevent the use of local law enforcement to be used as effectively as they are as task force officers in other federal law enforcement agencies.

The U.S. Postal Inspection Service's (USPIS) narcotics program, which investigates attempts to use the mail to traffic drugs, seized over 40,000 pounds in 2017, reflecting a continues increase in seizures since 2014.<sup>148</sup> In addition to USPS, traffickers use other methods such as human couriers, commercial flights, parcel services, and commercial buses.<sup>149</sup> For example, in December 2019, 11 individuals were indicted by Arizona Attorney General Mark Brnovich; they were accused of shipping illegal drugs and contraband across the country through the United Parcel Service.<sup>150</sup> Postal inspectors and federal agents working in conjunction with private parcel delivery services play a vital role in case-specific drug investigations to track and interdict illegal drugs; a systemic approach should be taken to prevent the uninhibited domestic shipment of illegal drugs.

#### **9.3.6 Law enforcement should use asset forfeiture to the fullest extent possible to investigate, identify, seize, and forfeit the assets of criminals and their organizations while ensuring that due process rights of all property owners are protected.**

Asset forfeiture is a useful tool in disrupting illegal enterprises by depriving criminals of the proceeds of their illegal activity. It also helps to deter crime and the seizures can be used to restore property to the victims. The DOJ has made use of criminal and civil asset forfeiture as an effective mechanism to counter sophisticated criminal actors, including drug traffickers, human traffickers, terrorist financiers, cyber criminals, and scam artists.

In fiscal year 2019, the DOJ obtained \$2.2 billion in net deposits from criminal proceeds and criminally tainted assets due to forfeiture proceedings.<sup>151</sup> Since 2002, the DOJ has transferred more than \$8.5 billion in forfeited funds to victims of crime, including more than \$800 million to victims of fraud schemes facilitated

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<sup>143</sup> Gierlack et al., *License Plate Readers*.

<sup>144</sup> Roberts and Casanova, *Automated License Plate Recognition Systems*.

<sup>145</sup> Office of Inspector General, *Use of Postal Service Network to Facilitate Illicit Drug Distribution* (Washington, DC: U.S. Postal Service, 2018), <https://www.oversight.gov/sites/default/files/oig-reports/SAT-AR-18-002.pdf>.

<sup>146</sup> "One Day in the Life of the U.S. Postal Service," U.S. Postal Service, accessed July 27, 2020, <https://facts.usps.com/one-day/>.

<sup>147</sup> Joe Davidson, "Postal Service Preferred Shipper of Drug Dealers," *Washington Post*, October 16, 2018, <https://www.washingtonpost.com/politics/2018/10/16/postal-service-preferred-shipper-drug-dealers/>.

<sup>148</sup> Office of Inspector General, *Use of Postal Service Network*.

<sup>149</sup> Drug Enforcement Administration, *2019 National Drug Threat Assessment*.

<sup>150</sup> "11 Defendants Arraigned in Drug Trafficking Ring Involving UPS Employees," Arizona Attorney General Mark Brnovich, accessed July 27, 2020, <https://www.azag.gov/press-release/11-defendants-arraigned-drug-trafficking-ring-involving-ups-employees>.

<sup>151</sup> Office of the Inspector General, *Audit of the Assets Forfeiture Fund and Seized Asset Deposit Fund Annual Financial Statements Fiscal Year 2019* (Washington, DC: U.S. Department of Justice, 2019), <https://oig.justice.gov/reports/2019/a20014.pdf#page=1>.

## Deliberative and Pre-decisional

by money transfer companies such as Western Union.<sup>152</sup>

Forfeiture also allows law enforcement to seize guns and ammunition involved in criminal activity or in possession of a felon. In 2019, the DOJ obtained 29,050 firearms and ammunition. In June 2020, a joint law enforcement investigation in New York City with DEA, USFIS, and the Suffolk County Police Department resulted in the seizure of nine guns, \$1.5 million in illicit cash proceeds, and numerous luxury vehicles that will forgo forfeiture proceedings from a large-scale drug distribution network.<sup>153</sup>

Notably, forfeited funds are reinvested back into state and local law enforcement through the Equitable Sharing Program to promote and enhance cooperation among federal, state, local, tribal, and territorial law enforcement agencies. In the last five years, the DOJ has equitably shared approximately \$1.75 billion with state, local, and tribal law enforcement agencies.<sup>154</sup>

### 9.4 Human Trafficking and Child Exploitation

#### Background

One of the biggest global human rights challenges today is human trafficking. Seen as low risk with high reward, “human trafficking is fueled by a demand for cheap labor, services, and for commercial sex.”<sup>155</sup> Worldwide, millions of children and adults are coerced or forced into sex work, labor, or domestic servitude. Women and girls make up the majority of trafficked and exploited victims.<sup>156</sup> In 2016, more than 40 million individuals were living in modern-day slavery.<sup>157</sup>

According to DHS, most victims fall prey to promises of good jobs but are instead made to work in “legitimate and illegitimate labor industries, including sweatshops, massage parlors, agricultural fields, restaurants, hotels, and domestic service.”<sup>158</sup> Congress described the trafficking of human beings as “a contemporary manifestation of slavery” that “involves grave violations of human rights” and is “abhorrent to the principles upon which the United States was founded.”<sup>159</sup>

The Trafficking Victims Protection Act (TVPA) was implemented in 2000 to help prevent instances of human trafficking, protect those who were victims of trafficking, and prosecute those who participated in facilitating human trafficking.<sup>160</sup> All 50 states and the District of Columbia have human trafficking statutes.<sup>161</sup> Although the laws vary by state, the statutes criminalize trafficking and impose criminal penalties.

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<sup>152</sup> Alice W. Dery, “Using Asset Forfeiture to Compensate Victims,” National Center on Elder Abuse (blog), January 16, 2020, <https://ncea.acl.gov/NCEA-Blog/Jan-16-2020.aspx>.

<sup>153</sup> “Multi-Agency Investigation Leads to Arrest of 5, Seizure of 17 Kilograms Of Cocaine, 2 Kilograms of Heroin, 4,000 Counterfeit Oxycodone Pills, 9 Guns, \$1.5 Million of Drug Proceeds,” Drug Enforcement Administration, June 29, 2020, <https://www.dea.gov/press-releases/2020/06/29/multi-agency-investigation-leads-arrest-5-seizure-17-kilograms-cocaine-2>.

<sup>154</sup> Office of the Inspector General, *Audit of the Assets Forfeiture Fund*.

<sup>155</sup> “Human Trafficking,” National Human Trafficking Hotline, accessed June 22, 2020, <https://humantraffickinghotline.org/type-trafficking/human-trafficking>.

<sup>156</sup> “Report: Majority of Trafficking Victims Are Women and Girls; One-Third Children,” United Nations Sustainable Development (blog), December 22, 2016, <https://www.un.org/sustainabledevelopment/blog/2016/12/report-majority-of-trafficking-victims-are-women-and-girls-one-third-children/>.

<sup>157</sup> International Labour Organization and Walk Free Foundation, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva, Switzerland: International Labour Organization, 2017), [http://www.ilo.org/global/publications/books/WCMS\\_575479/lang-en/index.htm](http://www.ilo.org/global/publications/books/WCMS_575479/lang-en/index.htm).

<sup>158</sup> Blue Campaign, *Human Trafficking 101* (Washington, DC: U.S. Department of Homeland Security, 2016), <https://www.hsdl.org/?abstract&did=820007>.

<sup>159</sup> Trafficking Victims Protection Act of 2000, 22 U.S. Code § 7101 (2006), <https://www.govinfo.gov/content/pkg/PLAW-106publ386/html/PLAW-106publ386.htm>.

<sup>160</sup> “Summary of the Trafficking Victims Protection Act (TVPA) and Reauthorizations FY 2017,” Alliance to End Slavery and Trafficking, January 11, 2017, <https://endslaveryandtrafficking.org/summary-trafficking-victims-protection-act-tvpa-reauthorizations-fy-2017-2/>.

<sup>161</sup> “Human Trafficking State Laws,” National Conference of State Legislatures, accessed July 27, 2020, <https://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx>.

## Deliberative and Pre-decisional

### Current State of the Issue

Human trafficking is significantly underreported in the United States; therefore, it is difficult to determine an exact number of victims.<sup>162</sup> Children are especially vulnerable in these situations. Approximately 17,000 of the 300,000 children forced into the global sex trafficking industry annually are from the United States.<sup>163</sup> These youth are often targeted through social media by traffickers who may pose as friends and pretend to be in their age group to gain their trust and invite them into unsafe territory where they are eventually captured.<sup>164</sup> “In 2018, Facebook submitted nearly 12 million cyber tips related to child exploitation and child sex trafficking, specifically associated with Facebook Messenger.”<sup>165</sup> These victims and their families are often afraid to seek help because they have received threats from traffickers or fear immigration-status consequences.<sup>166</sup> According to a State Department report, “In the United States, traffickers prey upon children in the foster care system. Recent reports have consistently indicated that a large number of victims of child sex trafficking were at one time in the foster care system.”<sup>167</sup>

#### **9.4.1 The Department of Justice should provide training and technical assistance for state, local, territorial, and tribal law enforcement related to sexual exploitation and trafficking of children to assist in the investigation and prosecution of traffickers and provide services to victims. This training should incorporate information on dark web technologies.**

Technology has become an effective tool for traffickers, as victims can be manipulated on social media and lured into dangerous situations.<sup>168</sup> Training should offer resources on networks that operate in organized crime and human trafficking, online recruitment, and strategies to arrest buyers and traffickers. Training law enforcement on the use of technology in human trafficking will enable them to use technology to combat trafficking, “aiding investigations, enhancing prosecutions, raising awareness, providing services to victims, and shedding new light on the make-up and operation of trafficking networks.”<sup>169</sup>

In 2017, nearly 8 percent of active federal online sex trafficking cases prosecuted in the United States involved advertisements for sex on Facebook.<sup>170</sup> Ten years ago, the Texas Department of Public Safety instituted the “Interdiction for the Protection of Children” training program. The goal of this program is to augment the ability of law enforcement officers to combat child trafficking by training them to better identify victims of exploitation and factors that represent high-risk threats against children as well as registered sex offender violations. They are also taught to determine technology-facilitated crimes involving children.<sup>171</sup> Texas Governor Gregg Abbot credited the program with training more than 9,000 individuals in Texas and other jurisdictions around the world which has helped authorities rescue hundreds of children, including 424

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<sup>162</sup> National Human Trafficking Resource Center, *Does Human Trafficking Exist In Your Community? Examining Reports and Reviewing Facts* (Washington, DC: Polaris Project, n.d.),

[https://humantraffickinghotline.org/sites/default/files/Human%20Trafficking%20in%20Your%20Community\\_0.pdf](https://humantraffickinghotline.org/sites/default/files/Human%20Trafficking%20in%20Your%20Community_0.pdf).

<sup>163</sup> “Child Trafficking Victims in America: Who Does it Affect?,” ERASE Child Trafficking, accessed August 4, 2020,

<https://www.erasechildtrafficking.org/child-trafficking/child-trafficking-victims/>.

<sup>164</sup> Alex Whiting, “How Traffickers Use Social Media to Lure Vulnerable Teenagers into Sex Work,” *Reuters*, November 15, 2015,

<https://venturebeat.com/2015/11/15/how-traffickers-use-social-media-to-lure-vulnerable-teenagers-into-sex-work/>.

<sup>165</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 15, 2020) (statement of Darrin Jones, Executive Assistant Director for Science and Technology, Federal Bureau of Investigation),

<https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>166</sup> International Labour Organization and Walk Free Foundation, *Global Estimates of Modern Slavery*, 11.

<sup>167</sup> U.S. Department of State, *Trafficking in Persons Report* (Washington, DC: U.S. Department of State, 2019), 4, <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

<sup>168</sup> Whiting, “How Traffickers Use Social Media.”

<sup>169</sup> Inter-Agency Coordination Group against Trafficking of Persons, *Human Trafficking and Technology: Trends, Challenges and Opportunities* (Vienna, Austria: Inter-Agency Coordination Group against Trafficking of Persons, 2019),

<https://icat.network/sites/default/files/publications/documents/Human%20trafficking%20and%20technology%20trends%20challenges%20and%20opportunities%20WEB....pdf>.

<sup>170</sup> Kyleigh E. Feehs and John Cotton Richmond, *2017 Federal Human Trafficking Report* (Washington, DC: Human Trafficking Institute, 2018), 12, <https://www.traffickingmatters.com/wp-content/uploads/2018/05/2017-Federal-Human-Trafficking-Report-WEB-Low-Res.pdf>.

<sup>171</sup> “Training Operations (TOD): Interdiction for the Protection of Children (IPC),” Texas Department of Public Safety, accessed June 22, 2020, <https://www.dps.texas.gov/ETR/CAP/IPC.htm>.

## Deliberative and Pre-decisional

by Texas state troopers.<sup>172</sup>

### 9.4.2 States should pass safe harbor laws to end the criminalization of sex trafficking survivors.

These laws designate sexually exploited children victims of abuse and provide immunity from being prosecuted for prostitution.<sup>173</sup> Safe harbor laws also allow the child to recover by providing support services, protection, housing, and education- or employment-readiness programming. These laws are intended to prevent young victims of commercial sexual exploitation from being arrested and prosecuted as criminals in an attempt to maneuver them away from juvenile justice system involvement and, instead, steer them toward supportive services. While some states have passed safe harbor laws, other states refer juvenile sex trafficking victims to specialized services.<sup>174</sup>

### 9.4.3 The federal government should develop a national database on juvenile human trafficking victims.

Runaways and missing juveniles are at a higher risk than the general public to become victims of human trafficking.<sup>175</sup> Human trafficking victims often runaway multiple times, and locations where juveniles with dependency cases are housed are often a source of human trafficking recruitment. Recovered missing juveniles often do not disclose they are engaged in prostitution or commercial sex acts.

Established criteria would alert a law enforcement officer recovering a runaway or missing juvenile of the potential for other crimes, such as a juvenile who self-identifies as a victim of human trafficking, a parent or guardian reports them as a runaway or identifies them as a previous or potential victim, or being previously listed in a law enforcement report as a victim. This would increase the opportunity to gather and document evidence of human trafficking that may be useful in future investigations and the option of offering services specific to human trafficking. Using a database housed at an organization such as the NCMEC that is accessible to law enforcement may assist local law enforcement across the nation in providing help to victims and gathering evidence of crimes.<sup>176</sup>

#### [CROSS REFERENCE TO JUVENILE JUSTICE CHAPTER]

### 9.4.4 Law enforcement agencies should partner with other local, state, tribal, and federal agencies to form a collaborative task force that identifies and dismantles criminal sex organizations directly related to human trafficking.

Many illegal organizations that prey on victims of human trafficking span across many cities, counties, states and countries. The creation of a task force made up of stakeholders from local agencies (i.e., police departments, sheriff's departments, and prosecuting bodies) that partner with state and federal entities has successfully combatted this issue.<sup>177</sup> By integrating partnerships from several levels of law enforcement, human trafficking cases can be traced to their origins leading to the prosecution of those responsible for controlling the criminal elements of these organizations. The task force model results in increased communication and sharing of investigative resources that increase the likelihood of successful prosecution of these cases at the state or federal level.<sup>178</sup>

As a result of these partnerships, one California law enforcement agency human trafficking task force has maintained a 100 percent criminal court filing and conviction rate of submitted felony cases and a 97 percent

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<sup>172</sup> "Interdiction for the Protection of Children Program Marks Anniversary," *Bay City Tribune*, May 6, 2019, [https://baycitytribune.com/community/article\\_c5a50d36-703c-11e9-9805-a3c985e37931.html](https://baycitytribune.com/community/article_c5a50d36-703c-11e9-9805-a3c985e37931.html).

<sup>173</sup> Brandn Green et al., *Safe Harbor Laws: Changing the Legal Response to Minors Involved in Commercial Sex, Phase 3. The Qualitative Analysis* (Bethesda, MD: Development Services Group, Inc., 2018), <https://www.ncirs.gov/pdf/files1/ojido/grants/253244.pdf>.

<sup>174</sup> Brandn Green et al., *Safe Harbor Laws: Changing the Legal Response*.

<sup>175</sup> Jordan Greenbaum and Nia Bodrick, "Global Human Trafficking and Child Victimization," *Pediatrics* 140, no. 6 (2017), <https://pediatrics.aappublications.org/content/140/6/e20173138.long>.

<sup>176</sup> John Mina, Sheriff, Orange County Sheriff's Office, CA, email communication with Kristie Brackens, Federal Program Manager, Reduction of Crime Working Group, April 23, 2020.

<sup>177</sup> McMahon, email communication with Kristie Brackens, May 29, 2020.

<sup>178</sup> McMahon, email communication with Kristie Brackens, May 29, 2020.

## Deliberative and Pre-decisional

filing and conviction rate of alleged misdemeanor cases.<sup>179</sup>

### **9.4.5 Law enforcement should proactively seek out and identify human trafficking victims using advanced investigative techniques specific to the crime of human trafficking.**

Human trafficking victims are sometimes hidden in plain sight. When it comes to youth, Rhonda McKitten, a Youth Policy and Training Specialist and Juvenile Assessment Center Project Director, states,

Trafficking is easy to spot when a minor is picked up for prostitution, but officers encounter trafficked youth for a much wider array of behaviors. In addition to running away, trafficked children often engage in survival crimes like retail theft and trespass and are often given drugs by their traffickers to keep them compliant and dependent. Officers should be trained to recognize signs of trafficking in these types of cases. Law enforcement agencies should collaborate with child welfare agencies, prosecutors and courts to get victims of trafficking into treatment while assisting law enforcement in identifying and apprehending the traffickers.<sup>180</sup>

### **9.4.6 The Department of Justice should increase funding to support human trafficking task forces and non-governmental victim service providers in a multi-disciplinary approach to identify human trafficking crimes, assist victims, and prosecute human trafficking cases.**

Attorney General William P. Barr said that “Human traffickers remain a dire threat to human rights across the globe, and their actions pose a serious danger to public safety right here in our own country.”<sup>181</sup> Since 2000, the federal government and all 50 states have passed laws that criminalize the trafficking of persons for labor and commercial sex.<sup>182</sup> According to Dr. Amy Ferrall and Dr. Rebecca Pfeffer, “Relatively few human trafficking cases have been identified, investigated, and prosecuted by local criminal justice authorities.”<sup>183</sup>

Police and investigations tend to focus on sex trafficking of minors, often perceived to be the most severe issue confronting American communities. However, there has been a hesitation - or unwillingness - to separate sex trafficking from other forms such as forced labor which unfortunately deemphasizes the scale of broader human trafficking. Among cases examined, 55 percent met the definition for forced labor (non-sex trafficking) offenses, with 43 percent involving sex trafficking charges and an additional 33 percent of the cases involving children as victims.<sup>184</sup> Investigating and making strong prosecutorial cases often involves combatting cultural and language barriers. These cases require a great deal of manpower and are usually only successful with intervention and stoppage of the traffickers’ money operations.

## **9.5 Domestic Violence and Sexual Assault**

### **Background**

In the United States, an average of 20 people experience intimate partner physical violence every minute, which equates to more than 10 million abuse victims annually.<sup>185</sup> Domestic violence and intimate partner violence are often used interchangeably. Domestic violence implies that violence is occurring in a

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<sup>179</sup> Trevis Newport, Chief of Police, San Bernardino County, CA, email communication with Kristie Brackens, Federal Program Manager, Reduction of Crime Working Group, April 24, 2020.

<sup>180</sup> McKitten, email communication with Victim Services, May 31, 2020.

<sup>181</sup> “Department of Justice Awards More than \$100 Million to Combat Human Trafficking and Assist Victims,” U.S. Department of Justice, November 12, 2019, <https://www.justice.gov/opa/pr/departments-justice-awards-more-100-million-combat-human-trafficking-and-assist-victims>.

<sup>182</sup> Amy Farrell and Rebecca Pfeffer, “Policing Human Trafficking: Cultural Blindness and Organizational Barriers,” Abstract, *ANNALS of the American Academy of Political and Social Science* 653, no. 1 (2014), <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=270831>.

<sup>183</sup> Farrell and Pfeffer, “Policing Human Trafficking: Cultural Blindness.”

<sup>184</sup> Heather J. Clawson et al., *Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices* (Fairfax, VA: ICF International, 2008), 14, <https://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>.

<sup>185</sup> “National Statistics,” National Coalition Against Domestic Violence, accessed June 23, 2020, <https://ncadv.org/statistics>.

## Deliberative and Pre-decisional

heterosexual relationship within a marriage or cohabitation situation. Congress passed the Violence Against Women Act (VAWA) in 1994 in an effort to stop domestic violence.<sup>186</sup> Physical violence and sexual violence against any person has always been a crime, and VAWA strengthened existing legislations to prioritize crimes against women.

The VAWA also redefined domestic violence as “a pattern of behavior that involves the use or attempted use of physical, sexual, verbal, emotional, economic, or technological abuse or any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim.”<sup>187</sup> As the definition expanded, so did the nation’s understanding of the types of violence that may occur in a relationship. Domestic violence does not only involve a male abuser and female victim, so “intimate partner violence” became more widely used. This acknowledges that abuse can occur in any type of personal intimate relationship, regardless of sexual orientation, marital status, or gender.<sup>188</sup> Although sexual assault can occur outside of personal intimate relationships, it is more likely to occur when the victim and perpetrator are known to each other.<sup>189</sup>

### [CROSS-REFERENCE VICTIM SERVICES]

#### Current State of the Issue

Domestic violence does not happen in a vacuum. Kim Garrett, CEO and Founder of Oklahoma City’s Family Justice Center states, “We know that 75 percent of children who witness domestic violence will grow up to repeat the same behavior. If one person in the family chooses to use violence, within four generations, 18 people will continue the cycle.”<sup>190</sup> Domestic violence does not happen in a vacuum. According to the CDC, “at least 1 in 7 children have experienced child abuse and/or neglect in the past year, and this is likely an understatement.”<sup>191</sup>

Individuals who experience physical violence often experience sexual violence. Intimate partner violence accounts for 15 percent of all violent crime; of those cases, 19 percent involve the use of a weapon.<sup>192</sup> Perpetrators of violence tend to have a history of domestic and family violence.

The largest mass shooting to occur in the state of Texas happened in November 2017 at the First Baptist Church in Sutherland, Texas, where 26 parishioners were murdered and 20 more were injured.<sup>193</sup> The gunman arrived at the church looking for his mother-in-law, whom he had previously sent threatening messages following an alleged domestic violence incident. The gunman later committed suicide; 72 percent of all murder suicides are perpetrated by intimate partners.<sup>194</sup>

Family members or friends of the abused partner, neighbors, individuals who intervened, law enforcement responders, or bystanders account for 20 percent of the victims in intimate partner homicides.<sup>195</sup> In addition, the presence of a firearm increases the likelihood of femicide by 400 percent.<sup>196</sup> Ninety-six percent of

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<sup>186</sup> Violence Against Women Act, 42 U.S.C. §§ 13701-14040 (2020), <https://www.congress.gov/bill/116th-congress/house-bill/1585/text>.

<sup>187</sup> Violence Against Women Act, 42 U.S.C. §§ 13701-14040 (2020).

<sup>188</sup> Ron Wallace, “Domestic Violence and Intimate Partner Violence: What’s The Difference?” In Public Safety, October 15, 2015, <https://inpublicsafety.com/2015/10/domestic-violence-and-intimate-partner-violence-whats-the-difference/>.

<sup>189</sup> “Statistics,” National Sexual Violence Resource Center, accessed June 29, 2020, <https://www.nsvrc.org/statistics>.

<sup>190</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 14, 2020) (statement of Kimberly Garrett, CEO and Founder, Palomar, Oklahoma City’s Family Justice Center), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>191</sup> “Violence Prevention: Fast Facts,” Centers for Disease Control and Prevention, accessed August 4, 2020, <https://www.cdc.gov/violenceprevention/childabuseandneglect/fastfact.html>.

<sup>192</sup> National Coalition Against Domestic Violence, “Statistics.”

<sup>193</sup> Meghan Keneally, “Domestic Violence Plays a Role in Many Mass Shootings, but Receives Less Attention: Experts,” ABC News, January 7, 2019, <https://abcnews.go.com/US/domestic-violence-plays-role-mass-shootings-receives-attention/story?id=59418186>.

<sup>194</sup> National Coalition Against Domestic Violence, “Statistics.”

<sup>195</sup> National Coalition Against Domestic Violence, “Statistics.”

<sup>196</sup> “Guns & Domestic Violence,” National Coalition Against Domestic Violence, accessed July 28, 2020, [https://assets.speakcdn.com/assets/2497/guns\\_and\\_dv0.pdf](https://assets.speakcdn.com/assets/2497/guns_and_dv0.pdf).

## Deliberative and Pre-decisional

murder-suicide victims are female.<sup>197</sup>

These recommendations focus on how to better protect victims and enhance law enforcement's prosecutorial response, which should increase the successful investigation and prosecution of offenders and decrease the likelihood of homicides.

### **9.5.1 Local law enforcement agencies should partner with victim service providers to develop or enhance safety protocols related to obtaining or enforcing orders of protection.**

The most dangerous time for a victim of intimate partner violence is when they leave their partner. A study conducted by the National Coalition Against Domestic Violence with men who had killed their wives or partners found that the threat to leave or end the relationship often precipitated the murder.<sup>198</sup> Law enforcement should engage with victim service organizations to develop comprehensive safety plans for victims focused on their homes, employers, use of technology, and public spaces. The plan should enable the victim to identify ways to protect themselves and reduce the risk of serious injury.

Orders of protection are a critical aspect of the plan.<sup>199</sup> In every state and the District of Columbia, victims of intimate partner violence can request an order of protection to shield themselves should the perpetrator attempt to abuse them. The order of protection gives the victim the option of contacting law enforcement if the perpetrator violates the order. Law enforcement agencies should consider applying for funding from the Office on Violence Against Women under the Improving Criminal Justice Responses to Sexual Assault, Domestic Violence, Dating Violence, and Stalking Grant Program (ICJR Program), formerly known as the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program (Arrest Program). The ICJR focuses on victim safety and offender accountability.<sup>200</sup>

### **9.5.2 U.S. attorney's offices should use 18 U.S.C. § 922(g)(8) and (9) to increase the prosecution of domestic violence related firearms cases.**

Intimate partner abusers who are subject to a victim protective order or who have been previously convicted of a misdemeanor crime of domestic violence are prohibited from possessing a firearm. This approach has been piloted with U.S. attorney's offices across the country.

In 2018, a U.S. attorney's office in Oklahoma launched Operation 922, a collaboration between the U.S. attorney's office, ATF, the U.S. Marshal Services, and local law enforcement to prioritize firearm prosecutions related to domestic violence. To date 99 cases have been charged, resulting in 85 guilty convictions or pleas, with an average sentence of 81 months.<sup>201</sup>

### **9.5.3 States should establish laws and procedures for safe and accountable firearms transfer pursuant to domestic violence related convictions or issuance of protective orders.**

When an abuser has access to a gun, a domestic violence victim is five times more likely to be killed.<sup>202</sup> Laws that keep guns out of the hands of abusers save lives; however, without procedures, having federal and state prohibitions does not actually remove the firearm from the abuser. State and local procedures should be implemented for successful firearm dispossession. States that require abusers provide proof that they

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<sup>197</sup> "New Report on Murder-Suicides: 96 Percent of Intimate Partner Homicide Victims Were Female; Nearly All of These Women Were Killed with Guns," Moms Demand Action, June 22, 2018, <https://momsdemandaction.org/new-report-on-murder-suicides-96-percent-of-victims-were-female-nearly-all-of-these-women-were-killed-with-guns/>.

<sup>198</sup> "Why Do Victims Stay?," National Coalition Against Domestic Violence, accessed June 23, 2020, <https://ncadv.org/why-do-victims-stay>.

<sup>199</sup> Tami P. Sullivan et al., *Criminal Protective Orders as a Critical Strategy to Reduce Domestic Violence Final Summary Overview* (n.p., 2017), <https://www.ncjrs.gov/pdffiles1/nij/grants/250664.pdf>.

<sup>200</sup> Office on Violence Against Women, *OVW Fiscal Year 2019 Improving Criminal Justice Responses to Domestic Violence, Dating Violence, Sexual Assault, and Stalking Grant Program Solicitation* (Washington, DC: Office on Violence Against Women, 2018), <https://www.justice.gov/ovw/page/file/1124261/download>.

<sup>201</sup> Garrett, *President's Commission on Law*, April 14, 2020.

<sup>202</sup> "Domestic Violence & Firearms," Giffords Law Center to Prevent Gun Violence, accessed July 27, 2020, <https://lawcenter.giffords.org/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/>.

## Deliberative and Pre-decisional

actually relinquished their firearms (i.e., relinquishment laws) are linked to a 16 percent reduction in intimate partner gun homicides.<sup>203</sup>

The Domestic Violence Unit of the sheriff's office of Montgomery County, Maryland, does more than serve protection orders. When the final order is issued, deputies ask specific questions relating to firearm possession and access, and they provide written instructions for the respondent on how to arrange surrender of firearms and ammunition for the duration of the order.<sup>204</sup> While state and local jurisdictions have varying abilities, all state and local governments should establish procedures.

### **9.5.4 The Department of Justice should increase grant funding to provide assistance to forensic labs for personnel, training, and case management software to aid in the investigation and prosecution.**

Strong forensic evidence helps with the successful investigation and prosecution of violent crimes. Forensic science is underused and underfunded. DOJ grants such as Coverdell and DNA Capacity Enhancement and Backlog Reduction and Laboratory Efficiency Improvement and Capacity Enhancement grants should be authorized and appropriated at higher levels.<sup>205</sup> In addition, traditional grants made available to law enforcement (e.g., the JAG program) should be increased and state administrative agencies should make more funding available to support forensic labs.<sup>206</sup> In FY 2016, forensic science services account for only 2.1 percent of JAG program spending; which is approximately \$3 million out of the over \$400 million allocated to support state and local criminal justice systems annually.<sup>207</sup>

### **9.5.5 The Department of Justice should partner with states to eliminate DNA backlog with a prioritization of rape kits through the development of a sexual assault kit tracking systems in each state.**

According to Dr. Paul Speaker and Project Foresight, the published data demonstrates that for every 1 percent reduction in turnaround time at the lab, there is a 1.29 percent increase in cases submitted to the lab and a 3.9 percent increase in the number of items submitted to the lab.<sup>208</sup>

Backlog of DNA evidence poses significant challenges to the successful apprehension and prosecution of sex offenders. The DOJ has invested more than \$1 billion in the last 15 years to reduce DNA backlogs at state and local crime lab; however, in past six years the number of untested DNA kits has grown by 85 percent.<sup>209</sup> The backlog continues to grow annually.<sup>210</sup>

The development of a sexual assault kit tracking system in each state would allow states to get a better track of the total number of kits and the location and status of each kit. It is not uncommon for kits to go years without testing, and victims are left wondering about the status of their case. Natasha Alexenko, Founder of Natasha's Project, said, "I assumed my rape kit had been processed, and I assumed that because I could not remember the details of the individual that raped me—his face—I blamed myself for the closing of my case. I

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<sup>203</sup> April M. Zeoli et al., "Analysis of the Strength of Legal Firearm Restrictions for Perpetrators of Domestic Violence and Their Associations with Intimate Partner Homicide," *American Journal of Epidemiology* 187, no. 11 (2018), <https://doi.org/10.1093/aje/kwy174>.

<sup>204</sup> Andrew R. Klein, *Enforcing Domestic Violence Firearm Prohibitions: A Report on Promising Practices* (Washington, DC: Office on Violence Against Women & National Center on Full Faith and Credit, 2006), [http://209.198.129.131/images/NCPOFFC\\_EnforcingDVFirearmProhibitions\\_9-2006.pdf](http://209.198.129.131/images/NCPOFFC_EnforcingDVFirearmProhibitions_9-2006.pdf).

<sup>205</sup> "FY 2020 Paul Coverdell Forensic Science Improvement Grants Program – Formula," Bureau of Justice Assistance, accessed June 23, 2020, <https://bjia.ojp.gov/funding/opportunities/bja-2020-18434>.

<sup>206</sup> *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 14, 2020) (statement of Matthew Gamette, Director, Forensic Services Laboratory System, Idaho State Police), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>207</sup> National Criminal Justice Association, *How States Invest Byrne JAG in Forensic Science* (Washington, DC: National Criminal Justice Association, 2016), [https://370377fc-459c-47ec-b9a9-c25f410f7f94.filesusr.com/ugd/cda224\\_d1c24587ad1c42649cbb7339e8b4a878.pdf?index=true](https://370377fc-459c-47ec-b9a9-c25f410f7f94.filesusr.com/ugd/cda224_d1c24587ad1c42649cbb7339e8b4a878.pdf?index=true).

<sup>208</sup> Paul J. Speaker, *Forensic Laboratory Financial Management/Return on Investment: Project FORESIGHT Revelations* (Morgantown, WV: West Virginia University, n.d.), <https://www.justice.gov/ncfs/page/file/958466/download>.

<sup>209</sup> U.S. Government Accountability Office, *DNA Evidence: DOJ Should Improve Performance Measurement and Properly Design Controls for Nationwide Grant* (Washington, DC: U.S. Government Accountability Office, 2019), <https://www.gao.gov/assets/700/697768.pdf>.

<sup>210</sup> U.S. Government Accountability Office, *DNA Evidence*.

## Deliberative and Pre-decisional

thought that it was my fault.”<sup>211</sup> The system should include a mechanism to notify survivors of their kit location and testing status.

### **9.5.6 The Department of Justice should partner with states to create minimum standards for DNA kit collection, testing, and retention to eliminate state-to-state variations.**

State laws for DNA kit collection, testing, and retention vary. The statewide systems would assist the development of lab infrastructure to process all kits, test all probative evidence per kit, and enter all eligible samples into the Combined DNA Index System (CODIS), which is completed in public laboratories. CODIS compares the DNA record submission to those DNA records already in the database.<sup>212</sup> Natasha Alexenko’s was raped in 1993, but her attacker was apprehended in 2007 after a match was generated in CODIS. It took 14 years for her to receive justice.<sup>213</sup> Local law enforcement should use CODIS and follow up and resolve CODIS hits.

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<sup>211</sup> *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Reduction of Crime* (April 22, 2020) (written statement of Natasha Alexenko, Founder, Natasha’s Project), <https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings>.

<sup>212</sup> "Frequently Asked Questions on CODIS and NDIS," Federal Bureau of Investigation, accessed June 27, 2020, <https://www.fbi.gov/services/laboratory/biometric-analysis/codis/codis-and-ndis-fact-sheet>.

<sup>213</sup> Alexenko, *President’s Commission on Law*, April 22, 2020.