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Project Safe Neighborhoods

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Project Safe Neighborhoods

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Introduction

Rod J. Rosenstein

Deputy Attorney General of the United States

The fundamental duty of government is to keep its people safe, which is why one of the Department of Justice's primary goals is reducing crime in America. As each of you know, we do this best by working with our state, local, and tribal law enforcement partners. Each and every day, federal agents and prosecutors share information and coordinate strategies with our state, local, and tribal partners to find violent criminals, bring them to justice, and protect innocent people from harm.

That is why Attorney General Sessions renewed and reinvigorated the Project Safe Neighborhoods program—or PSN. PSN is founded on a set of core principles, each of which encourages United States Attorneys' Offices to work with federal, state, local, and tribal law enforcement; community partners; researchers; and other stakeholders to develop customized strategies to reduce violent crime in our communities.

We know PSN works. In some areas, case studies showed violent crime reductions of over 40%.¹ Your work results in lives saved, families left intact, and communities able to grow and flourish.

PSN is not a Washington-centered program. It empowers you to work with local stakeholders to determine what works in your district. Every city and town faces different circumstances and unique challenges, and your crime reduction plan should fit those particular details.

This issue of the *Department of Justice Journal of Federal Law and Practice* highlights effective strategies that PSN programs across the country are using and provides valuable information about strategies for you to consider integrating into your PSN crime reduction efforts. I hope that you use it. By learning from our colleagues' experiences, I am confident that we can make our Department more effective and make our country safer.

¹ *Summary of PSN Research Findings* (Mich. State Univ. 2013), http://www.psnmsu.com/wordpress/wp-content/uploads/2017/10/MSU-Summary_Key_PSN-Findings-2.pdf.



What is PSN?

Project Safe Neighborhoods is a nationwide initiative that brings together federal, state, local and tribal law enforcement officials, prosecutors, and community leaders to identify the most pressing violent crime problems in a community and develop comprehensive solutions to address them.

"[O]ur goal is not to fill up the courts or fill up the prisons. Our goal is not to manage crime or merely to punish crime. Our goal is to reduce crime, just as President Trump directed us to do. Our goal is to make every community safer—especially the most vulnerable." - **Attorney General Sessions**



FOUNDATIONS OF THE STRATEGY

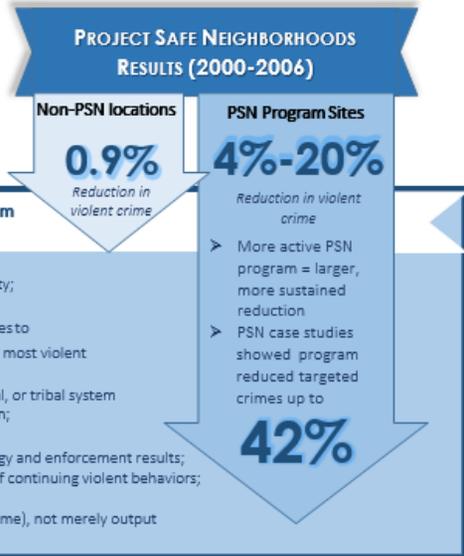
- ★ **Community-Based**—Each local program is contoured to fit the specific violent crime problem in that district.
- ★ **Targeted** – Utilizes law enforcement and community intelligence, along with cutting-edge technology, to identify and target the most violent offenders for enforcement action.
- ★ **Comprehensive** – Directs United States Attorneys to marry enforcement efforts with support of prevention and reentry strategies to truly combat violent crime in a lasting way.

Every United States Attorney is implementing a PSN program that incorporates these standard features:

1. **Leadership** by the United States Attorney to convene all partners;
2. **Partnerships** at all levels of law enforcement and with the community;
3. **Targeted enforcement efforts** that:
 - utilize the full range of available data, methods, and technologies to identify the offenders that are driving violent crime rates in the most violent locations in the district; and
 - ensure prosecution of those offenders in the federal, state, local, or tribal system – whichever provides the most certain and appropriate sanction;
4. **Prevention** of additional violence by prioritizing efforts such as:
 - ensuring public awareness of the violent crime reduction strategy and enforcement results;
 - communicating directly to offenders about the consequences of continuing violent behaviors;
 - supporting locally based prevention and reentry efforts; and
5. **Accountability** for results based on outcome (reduction in violent crime), not merely output (numbers of investigations or prosecutions).

PSN WORKS

Independent research shows that PSN works. Michigan State University's School of Criminal Justice found that:



SUPPORT FOR PSN

"The level of the violence in America is tearing families apart, stealing opportunities for future successes, and destroying lives. Our communities deserve the attention of police, prosecutors, community members, and the faith-based community working together. I have been intimately involved with Project Safe Neighborhood in Indianapolis for over ten years. I know PSN is not just an enforcement program but one that leverages these joint outreach efforts to make our most violence neighborhoods safer. I am proud to be part of the PSN team."

Reverend Mel Jackson
 Pastor Christian Missionary Baptist Church, Indianapolis, IN

"Major Cities Chiefs believe that effectively reducing crime requires partnerships between local, state, and federal law enforcement and prosecutors, with support from the community. That is why the largest police agencies in the Nation strongly support the Project Safe Neighborhoods program. Working together, we identify the most serious violent criminals and ensure they are taken off the streets, so they can do no more harm. PSN also recognizes that engaging the community is key, because we are all in this together. We are proud to partner with the Department of Justice in this work."

Tom Manger
 Chief of Police, Montgomery County, MD
 President, Major Cities Chiefs – Largest Police Departments in the Nation

Research Foundations and Implications for Practice

Edmund F. McGarrell, Ph.D.
Professor
School of Criminal Justice
Michigan State University

As the original Project Safe Neighborhoods (PSN) initiative was being planned in the early 2000s, there was a very limited research foundation for believing that a national initiative focused on gun and gang violence could reduce violent crime in communities throughout the United States. PSN demonstrated that highly focused enforcement strategies, built on local, state, tribal, and federal partnerships, complemented with prevention and re-entry efforts, could reduce violent crime and enhance public safety. Since that time, additional research has emerged that supports the PSN core design element of targeted and prioritized enforcement. This article reviews the research conducted from the early years of PSN as well as relevant criminological research that has emerged since the launch of PSN in the 2001–2002 period. The focus then shifts to the implications for practice as PSN once again serves as a cornerstone of the nation’s efforts to reduce violent crime and foster neighborhood safety.

I. PSN 1.0 research findings

At the outset of PSN, experiential knowledge of police and prosecution leaders, as well as classic criminological research demonstrating that a very small percentage of the population committed the bulk of violent crime, suggested that prioritized and targeted enforcement aimed at chronic, repeat offenders held promise.¹ Additionally, a series of studies emerged in the mid-to-late 1990s which suggested that highly focused enforcement strategies had the potential to reduce levels of violence. Specifically, a series of studies conducted in Kansas City, Indianapolis, and Pittsburgh found that police patrols directed towards violent crime hotspots, with a focus on illegal gun carrying and use, were associated with significant

¹ MARVIN WOLFGANG ET AL., *DELINQUENCY IN A BIRTH COHORT* (Univ. of Chi. Press 1972).

declines in violent crime.² Boston Ceasefire employed what became known as a focused deterrence strategy and demonstrated significant declines in youth homicide and shootings.³ The focused deterrence model was directed at violence associated with gangs and violent street crews, and included direct communication of a deterrence message to high risk gang members. Richmond's Project Exile suggested that federal prosecution of illegal gun carrying and use held violence reduction potential.⁴ These studies formed the basis of the United States Department of Justice's Strategic Approaches to Community Safety Initiative. Evaluations in Indianapolis⁵ and Los Angeles,⁶ as well as a national evaluation, found that this data-driven, focused approach to violence reduction was associated with declines in violent crime.⁷

This series of initiatives and the associated evaluations provided support for the focused enforcement strategy embodied in PSN. Additionally, experience in federal, state, and local task forces, as well as the High Intensity Drug Trafficking Areas program, demonstrated the value of enforcement partnerships. Similarly, community policing initiatives and programs like Weed and Seed demonstrated the value of partnerships with the community. The elements of focused enforcement, data-driven processes, and partnerships thus became foundations of PSN.

² Lawrence W. Sherman & Dennis P. Rogan, *Effects of Gun Seizures on Gun Violence: 'Hot Spots' Patrol in Kansas City*, 12 JUST. Q. 673 (1995); Edmund F. McGarrell et al., *Reducing Firearms Violence through Directed Police Patrol*, 1 CRIMINOLOGY & PUB. POL'Y 119 (2001); JACQUELINE COHEN & JENS LUDWIG, POLICING CRIME GUNS, IN EVALUATING GUN POL'Y 217 (2003).

³ Anthony A. Braga et al., *Problem-oriented Policing, Deterrence, and Youth Violence: an Evaluation of Boston's Operation Ceasefire*, 38 J. OF RES. CRIME & DELINQ. 195, 207 (2001).

⁴ Richard Rosenfeld et al., *Did Ceasefire, Compstat, and Exile Reduce Homicide?*, 4 CRIMINOLOGY PUB. POL'Y 419 (2005).

⁵ Edmund F. McGarrell et al., *Reducing Homicide through a "Lever-Pulling" Strategy*, 23 JUST. Q. 214, 218 (2006).

⁶ George Tita et al., *Reducing Gun Violence: Results from an Intervention in East Los Angeles* (RAND Corp. 2003).

⁷ Jan Roehl et al., *Strategic Approaches to Community Safety Initiative (SACSI) in 10 U.S. Cities: The Building Blocks for Project Safe Neighborhoods* (U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, NAT'L INST. OF JUSTICE Oct. 2005).

PSN was launched in late 2001–2002. During the initial five years of PSN, a series of evaluations were conducted that demonstrated the PSN approach could result in reduced violent crime. A series of case studies were conducted by PSN research partners as well as a national team of researchers at Michigan State University. These studies revealed consistent declines in violent crime ranging from single digits to over 40% declines.⁸

Complementing the case studies, a national evaluation of PSN was conducted. An initial finding was very suggestive that federal prosecution of gun crimes was associated with declines in violent crime with lower rates of federal prosecution for gun crimes with districts with high rates of federal prosecution indicated that high rate districts experienced significant declines in violent crime.

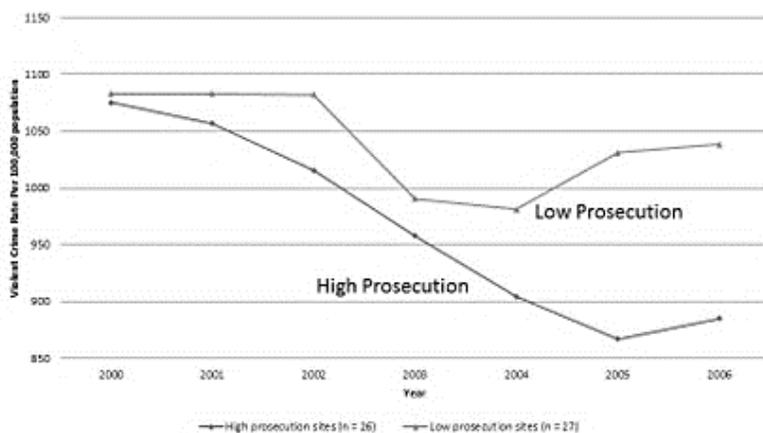


Figure 1. Violent Crime Trends in PSN Target Cities by Level Federal Gun Crime Prosecution, 2000–2006

The full evaluation included levels of prosecution as one of several indicators of implementation of PSN. The evaluation focused on cities with populations of 100,000 and above and compared PSN target cities with non-target cities. A central finding was that PSN target cities experienced a near 9% decline in violent crime during a period when non-target cities experienced no meaningful change in violent crime. More telling, PSN target cities in districts with high levels of

⁸ *Summary of PSN Research Findings* (Mich. State Univ. 2013), http://www.psnmsu.com/wordpress/wp-content/uploads/2017/10/MSU-Summary_Key_PSN-Findings-2.pdf.

implementation experienced a 13% decline in violent crime compared to non-target cities in low implementation districts that experienced an 8% increase in violent crime.⁹ This difference reflected a greater than 20% decline in PSN target cities in high implementation districts (see Table 1). The research team conducted additional analyses that factored in a variety of other potential explanations for the reductions in violent crime such as levels of economic disadvantage, levels of police resources, and levels of incarceration. With these factors considered, PSN was conservatively estimated to have accounted for at least a 4% decline in violent crime.¹⁰ Supplemental analyses that focused on firearms homicides specifically, found that PSN target cities in high implementation districts had over a 10% decline in firearm homicides, target cities in medium implementation districts experienced no change in firearm homicides, and target cities in low implementation districts had over a 10% increase in firearm homicides. Non-PSN target cities also had over a 10% increase in firearms homicides.¹¹

Level of PSN Dosage	PSN Target Cities	Non-target Cities
Low	-5.3%	+7.8%
Medium	-3.1%	<-1.0%
High	-13.1%	-4.9%
	-8.89%	-0.25%

Table 1. Violent Crime Trends by PSN Target and Non-Target Cities and Levels of Implementation, 2000–2006

⁹ *Id.*

¹⁰ Edmund McGarrell, et al., *Project Safe Neighborhoods and Violent Crime Trends in U.S. Cities: Assessing Violent Crime Impact*, 26 J. QUANTITATIVE CRIMINOLOGY 165 (2010).

¹¹ *Summary of PSN Research Findings, supra* note 8.

Whether the case studies, national evaluation, or supplemental analyses, the research associated with PSN 1.0 was consistent with an interpretation that PSN reduced violent crime and victimization. The level of magnitude was dependent on the intensity of implementation of PSN. Further, the leadership of the United States Attorney and the United States Attorney's PSN team; the leadership of other key local and state leaders (for example, Chief of Police, local prosecutor); the local, state, tribal, and federal partnerships; and the integration of research and analysis were associated with higher levels of implementation. Since these early days of PSN, additional criminological research has emerged that further supports the design elements of PSN.

II. Criminological research implications for PSN 2.0

Since the initial development of PSN, research has considerably expanded our understanding of the patterns of violent crime as well as the evidence-base of strategies to reduce violent crime. This research demonstrated how highly concentrated violent crime is among a small number of offenders and victims,¹² groups, gangs, and networks,¹³ and in a small number of geographic locations.¹⁴ Similarly, there is a much more robust research base to suggest that highly focused interventions that build upon these concentrations can have an impact on violent crime. Examples include the focused deterrence

¹² Wesley Jennings et al., *On the overlap between victimization and offending: A review of the literature*, 17 *AGGRESSION & VIOLENT BEHAV.* 16 (2012).

¹³ Andrew Papachristos et al., *Social Networks and the Risk of Gunshot Injury*, 89 *J. URB. HEALTH* 992 (2012).

¹⁴ DAVID WEISBURD ET AL., *PLACE MATTERS: CRIMINOLOGY FOR THE TWENTY-FIRST CENTURY* (Cambridge Univ. Press 2016).

model,¹⁵ hot spots policing,¹⁶ and problem solving at crime hotspots.¹⁷ This provides solid support for developing targeted and prioritized people-, place-, and combined people- and place-based strategies as part of PSN.

The focus on chronic repeat offenders also has implications for reducing domestic violence. For example, April Zeoli and colleagues examined state laws that prohibit firearm possession by individuals with prior violent crime convictions and protection orders.¹⁸ Although Zeoli and colleagues did not focus on federal firearms prohibitions, their findings support PSN strategies that enforce federal and state firearms prohibitions for domestic violence offenders coupled with proactive and targeted enforcement aimed at repeat domestic violence calls for service, repeat offenders, and partnerships with victim services. These implications are reinforced by research which indicates that many domestic violence victims experience repeat victimization and that most domestic violence homicide victims had previously sought emergency room treatment for injuries.¹⁹

Additionally, research has emerged during this period that supports combining targeted enforcement with re-entry, prevention, and

¹⁵ Anthony Braga & David Weisburd, *The Effects of Focused Deterrence Strategies on Crime: A Systematic Review and Meta-Analysis of the Empirical Evidence*, 49 J. RES. CRIME & DELINQ 323 (2012); Anthony Braga et al., *Focused Deterrence Strategies and Crime Control*, 17 CRIMINOLOGY & PUB. POL'Y 205 (2018).

¹⁶ ANTHONY BRAGA ET AL., U.S. DEP'T OF JUSTICE, OFFICE OF CMTY. ORIENTED POLICING SERVS., POLICE PROGRAMS TO PREVENT CRIMES IN HOT SPOT AREAS (2012); Craig D. Uchida & Marc L. Swatt, *Operation LASER and the Effectiveness of Hotspot Patrol: A Panel Analysis*, 16 POLICE Q. 287 (2013); Elizabeth R. Groff et al., *Does What Police Do at Hot Spots Matter? The Philadelphia Policing Tactics Experiment*, 53 CRIMINOLOGY 23 (2015).

¹⁷ Anthony Braga, *Pulling Levers Focused Deterrence Strategies and the Prevention of Gun Homicide*, 36 J. CRIM. JUST. 332 (2008).

¹⁸ April Zeoli et al., *Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Association With Intimate Partner Homicide*, 187 AM. J. EPIDEMIOLOGY 1449 (2018).

¹⁹ Barry Rosenfeld, *Violence Risk Factors in Stalking and Obsessional Harassment: A Review and Preliminary Meta-Analysis*, 31 CRIM. JUST. & BEHAV. 9 (2004); Marie Crandall et al., *Predicting Future Injury among Women in Abusive Relationships*, 56 J. TRAUMA & ACUTE CARE SURGERY 902 (2004).

community building strategies. For example, Chicago's PSN initiative utilized what it referred to as parolee call-in forums. Parolees with a history of violence, returning to Chicago's PSN neighborhoods, would be required to attend a call-in meeting. The meeting included a welcome back to the community, an enforcement message describing intolerance of violence and the sanctions available for prohibited persons carrying or using a firearm, and a social support message offering mentoring and linkage to services to assist with the transition into the community. The PSN research team found a significant decline in re-offending for parolees attending the forums.²⁰

Prevention strategies, typically provided by partnering agencies and service providers, offer several benefits. First, direct services to high-risk youths can interrupt the cycle of young people becoming the next group of shooters and victims, as targeted enforcement has an impact on young adults.²¹ Second, prevention efforts can help establish legitimacy in the eyes of community members as targeted and prioritized enforcement is coupled with efforts to break the cycle of offending, victimization, and incarceration.

These efforts can also support community partnerships. Ideally, community partnerships help build what criminologists refer to as "collective efficacy." The notion of collective efficacy is the likelihood of local residents to intervene for the collective good of the neighborhood. For example, how likely are adults in a neighborhood to intervene if they witness a group of youths involved in rowdy behavior? Neighborhoods with high levels of collective efficacy have lower rates of violence, even after controlling for factors such as poverty or the demographic characteristics of the neighborhood.²² Neighborhood efforts to address blight and signs of disorder may reduce crime and violence by increasing legitimate use of public space, reducing crime

²⁰ Danielle Wallace et al., *Desistance and Legitimacy: The Impact of Offender Notification Meetings on Recidivism among High Risk Offenders*, 33 JUST. Q. 1237 (2016).

²¹ BRANDON WELSH & DAVID FARRINGTON, *THE OXFORD HANDBOOK OF CRIME PREVENTION* (Oxford Univ. Press 2012).

²² Robert Sampson et al., *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, 277 SCI. 918 (1997).

attractors (for example, an abandoned house used as a drug selling location), and by increasing collective efficacy.²³

III. Research implications for PSN 2.0

The research reviewed above provides insight into the positive impact of PSN 1.0 as well as implications for the future of PSN 2.0. Specifically, the concentration of violent crime among a small group of repeat offenders, often involved in gangs and co-offending networks, and occurring in small geographic hotspots, supports PSN's targeted and prioritized enforcement strategies. Additionally, research supports the full range of PSN core program elements that address the issue of effective implementation of strategies. These design features include:

- *Leadership.* As noted above, effective implementation of PSN strategies was essential for reducing violent crime in PSN as well as the related Comprehensive Anti-Gang Initiative (CAGI).²⁴ Leadership from the United States Attorney, as well as the partnering local, state, and tribal law enforcement agencies, was a key element of effective implementation.²⁵ Related to this leadership component is providing effective project management.

²³ Richard Sadler et al., *Exploring the Spatial-temporal Relationships Between a Community Greening Program and Neighborhood Rates of Crime*, 83 APPLIED GEOGRAPHY 13 (2017); Katherine Alaimo et al., *Community Gardening, Neighborhood Meetings, and Social Capital*, 38 J. COMMUNITY PSYCHOL. 497 (2010).

²⁴ Edmund McGarrell et al., *Project Safe Neighborhoods and Violent Crime Trends in U.S. Cities: Assessing Violent Crime*, 26 J. QUANTITATIVE CRIMINOLOGY 165 (2010); Edmund McGarrell et al., *Attempting to Reduce Firearms Violence Through a Comprehensive Anti-Gang Initiative (CAGI): An Evaluation of Process and Impact*, 41 J. CRIM. JUST. 33 (2013).

²⁵ See EDMUND F. MCGARRELL, *Accumulating Lessons from Project Safe Neighborhoods*, in NEW CRIMINAL JUSTICE: AMERICAN COMMUNITIES AND THE CHANGING WORLD OF CRIME CONTROL 135–146 (Chester Britt et al. eds., 1st ed. 2010); DENNIS P. ROSENBAUM & JAN ROEHL, *Building Successful Anti-Violence Partnerships: Lessons from the Strategic Approaches to Community Safety Initiative (SACSI) Model*, in NEW CRIMINAL JUSTICE: AMERICAN COMMUNITIES AND THE CHANGING WORLD OF CRIME CONTROL 39–50 (John M. Klofas et al. eds., 1st ed. 2010).

This is particularly important given the multiple agencies that comprise the PSN task force.

- *Partnerships.* The partnership design feature is important for a variety of reasons. First, it expands the knowledge base related to the drivers of violence at the local level. Second, it increases the resources available to the PSN task force. This includes the full range of local, state, and federal law enforcement and correctional resources. It also includes resources outside enforcement such as youth prevention, social services, victim services, and community partnerships. These partnerships between local, state, tribal, and federal law enforcement, social services, community members, and research partners also support effective implementation.
- *Targeted and Prioritized Enforcement.* Perhaps the cornerstone of PSN has been the emphasis on targeted and prioritized enforcement. This is grounded in policing research and shows that the most effective policing strategies are those that are highly focused and targeted to specific problems.²⁶ Strategies that focus on the people—groups, gangs, and networks—and places driving violent crime are likely to have the greatest violence reduction and prevention impact.
- *Prevention.* Enforcement strategies coupled with prevention are likely to increase the impact of PSN. This is likely the result of both direct and indirect effects. Targeted prevention efforts (for example, gang intervention) are important to sustain the short-term impacts of targeted enforcement. Similarly, returning former inmates, particularly those with a history of violent crime, represent a high-risk population. As noted above, re-entry strategies have been part of PSN initiatives and have demonstrated promising results.²⁷ Indirect effects are likely to result from processes of police legitimacy and procedural justice. Specifically, highly focused enforcement strategies may gain community support when balanced with prevention and re-entry.

²⁶ NAT'L RESEARCH COUNCIL, FAIRNESS AND EFFECTIVENESS IN POLICING: THE EVIDENCE (Wesley Skogan & Kathleen Frydl eds. 2004).

²⁷ Danielle Wallace et al., *Desistance and Legitimacy: The Impact of Offender Notification Meetings on Recidivism among High Risk Offenders*, 33 JUST. Q. 1237 (2016).

- *Accountability.* As noted throughout, effective implementation is critical for initiatives like PSN to accomplish violence reduction goals. Yet, research clearly demonstrates that implementation is a hurdle for social programs in criminal justice, education, health, social services, and beyond.²⁸ Key elements of addressing implementation include an implementation team using strategic planning, identification of inputs, outputs, and outcomes, and ongoing assessment and evaluation. Including crime analysts and researchers in the group of PSN partnerships can support the accountability dimension by tracking violent crime trends and related PSN metrics.

As the Department of Justice prioritizes PSN as the nation's core initiative for reducing violent crime, there is a solid research foundation to suggest that PSN can indeed reduce violence and enhance public safety. Reduced violence, however, is neither easy nor automatic. The PSN core elements provide a roadmap for building upon these research lessons and maximizing the likelihood of having the desired violence reduction effect.

About the Author

Dr. Edmund F. McGarrell is a Professor in the School of Criminal Justice (SCJ) at Michigan State University, where from 2001–2014, he served as Director of SCJ. McGarrell also serves as the Director of the Michigan Justice Statistics Center, housed within the SCJ. McGarrell's research involves understanding local violent crime patterns, the translation of research to practice, and the evaluation of the impact of violence prevention and control strategies. Since 2002 he has led a team that serves as the national research partner for the United States Department of Justice's PSN program. McGarrell's research has been funded by the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, state/local agencies, and foundations. Recent articles appear in *Crime and Delinquency*, *Criminology and Public Policy*, *Criminal Justice and Behavior*, *Journal of Criminal Justice*, *Journal of Experimental Criminology*, and *Police Quarterly*.

²⁸ NAT'L IMPLEMENTATION SCI. RES. NETWORK, <https://nirn.fpg.unc.edu/> (last visited Oct. 4, 2018).

Project EJECT: A Whole Different Ballgame in Fighting Violent Crime in the City of Jackson

*Mike Hurst
United States Attorney
Southern District of Mississippi*

I. Introduction

*UNIDENTIFIED INMATE: Yeah. The feds picking -- the feds picking everything up in Jackson, bro. The feds picking everything up got anything doing with a convicted felon with a firearm. Or any violent sh*t, the feds picking it up. Murder, anything [epithet deleted] do violent, the feds, you're going straight to federal on that.*

*UNIDENTIFIED CALL RECIPIENT: How long they gonna be doing that sh*t?*

*UNIDENTIFIED INMATE: Man, I don't know. Ever since them [epithet deleted] cut some [epithet deleted] head off and put it on (unintelligible)¹ wrong guy, they brought the feds in. So they started picking up everybody's sh*t, cause [epithet deleted] was beating on cases and sh*t. And the state -- with the state and sh*t, getting out of jail and all, (unintelligible). So feds just picking everything up in Jackson now.*

UNIDENTIFIED CALL RECIPIENT: That's crazy. Right? . . . Got Jackson running now.

...

¹ On June 10, 2017, a severed head was found on the front porch of a home located on Deer Park Street in Jackson, Mississippi. Jared Leone, *Severed Head Found on Porch, Decapitated Body Found Nearby, Police Say*, THE ATLANTA JOURNAL-CONSTITUTION, June 11, 2017, <https://www.ajc.com/news/national/severed-head-found-porch-decapitated-body-found-nearby-police-say/UMK0cS8ypmjdLpqH9Q6prL/>.

*UNIDENTIFIED INMATE: Oh, yeah. And, see, the feds a whole different ball game. They be giving [epithet deleted] so much time, they don't got -- they give [epithet deleted] an opportunity to snitch on anybody, bro. Got they [epithet deleted]. That's what they be doing.*²

For the past several years, the statistics in Mississippi's capital city, Jackson, have been grim: ranked seventh deadliest city in America,³ based on murders per 100,000 residents, with a violent crime rate 204% higher than the State of Mississippi⁴ and 121% higher than the national average.⁵ While these numbers are bad, the real life stories are even worse: a kind, homeless man chased and gunned down inside

² Transcript of Recording from Madison County MCSO Detention Center at 4:18–9:10 (Apr. 26, 2018).

³ Evan Comen, *America's 25 Murder Capitals*, 24/7 WALL ST. (Nov. 13, 2017, 1:33 PM EDT), <https://247wallst.com/special-report/2017/11/13/americas-25-murder-capitals-2/5/> (stating that for 2016, Jackson's murder rate was 34.1 per 100,000 residents); *see also 2016 Crime in the United States, Table 6, Mississippi: Offenses Known to Law Enforcement by City*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-6/table-6-state-cuts/mississippi.xls> (last visited Aug. 7, 2018) (showing Jackson had a population of 170,070 in 2016, with 58 murders, resulting in a murder rate of 34.1 per 100,000 residents).

⁴ *Compare 2016 Crime in the United States, Table 6, Mississippi: Offenses Known to Law Enforcement by City*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-6/table-6-state-cuts/mississippi.xls> (last visited Aug. 7, 2018) (showing Jackson violent crime at 1,451 for a population of 170,070, which equals a violent crime rate of 853 per 100,000 residents), *with 2016 Crime in the United States, Table 3, Crime in the United States by State*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-3> (showing Mississippi's violent crime rate of 280.5 per 100,000 residents).

⁵ *Compare 2016 Crime in the United States, Table 6, Mississippi: Offenses Known to Law Enforcement by City, 2016*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-6/table-6-state-cuts/mississippi.xls> (showing Jackson violent crime at 1,451 for a population of 170,070, which equals a violent crime rate of 853 per 100,000 residents), *with Violent Crime, Crime in the United States 2016*, UNIFORM CRIME REPORT, (2017) ("There were an estimated 386.3 violent crimes per 100,000 inhabitants in 2016 [in the United States].").

a gas station;⁶ a young woman shot dead while stopped at a red light;⁷ a decapitated head placed on someone's porch, and the burned body found nearby;⁸ a six-year-old boy kidnapped from a grocery store and murdered a short time later in cold blood.⁹

Unfortunately, the City of Jackson is not alone. While crime has fallen precipitously over the last few decades, our nation saw an uptick in violent crime in 2014–2016. According to the Federal Bureau of Investigation (FBI), violent crime rose 7% between 2014 and 2016,¹⁰ with homicides climbing an astounding 20% during that same, short period of time.¹¹

⁶ *Masked Man with Rifle Chased, Killed 60-year-old Man, Police Say*, WAPT CHANNEL 16 ABC (Nov. 21, 2017), <https://www.wapt.com/article/masked-man-with-rifle-chased-and-killed-victim-police-say/13815829>.

⁷ Steven Ward & Sarah Fowler, *Fatal Shooting of Woman at Jackson Red Light Appears Random*, CLARION LEDGER (updated Aug. 21, 2017), <https://www.clarionledger.com/story/news/local/2017/08/18/woman-shot-killed-at-intersection/579206001/>.

⁸ Therese Apel, *Man's Head Found on Jackson Porch*, CLARION LEDGER (updated June 12, 2017), <https://www.clarionledger.com/story/news/local/2017/06/10/mans-head-found-jackson-porch-body-still-missing/386626001/>.

⁹ Niraj Chokshi & Daniel Victor, *Mississippi Boy, 6, is Killed After Car is Stolen From His Mother*, N.Y. TIMES (May 18, 2017), <https://www.nytimes.com/2017/05/18/us/mississippi-boy-6-is-killed-after-car-is-stolen-from-his-mother.html>.

¹⁰ See *Violent Crime, Crime in the United States 2016*, UNIFORM CRIME REPORT (2017) (explaining that the 2016 violent crime rate in America “rose 3.4 percent when compared with the 2015 estimated violent crime rate.”); see also *Violent Crime, Crime in the United States 2016*, UNIFORM CRIME REPORT (2017) (“There were an estimated 372.6 violent crimes per 100,000 inhabitants in 2015, a rate that rose 3.1 percent when compared with the 2014 estimated violent crime rate.”).

¹¹ See *2016 Crime in the United States, Table 1, Crime in the United States by Volume and Rate per 100,000 Inhabitants, 1997-2016*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-1> (finding that in 2016, the estimated number of murders in the nation was 17,250, an 8.6% increase from the 2015 estimate; also finding that in 2015, the estimated number of murders in the nation was 15,883, a 10.8% increase from the 2014 estimate).

On October 5, 2017, Attorney General Sessions relaunched the Department of Justice’s Project Safe Neighborhoods (PSN), directing United States Attorneys throughout the country to develop, implement, and lead a plan to address the most significant violent crime in their respective districts.¹² Less than a week later, I was sworn in as United States Attorney for the Southern District of Mississippi, and our office immediately leapt into action to reintroduce PSN back into our district. Based on the stories and statistics above, coupled with the simple fact that Jackson is our state capital and most populous city, we chose to pour our office’s limited PSN resources into the City of Jackson.

Our idea was simple. Using the game of basketball as an analogy, we developed our vision for Project EJECT: (1) everyone is taught the rules of the game (*Awareness*); (2) everyone is asked to follow the rules of the game (*Prevention*); (3) while you may be called for a “foul” in basketball if you make a mistake, you will be *ejected* from the game for intentionally, flagrantly, wantonly flaunting and violating the rules (*Prosecution*); and (4) just like basketball, if you serve your punishment after being ejected, and you want to come back, abide by the rules and play again, you will be welcomed back with open arms (*Re-entry/Rehabilitation*). I’m proud to say that, after only ten months of our men and women working incredibly hard, the violent crime rate in Jackson has fallen by double digits,¹³ our prosecution rate of violent crime has increased by triple digits,¹⁴ the criminal element is getting the message, and we are making a real, positive difference in people’s lives.

II. Background

A. Summer 2015: Violence Reduction Network and Public Safety Partnership

During the summer of 2015, in order to attack the rise of violent crime in Jackson, our office developed and implemented the Jackson Violent Crime Initiative. This initiative was largely spearheaded by

¹² Press Release, U.S. Dep’t of Justice, Attorney General Jeff Sessions Announces Reinvigoration of Project Safe Neighborhoods (Oct. 5, 2017).

¹³ See JACKSON POLICE DEP’T, COMSTAT: OCTOBER 1, 2018 THRU OCTOBER 7, 2018 (2018), <http://www.jacksonms.gov/DocumentCenter/View/4303>.

¹⁴ See *Prosecutions for 2018: Lead Charge 18 U.S.C. § 922* (TracReports Sept. 6, 2018).

the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) with the purpose to combat the rapid rise in homicides and other violent crimes in the Jackson area. The ATF secured temporary funding to deploy 15 additional ATF agents to Jackson for a three month period during the summer of 2015, conducting a law enforcement “surge” to identify and arrest violent criminals, with our office committed to prosecuting those criminals. While this law enforcement surge and the concomitant prosecutions led to an immediate lowering of violent crime in our capital city, violent crime resurfaced once the temporary agents departed. After the temporary “surge,” the Jackson Violent Crime Initiative continued meeting monthly in an effort to continue the gains previously made.

In September 2016, the City of Jackson was designated a pilot site for the Department of Justice’s Violence Reduction Network (VRN),¹⁵ now known as the National Public Safety Partnership (PSP).¹⁶ After this designation, the Jackson Violent Crime Initiative eventually morphed to become the Jackson PSP Violent Crime Task Force. That task force, consisting of just a few agents and officers from the ATF, FBI, Drug Enforcement Administration (DEA), and the City of Jackson Police Department, broadened the scope from its original mission and sought to strategically and thoroughly investigate and prosecute all violent federal crimes in the Jackson area. Our office committed one Assistant United States Attorney to this task force full time, who worked alongside these agents in their investigations and prosecuted their cases.

B. December 2017: Project EJECT publicly launched

In October 2017, shortly after being sworn in as United States Attorney, I began reaching out to our federal, state, and local law enforcement partners to gauge interest and solicit feedback regarding the idea of focusing our office’s PSN resources on the City of Jackson. The response was overwhelmingly positive, aligning with our office’s initial assessment and vision. The FBI immediately committed a total of eight full-time special agents, task force officers (TFOs), and a supervisory special agent to the Project. Additionally, the ATF

¹⁵ Press Release, U.S. Dep’t of Justice, Justice Department Expands Violence Reduction Network to Jackson, Mississippi and Nashville, Tennessee (Sept. 26, 2016).

¹⁶ See NAT’L PUB. SAFETY PARTNERSHIP, <https://www.nationalpublicsafetypartnership.org/> (last visited Oct. 8, 2018).

committed a few agents, TFOs, and analysts, as well as DEA, Immigration and Customs Enforcement Homeland Security Investigations (HSI), and the Mississippi Crime Lab. The Jackson Police Department (JPD) also assigned a Commander to be a direct liaison between the Task Force and JPD detectives and patrolmen. Already having the Jackson Violent Crime Initiative Task Force in place, our office simply took the structure of that existing task force and expanded and revamped it into our Project EJECT Task Force for investigating and prosecuting violent crime in Jackson.

Our office knew, however, with everything we had studied and the direction given to us by Attorney General Sessions, this could not be simply another prosecution-only initiative—it had to be more comprehensive, drawing from other disciplines and approaches. So, in that vein, I personally began reaching out to pastors, nonprofits, schools, victim support groups, neighborhood associations and others, inviting them to the official launch of this new initiative to combat crime in the City of Jackson.

The response was amazing. On December 7, 2017, we announced the Project EJECT kickoff publicly with a press conference and approximately 70 leaders from law enforcement, faith-based groups, nonprofits, neighborhood associations, and businesses, as well as ordinary, concerned citizens in attendance.¹⁷ At the press conference, Jackson Police Chief Lee Vance stated, “This is a great day for Jackson. We are excited about the potential of it.”¹⁸

¹⁷ Press Release, U.S. Dep’t of Justice, U.S. Attorney’s Office, Law Enforcement Partners, and Community Leaders Introduce PROJECT EJECT to Combat Violent Crime in City of Jackson (Dec. 7, 2017); see also *Marsha Thompson, Project Eject: A United Front Against the Uptick in Violent Crime*, WLBT CHANNEL 3 NBC (updated Dec. 7, 2017); Jeff Amy, *Federal Prosecutor Announces Crackdown on Crime in Jackson*, U.S. NEWS (Dec. 7, 2017), <https://www.usnews.com/news/best-states/mississippi/articles/2017-12-07/federal-prosecutor-announces-crack-down-on-crime-in-jackson>.

¹⁸ Jimmie E. Gates, *U.S. Attorney: Violent Criminals Will be Ejected from Jackson*, CLARION LEDGER (Dec. 7, 2017), <https://www.clarionledger.com/story/news/2017/12/07/u-s-attorney-violent-criminals-ejected-jackson/930860001/>.



Figure 1: Jackson Police Chief Lee Vance Speaking at Press Conference Launching Project EJECT

One goal of the project is to *empower Jacksonians* through an awareness campaign, prevention presentations in schools and clubs, and facilitation of re-entry and rehabilitation options once individuals are released from prison, helping them to get back on their feet and become law abiding, contributing members of society. Another goal is to *expel crime* from our capital city, returning the streets to the law abiding residents of Jackson and making neighborhoods safe again. Finally, we knew we could not accomplish any of these audacious goals unless we worked *together*, as a strong partnership with a true team mentality. That's how we came up with the acronym EJECT: "Empower Jackson Expel Crime Together."

III. Implementation and execution

*If Project EJECT does what leaders promise, it will be the single biggest factor in sparking a renaissance in our state's capital.*¹⁹

Project EJECT is made up of four components, each being phased in at various intervals: (1) Prosecution; (2) Prevention; (3) Awareness; and (4) Re-entry and Rehabilitation.

¹⁹ CONSIDER THIS: Project Eject, WLBT CHANNEL 3 NBC (Dec. 12, 2017).

A. Prosecution: phase I, zero to six months

1. Identifying the problems

Shortly after being sworn in as United States Attorney, I spoke with the leadership and officers of the Jackson Police Department. The recurring theme I heard was how demoralized the patrolmen were. One officer told me: “Mike, I have arrested the same guy for the third or fourth time, and the last time, as I was walking him to the patrol car, he laughed at me, saying that he would be released and back on the street before I finished my paperwork. And he was right.” In fact, this pattern was confirmed in one of the cases that we adopted from the local District Attorney, where the local judge even admitted that she normally just releases people after an indictment and simply puts them on house arrest!

Sadly, there are many examples of unrestrained criminality occurring throughout Jackson: a man arrested locally for murder and released commits a carjacking and shooting the very next day after being released; an 82-year-old woman carjacked and her life literally threatened by a criminal with a long rap sheet on probation; a disabled convenience store clerk threatened at gunpoint and beaten during a robbery; and a young mom carjacked at a day care center with her child barely escaping the car and then almost being run over by the assailants. These and countless other cases illustrate the lawless mentality of criminals in Jackson, their disregard of and disdain for law enforcement and law abiding citizens, and their doubtfulness of any consequences for their illegal actions. There had been no consequences for their actions—until now. I am proud to say that these local cases mentioned above are all now being prosecuted by the United States Attorney’s Office under Project EJECT.

2. Developing and executing the response

Prosecution guidelines

Based upon the above information and much more, our office came up with the following prosecution guidelines for our Assistant United States Attorneys to address this issue of the revolving door in local Jackson courts slinging violent offenders immediately back out onto our streets. Under Project EJECT, Assistant United States Attorneys are instructed to: (1) arrest individuals immediately; (2) move for detention; (3) avoid plea deals that will put them back on

the street quickly; and (4) recommend that defendants serve their sentence outside of Mississippi.

Once cases have been sufficiently investigated by our EJECT members, they are presented to the United States Attorney's Office for prosecution. Rather than having only one or two Assistant United States Attorneys handle all EJECT cases, I decided that every Criminal Division Assistant United States Attorney in the Jackson office would receive at least one case, reflecting the importance of Project EJECT to the office and hopefully creating a shared mission of the project among our prosecutors. Some of the federal crimes considered for prosecution include carjackings, business robberies, bank robberies, illegal gun possessions, drug distribution, and violent crimes in aid of racketeering.

Task Force logistics

As mentioned above, our office quickly established a Project EJECT Task Force, made up of federal, state, and local law enforcement to coordinate and collaborate on investigations of federal crimes occurring in the City of Jackson. The FBI assigned eight special agents and TFOs, representing various state law enforcement entities such as the Department of Corrections and the Gaming Commission. The leadership of the ATF, DEA, and HSI also contributed a total of approximately six agents and TFOs. In addition, we have a liaison from the Jackson Police Department who coordinates cases, information, and evidence between JPD patrolmen and detectives and EJECT investigators. The EJECT Task Force also includes a representative from the Mississippi Crime Lab, who processes firearms and shell casings in order to link current crimes to past illegal activities.

Every Monday morning, the EJECT Task Force meets at the United States Attorney's Office, where the First Assistant United States Attorney walks through each individual case on a master list maintained by the United States Attorney's Office, in order to discuss potential targets, suspects, gangs, intelligence, ongoing investigations, case progression, and strategic enforcement efforts within the PSN target area.

JPD detectives and officers were also recently given an easy-to-remember phone number (601-42-EJECT) by the United States Attorney's Office in order to be able to directly contact an EJECT task force member for assistance when making arrests, processing a scene, or investigating a federal crime (one of the

United States Attorney's Office employees forwards that number to the EJECT agent or TFO on duty that week). Project EJECT requires Task Force agents and officers to respond directly to JPD detectives and patrolmen who are assigned investigations of particular violent crimes. This EJECT hotline increases information sharing between our local and federal partners, which increases federal referrals and future cooperation and trust.

Training

Early in the Project, our Criminal Chief and one of our Assistant United States Attorneys visited almost all of the precinct locations during shift changes, giving them the opportunity to introduce themselves to patrolmen around the City, hand out contact information, educate the officers on elements of federal crimes, and develop relationships among law enforcement.

In addition, our First Assistant United States Attorney recently conducted training for JPD detectives on federal crimes that normally occur on a local level and the evidence needed to prove such crimes. Our office is also working on producing laminated business cards that will list these federal crimes on one side and the 601-42-EJECT phone number on the other side for JPD officers to call in when they encounter a federal crime.

Finally, some of our Assistant United States Attorneys and I have ridden along with Project EJECT agents and officers during "surge" operations in the City of Jackson at night, providing immediate, onsite legal advice and building camaraderie, trust, and morale among our Assistant United States Attorneys, EJECT task force officers and local police.

B. Prevention: phase II, beginning after the first six month period

After the first phase of Project EJECT began, the United States Attorney's Office began rolling out the second phase of the project in order to attempt to prevent crime before it occurs. This prevention prong consists of Assistant United States Attorneys and agents going into schools and after school clubs and presenting the L.E.A.D. (Legal Enrichment and Decision Making) Program.²⁰ Developed by the

²⁰ Press Release, U.S. Dep't of Justice, U.S. Attorney's Office Reaches Out to Local Youth Under Project EJECT (June 27, 2018); *see also* Therese Apel,

former United States Attorney for the Southern District of Mississippi, Greg Davis, this initiative is intended to teach children that the choices they make today can affect their lives and the lives of others forever. The L.E.A.D. Program's presentation focuses on the social and legal consequences of juvenile crimes, such as truancy, illicit drug use, shoplifting, and graffiti. Proactive social skills, such as conflict resolution, problem solving, and decision making, are also discussed.



Figure 1: FBI Special Agent Jeff Artis Speaking to Boys & Girls Club

At the end of the presentation, the youth are invited to publicly sign a large wall banner entitled “Students Against Gun Violence,” whereby the students pledge never to bring a gun to school, never to use a gun to settle a personal problem or dispute, and to use their influence to keep friends from settling disputes with guns. This symbolism and the simple act of signing the pledge represents accountability to the student and honors the role that young people, through their own decisions, can play in reducing gun violence.

Another prevention idea that has been implemented is a reading program sponsored by a nearby church whereby support staff and attorneys in our office read to and tutor third graders at a local Jackson public schools. In addition, some of our Assistant

Project EJECT's L.E.A.D. Program Gives Kids Options That Don't Involve Guns, CLARION LEDGER (July 2, 2018),

<https://www.clarionledger.com/story/news/local/2018/07/02/project-ejects-l-e-d-program-gives-kids-options-dont-involve-guns/743969002/>.

United States Attorneys have adopted certain Jackson High Schools to train mock trial teams for the annual statewide competition sponsored by the Mississippi Bar. Our idea is simple—get into and involved with as many schools in Jackson as possible in order to communicate hope to the students that there are alternatives to crime and that law enforcement and law abiding citizens care and want to see them do well.

C. Awareness: phase III, beginning after the first nine month period

In the third phase of Project EJECT, our office began hosting Town Hall Meetings at various locations throughout the City of Jackson.²¹ As United States Attorney, I have led these meetings, accompanied by the JPD Chief of Police, City Council Member for that particular area, Task Force partners, Assistant United States Attorneys, and others, with the purpose of educating and soliciting feedback from the public on the initiative. The meetings are held at churches, community centers, and educational facilities after work, lasting one hour each. The meetings are split between an explanation from our office and our partners on the problems facing Jackson, the parameters of Project EJECT, and the results thus far, and the other half hour consisting of public questions, comments, ideas, and feedback on how to do a better job and accomplish more for Jackson's residents.

A second component of the Awareness prong of Project EJECT will be a media campaign, blanketing the City of Jackson with billboards, public service announcements, and public appearances at various citywide events to make the public aware of the benefits of Project EJECT and to make the criminals aware of its consequences. This is akin to the public relations campaign executed by Project Exile in Richmond, Virginia, in the late 1990s, with simple messages such as “*An illegal gun gets you five years in federal prison.*” In fact, we recently heard one defendant being prosecuted by the local District Attorney as saying, “I don't want that fed time 'cause it's straight time.” The message is slowly trickling out to the community and the

²¹ Therese Apel, *Officials Talk Crime Growth, Crime Prevention at First of Series of Town Halls in Jackson*, CLARION LEDGER (Aug. 7, 2018), <https://www.clarionledger.com/story/news/local/2018/08/06/officials-talk-crime-growth-prevention-first-series-town-halls-jackson/919412002/>; see also Nick Ducote, *Justice Department Holds Town Hall Meeting for Project EJECT*, WLBT CHANNEL 3 NBC (Aug. 14, 2018).

criminal element. We just need to accelerate that message. We are exploring additional ways to get the message out, and have received significant support from the community to do so—including one neighborhood association discussing the possibility of forming a nonprofit to support this kind of outreach work.

We intend to communicate clearly our prosecution guidelines to the criminals: (1) we will arrest you immediately; (2) we will move to detain you; (3) you will not get a plea deal that puts you back on the street anytime soon; (4) there is no parole in the federal system; and (5) we will recommend that you serve your sentence outside the State of Mississippi. However we get the word out, the message must be simple, direct and consequential—violating our laws will get you ejected from our city.

D. Re-entry and rehabilitation: phase IV, beginning after the first nine month period

Finally, during Phase IV of Project EJECT, our office will help implement an initiative at the local Bureau of Prisons facility entitled “Identifying Legal Issues.” In this program, our office will address legal issues that soon-to-be-released felons may encounter in order to prepare for re-entering the workforce, housing market, and family life. The thought is to try to educate and prepare these prisoners *before* they return to the outside world, hopefully giving them the knowledge and tools needed to better and more easily integrate back into society.

In addition, our office plans to organize a “Re-entry Empowerment Fair,” bringing together local businesses and educational institutions, with the hope of encouraging employers to hire convicted felons who are attempting to reenter society and informing offenders about their educational opportunities. The goal of such an event is to empower these citizens with opportunities like lawful employment or educational options so that they will better themselves and be less likely to engage in illegal acts in the future.

IV. Early results

Just want you to know how much good you all are doing. David Dunn and I did Pretrial for the troops during spring break. Of the 4 defendants I had dealings with, all had multiple gun and other convictions, were gang members and some had violent pasts with multiple arrests. Y'all are truly doing a huge service; helping to

*protect our community. It is putting stress on our agency, but don't stop, because I truly believe you are saving lives. Taking the worst of the worst off the streets of the City of Jackson.*²²

Although still in its infancy, Project EJECT is already showing positive signs of success. According to a recent report compiled by the Transactional Records Access Clearinghouse at Syracuse University, the Southern District of Mississippi showed the greatest projected growth (182%) in the rate of illegal firearm prosecutions over the past year of any United States Attorney's Office in the country.²³ But more importantly, the overall violent crime rate in the City of Jackson is down, with violent crime plummeting 16% in October 2018 from the same time last year.²⁴ In real world terms, that is 49 fewer aggravated assaults, 73 fewer armed robberies, 39 fewer carjackings, and 29 fewer rapes in the City of Jackson. Since the planning stages of Project EJECT began in October 2017, and the public launch in December 2017, the grand jury has indicted 110 defendants for various federal crimes in the City of Jackson, ranging from carjacking to Hobbs Act robberies to illegal possession of firearms to drug trafficking. As mentioned above, one of the complaints the United States Attorney's Office heard from JPD was that when defendants were arrested on local charges, they were almost immediately released. The United States Attorney's Office is proud to report that, of those whom have been indicted and arrested, it appears that 80% have been detained while awaiting trial. Of these individuals, 52 have pleaded guilty to date, and three have been found guilty after a trial. Of those sentenced thus far, punishment has ranged from 13–195 months in prison, with the average prison sentence around six years.

While Project EJECT is working, there is so much more to be done. Over the coming months and years, a significant effort to sustain our work, remain steadfast to our principles, and ensure execution of not just the prosecutions but also the non-prosecution components will be key to the continued improvement in the lives of Jacksonians. By working together, we are empowering our law abiding citizens and

²² E-mail from U.S. Probation Officer to Mike Hurst, U.S. Attorney (S.D. Miss.) (Mar. 27, 2018).

²³ See TracReports, *supra* note 14.

²⁴ See COMSTAT, *supra* note 13.

effectively prosecuting and ejecting the criminals from our communities. The result of our combined work is a safer, more secure Jackson for all to enjoy.

About the Author

Mike Hurst is the United States Attorney for the Southern District of Mississippi. Prior to this role, he was the founder and director of a nonprofit law practice, a candidate for Mississippi Attorney General, and a former Assistant United States Attorney for almost a decade in the Criminal Division of the office he now leads. Prior to becoming an Assistant United States Attorney, Mike worked in various roles on Capitol Hill and practiced at a law firm in Washington, D.C. Mike graduated from Millsaps College in Jackson, Mississippi, and The George Washington University Law School in Washington, D.C.

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Comprehensive Project Safe Neighborhoods Case Development Process

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I. Introduction

This is a guide for supervisory Project Safe Neighborhoods (PSN) Assistant United States Attorneys charged with implementing targeted and prioritized enforcement concepts. In many districts, it is not realistic to have weekly or even monthly violent crime case screening meetings with potential partner agencies and local prosecutors across all of the various PSN-related mission sets. This guide proposes methods to triage violent crime cases and set up close working relationships with state and local prosecutors and law enforcement in the most violent areas, while maintaining a system for timely dealing with violent offenders elsewhere in a district or division.

A comprehensive PSN case development process identifies appropriate targets for federal prosecution and builds strong cases against those targets. As described below, there are five key steps to this process: mission clarity, situational awareness, coordination, partnership sustainment, and assessment/renewal of the process. In simple terms, this process involves regular meetings with local law enforcement with an eye towards both understanding what those agencies already do to combat violent crime, and building on that work to develop a set of cases appropriate for federal prosecution. The basic objective is to be strategic and make the best use of limited resources to drive down violent crime.

The challenges for the supervisory Assistant United States Attorney in implementing a comprehensive PSN case development process include assessing the violent crime situation in his or her district or division; applying the latest social science to figure out ways to reduce violent crime; and implementing policies, practices, and procedures intended to yield successful prosecutions of violent offenders. There is no one-size-fits-all solution. Violent crime varies greatly within

districts and divisions. The urgent need to protect the public militates against waiting to build the perfect system—don't let perfect be the enemy of good.

II. Mission clarity: drafting a mission statement

A key first step in implementing a comprehensive PSN case development process is to prepare a mission statement. A good mission statement gives line Assistant United States Attorneys and client agencies a clear sense of the United States Attorney's priorities, and how they should balance their PSN caseload against competing priorities. Assistant United States Attorneys assigned to handle PSN cases should understand how their PSN matters fit into a larger strategy, empowering them on a daily basis to work with their agents and detectives to better execute the mission.

Under the leadership of United States Attorney Maria Chapa Lopez, the United States Attorney's Office for the Middle District of Florida (MDFL)¹ is organized, in part, along mission-centric lines. There are five sections in the Tampa Division aligned with Attorney General Sessions's priorities: (1) National Security and Cybercrimes, (2) Special Victims, (3) Economic Crimes, (4) Transnational Organized Crime, and (5) Violent Crimes and Narcotics (VCN). In the Tampa Division, PSN is executed through the VCN Section.

In the VCN Section, Assistant United States Attorneys must balance two missions—violent crimes and narcotics—while looking for optimal synergies between them. The mission of Tampa's VCN Section is to (1) prosecute dangerous offenders, (2) dismantle drug trafficking organizations, (3) secure lengthy sentences for armed felons, (4) build successful proactive conspiracy cases against violent gang members, and (5) support the office's prevention strategy through outreach efforts, educational activities, and re-entry court. It is based largely on

¹ The MDFL is the second largest federal district in the country, with a population of more than 11 million. It encompasses 35 of Florida's 67 counties and includes offices in Tampa, Orlando, Jacksonville, Ft. Myers, and Ocala. See U.S. DIST. COURT MIDDLE DIST. OF FLA., <http://www.flmd.uscourts.gov/> (last visited Nov. 8, 2018).

a September 12, 2015 Baltimore Sun editorial, *A Proven Plan To Prevent City Murders*.²

Assistant United States Attorneys should use their mission statement to drive everything that they do, starting with case intake decisions. They should strategically focus on whether the proposed case would help reduce violent crime, through the lens of targeted and prioritized enforcement. This incentivizes client agencies to likewise focus on the mission statement in making their resource allocation decisions.

III. Situational awareness: identify the universe of cases

After defining the mission, the supervisory PSN Assistant United States Attorney should identify the universe of possible cases within a PSN program. Traditionally, PSN has endeavored to focus on felon in possession of a firearm and ammunition prosecutions.³ Case screening mechanisms in the late 1990s and early 2000s dealt with reactive firearms cases. Many United States Attorneys' Offices set up protocols with state and local prosecutors to routinely review firearms cases, mostly felon in possession matters, on regular intervals and decide which venue would likely yield the greatest sentence or most efficacious result. To meet the Department of Justice's objective of reducing violent crime, however, PSN programs should encompass a larger set of investigations and should focus on prosecuting the most significant violent offenders, regardless of the applicable charge. Accordingly, supervisory PSN Assistant United States Attorneys should think expansively about their PSN program and seek out a variety of matters that target violent criminals, including, but not limited to, the following types of cases:

- Commercial armed robbery;
- Bank robbery;
- Racketeer influenced and corrupt organizations;
- Violent crime in aid of racketeering;
- Murder-for-hire;

² Rod J. Rosenstein, *A Proven Plan to Prevent City Murders*, BALT. SUN (Sept. 12, 2015),

<http://www.baltimoresun.com/news/opinion/oped/bs-ed-rosenstein-0913-2015-0912-story.html>.

³ See 18 U.S.C. §§ 922(g)(1), (h).

- Arson; and
- Carjacking.

Other statutes may also be effectively brought to bear against a jurisdiction's most violent offenders—such as narcotics, immigration, fraud, and tax charges. Districts are encouraged to use all the tools at their disposal to address violent criminals and take them off the street.

With this broader set of potential cases in mind, United States Attorneys' Offices should implement comprehensive PSN case development processes that timely bring violent offenders to their attention and set up de-confliction mechanisms with state and local counterparts. In other words, United States Attorneys' Offices should not rely solely on reactive gun case screening meetings to drive their violent crime programs. They should instead be in constant communication with their local prosecutorial counterparts and reach a shared understanding on how to divide the labor across a myriad of offenses, not just felon in possession cases.

A. Incorporate OCDETF and HIDTA

Recognizing the nexus between violent crime and drug trafficking, United States Attorneys' Offices should also consider the investigation and prosecution of street level drug trafficking organizations under both the Organized Crime Drug Enforcement Task Force (OCDETF) and High Intensity Drug Trafficking Area (HIDTA) programs as core components of their PSN strategy. In Tampa, we endeavor to continuously conduct drug investigations utilizing Title III and other complex investigative techniques against violent, street level drug traffickers in high crime areas.

In building simultaneous drug and violent crime investigations, it is important to resist the temptation to focus solely on investigating sources of supply. The goal of every drug investigation is to work through the mid-level distributors up the supply chain. Most of the violence associated with the illegal drug trade, however, occurs at the distribution level where control over territory matters. At the intersection of PSN, OCDETF, and HIDTA, Assistant United States Attorneys should work to spin their investigations off to other mid-level distributors. Success is not just about going to the top of the proverbial food chain. During proffers of mid-level distributors, agents and Assistant United States Attorneys should seek information about

targets below those suppliers in the distribution chain. This may yield valuable evidence and testimony against violent offenders.

B. Situational awareness: obtain violent crime data

Data plays a critical role in identifying which local jurisdictions in a district or division historically have experienced the most violent crime. Intuitively, most Assistant United States Attorneys know—or think they know—which cities or counties in their district are most impacted by violent crime. But for United States Attorneys’ Offices endeavoring to revitalize their PSN programs, it makes sense to take a step back and check the data. The FBI’s Uniform Crime Reporting (UCR) data is available at <https://ucr.fbi.gov/>. The UCR data contains historical violent crime data submitted by law enforcement agencies around the country. On at least a semi-annual basis, United States Attorneys’ Offices should look back at the most recent available UCR data for the cities and counties in their districts, as well as local agency/internal violent crime data, assess overall violent crime trends, and confirm whether they are partnered most closely with the state and local prosecutors and agencies with the most serious violent crime problems in their districts. Being data driven is so critical to success that United States Attorneys’ Offices are now required to report crime data broken down by month in PSN semi-annual reports.

C. Situational awareness: solicit local intelligence

Obtaining subjective assessments from the leadership of local law enforcement agencies is also critically important. In the MDFL, some cities and counties are plagued by street gangs responsible for murders, shootings, armed robberies, and kidnappings in relatively small, poor, and disconnected neighborhoods. While the overall homicide numbers in any particular jurisdiction might not stand out in comparison to large cities, the statistics often do not capture the reality for people living in those neighborhoods. The best way to understand this problem is to meet regularly with police chiefs and sheriffs, along with their command staffs, to identify the street gangs and groups believed to be most responsible for the violence.

Supervisory PSN Assistant United States Attorneys should have constant communication with local law enforcement. In most sheriff’s offices and police departments, the right level at which to consistently engage is captain or lieutenant. Captains and lieutenants typically have authority to deploy personnel and adjust resources, and have ongoing awareness of the violent crime problem areas in their

jurisdictions. Supervisory PSN Assistant United States Attorneys may make their programs much more effective by getting information directly from local law enforcement leaders.



Figure 1. Firearms Seized During an ATF PSN Surge Operation in St. Petersburg, Florida

That said, the Bureau of Alcohol, Tobacco, Firearms and Explosive (ATF) and the Federal Bureau of Investigation (FBI) may offer invaluable assistance in making a PSN program more effective and data-driven. If a police chief or sheriff requests assistance in a high crime area, one way to get a PSN program off the ground is to set up a short term surge operation. An ATF or FBI analyst can work with that local agency, analyze their internal violent crime statistics for the past two years, and identify a targeted enforcement area (TEA). ATF or FBI can then employ confidential informants (CIs) in the TEA. The basic idea is to have the CIs work in the TEA, gather intelligence on violent crime, and ultimately purchase firearms and narcotics from violent offenders. Along the way, ideally the CIs would also introduce undercover officers for the same purpose. To achieve the greatest possible general deterrent effect, all of the targets should be arrested during a simultaneous takedown.

IV. Coordination: choose partner agencies

Armed with both the data and the subjective gang assessments, United States Attorneys' Offices should then choose which partner agencies to implement intensive and frequent case screening mechanisms. In doing so, United States Attorneys' Offices should be

mindful of the leading role state and local prosecutors and agencies have in the violent crime arena, because they are doing most of the heavy lifting. It therefore makes sense to go to them, rather than asking them to come to you. This also serves to send a strong message of partnership. If a local agency already has a weekly or monthly command-level violent crime meeting, explore whether Assistant United States Attorneys may attend. In Tampa, our PSN Assistant United States Attorneys meet regularly with the Tampa Police Department (TPD).

A. Tampa's Violent Impact Player program

In response to a rise in shootings in Tampa in 2015, TPD implemented the Violent Impact Player (VIP) program, which is designed to increase situational awareness of the most violent offenders in its jurisdiction. The VIP program is a targeted and prioritized enforcement strategy based on social science and lessons learned from the Boston Gun Project, Operation Ceasefire, the Indianapolis Violent Reduction Partnership, the Los Angeles Police Department's Operation Laser, and PSN efforts showing that, in general, 6–8% of the population is responsible for 60–70% of violent crime. The goal of the VIP program is to identify and deter prolific and chronic violent offenders before they commit crimes.

The United States Attorney's Office-MDFL has collaborated with TPD, FBI, and ATF to support the VIP program. Federal agents and Assistant United States Attorneys give the investigation and prosecution of persons on the VIP list the highest possible priority. TPD identified the need for the program, took the initiative to design and implement the program, and reached out to partner agencies for assistance. In other words, TPD leads the VIP program on the front end, while United States Attorney's Office-MDFL's role comes into play on the back end.

To identify prolific violent offenders, the VIP list uses a broad set of criteria, recognizing that prior felony convictions alone may not be the best indicator for current violence. TPD's Violent Crimes Bureau maintains the VIP list and updates it on a weekly basis. TPD disseminates its VIP list to all officers through its dispatch system. This increases situational awareness among patrol officers, thereby enhancing officers' safety during traffic stops and other encounters with suspects. When a VIP list member is arrested, TPD alerts the local prosecutor's office—the State Attorney's Office (SAO) for Florida's 13th Judicial Circuit—so that the assigned Assistant State

Attorneys (ASAs) are aware of the risk that the defendant poses for purposes of detention and charging decisions.

As part of the VIP program, TPD hosts a weekly violent crime meeting. It includes senior leaders from TPD's regional sub-commands, its HIDTA squad, and its Violent Crime Bureau. At least one Assistant United States Attorney from the United States Attorney's Office-MDFL attends the meeting, along with PSN ASAs. At the meeting, participants discuss all shooting incidents and other violent crimes that have occurred within the previous seven days, along with any recent firearms seizures. Having all of these players in the room at the same time facilitates a traditional PSN gun case screening process. Gun and drug cases are then routinely and appropriately divided between the United States Attorney's Office and the SAO. For federal 18 U.S.C. § 922(g) and 21 U.S.C. §§ 841(a)(1) and 846 prosecutions, TPD immediately assigns one of its FBI or ATF task force officers to facilitate federal prosecution, gather evidence for the assigned Assistant United States Attorney, and prepare for the grand jury. For federal drug prosecutions of VIP targets, the United States Attorney's Office-MDFL has waived quantity thresholds. The weekly violent crime meetings and the VIP list are also used to identify potential candidates for long term federal racketeering, OCDETF, and white collar investigations.

The laser-focus on Tampa's most violent offenders allows law enforcement to seize the initiative. Officers, agents, and prosecutors are not sitting back, waiting for the next shooting to happen. They have a keen sense of who the next shooters are likely to be and focus their efforts on deterring, disrupting, and prosecuting those violent offenders.

For example, many VIP list members were part of a violent Tampa gang known as the Manche Boys Mafia (MBM). In 2016, MBM members, besides operating a music studio (Manche Boy Music), were engaged in weekly shootouts with their rivals throughout the city. In response, the FBI launched an OCDETF investigation into MBM, but it quickly realized that the gang had shifted away from drug dealing and had moved into credit card fraud. To address this threat and to get MBM's VIPs off the street, the United States Attorney's Office-MDFL's Economic Crimes Section agreed to lower the United States Attorney's Office-MDFL's traditional loss thresholds and to accept every readily provable case of access-device fraud involving MBM gang members. The results have been outstanding.

In 2017, the United States Attorney's Office-MDFL indicted 11 MBM gang members⁴ on white collar charges, including conspiracy, access-device fraud, aggravated identify theft, and tax charges. The United States Attorney's Office-MDFL also indicted two MBM gang members on felon in possession charges. Sentences on the white collar charges ranged between 4–8.5 years.⁵

In addition to getting shooters off the street, the MBM investigations have yielded valuable leads. For instance, investigators have learned that the gang members are using counterfeit credit cards to purchase gift cards that they use to buy firearms and ammunition.

The combined efforts of federal, state, and local law enforcement in implementing the VIP program have yielded tremendous results. A 2017 University of South Florida study credits the VIP program with a 7.9% drop in violent crime from 2015–2016.⁶

B. Coordination: consider embedding an Assistant United States Attorney

Another method to strengthen the partnership with local law enforcement and to ensure appropriate targeting of federal violent crime prosecutions is to embed an Assistant United States Attorney with a local agency on a consistent basis. In the Tampa Division of the United States Attorney's Office-MDFL, we do this on a weekly basis with the Manatee County Sheriff's Office (MCSO). Manatee County is the county just south of Tampa. Its largest city, Bradenton, is about a one-hour drive from the United States Attorney's Office-MDFL. While the homicide numbers there do not compare to those of a major metropolitan area, we have found that, through our ongoing

⁴ Prosecuted by Assistant United States Attorneys Mandy Riedel and Carlton Gammons.

⁵ See *United States v. Lewis et al.*, No. 8:16-cr-475-T-23AEP (M.D. Fla. 2016); *United States v. Lewis and Wells*, No. 8:17-cr-109-T-24JSS (M.D. Fla. 2017); *United States v. Ross*, No. 8:17-cr-461-T-30AAS (M.D. Fla. 2017); *United States v. Graham*, No. 8:18-cr-114-T-33CPT (M.D. Fla. 2018); *United States v. Howell*, No. 8:18-cr-146-T-27AEP (M.D. Fla. 2018); *United States v. Troupe*, No. 8:17-cr-590-T-36AAS (M.D. Fla. 2017); *United States v. Render and Danzey*, No. 8:18-cr-414-T-24TGW (M.D. Fla. 2018); *United States v. Render*, No. 8:17-cr-00036-T-24MAP (M.D. Fla. 2017); *United States v. Black*, No. 8:17-cr-00513-T-27CPT (M.D. Fla. 2017).

⁶ BRYANNA FOX ET AL., UNIV. OF S. FLA., AN EXPERIMENTAL EVALUATION OF THE EFFECTS OF THE VIOLENT IMPACT PLAYER LIST ON VIOLENT AND FIREARMS OFFENSES IN TAMPA 11 (2017).

conversations with local law enforcement and our own prosecutorial experience, areas within Manatee County are plagued by gang violence. We send an Assistant United States Attorney at least once a week to be available at MCSO for several hours. This facilitates ongoing, direct discussions with MCSO's homicide unit, as well as their narcotics and property crimes detectives. Embedding an Assistant United States Attorney at MCSO works particularly well because MCSO also has an embedded ASA. Having both a federal and a local prosecutor on-site makes having weekly gun case screening meetings and overall de-confliction easy.

The case of *United States v. Antwan Williams et al.* is a good example of a successful commercial armed robbery prosecution resulting from having an embedded Assistant United States Attorney at MCSO.⁷ In August 2017, Williams and co-defendant, Tronesh Ackerman, robbed four fast food restaurants and a convenience store at gunpoint. Williams ultimately pleaded guilty to two violations of 18 U.S.C. § 924(c) and Ackerman pleaded guilty to one count of Hobbs Act conspiracy, in violation of 18 U.S.C. § 1951. The investigative team was able to move relatively quickly and indict Williams and Ackerman on federal charges before they escalated in their violence in part because of the close working relationship between the United States Attorney's Office-MDFL and MCSO.

V. Partnership sustainment: host quarterly “Big Tent” PSN task force meetings

All of that said, it is not possible to meet or embed weekly with every local law enforcement agency. United States Attorneys' Offices must also sustain partnerships with other agencies outside of targeted enforcement areas. In Tampa, we have found it helpful to host a quarterly “big tent” PSN Task Force meeting. The goal of this meeting is to share regional intelligence, get updated information on violent crime threats throughout the entire Tampa Division, and discuss upcoming prevention and outreach events. We invite violent crime supervisors from federal, state, and local agencies, our research partners, ASAs, all VCN Section Assistant United States Attorneys, and others. Assembling this broader group at least quarterly maintains the relationships necessary to screen cases and identify

⁷ *United States v. Antwan Williams et al.*, 8:17-cr-479-T-17AEP (M.D. Fla. 2017) (prosecuted by Assistant United States Attorney Taylor Stout).

appropriate cases for federal prosecution beyond those that we identify during weekly meetings with TPD and certain other local agencies.

A PSN Task Force meeting agenda item should educate local law enforcement on the federal system. State and local detectives should understand core federal enforcement concepts such as Armed Career Criminal charges, career offender enhancements, 21 U.S.C. § 851 enhancements, 18 U.S.C. § 924 charges, and location-based enhancements. Armed with that understanding, state and local law enforcement officers are better equipped to screen cases and identify appropriate candidates for federal prosecution.

Another agenda item should be to work through a PSN strategic action plan template. To draft a strategic action plan, agencies should study their violent crime problem, identify sources of data, prioritize their threats, and link their responses to those threats. The big tent PSN meeting is a good opportunity to promote and use such analytical tools.

To ensure that the right people attend the big tent PSN Task Force meeting, we recommend that the United States Attorney send a letter to the heads of all partner agencies on at least an annual basis. This letter should outline the goals of the PSN Task Force, set forth the meeting schedule, and ask agency heads to identify points-of-contact. Because law enforcement personnel change relatively frequently, making sure Assistant United States Attorneys are in contact with the appropriate personnel in each agency is critical to success.



Figure 2. Attorney General Sessions, United States Attorney Maria Chapa Lopez, and MDFL Local Law Enforcement Leaders

An overarching objective of a PSN Task Force meeting should be to get the message out to every potential partner agency that the United States Attorney's Office has prioritized the investigation and prosecution of shooters. With the right people in the room, great results can follow if everyone understands that federal prosecutors want to share the burden with their state and local counterparts in prosecuting violent offenders. Then, when a shooting takes place, the United States Attorney's Office's partner agencies will readily assess the options for federal prosecution.

The case of *United States v. Isaac Thomas* resulted from consistent messaging through a PSN Task Force.⁸ It is a case that likely would not have been presented for federal prosecution, absent the PSN Task Force's persistent focus on shooters. Because of the increased situational awareness of federal, state, and local law enforcement agencies, however, the *Thomas* case was federally prosecuted through Tampa's FBI Safe Streets Task Force.

In January 2017, Thomas got into a fight at a Plant City High School basketball game. After he was removed from the game, Thomas fired a handgun towards arriving law enforcement vehicles. He later aimed a handgun at another officer, and was shot. Thomas was charged with possessing a firearm as a convicted felon and for possessing a firearm in a school zone. Chief U.S. District Judge Steven D. Merryday sentenced Thomas to the statutory maximum sentence of 15 years' imprisonment. Judge Merryday said that Thomas was an immediate and lethal threat to the community and that the sentence imposed was the "one intelligent" option.

A. Partnership sustainment

Ideally, the quarterly PSN Task Force meeting yields a clear understanding of the existing partnerships between federal and local law enforcement agencies. It is important to understand how the constituent parts of a PSN program work together. An ideal PSN program is built upon ongoing situational awareness regarding the violent crime threats in a district or division along with a clear view of the combined resources available to address those threats. In simple terms, the objective is make certain that those combined resources are consistently employed in a way that deters and defeats violent criminal organizations.

⁸ *United States v. Isaac Thomas*, 8:17-cr-90-T-23MAP (M.D. Fla. 2017) (prosecuted by Assistant United States Attorney Natalie Adams).

From a competency perspective, Assistant United States Attorneys should build investigative teams comprised of people on the federal, state, and local level that have experience in conducting detailed proffers of cooperating defendants, and using that information to build complex historical cases. The goal should be to develop as many witnesses as possible from every conceivable direction against the violent targets.

In terms of capabilities, cellular telephone location information is often one of the best means of circumstantially placing defendants at the scene of a crime. The FBI's Cellular Analysis Survey Team is staffed by special agents who are also electrical engineers; they deeply understand cellular telephone technology and are highly skilled at presenting high tech concepts to juries. If such evidence is part of a violent crime case, it makes sense to request FBI assistance.

With regard to capacity, deploying a fully functional, independent task force with the manpower and funding needed to conduct long term surveillance and make undercover drug and firearms purchases is a great way of dismantling a criminal organization. The OCDETF and HIDTA programs have funding mechanisms to build and sustain such task force operations. Working closely with those programs may give a violent crime investigation the capacity it needs to develop admissible evidence against all targets.

In assessing the readiness of an Assistant United States Attorney and agent to investigate and ultimately dismantle a violent criminal organization, assessing the net strength of their investigative team through the lens of competencies, capabilities, and capacities should be part of the process. The issue is whether the team has sufficient knowledge, ability, and depth. If it is clear that the team is deficient in some way, then a supervisory PSN Assistant United States Attorney should reach out to partner federal, state, and local agencies, and add resources to close the gap.

For offices revitalizing their PSN programs, understanding the blue force laydown is a prerequisite for action. It would set a PSN program back for a United States Attorney's Office to dictate how different agencies should work together, without first having taken a close look at what processes and relationships are already in place and only then trying to find ways to strengthen and sustain those partnerships.

In the Tampa Division, ATF typically assigns one or more agents to specific local law enforcement agencies. In St. Petersburg, for example, ATF agents share office space with St. Petersburg Police

Department narcotics, firearms, and violent crime detectives. These ATF agents typically work on an individual basis with one or more local detectives. Conversely, our FBI Safe Streets Task Forces have task force officers (TFOs) from nearly all of the local law enforcement agencies who work onsite at an FBI field office and operate as a stand-alone task force.

With an understanding of the existing federal-local law enforcement partnerships, the next step is to optimize those relationships from a PSN perspective. In other words, the goal is to understand where the cases are coming from and to make sure the federal, state, and local partnerships are set up in a way that yields targeted and prioritized enforcement. Over time, agents and TFOs often get into certain routines regarding their target selection, which means that they are not necessarily targeting the most violent offenders in their area. Historically, some agents relied on criminal history as their sole proxy for assessing violence and implemented case screening measures with their partner agency to identify reactive cases for Armed Career Criminal Act (ACCA) prosecution. Optimizing the relationship means moving beyond traffic stops and probation searches that happen to yield ACCA defendants. It means putting the assigned federal agent in touch with the people in the local agency who have the best handle on violent offenders; typically, those are homicide detectives.

The case of *United States v. Gabriel Dilworth* came about because of a close partnership between ATF agents and homicide detectives.⁹ On May 24, 2015, Dilworth shot and killed a young father of two, Dontriele Rotice Waller. In the early morning hours, Dilworth went with two co-conspirators to pick up crack cocaine for further distribution. After getting approximately 20 rocks of crack cocaine, they drove to a house in St. Petersburg that was occupied by rival gang members. A co-conspirator fired a handgun at the house. Dilworth attempted to fire an AK-47 at the house, but could not get the gun to fire.

Later that same morning, Dilworth and his co-conspirators were driving on Interstate 275 in St. Petersburg when they saw a silver Infiniti Q50 sedan driving near them. They believed that the occupants of the Infiniti were their rivals who were approaching them to retaliate for the earlier shooting.

⁹ *United States v. Gabriel Dilworth*, 8:17-cr-248-T-36JSS (M.D. Fla.) (prosecuted by the author).

Dilworth leaned out of the front passenger's side window, opened fire with the AK-47, and shot and killed Waller, the driver of the Infiniti. However, this was a mistaken identity killing: Waller, a dishwasher, had nothing to do with Dilworth or his criminal associates. Waller was in the wrong place at the wrong time.



Figure 3. Waller Murder Crime Scene Photo

When the local State Attorney's Office (SAO) was unable to develop sufficient evidence to charge Dilworth with Waller's murder, ATF offered to assist. In 2016, investigators were successful in making undercover purchases of crack cocaine and hydromorphone from Dilworth. Even though the drug amounts were small (less than two grams of crack cocaine and four pills), ATF presented that drug case and the United States Attorney's Office-MDFL indicted Dilworth. Dilworth, who was a career offender, was sentenced to 13.5 years' imprisonment.

While this sentence is not ideal for someone who has committed murder, the prosecution still increased public safety by removing a shooter from the community for over a decade. *Dilworth* is the kind of case that never would have been prosecuted if ATF agents in St. Petersburg had solely focused on seized guns as opposed to violent offenders.

The case of *United States v. Ramon Green* is yet another example of the positive results that flow from focusing on "trigger-pullers."¹⁰ Green was a drug dealer who shot his girlfriend, mistaking her for someone trying to break into his home and steal his drugs. After the

¹⁰ *United States v. Ramon Green*, 8:17-cr-96-T-27AAS (M.D. Fla. 2017) (prosecuted by Assistant United States Attorney Taylor Stout).

shooting, officers found approximately 15 pounds of marijuana and several ounces of cocaine inside Green's residence. ATF adopted the drug case against Green in furtherance of the MDFL's violent crime strategy. Although Green's girlfriend refused to cooperate with law enforcement and identify him as the shooter, Green ultimately pleaded guilty to possessing marijuana and cocaine with the intent to distribute and was sentenced to 144 months' imprisonment.

In *United States v. Tyrone Walker*, the defendant shot and killed a man named Jay Powell in St. Petersburg during what appeared to be a marijuana deal gone bad.¹¹ Walker claimed the shooting was in self-defense and the local SAO declined to prosecute on either homicide or felon in possession charges. As part of the MDFL's PSN 2.0 targeted and prioritized enforcement program, Assistant United States Attorneys worked closely with homicide detectives and prosecuted Walker federally under 18 U.S.C. § 922(g)(1). The prosecution team overcame Walker's justification defense in part through expert cross-examination of the defendant's girlfriend, which tended to show that the defendant had prior knowledge and possession of the firearm used in the homicide.

The 2016 prosecution of *United States v. Nathaniel Harris et al.* similarly resulted from having federal agents closely aligned with local homicide detectives.¹² Through the tireless work of the combined ATF-Manatee County Sheriff's Office investigative team, that investigation yielded a six-defendant, 28-count indictment that included charges for racketeering, drug trafficking, seven planned and premeditated murders, one attempted murder, two armed kidnappings, and drug and firearms violations.

¹¹ *United States v. Tyrone Walker*, 8:18-cr-140-T-27MAP (M.D. Fla. 2018) (prosecuted by Assistant United States Attorneys Callan Albritton and James Preston).

¹² *United States v. Nathaniel Harris et al.*, 8:12-cr-205-T-17MAP (M.D. Fla. 2012) (prosecuted by Assistant United States Attorneys Terry Furr and Natalie Adams, Trial Attorney Marty Woelfle, and the author).



Figure 4. Dream Center Sports Complex/ Coleman Murder Scene

For nearly a decade, the *Harris* defendants operated an extremely violent racketeering enterprise in Manatee County in an effort to control the local illegal drug trade. The enterprise's violence culminated in the public execution of Brenton Coleman. On August 1, 2013, the first day of pee-wee football at the Dream Center Sports Complex in Bradenton, Florida, two defendants stormed the center and gunned down Coleman, killing him in front of 300 children and their parents.

Trial began in June 2016 and lasted for three months. One of the key government witnesses was a kilogram-level cocaine distributor, Alowishes Scott. Scott was prosecuted as part of a long term drug investigation in *United States v. Alowishes Scott*.¹³ As discussed above in Section III.A., the investigative team in Scott's case focused not only on moving up the cocaine supply chain, but also on using his information against lower-level but extremely violent drug distributors, such as the *Harris* defendants. Scott had supplied the *Harris* defendants with cocaine for further distribution, and his testimony helped convict them on a drug conspiracy charge. His testimony also helped convict the defendants of a double-homicide.

During the drug conspiracy, Scott had given one of his cars to the lead defendant, and that car had been used by the defendants to kidnap a 16-year-old boy named Calvin Barnes, ambush and kill a man named Demetrius Cunningham, and ultimately drive Barnes to a rural area where he was shot, killed, and abandoned. Apartment

¹³ *United States v. Alowishes Scott*, 8:16-cr-23-T-227JSS (M.D. Fla. 2016) (prosecuted by Assistant United States Attorney Taylor Stout).

surveillance video put that car at the scene of the Cunningham murder, and Scott's testimony was crucial for putting that car in the custody and control of the defendants. It was strong circumstantial proof of the defendants' guilt in the Cunningham and Barnes murders. Scott's testimony was the kind of evidence that, had there not been close coordination between the MDFL's violent crime and drug enforcement programs (coordination greatly enhanced by the fact that the MDFL has a combined Violent Crimes & Narcotics Section), and had Scott's agents been focused solely on higher-level drug dealers, the prosecution team might have missed.

The jury ultimately returned guilty verdicts against all six *Harris* defendants. The sentences ranged from 120-years to multiple, consecutive life sentences. The local press correctly described the successful *Harris* prosecution as having ended the defendants' "Reign of Terror." The trial judge, United States District Judge Elizabeth A. Kovachevich, repeatedly characterized the defendants' actions as the worst she had ever seen in her 44 years as a judicial officer.

B. Partnership sustainment: trust

At the most basic level, the key to a successful partnership is trust. There must be a strong relationship between the United States Attorney's Office, state and local prosecutors, and federal, state, and local law enforcement. Collaboration in the decision making process at every stage of a case is important to building and maintaining such trust. Agents and detectives should believe that Assistant United States Attorneys value their views and, if agreement cannot be reached on the way ahead, that their supervisors have the opportunity to engage with supervisory Assistant United States Attorneys before a final charging or disposition decision is reached.

The same concept applies equally to public affairs. An uncoordinated press release or press conference can effectively kill an otherwise successful task force. Police departments and sheriff's offices can be very hierarchical, almost military, organizations—if something about their operations is going to be in the press, their command staffs are expected to ensure that their boss hears about it from them first. Constant communication and shared decision making is vitally important.

VI. Use a comprehensive PSN case development process checklist

Local law enforcement officers usually have the best information regarding the most violent offenders in their area of responsibility. Whatever policies and procedures a United States Attorney's Office uses to run its PSN program, the essential ingredient for success is putting Assistant United States Attorneys in direct and regular communication with those officers. The following checklist outlines steps for cementing this key partnership between Assistant United States Attorneys and local law enforcement:

- (1) *Mission Clarity*: Promulgate a mission statement for PSN Assistant United States Attorneys.
- (2) *Situational Awareness*: Meet weekly with local agencies and prosecutors with responsibility for the areas with the worst violent crime problems. Identify appropriate cases for federal prosecution, and identify violent gangs or groups worthy of long term investigation. Consider whether prosecuting gang/group members for non-violent offenses (for example, access device fraud) would be appropriate. Consider "embedding" an Assistant United States Attorney with certain local agencies. Set up surge operations in targeted enforcement areas based on subjective assessments and in-depth studies of local agency violent crime data.
- (3) *Coordination*: On at least a quarterly basis, convene a meeting with all parties involved locally in PSN. Invite federal agency squad/group supervisors, captains from local sheriff's offices and police departments, agents and detectives with experience building complex, multi-defendant cases, all district or division Assistant United States Attorneys with a PSN caseload, research partners, and prevention/outreach specialists. Sustain partnerships, share intelligence, and encourage collaboration and case development across all PSN related missions. On at least an annual basis, send a letter from the United States Attorney to the heads of all pertinent federal, state, and local agencies, as well as prevention/community partners, emphasizing the importance of PSN, setting a meeting schedule for the PSN Task Force, and asking each agency to identify its current management level PSN contacts.

- (4) *Partnership Sustainment*: Encourage Assistant United States Attorneys to communicate regularly and directly with homicide detectives and other local investigators with the greatest situational awareness of violent crime in their areas. Make the identification and investigation of violent offenders (relying on multiple factors, not criminal history alone) the key consideration for whether a case will be prosecuted federally. Bring in agents, detectives, and agencies with the competencies (for example, interview techniques, organization of long term investigations), capabilities (for example, FBI's Cellular Analysis Survey Team), and capacities (for example, task force with depth to do long term surveillance and undercover work) needed to address the identified violent crime threats. Partner with other agencies as needed to close gaps.
- (5) *Assess and Repeat the Process*: On a quarterly or annual basis, look at the data. Assess violent crime trends and progress on implementation of the PSN strategy. Make adjustments as needed.

About the Author

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Crime Gun Intelligence Centers: Using Technology and Intelligence as a Lead Generator to Identify Trigger-Pullers and Focus Enforcement and Prevention Efforts

Erin Aslan
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I. Introduction

On July 2, 2016, police officers responded to a car accident in Little Rock, Arkansas, where they encountered an abandoned vehicle in a ditch with the engine still running. In plain view, officers saw a pistol with an extended magazine on the driver's seat. A search of the vehicle uncovered a loaded 9mm magazine, as well as narcotics, drug paraphernalia, three digital scales, multiple phones, and personal property bearing Derick Edwards's name and social security number. A witness at the scene also linked Edwards to the wrecked vehicle.

Standing alone, possession of these items may not have resulted in a federal prosecution or imposition of a significant penalty at sentencing; however, analysis of firearms and ammunition recovered from the vehicle revealed that in the last two weeks, they had been used to commit a domestic assault in which 13 shots were fired at Edwards' former partner and their one and two year old children, and a home invasion that resulted in an 84-year-old victim being shot. The police had not made an arrest in connection with either of the two previous incidents, and the home invasion victim could not identify the assailant.

Through crime gun intelligence and comparison of ballistics images, investigators were able to link all three incidents, and Edwards was charged federally for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1).¹ Edwards was detained pending

¹ 18 U.S.C. § 922(g)(1).

trial, and he ultimately pleaded guilty and was sentenced to 120 months in prison.² The use of crime gun intelligence provided the necessary corroboration to link these incidents and obtain the statutory maximum penalty for a repeatedly violent, but youthful, offender who likely would not have otherwise received such a lengthy sentence.

II. Focused enforcement efforts yield the greatest reductions in violent crime

This pattern of repeat criminal behavior involving use of a crime gun is not uncommon. Research and experience have demonstrated that violent crime is often concentrated in very small areas and committed by a small number of offenders. Advances in technology and data analysis—including use of ballistic imaging and other crime gun intelligence—make it easier to accurately identify those areas and individuals.

Police and researchers have long known that “hotspots” of violent crime occur in discrete locales. More recent research indicates that violence is even more concentrated than originally thought and is focused in “micro-places” within those hotspots, such as particular intersections and street segments. For example, over a 29-year period, 3% of the street segments and intersections in Boston generated over ½ of the incidents of gun violence.³ Similarly, in Detroit’s 8th precinct, 28 street segments out of 3,800 accounted for multiple shootings, whereas the vast majority of street blocks experienced no shootings.⁴

Research has also shown that individuals who are associated with others through their participation in crime—whether as a perpetrator, victim, or witness—are far more likely to be involved in future criminal activity. It has long been known that the vast majority of crimes are perpetrated by a small number of chronic, repeat offenders. For this reason, many jurisdictions have focused their enforcement

² United States v. Derick Ezra Edwards, Jr., No. 4:17-CR-228 (E.D. Ark. 2017).

³ Anthony Braga et al., *The Concentration and Stability of Gun Violence at Micro Places in Boston, 1980–2008*, 26 J. QUANTITATIVE CRIMINOLOGY 33 (2010).

⁴ EDMUND MCGARRELL & GIO CIRCO, SPATIAL CONCENTRATION OF GUN CRIME INCIDENTS AND RISK FACTORS, Interim Research Report 1–3 (Mich. St. Univ., updated 2017).

efforts on priority offenders believed to be responsible for a disproportionate amount of violent crime. More recent research, however, has found that when an individual is involved in a social network that is connected to a shooting, the likelihood of that individual being involved in a future shooting increases dramatically.⁵ As a result, a comprehensive intervention strategy focused on the individuals in these “co-offending shooting networks” that combines enforcement, communication of a deterrent message, community outreach, social support, and targeted re-entry support can yield a significant reduction in violent crime.

Significant advances in technology, including the development, expansion, and evolution of Crime Gun Intelligence Centers (CGICs), make it possible to identify the drivers of violent crime and better assess the federal interest in a particular prosecution. Using this intelligence to focus enforcement efforts will yield the greatest reductions in violent crime and help minimize any negative effects enforcement activities may have on law-abiding community members.

For example, in the spring of 2016, the Denver, Colorado, metropolitan area experienced a wave of shootings and homicides. In the past, law enforcement may have responded with blanket surges in police activity in the affected neighborhoods, and the United States Attorney’s Office might have looked simply to increase its adoptions of gun-related cases. By using technology and law enforcement intelligence brought together by the Denver CGIC, the local police and United States Attorney’s Office were able to target the individuals responsible for the violence and shortened both the height and length of the crime wave.

The United States Attorney’s Office knew this was possible because of its previous success using the Denver CGIC to link incidents, generate investigative leads, and more accurately assess the threat presented by a defendant. One such case involved David Scott, an individual without a significant criminal history who in 2015 was facing a § 922(g)(1) charge for being a felon in possession of a firearm. Based on Scott’s limited criminal history, the United States Attorney’s Office was preparing to offer him a time-served plea deal, which would have returned him to the streets. Using the CGIC to link incidents and generate investigative leads, the investigative team was able to identify Scott as the perpetrator of four homicides, which prompted

⁵ See e.g., Anthony Papachristos et al., *Tragic, but Not Random: The Social Contagion of Nonfatal Gunshot Injuries*, 125 SOC. SCI. & MED. 139 (2015).

the United States Attorney's Office to withdraw the plea offer. Federal and state prosecutors quickly coordinated to assess potential charges, sentences, and evidentiary issues and determine how to charge Scott for his multiple crimes. Ultimately, Scott was convicted after a federal trial, and the court granted an upward variance and sentenced Scott to 60 months imprisonment.⁶ Following his federal conviction, previously uncooperative witnesses agreed to testify against Scott, allowing state prosecutors to pursue murder cases against Scott. As a result of the leads generated from the CGIC, efforts of the dedicated investigative team, and the close coordination between federal and local prosecutors, a violent offender who was responsible for a significant amount of the violence in Denver was identified and removed from the community for many years. The United States Attorney's Office also received a very positive response from community members, who praised the office's ability to neutralize a significant criminal actor with minimal impact on others in the neighborhood.

III. CGIC basics

At the most fundamental level, a CGIC is a partnership among investigators, prosecutors, forensic scientists, and other partners who use ballistics imaging and other technology to link shootings and identify trigger-pullers. CGICs draw on a combination of human effort, forensic science, and investigative tools to identify potential matches in discharged shell casings, which connect firearms to crimes. When used most effectively, a CGIC is a mechanism to develop timely, accurate, and actionable intelligence for prevention and enforcement interventions. Historically, ballistic analysis has been viewed almost exclusively as a forensic tool to develop evidence admissible at trial. In contrast, the primary objective of a CGIC is to utilize ballistic analysis as a proactive investigative tool to identify the people and places that are driving violent firearms-related crime in a given location. Investigators, prosecutors, and other partners can use this information to quickly neutralize the individuals who present the greatest danger to a community and help prevent others involved in

⁶ Press Release, U.S. Dep't of Justice, U.S. Attorney's Office (D. Colo.), *Aurora Gangster Found Guilty of Being a Felon in Possession of a Firearm* (Dec. 18, 2015).

the “co-offending shooting network” from becoming trigger-pullers in the future.⁷

A. CGIC technologies

CGICs rely on two companion technologies, the Bureau of Alcohol, Tobacco, Firearms and Explosives’ (ATF’s) National Integrated Ballistics Information Network (NIBIN) and firearms tracing through eTrace.

The NIBIN system is a collection of three dimensional digital ballistic images of spent shell casings recovered from crime scenes and from crime gun test-fires. Through the examination and comparison of digital images in the system, firearm technicians and examiners are able to determine if shell casings were expelled from the same firearm. NIBIN is a proven investigative and intelligence tool that can link firearms evidence from multiple crime scenes and firearms evidence from a crime scene to a recovered firearm.

NIBIN is a two-component technology that allows trained personnel to create a three dimensional digital image of a fired shell casing and compare it to other images in the NIBIN network. With technological advances in its computer software in recent years, NIBIN can automatically generate a list of potential matches with a very high level of accuracy. After human examination of the computer generated digital image correlations, most commonly by an ATF-trained Correlation Review Specialist, followed by a secondary peer review, the CGIC disseminates the results as a NIBIN lead.⁸

Firearms tracing, performed by ATF’s National Tracing Center, allows law enforcement officials to systematically track a recovered crime gun from its manufacturer or importer and subsequent

⁷ For additional background on CGICs, see *Fact Sheet—Crime Gun Intelligence Centers (CGIC)*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-crime-gun-intelligence-centers-cgic> (last visited Nov. 19, 2018); *The National Crime Gun Intelligence Center Initiative*, CRIME GUN INTELLIGENCE CTRS., <https://crimegunintelcenters.org/> (last visited Nov. 19, 2018).

⁸ For additional background on NIBIN, see *Fact Sheet—National Integrated Ballistic Information Network*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-national-integrated-ballistic-information-network> (last visited Nov. 19, 2018).

introduction into the distribution chain (wholesaler/retailer) to an unlicensed firearms purchaser. This initial investigative lead can help law enforcement reconstruct the history of that firearm to determine if it was illegally transferred or purchased, part of a broader firearms trafficking scheme, or associated with other criminal suspects.⁹ The eTrace system is a paperless, secure, web-based firearm trace submission system that provides real time access to a wealth of firearms-related data.¹⁰

To enhance the utility of ballistics leads, ATF implemented the NIBIN Urgent Trace Program in 2018. Through this program, a firearm that is determined through NIBIN analysis to have been involved in a shooting may be designated an “urgent” trace based on determined investigative needs. This process often provides investigators trace results within 24 hours, instead of 5–6 business days. Both of these technologies and programs can help identify current and future trigger-pullers to help focus enforcement and prevention interventions.

B. CGIC inputs and outputs

CGICs generate investigative leads based on the comparison of ballistics imaging. There are several steps to this process. Law enforcement personnel collect shell casings and test-fire recovered crime guns. Trained personnel (at a crime laboratory, law enforcement agency, or other location) use NIBIN equipment to create a three dimensional digital image of a shell casing. NIBIN technology compares that image to other images in the NIBIN network and produces a list of potential matches with a very high level of accuracy. ATF-trained personnel then conduct two levels of human review to determine if a potential match exists. If so, the match is distributed to

⁹ For additional background on the National Tracing Center, see *National Tracing Center*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, <https://www.atf.gov/firearms/national-tracing-center> (last visited Nov. 19, 2018); *Fact Sheet—National Tracing Center*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-national-tracing-center> (last visited Nov. 19, 2018).

¹⁰ For additional background on eTrace, see *National Tracing Center*, *supra* note 8; *Fact Sheet—eTrace: Internet-Based Firearms Tracing and Analysis*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-etrace-internet-based-firearms-tracing-and-analysis> (last visited Nov. 19, 2018).

investigators as a NIBIN lead. This information is often supplemented with firearms tracing, cell phone and social network analysis, neighborhood canvasses, witness interviews, video acquisition and review, criminal history information, and other intelligence to augment the investigative leads.

The results of this process are compiled into a NIBIN lead (see Appendix for a sample). While the individual content of a NIBIN lead will vary across CGICs and depend on the information available in a particular query, NIBIN leads often include a list of related incidents, including the date, location, incident description, and involved individuals; a graphic display of that same information; and a map that depicts the locations of the related incidents. The map can be particularly useful for identifying connections between incidents within and across jurisdictions.

It is important to note—as is displayed on every NIBIN lead—that this information is an investigative lead and might not, standing alone, establish probable cause. As noted earlier, the value of a CGIC is the ability to provide timely intelligence to investigators. Therefore, NIBIN leads are provided to investigators for awareness and investigative follow-up as soon as possible. When required for some types of judicial proceedings, an ATF-trained Firearms and Toolmark Examiner will conduct further scientific examination, including microscopic analysis of the images and physical evidence, to confirm the NIBIN lead as a NIBIN hit. Most often, this further level of examination is not necessary during the investigative phase.

IV. Four pillars that support a successful CGIC

While there is some variation across CGIC models, there are four key components to every successful CGIC. First, there must be comprehensive collection of shell casings. The capacity of NIBIN to find a match to any given firearm correlates directly to the pool of available shell casing images on the network. Comprehensive shell collection is also fundamental to the whole idea of using a CGIC to link firearms, incidents, and people to generate investigative leads. Experienced investigators and prosecutors often note that the most innocuous incidents, such as a shooting at a stop sign, can often yield the best evidence, such as a witness who saw the shooter or took down a license plate number. This evidence becomes invaluable when the firearm used in that incident is later connected to a more serious

crime in which there are no cooperative witnesses and the evidence is not as extensive. Therefore, all recovered firearms need to be test-fired and law enforcement agencies—typically local police departments—need to collect all cartridge casings from crime scenes, regardless of the type of crime, extent of any injuries, and whether or not there was a victim.

Second, there must be a timely turnaround of investigative leads. The goal of any CGIC is to provide accurate and timely intelligence to investigators, which means providing NIBIN leads as soon as possible after a shooting, usually within 48 hours. ATF-trained personnel conduct first and second level reviews of the computer generated matches. Confirmed matches produced through this process are disseminated as NIBIN leads for investigative awareness and follow up. As noted, in most cases a Firearms and Toolmark Examiner conducts microscopic confirmation of the match only when necessary for judicial proceedings.

To the extent that a jurisdiction has a backlog of ballistic evidence, the initial focus should be the timely processing of current evidence using a “first in, first out” system of prioritization. As resources permit, the jurisdiction can begin to address the backlog after processing current evidence in a timely manner. The theory behind this approach is that the backlogged evidence has already gone stale, but the new evidence could provide fresh leads and a break in a case that could save lives.

An additional resource for producing timely leads is the NIBIN National Correlation and Training Center (NNCTC), which ATF established in 2016. The NNCTC allows NIBIN network users to send imaged ballistic evidence to a single center that performs correlation services for participating partners. Through centralizing the correlation process, ATF can provide ballistic identification services for its law enforcement partners in a more accurate, efficient, and streamlined manner. In two years of operation, the NNCTC was able to review approximately 82,277 correlations, generating 23,021 leads and disseminating those leads within 24–48 hours of receiving the ballistic information. Similar to CGICs, the NNCTC utilizes two levels of review in which ATF-trained personnel analyze the computer generated matches. ATF is expanding the NNCTC’s capacity, which will significantly increase the number, accuracy, and timeliness of leads disseminated to federal, state, local, and tribal law enforcement pursuing gun crime cases.

Third, NIBIN leads must be followed up with timely investigative action. In some locations, ATF performs the initial investigation, in other locations a law enforcement consortium performs additional analysis and prepares reports for local law enforcement, and in others the potential leads are sent directly to local detectives. Regardless of the model used, the goal is to capitalize upon the NIBIN and trace intelligence to advance an investigation, which requires quick action.

Another facet of this timely investigation is close coordination with federal and local prosecutors. In many cases, the CGIC intelligence will lead to applications for search warrants for cell phones, social media accounts, and residences. Federal and local prosecutors also need to quickly assess evidence, witness availability, charges, and potential outcomes to determine in which forum to prosecute a suspect.

Finally, establishing a feedback loop is essential for sustained success. It is important to communicate to all CGIC partners, including patrol officers, firearms technicians and examiners, analysts, investigators, and local prosecutors, that their work has led to the successful identification of trigger-pullers and other individuals presenting a danger to the community. So that partner agencies continue to dedicate the resources required to make a CGIC successful, it is important to convey that seemingly small efforts have a significant impact. For this reason, following a successful prosecution, the ATF and the United States Attorney's Office should consider providing a commendation to the beat cop who pulled a shell casing out of the gutter while on patrol, or the firearms technician who spent hours on end imaging shell casings. With regard to forensic professionals, this feedback must be sufficiently attenuated from the specifics of a case to avoid directly commenting on their analysis.

V. CGIC best practices and minimum operating standards

*First do it right, then speed it up. –ATF Deputy
Director Thomas E. Brandon*

Successful implementation of a CGIC requires leadership from the United States Attorney's Office and ATF to convey the impact a CGIC can have on reducing violent crime, build and sustain partnerships, and implement systems that will allow a CGIC to produce accurate, timely, and actionable intelligence. Experience has shown that it is important to show the tangible results a CGIC can have, particularly

in locations where successful implementation will require a change to the ordinary course of business with respect to, for example, collection of shell casings or the processing of forensic evidence.

Some best practices to keep in mind when working with or developing a CGIC are to first “do it right” and identify any obstacles to the comprehensive collection, submission, imaging, and matching of ballistic evidence. The success of NIBIN analysis and a CGIC is based upon a comprehensive set of images available for comparison. Without a complete inventory of shell casings and test-fires, the potential of this investigative tool will not be realized, potentially leaving violent offenders free to re-offend.

Because violent crime investigations can go cold quickly, the second step is to “speed it up” by removing unnecessary delays from evidence submission procedures. This means triaging ballistic evidence to use only the best samples for NIBIN imaging (for example, there is no need to image all 13 recovered shell casings when you can get a good image from one or two). It also means that when possible, a CGIC should rely on firearms technicians for tasks that are within their training and capacity instead of Firearms and Toolmark Examiners, who have more specialized training and therefore are fewer in number. Finally, as discussed previously, to be effective as a leads generator a CGIC needs to be able to process ballistic evidence as close in time to the event as possible. As a result, a CGIC should not be diverted from its leads generating function by addressing only a backlog of ballistics evidence, which may have been sitting for months or years. “Do it right” means get all casings imaged and find matches; “speed it up” means get those matches to investigators immediately.

The use of gunshot detection technology can also enhance the efficacy of CGICs by providing additional information about shots fired and leading to the recovery of additional shell casings for entry into the NIBIN system. In many locations, gunshots will not always result in a call for service to the police.

To ensure that the use of crime gun intelligence is expanded and consistently developed, ATF has developed the National Crime Gun Intelligence Governing Board (NCGIGB). This Board is comprised of a diverse collection of major city chiefs of police, forensic laboratory directors, and prosecutors who work with ATF leadership.¹¹ In July

¹¹ NAT’L CRIME GUN INTELLIGENCE GOVERNING BOARD, CRIME GUN INTELLIGENCE: DISRUPTING THE SHOOTING CYCLE (Aug. 2018),

2018, ATF and the NCGIGB developed minimum required operating standards for CGICs, which include:

- (1) Enter all fired or test-fired cartridge cases into NIBIN within two business days of receipt.
- (2) Correlate and conduct a secondary review of any potential NIBIN leads within two business days.
- (3) Disseminate NIBIN leads within 24 hours.
- (4) Have no policies that inhibit or restrict NIBIN submissions from law enforcement agencies.
- (5) Operate only with qualified NIBIN users.

These standards will help ensure that consistent and reliable crime gun intelligence practices are uniformly used and that CGIC-developed evidence can be more easily admitted and defended in court.

VI. How CGICs can help prosecutors

There are three primary ways in which a CGIC can help United States Attorneys' Offices. First, it can help identify the individuals who are driving gun-related violent crime. A CGIC is an evidence-based tool that combines technology and intelligence to generate investigative leads to identify trigger-pullers and firearms traffickers. Historically, many United States Attorneys' Offices have relied on any number of "proxies" for violence, such as criminal history. As the Scott example illustrates, criminal history standing alone may not always accurately reflect the danger an individual presents to the community at the present moment in time. Some offenders with lengthy criminal histories may no longer be engaged in violent crime, whereas other significant actors may not have a criminal history that reflects their true involvement in violent crime. A CGIC can help identify individuals involved in violent crime who were not previously known to law enforcement, reveal a more complete picture of the extent of their involvement, and thus help United States Attorneys' Offices better assess the federal interest in a particular prosecution.

Second, intelligence developed by a CGIC can be very helpful at various stages of court proceedings. The linkages between incidents can help prosecutors present persuasive arguments regarding the

<https://crimegunintelcenters.org/wp-content/uploads/2018/09/CGI-Manual-Best-Practices-ATF-27-AUG-18.pdf>

danger a defendant presents to the community at detention hearings, his or her involvement in the charged offenses at trial, and the extent of his or her criminal conduct at sentencing.

Prosecutors should be aware that there are various levels of ballistics analysis, affecting the use of the evidence.

- *NIBIN Leads*: The primary function of a CGIC is to provide accurate and timely intelligence to identify shooters and solve cases. As discussed previously, through technological advances, the NIBIN system can automatically generate a list of potential matches with a very high level of accuracy. By themselves, these potential matches might not establish probable cause. Instead, they are most often used to advance an investigation in conjunction with other sources of intelligence. In the ordinary course of business, ATF-trained personnel at the CGIC conduct first and second level reviews of the computer generated potential matches, using human comparison of the images. Any matches produced through this analysis are disseminated as NIBIN leads as soon as possible after a shooting, usually within 48 hours. This practice allows CGICs to generate leads in a timeframe in which they are relevant and useful to open violent crime investigations and it allows CGICs to conserve resources (time, money, and personnel). NIBIN leads can support probable cause and they are generally sufficient for court proceedings with lesser standards of proof such as detention hearings or sentencing.
- *NIBIN Hits*: NIBIN hits are ballistic matches confirmed by a highly trained Firearms and Toolmark Examiner through scientific examination, including microscopic comparison of the physical ballistic evidence itself. This type of analysis is not necessary until the evidence is needed for trial, and it only needs to be done in time to meet expert disclosure deadlines. Performing such a FED. R. EVID. 702 expert analysis in every case has the potential to clog the CGIC machinery, preventing its ability to produce timely investigative leads.

Lastly, a CGIC can help identify individuals involved in co-offending shooting networks that have not yet become violent. This information can be very useful for targeted intervention by community partners. By focusing prevention efforts on individuals most likely to be drawn into violent crime, the impact of the PSN program's prevention efforts will be magnified.

VII. Conclusion

Any district—regardless of size, population density, or the characteristics of its target enforcement area—can use a CGIC to support multiple aspects of its PSN program. Experience has demonstrated that investigations driven by crime gun intelligence have the most direct and substantial impact in reducing violent firearm crimes, particularly those committed by gangs and other criminal organizations. A CGIC can help a district identify more precisely the drivers of violent crime, information that can better focus enforcement efforts and quickly get trigger-pullers or serial shooters off the street, preventing future violent crime. Crime gun intelligence can also help identify members of “co-offending shooting networks” who are at risk of becoming trigger-pullers in the future. Using this information to inform preventative interventions can help deter at-risk individuals from engaging in violent crime. Finally, the strategic interventions that are made possible through CGICs can help bolster community relations by allowing law enforcement operations to precisely target the individuals who are driving violence without unnecessary disturbance of ordinary community life.

ATF is committed to using crime gun intelligence to support PSN programs and reduce violent crime nationwide. There is a CGIC in all 25 of ATF’s field divisions and the ATF has a host of crime gun intelligence training available to federal, state, and local partners. For more information about CGICs and training opportunities, please contact Michael Eberhardt, Chief, ATF Firearms Operations Division (michael.eberhardt@atf.gov, 267-606-8084) or Christopher Amon, Deputy Chief, Firearms Operations Division (christopher.amon@atf.gov, 202-648-9277).

About the Author

Erin Aslan is senior counsel at the Office of Legal Policy. Ms. Aslan was a key member of the team that developed the enhanced Project Safe Neighborhoods (PSN) program. In conjunction with the Office of the Deputy Attorney General, Ms. Aslan helps oversee implementation of the PSN program, leads the PSN Support Team, and coordinates the Department of Justice’s violent crime reduction activities. Ms. Aslan is also the PSN Support Team representative for Mid-Atlantic districts.

Hired through the Attorney General's Honors Program, Ms. Aslan was a prosecutor with the Criminal Division's Public Integrity Section and the Civil Rights Division's Criminal Section. Ms. Aslan also served as an appellate attorney with the Department of Justice for four years. Ms. Aslan clerked in the Southern District of New York and graduated from New York University School of Law (J.D., *magna cum laude*, 2003) and Brown University (B.A., *magna cum laude*, 1996). Ms. Aslan has previously taught at the National Advocacy Center and other venues.

Appendix



UNCLASSIFIED//LAW ENFORCEMENT SENSITIVE

Bureau of Alcohol, Tobacco, Firearms and Explosives
 Crime Gun Intelligence Center
 ATF NIBIN LEAD # 17-876



NIBIN has produced a correlation (NIBIN Lead) between the below listed events. This should only be considered an investigative lead. This NIBIN Lead is not intended to stand alone to establish probable cause for arrest. Microscopic examination by a firearms examiner is needed to confirm this association. Contact the Firearms Identification Unit (FIU) or ATF for any further assistance.

Agency Case #	Date of Incident	Crime	Incident Location	Type of Evidence	Purchaser	Possessor	Suspect	Victim	Event Summary
M201820005	02/23/2018	N/A	Bob's Gun and Sport Shop, Philadelphia PA	9mm Glock 19 SN: BEAB156	John DOE(1)	N/A	N/A	N/A	Firearm Purchase/ Multiple Sale (1 of 5)
Time Between Events: 17 days									
PD Report 1 FIU# 15616 Det#156, Central Det Div	03/12/2018	Aggravated Assault	2557 N 103 rd St, Philadelphia, PA	9mm FCCs	N/A	N/A	N/A	John DOE (2)	Restaurant robbed point of gun, suspect fired shots- owner sustained a gunshot wound to arm.
Time Between Events: 3 days									
PD Report 2 FIU# 15851 Det#946, Central Det Div	03/15/2018	Homicide	5200 Main St, Philadelphia, PA	9mm FCCs .45cal FCCs	N/A	N/A	N/A	John DOE (3) FBI#ABC123	PPD responded to shooting- victim pronounced on scene.
Time Between Events: 23 days									
PD Report 3 FIU# 65167 Det#689, NW DetDiv	04/07/2018	Investigative Object	9354 Bay View Rd, Philadelphia, PA	9mm FCCs .45 FCCs	N/A	N/A	N/A	John DOE (4)	Victim's vehicle struck by gunfire, FCCs located on street- no injuries.
Time Between Events: 28 days/ Firearm Time to Recovery: 71 days									
PD Report 4 FIU# 97832 Det# 607, SW Det Div	05/05/2018	VUFA	309 E Highway Rd, Philadelphia, PA	9mm Glock Model: 19 SN: BEAB156	John DOE (1)	John DOE (5) FBI# DEF456	John DOE (5) FBI# DEF456	N/A	PPD responded to shots fired, suspect fled on foot, recovered firearm and narcotics.

Criminal History:

Suspect(s): John DOE 5 (FBI# DEF456)
 13 Prior Arrests- 2 Felony Convictions (PWID 06/12/2015 & VUFA 12/03/2016)

Last Update: 7/27/2018

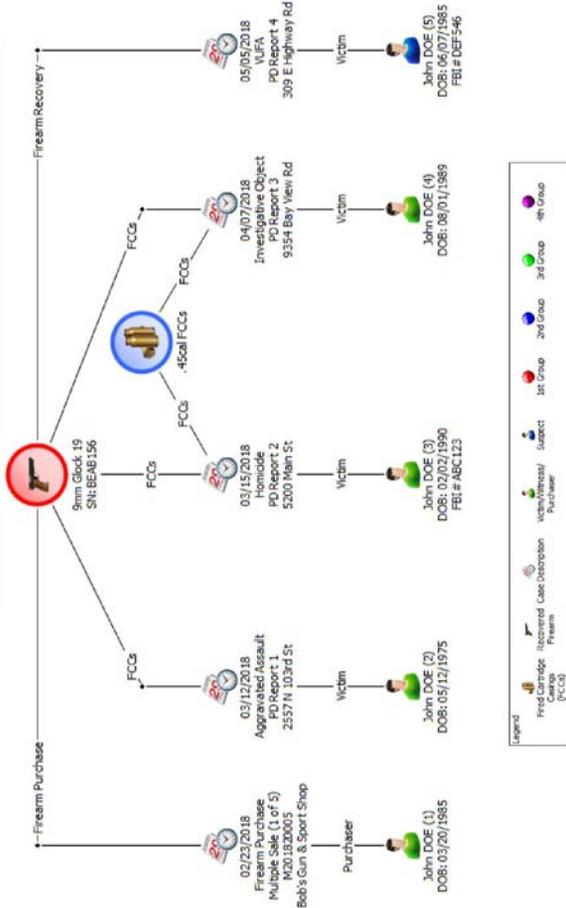
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* This is an investigative lead example that contains fictitious information for use as an instructional aid.



Bureau of Alcohol, Tobacco, Firearms and Explosives
Crime Gun Intelligence Center
 ATF NIBIN LEAD # 17-876



Last Update: 7/27/2018

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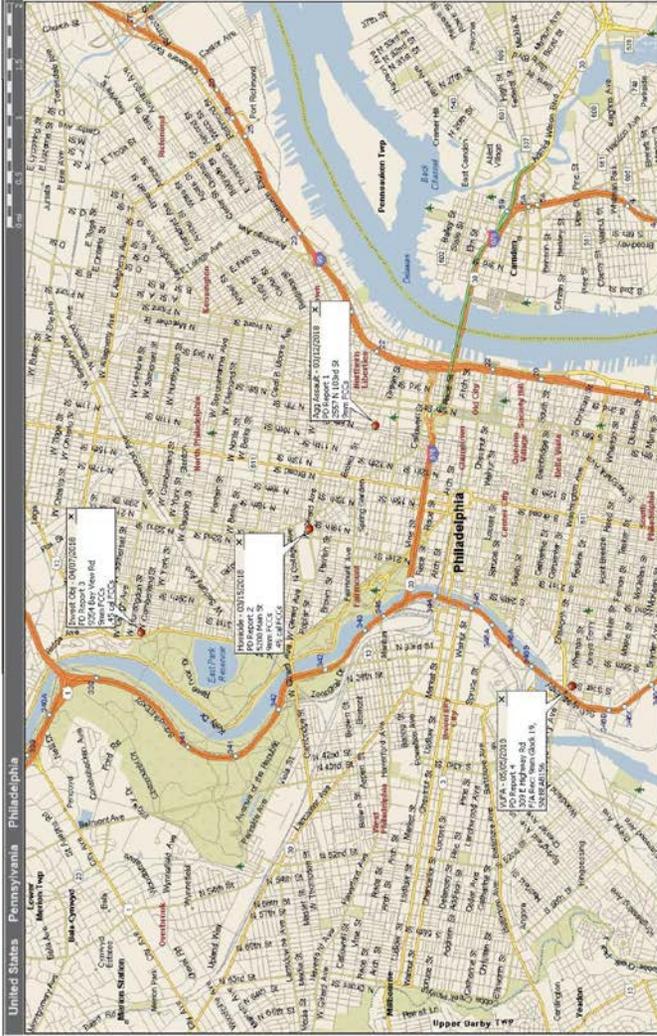
* This is an investigative lead example that contains fictitious information for use as an instructional aid.



PHILADELPHIA POLICE

UNCLASSIFIED//LAW ENFORCEMENT SENSITIVE

Bureau of Alcohol, Tobacco, Firearms and Explosives Crime Gun Intelligence Center ATF NIBIN LEAD # 17-876



Last Update: 7/27/2018

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* This is an investigative lead example that contains fictitious information for use as an instructional aid.

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OCDETF and PSN: Partner Strategies to Thwart Gangs and Violent Organizations

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Two decades before the 2001 inception of Project Safe Neighborhoods (PSN), the Department of Justice launched another public safety strategy designed to combat the drivers of serious and violent crime: the Organized Crime Drug Enforcement Task Forces (OCDETF).

The similarities between PSN and OCDETF are striking. Both are led by federal prosecutors, target some of the most significant perpetrators of violent crime in communities across the country, rely on law enforcement partnerships to shape enforcement strategies, and demand accountability for district-based enforcement efforts.¹ However, the most important similarity is their effectiveness. PSN, as shown by an oft-cited Michigan State University study, has resulted in significant reductions in violent crime.² OCDETF has fostered the

¹ *Organized Crime Drug Enforcement Task Forces*, U.S. DEP'T OF JUST., <https://www.justice.gov/criminal/organized-crime-drug-enforcement-task-forces> (last visited Nov. 8, 2018).

² Edmund F. McGarrell et al., *Project Safe Neighborhoods - A National Program to Reduce Gun Crime: Final Project Report*, vi-vii (Mich. State Univ., Document No. 226686, 2009) ("PSN target cities experienced a 4.1 percent decline in violent crime compared to a 0.9 percent decline in non-target cities. Further, when the level of dosage was included in the multivariate models, it indicated that PSN target cities experienced a greater

investigation, successful prosecution, and disruption of hundreds of drug trafficking and organized criminal groups responsible for inestimable tolls of violence.³

As a complementary model to reduce violent crime, OCDETF should be a natural, kindred ally to PSN. However, OCDETF is often overlooked as a potential resource to enhance a district's PSN strategy, especially in suppressing gangs and violent organizations. With the ever present and growing threat gangs and violent groups pose across the nation—and with some information about how OCDETF can help—PSN practitioners will find OCDETF a potent partner.

I. OCDETF: A funded, collaborative strategy to investigate and prosecute drug trafficking and violent groups

Established in 1982, the OCDETF program is a funded strategy that coordinates and incentivizes federal investigative agencies to work together with federal prosecutors to target, investigate, prosecute, disrupt, and dismantle the criminal organizations and networks most responsible for the illegal drug supply in the United States, the drug related violence, and other priority organized criminal activity that threaten the nation's public safety, economic stability, and national security interests.

Across the country, OCDETF partners with agencies from multiple Executive Branch departments: Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), and United States Marshals Service (USMS); Department of Homeland Security's Immigration and Customs Enforcement Homeland Security Investigations (ICE-HSI), United States Coast Guard, and

decline in violent crime as the level of PSN dosage increased, controlling for a number of other factors. . . . The findings [further] revealed that PSN target cities in high federal prosecution districts experienced a 13.1 percent decline in violent crime. In stark contrast, non-target cities in low federal prosecution districts experienced an increase of 7.8 percent in violent crime.”).

³ OCDETF reporting, as of the third quarter of Fiscal Year 2018, reflects that during the fiscal year, 88% of OCDETF investigations resulted in the dismantlement or disruption of the targeted organization.

United States Secret Service; and the Treasury Department's Internal Revenue Service (IRS) Criminal Investigation Division; the Department of Labor's Office of the Inspector General; and the United States Postal Inspection Service. These agencies work with every United States Attorney's Office and prosecutors in Department of Justice's Criminal Division to combat drug dealing and violent gangs and organizations that menace neighborhoods, regions, and the entire nation.

The OCDETF strategy is implemented in the field through intelligence-driven, prosecutor-led, multi-agency task forces that leverage the varied expertise, statutory authorities, and resources of the OCDETF component agencies and partners. OCDETF's underlying premise is that no single agency has the ability to address all aspects of complex organized crime alone. By bringing together multiple investigative agencies with their federal prosecutors, OCDETF task forces can have the biggest impact on the most dangerous criminal organizations and networks.

OCDETF encourages partnership and coordination. If a case meets its program requirements—including the involvement of at least two federal partner agencies in its investigation—the case qualifies for OCDETF designation and can avail OCDETF's much needed additional resources (for example, funding for overtime and equipment for law enforcement agencies) and experienced prosecution support (that is funding for positions for skilled Assistant United States Attorneys and other prosecutors, paralegals, and support staff) that can prove essential in tackling a criminal enterprise such as a violent street gang.

II. Complementary strategies

When the Department of Justice launched PSN in 2001, the strategy required enforcement partnerships, strategic planning, and community outreach and prevention efforts. PSN's initial primary focus was on the prosecution of gun crime, and in 2006, its focus expanded to include violent gangs. In October 2017, the Department of Justice reinvigorated PSN. Now, PSN is the centerpiece of the Department of Justice's efforts at reducing all types of violent crime.

The reinvigorated PSN strategy has five guiding principles:

- (1) *Leadership* by United States Attorneys in all 94 federal judicial districts to convene appropriate violence reduction partners and develop a district-based violence reduction strategy;

- (2) *Partnerships* among all levels of law enforcement, the community, researchers, and other stakeholders;
- (3) *Targeted and prioritized enforcement efforts*, using the full range of available data, methods, and technologies to investigate and prosecute the local drivers of violent crime in the United States Attorney's Offices' districts;
- (4) *Prevention of further violence* through community engagement efforts and support of locally-based prevention and re-entry programs; and
- (5) *Accountability*, as measured by an actual reduction in violent crime, not merely by the numbers of arrests and prosecutions.⁴

While community outreach and prevention are not central to the OCDETF strategy, PSN's four enforcement-related principles ring familiar to OCDETF.

Like PSN, OCDETF is a prosecution-led, partnership-reliant, targeted strategy. Under PSN, PSN Coordinators—Assistant United States Attorneys, many of whom are seasoned—work with all appropriate law enforcement partners on an overarching district strategy to target the drivers of violent crime in communities. These are often the “worst of the worst” violent offenders: gang leaders and members, armed career criminals, and trigger-pullers. Under OCDETF, experienced Assistant United States Attorneys and other federal prosecutors guide OCDETF investigation teams of federal, state, and local partner agencies as they build cases against the most serious—and often violent—drug trafficking organizations, transnational criminal organizations, and gangs, with the goal of eradicating them. International drug cartels, violent enterprises with national and international reach, such as MS-13, and notorious street gangs are in OCDETF's crosshairs.

Neither PSN nor OCDETF promotes a mossy business model based on mere outputs of arrest and prosecution numbers. Success under these strategies is based on *actual impacts*: whether district-based PSN strategies actually result in reductions in violent crime and whether OCDETF investigations actually result in dismantling criminal groups and organizations.

⁴ Memorandum from the Office of the Attorney Gen. on Project Safe Neighborhoods to all U.S. Attorneys 1–2 (Oct. 4, 2017).

Attorney General Sessions directed United States Attorneys' Offices to ensure that "the[] drivers of violent crime are prosecuted, using the many tools at a prosecutor's disposal."⁵ OCDETF provides United States Attorneys' Offices with a ready tool to use against gangs and violent groups.

III. How OCDETF can support PSN

While OCDETF is perhaps best known in law enforcement circles for its focus on transnational drug trafficking organizations, it has a long history of successfully investigating and prosecuting violent criminal organizations, including gangs. OCDETF's role in complementing and supporting PSN lies in its focus on violent organizations and networks, not on individual acts of violence or violent actors.

Over the last several years, approximately 63% of OCDETF cases have targeted criminal organizations engaged in violence. OCDETF cases have also targeted more than 1,000 gangs and cliques nationwide, including many nationally recognizable gangs such as Almighty Latin King and Queen Nation, Aryan Brotherhood, Bandidos, Barrio Azteca, Black Guerilla Family, Bloods, Crips, 18th Street, Gangster Disciples, Hells Angels and other outlaw motorcycle gangs, Insane Spanish Cobras, Mexican Mafia, Mickey Cobras, MS-13, Nuestra Familia, Sons of Silence, Sureños, Tango Blast, Valencia 18, and Vice Lords.

There are two primary ways United States Attorneys' Offices can obtain OCDETF support for PSN cases targeting gangs and violent groups: (1) secure OCDETF case designation based on the nature of the gang's or group's characteristics; or (2) obtain seed resources under OCDETF's National Gang Strategic Initiative.

A. OCDETF designation for cases targeting violent criminal organizations with a drug trafficking nexus or MS-13

Not every drug or gang investigation is appropriate for OCDETF designation and consequently for the use of OCDETF investigative and prosecutorial resources. Prior to receiving OCDETF designation, all cases, including gang cases, must meet some simple threshold

⁵ Memorandum from the Office of the Attorney Gen. on Commitment to Targeting Violent Crime to All Fed. Prosecutors 1 (Mar. 8, 2017).

criteria. One of the pillars of the OCDETF program is the concentration of limited resources on high-level targeting. Thus, investigations targeting or linked to major drug trafficking and/or money laundering organizations listed on the Attorney General's Consolidated Priority Organization Target (CPOT)⁶ list; or major drug trafficking and/or money laundering organizations listed on a Region's Regional Priority Organization Target (RPOT)⁷ list; or the leadership of major Transnational Criminal Organizations (TCO) that are subject to the United States' legal jurisdiction, are appropriate for OCDETF designation.

Beyond the individuals and organizations named on the lists mentioned above, however, the focus on high-level targeting can also include major organizations involved in the production, distribution, and diversion of prescription drugs. Additionally, OCDETF designation would also be appropriate for drug trafficking or money laundering organizations which have an extensive regional, national, or international scope and negatively impact public safety. Because of

⁶ A CPOT is an individual who is a member of the command-and-control element of the "most wanted" international drug and money laundering organizations impacting the United States drug supply that meet OCDETF's established program criteria. The organizations they lead generally involve a sizable number of individuals, significant levels of activity, or large actual or potential profits gained from the trafficking. Major criminal organizations suitable for OCDETF CPOT targeting may include: (a) criminal groups formed for the purpose of importing, manufacturing, or distributing large amounts of controlled substances, financing such operations, or illegally distributing or diverting large amounts of prescription drugs; (b) organized violent gangs operating across jurisdictional boundaries that engage in drug trafficking as a primary activity or means through which they accomplish other goals that endanger public safety; or (c) criminal groups formed for money laundering operations to transfer or attempt to legitimize drug-related monies of the foregoing. CPOTS are often leaders in international drug cartels and major international money laundering operations.

⁷ An RPOT is an individual who is a member of the command-and-control element of organizations having a significant impact on the drug supply within one of OCDETF's nine designated geographic regions inside the United States. The characteristics of the RPOTs' organizations are similar to CPOTs' organizations, except their drug trafficking impact is primarily regional, while CPOTs' organizations have an international or national impact.

the commitment to prevent violence in our communities, OCDETF also focuses its resources on targeting violent criminal organizations or gangs that are actively engaged in violence or weapons trafficking. In accordance with the theme of high-level targeting, the gangs appropriate for OCDETF designation should be the ones having the greatest negative impact on public safety or who are operating in multiple locations.

Until 2017, OCDETF designation for gang cases—including MS-13 cases—was limited to gangs with some discernible drug nexus. Even with this nexus requirement, OCDETF field reporting in 2016 indicated at least 43 active OCDETF MS-13 cases being investigated by ATF, DEA, FBI, ICE-HSI, and IRS, in collaboration with their state, local, and foreign law enforcement partners.

In 2017, for the first time, Congress revised OCDETF’s appropriations language to authorize use of OCDETF funds to investigate and prosecute “individuals associated with the most significant drug trafficking organizations, recognized transnational organized crime, and [affiliated] money laundering organizations.”⁸ The “recognized transnational organized crime” prong does not require any nexus to drug trafficking.

Accordingly, with Attorney General Sessions’s memorandum of September 12, 2017, designating MS-13 as a priority transnational criminal organization—that is, as a “recognized transnational organized crime” group—OCDETF’s investigative agencies and prosecutors were encouraged to seek OCDETF resources to target MS-13 and its cliques that do not have immediately discernible links to drug trafficking. This means that MS-13 cases are the only violent gang cases that do not need a drug nexus to be approved for OCDETF designation. Since the Department of Justice’s recognition of MS-13 as a priority OCDETF target, OCDETF field reporting reflects the continuing acceptance of additional new MS-13 cases, with more than 70 active MS-13 investigations in all nine OCDETF Regions.

In addition to the criteria listed above that define the types of targets required to qualify for OCDETF designation, OCDETF has three prerequisites for the manner in which its investigations are conducted. To receive approval for OCDETF case designation, all

⁸ U.S. DEP’T OF JUSTICE, ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES, FY 2017 INTERAGENCY CRIME AND DRUG ENFORCEMENT CONGRESSIONAL SUBMISSION 16 (2017).

investigations—including MS-13 investigations, with or without a drug nexus—must include:

- (1) Participation of at least two federal investigative agencies, or one federal investigative agency and one international law enforcement agency, with limited exceptions granted on a case-by-case basis at the regional level for good cause shown;
- (2) Participation of at least one assigned federal prosecutor during the investigative stage as well as the prosecution stage; and
- (3) A financial investigation that should ideally result in financial charges and convictions. The financial investigation must have already begun by the time the case is submitted for approval of the investigation as an OCDETF case.

B. Seed resources under OCDETF’s National Gang Strategic Initiative

OCDETF has had significant successes in disrupting and dismantling high level drug trafficking gangs and gangs with ties to regional, national, and international drug trafficking networks. Many gang investigations, however, do not meet full OCDETF designation criteria because the groups involved, while often having a significant local impact on the drug trade or on community violence, do not have immediately discernible ties to higher level criminal organizations that meet the OCDETF requirements.

As a result, a substantial percentage of agents, investigators, and prosecutors who handle street level drug cases traditionally viewed as “gang” cases often do not realize that some of their cases meet OCDETF criteria, or could easily do so with some additional focus or further investigation. Those agents, investigators, and prosecutors are not aware that OCDETF can assist them, and that is detrimental to both gang-oriented law enforcement and the OCDETF mission.

In response to this challenge, in July 2017, OCDETF implemented a new OCDETF National Gang Strategic Initiative (Gang Initiative). The Gang Initiative’s ultimate goal is to disrupt and dismantle violent criminal gangs, and their drug sources of supply when applicable, by applying a coordinated, multi-agency, multi-district approach, targeting the highest levels of gang leadership, maximizing information sharing through the OCDETF Fusion Center, and ultimately developing more high impact OCDETF gang investigations. The Gang Initiative promotes the development of creative enforcement strategies and best practices that can assist in developing

investigations of violent criminal groups and gangs into enterprise-level OCDETF prosecutions.

Besides supporting lower level investigations of violent gangs that have some tie to drug trafficking, the Gang Initiative also supports lower level MS-13 investigations with or without a drug nexus. The Gang Initiative provides OCDETF programmatic support as well as seed money to locally focused gang investigations, giving state, local, and tribal investigators and prosecutors the resources and tools needed to establish connections, to the extent they exist, between lower level cliques and regional, national, or international MS-13 networks. This allows those investigators and prosecutors to exploit the vulnerabilities of their locally focused MS-13 targets and develop information and evidence on MS-13 gang related criminal activity in investigations that are intended to reach the OCDETF level but have not yet done so.

The Gang Initiative's primary funding is available to pay for overtime for state and local law enforcement on qualifying cases. Funding is also available to reimburse state and local partners for their operational expenses in pre-OCDETF level gang investigations, such as informant expenses, evidence purchases, travel, translation, technical surveillance equipment, training, and certain other costs associated with the investigations. More valuable in the long term, however, the Gang Initiative spurs investigators and prosecutors to learn about the larger OCDETF program and develop best practices, share information, engage in necessary law enforcement de-confliction, and link to higher level investigations and targets. This results in smaller investigations developing into more comprehensive investigations suitable for OCDETF designation, and having a greater overall impact in squelching violent groups.

For more details on obtaining Gang Initiative funding for PSN gang cases, Assistant United States Attorneys should contact their office's OCDETF Lead Task Force Attorney.

C. Case examples

Fortunately, United States Attorneys' Offices are becoming increasingly aware that OCDETF can enhance their PSN efforts to clamp down on gangs and violent groups.

In the Southern District of Florida from April through July 2018, 16 defendants were convicted and sentenced to prison for various federal firearms and drug trafficking offenses. The case emanated from "Operation Grand Slam," a two-year OCDETF investigation into

violent gang activity in St. Lucie County, and the United States Attorney's Office prosecuted it as part of its PSN program. In addition to the convictions—which resulted in sentences ranging from 10–120 months in prison for the 16 defendants, with 9 defendants receiving at least 72 months—law enforcement authorities seized 70 firearms and recovered one kilogram of cocaine, three ounces of heroin, and 300 grams of MDMA. The investigation and subsequent prosecution reflected a triumph of collaboration among the OCDETF partner agencies: the United States Attorney's Office, ATF, St. Lucie County Sheriff's Office, Fort Pierce Police Department, USMS, State Attorney's Office for the 19th Judicial Circuit, and Florida Department of Law Enforcement. Besides the federal prosecution, the State Attorney's Office is prosecuting an additional 62 related defendants for various state offenses.⁹

In the Eastern District of Virginia in May 2018, the United States Attorney's Office secured an indictment in an OCDETF-funded PSN case charging 11 MS-13 members and associates with conspiracy to kidnap two teenagers—the first age 17, the other age 14—in Fairfax County. Four of the 11 defendants have been charged with the first kidnapping, and 10 have been charged with the second. Each victim was murdered during the course of the kidnapping. The defendants and their co-conspirators allegedly suspected one teen of being a rival gang member and the other of cooperating with law enforcement. During two separate incidents, the defendants and their co-conspirators lured each victim to a park, attacked them with machetes and knives, and buried their remains. This case demonstrates the dual virtue of tailoring a PSN strategy to target MS-13 and securing OCDETF support for that strategy. United States Attorneys' Offices in other districts with MS-13 hotbeds might consider this case an instructive model.¹⁰

⁹ Press Release, U.S. Attorney's Office (S.D. Fla.), Sixteen Saint Lucie County Residents Sentenced to Federal Prison on Firearms and Drug Trafficking Charges as Part of Project Safe Neighborhoods Violence Reduction Program (July 3, 2018).

¹⁰ Press Release, U.S. Attorney's Office (E.D. Va.), MS-13 Gang Members Charged in Connection with Murders of Juveniles (June 22, 2018). An indictment contains allegations that one or more defendants have committed a crime. Every defendant is presumed to be innocent until and unless proven guilty in court.

In the Eastern District of California in February 2018, a joint OCDETF/PSN investigation, “Operation Silent Night,” resulted in 69 search warrants and 55 arrests targeting a violent organization with ties to gangs within California’s penal system. The joint FBI, California Department of Corrections and Rehabilitation, and Woodland Police Department investigation focused on interceptions of cellphone communications and social media communications, demonstrating that members of the organization were using these platforms to sell weapons, cocaine, methamphetamines, and prescription drugs. In some instances, it is alleged that prison inmates directed defendants outside of prison to smuggle drugs into the prison or to sell and distribute narcotics outside of prison.¹¹

IV. Forward together

OCDETF strongly encourages PSN Coordinators to speak with their United States Attorney’s Offices’ OCDETF Coordinators to learn more about how OCDETF can bolster their PSN prosecutions and overall PSN district strategies. As both OCDETF and PSN prosecutors have learned, effectively reducing violent crime cannot happen without all the right partners working together. With both programs working together, United States Attorneys’ Offices can make an even greater impact on reducing violence. That critical collaboration will make our communities safer.

About the Authors

Sharon R. Kimball is the former Associate Director for the Executive Office for Organized Crime Drug Enforcement Task Forces. She served as an Assistant United States Attorney for more than 18 years, first in the Northern District of Texas and later in the District of New Mexico. She began prosecuting OCDETF cases in 1990 and continued to do so until 2008, when she moved to Washington, D.C., to assume the position of Associate Director. She is a graduate of Rice University (B.A., *magna cum laude*, 1975) and Harvard Law School (J.D. 1979) and is admitted to practice in New York, Texas, and New Mexico. She is the recipient of an Executive

¹¹ Press Release, U.S. Attorney’s Office (E.D. Cal.), Multi-Agency Collaboration Leads To 69 Searches And Over 25 Arrests In Effort To Fight Coordinated Criminal Activity In Northern California (Feb. 14, 2018). Again, an indictment contains charges based on allegations. The defendants are presumed innocent until and unless proven guilty beyond a reasonable doubt.

Office for United States Attorneys Director's Award (2001) and an OCDETF National Achievement Award (2014). She has previously contributed to the DOJ Journal of Federal Law and Practice, formerly the United States Attorneys' Bulletin.

Seth Adam Meinero is the National Violent-Crime and Narcotics Coordinator at the Executive Office for United States Attorneys. From 2007 to 2012, he was a violent crime Assistant United States Attorney for the District of Columbia. He was also a civil rights attorney at the United States Environmental Protection Agency for eight years before becoming a prosecutor. A graduate of Cornell University (B.A. 1991) and Howard University School of Law (J.D. 1998), Mr. Meinero currently serves as an advisor to the Violent and Organized Crime and Controlled Substances Subcommittees of the Attorney General's Advisory Committee of United States Attorneys. In 2018, the Organized Crime Drug Enforcement Task Forces honored Mr. Meinero with a Director's Award for Individual Achievement. He has previously contributed five articles to the DOJ Journal of Federal Law and Practice, formerly the United States Attorneys' Bulletin.

Joseph M. Pinjuh has served as an Assistant United States Attorney for the Northern District of Ohio (ND-OH) from 1998 to present. In October 2010, he was appointed as Chief of the Organized Crime Drug Enforcement Task Force (OCDETF) and Narcotics Unit, ND-OH. In 2018, he was detailed to the OCDETF Executive Office in Washington, DC, to serve as the Attorney-Advisor to Field Programs and Operations. His areas of specialization or expertise include: Title III prosecutions; complex, multi-defendant narcotics prosecutions; community based gang prosecutions; and community outreach. He graduated *cum laude* from Syracuse University in 1988 with a dual Bachelors of Arts degree in English and Political Science, and obtained his Juris Doctorate in 1992 from Vanderbilt University School of Law.

Pinjuh was a Captain in the United States Air Force Judge Advocate General's Corps via direct Presidential appointment from 1992–1998. He was the recipient of the Federal Bar Association's 1999 Younger Outstanding Federal Attorney Award, OCDETF National Mission Award for 2012 and 2016; and the Attorney General's Award for Outstanding Contributions to Community Partnerships and Public Safety in Northern Ohio for 2016. He is admitted to practice in Tennessee and Ohio, and serves as a guest lecturer in the Cleveland

Marshal School of Law trial advocacy course and at Case Western Reserve Law School's Criminal Practice Seminar. He has been an instructor for the United States Department of Justice's National Advocacy Center, and also served as a Juvenile Court Magistrate in Strongsville, Ohio, from 1999–2008.

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Building an Effective, Data-Driven, Violent Crime Fighting Program at the Local Level: Chicago’s Strategic Decision Support Center Model

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I. Recognizing the crisis and seeking outside input and potential solutions

Recent isolated surges in gun violence, in cities throughout America, have accelerated the need for an evidence-based approach to violent crime control. This article will provide a brief overview of one approach that has been successful in combatting violent crime in Chicago and we hope will illustrate the ways in which other jurisdictions, with support from their federal partners, can similarly stem the tide of violence that threatens the vitality of cities throughout the country.

“Chicago experienced 768 homicides in 2016, nearly a 60% increase from 2015.”¹ Most of these homicides in Chicago were committed with firearms in public places, as the result of an altercation and were, disproportionately, in the most economically disadvantaged and racially segregated south and west-side neighborhoods. Mid-way through 2016, the city was experiencing an historic increase in gun violence when Mayor Rahm Emanuel, along with newly appointed Chicago Police Department (CPD) Superintendent, Eddie Johnson, started to look beyond Chicago for advice, counsel, and best practices.

¹ *Projects: Data-Driven Crime Prevention: Crime Lab Analyst Training*, U-CHICAGO URBAN LABS, <https://urbanlabs.uchicago.edu/projects/strategic-decision-support-centers> (last visited Nov. 7, 2018).

Superintendent Johnson approached the Bureau of Justice Assistance's (BJA) Violence Reduction Network, now the National Public Safety Partnership (PSP), for support with this crisis. PSP identified experts from several departments to perform an assessment. The assessment team was comprised of the former Director of the Illinois State Police, Terry Gainer; Deputy Chief Sean Malinowski, Ph.D.; then Chief of Staff to Los Angeles Police Department (LAPD), Chief Charlie Beck; Craig Uchida, former Director of Research at the National Institute of Justice (NIJ); and Marjolijn Bruggeling, a former lieutenant and recognized expert on predictive policing from the Netherlands.

The team conducted an assessment of CPD's crime-fighting practices and their use of technology. They worked collaboratively with the CPD, organizing interviews, focus groups and observations, to understand the obstacles and barriers facing the department. It was clear that CPD had hard-working officers, dedicated command staff, and an incredible array of technology and data systems. What was also clear is that the department's technology and data were not being used by many of the department's officers and district staff.

The team recommended a concerted effort to increase the daily use of the systems already in place, as well as incorporating gunshot detection and predictive technology, which incorporated a crime-fighting process that combined elements from New York and Los Angeles. In February 2017, Superintendent Johnson's senior management team, under the leadership of Chief Jonathan Lewin, partnered with the assessment team and the University of Chicago Crime Lab to begin piloting local intelligence hubs called Strategic Decision Support Centers (SDSCs) in two of the city's most violent police districts, Englewood (007) and Harrison (011). With the goal of reducing gun violence, the SDSCs were designed to focus district commanders on deploying their resources more effectively, using insights gleaned from data analysis, human intelligence, and a suite of technologies. By leveraging real-time analysis, the SDSCs aim to identify priority crime problems, develop missions to focus police attention, and use technology to enhance the ability of police to respond to crimes as they happen at the precise location.

The SDSC model uses technology and predictive analysis to provide real-time data to officers, which allows them to place themselves in

the best locations to prevent and respond to incidents of violence.² Of interest to this audience of prosecutors, these district-based situation rooms also serve as prosecutorial nerve centers, where police officers and prosecutors are working on gun cases collaboratively, from the start.

The two commanders of the pilot districts, Kenneth and Kevin Johnson happened to be twin brothers, though with no relation to Superintendent Johnson. These commanders had the foresight and confidence to welcome the outside input and teamed up with the assessment team staff at the nerve centers to build out and fully exploit the power of collaboration and crime analysis. BJA and the Crime Lab facilitated the hiring of civilian data scientists and brought those analysts, along with senior Chicago police leaders, out to Los Angeles for an immersive training program in late 2016 and early 2017. During that visit, they met with LAPD Chief Charlie Beck and his team, and were exposed to the “ideal district” and “situation room” crime-fighting concepts that had fueled the data driven crime-fighting success that Los Angeles has seen over recent years.

During that initial visit, Beck reminded the group that some ten years before, when he was a Captain in Rampart division, the chief at the time, Chief Bill Bratton, sent Beck to Chicago for a similar, immersive training program and knowledge transfer, when Los Angeles was experiencing an upsurge in violent crime.

II. Customizing a local solution

A. The SDSCs: the creation of synergy between the process and technology

From the inception of the SDSCs, CPD partnered with Dr. Malinowski and Roseanna Ander, Director of the University of Chicago Crime Lab, to pilot and evaluate new approaches to gun violence prevention by helping police commanders effectively target their resources and increase responsiveness to communities’ needs. The key approach was to develop these district-based SDSCs to support district commanders in developing strategic crime plans,

² See Stacy St. Clair, *CPD to Launch New Support Centers to Analyze District-Level Shootings*, CHI. TRIB., Oct. 1, 2017, <http://www.chicagotribune.com/news/local/breaking/ct-met-chicago-police-strategic-support-center-20171001-story.html>.

tailoring deployments to the patterns observed in individual communities.

CPD began constructing the SDSCs in January 2017 and, by February, began operating in the 7th and 11th districts, the two most violent communities in the city. These districts had the greatest need for strategic gun violence initiatives and technical support—in 2016 there were 73 more murders in these two districts than in 2015,³ accounting for more than ¼ of the city’s total increase of murders in 2016.⁴

SDSCs were established to act as a “beehive of activity,” a collaborative workplace for intelligence gathering and dissemination for the district. Staff working the SDSCs prepare a daily briefing for the district commander and collect information from tactical teams, officers working beat cars, citywide specialized units, and federal partners. During the daily briefing, attendees discuss crime in the districts (shootings, homicides, emerging trends or anomalies from analysis products), as well as the resources that are available to the district.



Figure 1: District 007 SDSC Daily Commanders Briefing

³ CHICAGO POLICE DEP’T, COMPSTAT DISTRICT 07 WEEK 39 (Sept. 2018); CHICAGO POLICE DEP’T, COMPSTAT DISTRICT 11 WEEK 39 (Sept. 2018).

⁴ JENS LUDWIG ET AL., UNIV. OF CHI., CRIME IN CHICAGO: BEYOND THE HEADLINES 3 (Jan. 29, 2018).

The SDSC initiative marks the first time CPD districts have been equipped with the capacity and expertise needed to combine, synthesize, and distill relevant information from the department's diverse databases in an actionable and digestible format. Reviewing crime data and intelligence each day, as well as holding personnel accountable during district-level meetings represented a major shift in police practice at CPD. By detecting patterns in the data and discussing them at these meetings, the SDSCs enable commanders to deploy officers more efficiently, as the analyses focus on locations prone to violence and on repeat offenders. Based on the discussion during the daily briefing, the commander then allocates resources where they are believed to have the greatest impact on deterring crime. Once the people and places most at risk are identified, SDSC personnel develop mission parameters based on the available resources. The expectation that commanders will create actionable missions at the end of the meeting reinforces the importance of considerate decision-making.

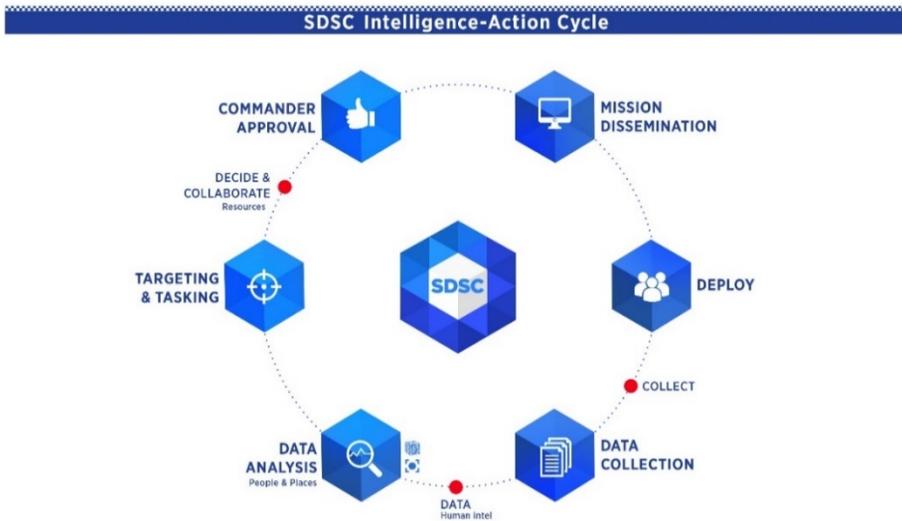


Figure 2: SDSC Intelligence-Action Cycle

These deployment decisions (missions) are communicated to beat officers and tactical teams during roll calls or via their mobile phones and team leaders are tasked with reporting results back to the room for follow-up discussions in subsequent briefings, providing a 360 degree feedback loop. This constant analysis of what has been most and least effective in this cyclical, mission-based process allows for

solutions to be evaluated and optimized. The ultimate goal of the SDSC is to provide a process and an environment for collaboration and analysis, ultimately enabling better decisions to be made about missions, patrol, and tactical unit deployment. The SDSCs also act as bases where specialized entities can participate in crime-fighting strategies and harness the crime and response cycle, to ensure more effective policing.

Clearly, investments in cutting edge technology and intelligence tools are necessary within the SDSC to keep up with the evolving nature of violence in local neighborhoods. Some of these tools include SDSC Interactive Applications, patrol activity, surveillance cameras, gunshot detection technology, crime forecasting software, mobile devices, and social media monitoring, as well as license plate recognition technology, and other databases.

In some of the SDSCs, local State's Attorneys and/or other partners are assigned and work within the SDSC. Assigning Assistant State's Attorneys (ASAs) to the SDSCs has been very successful and has proven to be useful in relationship building. The ASA attends the daily Commanders briefings to learn about the impact players who are driving violence in the neighborhood. For example, when one of the subjects gets arrested, officers know to call "their" State's Attorney. The ASA will have built a packet on this subject's social media activity and the ASA will attend the bond hearing, to make sure that this particular subject gets a higher bond or specific restrictions.

Instead of centralizing information at a main, citywide location, the SDSCs move the intelligence gathering and analysis down to the local level. This makes the information more relevant, in real time, and more tangible to the officers on the street. At the core of these strategies are missions, informed by real-time data analysis, that deploy resources where they will have the greatest impact, with the ultimate goal of giving officers the information they need to proactively fight and prevent crime.

Missions are by no means new to the department, but developing them at the district level, using a combination of intelligence from local officers and analytic support from civilian analysts from the University of Chicago Crime Lab, represents a major change in police practice and ensures that missions are meaningful and measureable. Working in this way engages every employee in an effort to significantly reduce crime in the community.

B. Evaluating results and institutionalizing the concept

We saw significant reductions in crime after opening the first two SDSCs. By mid-December 2017, Chicago experienced 715 fewer shooting incidents, relative to 2016.⁵ In District 007, historically one of the most violent districts in the city, this reduction in crime is encouraging, and not only when compared to 2016, the district experienced the lowest level of shootings since CPD began storing this data electronically.⁶ These successes are critical to restoring public confidence in law enforcement. In March 2017, four new SDSCs were opened in districts 6, 9, 10, and 15. While the “six SDSC-equipped districts represent just 20 percent of the city population,” they account “for almost 55 percent of Chicago’s shootings in 2016.”⁷ CPD now operates 13 SDSCs across the city.

To determine the causal impact of the SDSCs on gun violence reduction, researchers at the Crime Lab are using a promising quasi-experimental technique for studying place-based interventions, synthetic controls. The Crime Lab found that the growing use of data-driven policing has had a particularly pronounced impact on gun violence in the Englewood district.⁸ Using the same methodology, the Crime Lab found that overall arrests continued to decline in the Englewood district, while gun arrest activity increases, which suggests there was not an indiscriminate “flooding” of police activity, but more targeted enforcement activity.⁹ Another form of police activity that seems to have increased with the beginning of the SDSC project, and correlates with the reduction in gun violence, is “Positive Community Interactions” between law enforcement and community residents.¹⁰

It is important to note that while Chicago has seen some success in implementing these data driven collaborative crime intelligence programs, each jurisdiction is different and faces unique challenges

⁵ See U-CHICAGO URBAN LABS, *supra* note 1.

⁶ *Id.*

⁷ *Id.*

⁸ See Annie Sweeney, *As Shootings and Homicides Drop in Englewood, A New Optimism Grows*, CHI. TRIB., Dec. 8, 2017, <http://www.chicagotribune.com/news/local/breaking/ct-met-chicago-englewood-violence-20171207-story.html>.

⁹ See U-CHICAGO URBAN LABS, *supra* note 1.

¹⁰ See, e.g., Sweeney, *supra* note 8.

and any successful program would need to be customized, to fit a particular jurisdiction's needs. Collaboration on analysis, follow up and prosecution, between local police agencies and their federal prosecutors, can yield significant advancement in the fight against violent crime and improved outcomes, in terms of community engagement.

III. Role of the United States Attorney's Office

Given the positive results in Chicago, how can the United States Attorney's Office in your jurisdiction assist their local police agencies in building an effective crime-fighting program?

The authors contend that the United States Attorney can act as both a catalyst and a convener in broaching the subject with local police leaders to help connect them with subject matter expertise through BJA and other institutions. Next, by cultivating a collaborative working relationship between your staff, outside agencies, and your local agency, subject matter experts can be identified and called upon to conduct assessments when required. Other important steps in helping at the community level would include ensuring that prosecutors are present and active in the field when crime intel is shared about habitual offenders and local crime trends.

Federal prosecutors may also be able to provide the leadership and experience to assist your local agency in building political will to support the crime fight and in conducting a thorough crime-fighting and readiness assessment. Our initial results seem to indicate that this SDSC concept holds promise for leveraging the data, technology, and human intelligence available to local agencies and their federal partners to make genuine progress on public safety and to promote police-community trust, as part of a larger strategy to strengthen and invest in communities hardest hit by violence.

About the Authors

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Deputy Chief Malinowski also has functional responsibility for more than 1,800 detective personnel who serve citywide. Dr. Malinowski is a former Fulbright Scholar who holds a Doctorate in Public Administration and a Master's degree in Criminal Justice from the University of Illinois at Chicago.

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Strategies for Prosecuting Juvenile Offenders

David Jaffe

Chief

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I. Introduction

The Organized Crime and Gang Section, in its own cases and in cases it discusses with United States Attorneys' Offices, has noted an increase in organized and violent criminal acts being committed by juvenile offenders. Juvenile offenders in transnational criminal organizations and violent street gangs are not new phenomena. Federal prosecutors and agents are learning, however, of organizations and gangs actively recruiting juveniles to commit the group's more heinous acts, in part based upon the belief that a juvenile will receive leniency or no punishment for their crimes. An experienced, knowledgeable federal prosecutor can disprove this assumption in the appropriate case.

Prosecuting juveniles under the Juvenile Justice and Delinquency Prevention Act of 1974 (JDA) can be incredibly challenging. The purpose of the JDA is to encourage rehabilitation of juveniles and avoid the stigma of a prior criminal conviction. Therefore, if a prosecutor wants to proceed against a juvenile without transferring the juvenile to adult status, the prosecutor is faced with many procedural hurdles and challenges. For example, and as is discussed more thoroughly below, the speedy trial clock is shorter—if a juvenile is detained, then the trial must commence in 30 days. Moreover, the JDA weighs heavily in favor of detention in a foster home or community based facility located in or near the juvenile's home, and prohibits detention where a juvenile would have regular contact with incarcerated adults. Further, disposition—including the term of detention and supervision—may in no case continue past the age of 26.

Accordingly, prosecutors in gang and other complex cases usually will only seek to charge a juvenile if the prosecutor can successively transfer that offender to adult status. The JDA, however, places significant hurdles to transfer as well, including a complex hearing process for most transferrable offenses that requires significant

preparation to be successful. Moreover, juveniles enjoy the right to an interlocutory appeal on all transfer decisions, further delaying prosecution of juvenile offenders and likely triggering severance in multi-defendant cases.

Further, regardless of whether one ultimately chooses to proceed against the juvenile or attempts to transfer the juvenile to adult status, significant preparation and investigation are critically important. If a prosecutor proceeds against a juvenile without transfer, the government must have all of the defendant's juvenile records available for the court at the sentencing stage. If the prosecutor seeks to transfer the juvenile to adult status, the defendant's juvenile records, school records, and any prior psychiatric evaluations will all be critically important to prevail in a discretionary transfer hearing, and even a mandatory transfer will require at least one certified juvenile disposition.

Despite these challenges, the nature of a particular violent crime case, or the demands of a more wide-ranging investigation, as well as the interests of justice, will demand that federal prosecutors charge juvenile offenders under the JDA and/or transfer them to adult status. With appropriate investigation and preparation, a prosecutor can do so successfully. This article seeks to assist the organized crime or gang prosecutor in successfully navigating the sometimes opaque language and mechanics of the JDA, both where the prosecutor seeks to maintain a juvenile within the juvenile offender process, and also when the prosecutor seeks to transfer the offender to adult status. As is discussed more fully below, each avenue of prosecution under the JDA has pitfalls and unique challenges.

II. Who qualifies as a juvenile?

Pursuant to 18 U.S.C. § 5031, a person is a juvenile in one of two circumstances. First, any “person who has not attained his eighteenth birthday” is a juvenile.¹ Second, a person who is currently under the age of 21 can be considered a juvenile with respect to acts of juvenile delinquency committed while that person was younger than 18.² Once

¹ 18 U.S.C. § 5031.

² *Id.*

a person attains the age of 21, they are prosecuted as an adult, regardless of when they committed the crime.³

These age demarcations are very important to keep in mind when considering whether to proceed against a juvenile offender. Significantly, prior to a juvenile's 21st birthday, the offender's acts prior to being 18 years old are prosecuted under the JDA, but the day he turns 21, the JDA does not apply. Thus, a delay in indictment until an offender turns 21 can have significant consequences for the juvenile offender, for he will be treated as an adult offender simply because of that delay. Not surprisingly, defendants are quick to challenge any delay during which time an offender becomes 21. To determine whether a prosecutor's delay in charging a juvenile until after his or her 21st birthday is proper, courts have generally looked to the reasons for the delay. The analysis is quite similar to defending a pre-indictment delay pursuant to a constitutional speedy trial challenge. For example, the Second Circuit has held that "[i]t is not improper for the government to delay an indictment for 'legitimate considerations, such as the need to obtain evidence and the difficulties that necessarily arise in a complex RICO investigation.'"⁴

³ *United States v. Ramirez*, 297 F.3d 185, 191 (2d Cir. 2002) (finding the applicability of the JDA is determined by the defendant's age at the time of filing the juvenile information, so the JDA will not protect a 21-year-old defendant who is charged with a crime that he committed before he turned 18; that said, the JDA does apply when a defendant commits a crime before age 18 and is charged before age 21, even if he turns 21 during the pendency of his proceedings); *see also* *United States v. Dire*, 680 F.3d 446, 475 n.21 (4th Cir. 2012) (affirming prior holdings that a defendant charged after reaching 21 years of age is not subject to the JDA).

⁴ *United States v. Scarpa*, 4 F. App'x 115, 117 (2d Cir. 2001) (quoting *United States v. Hoo*, 825 F.2d 667, 671 (2d Cir. 1987)); *see also* *United States v. Doe*, 627 F.2d 181, 184 n.4 (9th Cir. 1980) (if the government has communicated an intention to seek a transfer but has been delayed in seeking approval to bring the motion, the district court has discretion to reject the juvenile's tendered admission to the juvenile information before the transfer motion was filed); *United States v. Torres*, No. CRIM.A. 12-10089, 2013 WL 451667, at *2-3 (D. Kan. Feb. 6, 2013) (noting the test for improper delay is: "(1) that the defense must be substantially prejudiced by the delay and (2) that the reasons for the prosecutor's delay must be improper" (quoting *Martinez v. Romero*, 661 F.2d 143, 144 (10th Cir. 1981))).

III. The juvenile delinquency process

A. Charging of a juvenile offender

All defendants who qualify as juvenile offenders due to their age initially proceed as a juvenile, regardless of a prosecutor's ultimate intention to transfer to adult status. In other words, in order to initiate proceedings against an offender who is juvenile, the prosecutor must comply with the requirements of the JDA before filing a motion to transfer to adult status.

To initiate a proceeding under the JDA, prosecutors file an information against the juvenile. No grand jury indictment is required. The United States Attorney, or the Assistant Attorney General for the Criminal Division (AAG), then files a certification detailing the grounds for federal jurisdiction in the case. All filings are made under seal.

A juvenile information is similar to an adult information (the charging instrument employed when a defendant waives his rights to a grand jury and agrees to be charged by the United States Attorney), except the juvenile is named only by initials, and the charging language must reference the JDA. In the information, a prosecutor should include language stating the charges are generally based upon the authority to proceed against juveniles under 18 U.S.C. § 5032,⁵ and then set forth the actual criminal offenses as one would in an indictment.

There is nothing in the JDA that requires a prosecutor to file an affidavit along with the information outlining any evidence or probable cause supporting the charges contained in the information. Some United States Attorneys' Offices nevertheless file an affidavit to educate the court as to the basis for the charges, support applications for detention, and to use later as evidence in a transfer hearing. Other United States Attorneys' Offices do not file an affidavit. Again, the JDA is silent on the filing of an affidavit with the information, so either practice is acceptable.

As stated above, in addition to the filing of the juvenile information, to proceed against a juvenile in a federal delinquency proceeding, the Attorney General must file a certification with the appropriate district court. Certification is a prerequisite to the district court having

⁵ 18 U.S.C. § 5032.

subject matter jurisdiction in an area traditionally the jurisdiction of a state court.⁶ Although the statute states that the Attorney General shall make the certification, the Attorney General has delegated this certification authority to the United States Attorney for the district in which the offense is alleged to have occurred.⁷ A copy of the delegation memorandum should be attached to the certification filed with the court. An Assistant United States Attorney cannot sign the certification.⁸ Assistant United States Attorneys should go to the AAG and request this memo in order to file their certification. This is a critical step for a United States Attorney's Office to obtain jurisdiction in a juvenile matter.

The Attorney General, or in practice, the United States Attorney certification, must certify federal jurisdiction on one or more of the following grounds: (1) the juvenile court or other appropriate state court does not have jurisdiction or refuses to assume jurisdiction over the juvenile with respect to the alleged act of juvenile delinquency; (2) the state does not have available programs and services adequate for the needs of juveniles; or (3) the juvenile has committed a specified offense (a "crime of violence" or a series of offenses described in 21 U.S.C. §§ 841, 952(a), 953, 955, 959, 960(b)(1), (2), or (3); 18 U.S.C. § 922(x); or 18 U.S.C. §§ 924(b), (g) or (h)) and there is a "substantial federal interest" in the case or the offense to warrant the exercise of federal jurisdiction.⁹ The statute is ambiguous whether the "substantial federal interest" requirement applies to all three situations or only the third situation.

Section 5032 does not define "crime of violence," nor does it cite to 18 U.S.C. § 16 or any other definition. In *Sessions v. Dimaya*,¹⁰ the United States Supreme Court held that 18 U.S.C. § 16(b) is unconstitutionally vague, applying the same rationale it used to strike

⁶ *United States v. Vargas-De Jesus*, 618 F.3d 59, 64–65 (1st Cir. 2010) (if there is no valid certification under the JDA, the district court lacks subject matter jurisdiction over the juvenile and thus any subsequent conviction must be vacated).

⁷ *United States v. Doe*, 49 F.3d 859, 866 (2d Cir. 1995).

⁸ *United States v. Juvenile Male*, 595 F.3d 885, 891 n.5 (9th Cir. 2010) (certification cannot be signed by an Assistant United States Attorney because the statute requires it be signed by the United States Attorney).

⁹ See § 5032.

¹⁰ 138 S. Ct. 1204, 1223 (2018).

the residual clause in the Armed Career Criminal Act in *Johnson v. United States*.¹¹ Section 16 operates as the default definition for a “crime of violence.” Following *Dimaya*, any language tracking section 16(b)—“any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense”—is effectively stricken from the JDA.¹² As a result, when determining whether the offense is a crime of violence for certification, the crime must either fall within the list of enumerated offenses or qualify under the elements clause in section 16(a), that is, it must be “an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.”¹³

Importantly, post-*Dimaya*, conspiracies, including RICO conspiracies and VICAR conspiracies, do not qualify as crimes of violence because they fall under section 16(b). Note that although judicial review of the United States Attorney’s certification is limited (see below), some courts have reviewed the certification to determine if the underlying offense qualifies as a crime of violence.¹⁴ Absent a certification basis, there is no federal jurisdiction.

Challenges to the certification are extremely rare, and courts only consider challenges in the narrowest of circumstances. Specifically, a court may review the certification only to verify that the prosecutor complied with the requirements of the JDA.¹⁵ For example, a court may reject a certification where the certifying party is not a proper delegate of the Attorney General, where the certification is not timely filed, or where the certification fails to state that the state courts lack or decline jurisdiction, or lack appropriate juvenile services.¹⁶ Courts may not, however, inquire into the correctness of the statements made in the certification.¹⁷ The one exception to this general rule is where there is some showing that the prosecutor acted against the juvenile

¹¹ *Johnson v. United States*, 135 S. Ct. 2551, 2563 (2015).

¹² 18 U.S.C. § 16(b).

¹³ § 16(a).

¹⁴ *See, e.g.*, *Impounded Juvenile R.G.*, 117 F.3d 730, 734 (3d Cir. 1997); *United States v. Juvenile Male*, 923 F.2d 614, 617–18 (8th Cir. 1991).

¹⁵ *Juvenile Male*, 923 F.2d at 617.

¹⁶ *United States v. C.G.*, 736 F.2d 1474, 1477 (11th Cir. 1984).

¹⁷ *Id.* at 1477–78.

based upon race, religion, or other suspect or arbitrary classifications, including the exercise of protected statutory and constitutional rights.¹⁸

According to the Second Circuit, certification review is a procedure that falls into the category of unreviewable determinations to be made by the Attorney General.¹⁹ The Second Circuit noted that the JDA contains no provision for judicial review of the Attorney General's certificate and no standards by which to evaluate whether an appropriate court has jurisdiction or whether adequate programs and services exist.²⁰

The Fourth Circuit, however, "is the only circuit that requires a more searching review of the government's assertions in its § 5032 certifications."²¹ Thus, in the Fourth Circuit, a court must review the certification and confirm it is proper before proceedings against the juvenile can commence.

B. All juvenile proceedings are secret and sealed

Once a prosecutor initiates a juvenile proceeding through the filing of the juvenile information and the jurisdictional certification, the entire proceeding is subject to the limitations set forth in 18 U.S.C. § 5038, which forbids disclosure of the identity of the juvenile offender, as well as information and records related to the juvenile proceedings, to anyone except the court, the prosecuting authorities, the juvenile's counsel, and others specifically authorized to receive such records.²² Thus, all pleadings and documents in a juvenile proceeding should be filed under seal. In many districts, pleadings and documents merely contain the juvenile's initials in the pleadings; other districts refer to "a juvenile offender." In addition, the

¹⁸ *United States v. W.P., Jr.*, 898 F. Supp. 845, 851 (M.D. Ala. 1995) (citing *Wayte v. United States*, 470 U.S. 598, 608 (1985)).

¹⁹ *United States v. Vancier*, 515 F.2d 1378, 1381 (2d Cir. 1975).

²⁰ *Id.* at 1380; *but see Impounded Juvenile R.G.*, 117 F.3d 730, 731 (3d Cir. 1997) (judicial review appropriate but limited to "aspects of the certification decision, including whether the certification is proper in form, whether it was made in bad faith, and the purely legal question whether the juvenile has been charged with a crime of violence.").

²¹ *United States v. T.M.*, 413 F.3d 420, 424 (4th Cir. 2005).

²² 18 U.S.C. § 5038.

court must seal the entire docket, and the case cannot appear on a public calendar or ECF.²³

Not only does the statute strictly restrict the release of records regarding the juvenile's adjudication, but court proceedings pertaining to a juvenile in federal court should be held in a closed courtroom or in chambers, without public access. Indeed, as one circuit court has held, "Section 5038 does require the sealing of 'the entire file and record of (the juvenile) proceeding' and prohibits later release, other than to meet an enumerated exception."²⁴ Courts are not entirely in agreement on this point however.²⁵ The safer course, however, is to seek to close the courtroom for all proceedings.

There is one significant exception to the general blanket secrecy protections afforded juvenile offenders, and that is the Sex Offender Registration and Notification Act (SORNA). When faced with a conflict between the JDA and SORNA, SORNA's sexual registry requirement supersedes the JDA's confidentiality requirement.²⁶

²³ *But see* McDonnell v. United States, 4 F.3d 1227, 1249–51 (3d Cir. 1993) (JDA does not prohibit disclosure of state juvenile records); *In re Green Grand Jury Proceedings*, 371 F. Supp. 2d 1055, 1057 (D. Minn. 2005) (The JDA did not bar grand jury from issuing subpoenas to juveniles requesting their fingerprints and photographs before they were charged with an offense).

²⁴ *United States v. Bates*, 617 F.2d 585, 586–87 (10th Cir. 1980).

²⁵ *See* *United States v. A.D.*, 28 F.3d 1353, 1359–62 (3d Cir. 1994) ("The Act does not mandate closed hearings and sealed records in all situations;" section 5038(a) only bars the court from authorizing access to information "related to an application for employment, license, bonding or any civil right or privilege;" section 5038(c) does not bar the media from publishing anything they legally obtain; section 5038(e) was only intended to bar law enforcement and/or court officials from publicizing the name and picture of the juvenile); *see also* *United States v. Three Juveniles*, 61 F.3d 86, 92 (1st Cir. 1995).

²⁶ *United States v. Juvenile Male*, 670 F.3d 999, 1008 (9th Cir. 2012) ("SORNA unambiguously directs juveniles over the age of 14 convicted of certain aggravated sex crimes to register, and thus carves out a narrow category of juvenile delinquents who must disclose their juvenile crimes by registering as a sex offender."); *see also* *United States v. Under Seal*, 709 F.3d 257, 262 (4th Cir. 2013) (also noting that SORNA's registration requirement supersedes the JDA's confidentiality requirements due to Congress' intent to favor the protection of victims over the protection of the identity of juvenile sex offenders). *But see* *United States v. Juvenile Male*, 590 F.3d 924, 932–33 (9th Cir. 2010), *vacated*, 564 U.S. 932 (2011) (retroactive application of

C. Speedy trial considerations

As stated above, the JDA's speedy trial requirements are more onerous than the Speedy Trial Act that applies to adults, 18 U.S.C. § 3161.²⁷ Pursuant to the JDA at 18 U.S.C. § 5036, the court must dismiss a juvenile information "[i]f an alleged delinquent who is in detention pending trial is not brought to trial within thirty days from the date upon which such detention was begun."²⁸ The 30-day clock begins to run only upon federal detention of the juvenile after the filing of a juvenile information.²⁹

Just like with the Speedy Trial Act in section 3161, however, the JDA provides for ways to exclude time from the 30-day clock. For example, the defense can consent to adjournments, and a court can exclude time if it makes the familiar finding that a delay "would be in the interest of justice in a particular case."³⁰ A juvenile can also cause the delay, which would justify exclusion of speedy trial time, by, for example, lying about his or her age.³¹

There are a number of ways courts can exclude time under the JDA's version of the "interests of justice" exception. For example, motion practice, such as the time between the litigation of a motion to transfer the juvenile to adult status and the court's disposition of the

SORNA's juvenile registration provision to juveniles previously convicted under the JDA violated *ex post facto* clause because SORNA was deemed punitive in nature; note, the precedential value to this case is questionable because the Supreme Court vacated the judgment as moot since the juvenile was no longer subject to the district court's order to register under SORNA).

²⁷ 18 U.S.C. § 3161.

²⁸ 18 U.S.C. § 5036.

²⁹ *See, e.g.*, *United States v. Doe*, 366 F.3d 1069, 1071–72 (9th Cir. 2004); *United States v. Juvenile Male*, 74 F.3d 526, 528–29 (4th Cir. 1996); *United States v. Three Juvenile Males*, 49 F.3d 1058, 1064 (5th Cir. 1995); *United States v. Doe*, 642 F.2d 1206, 1208 (10th Cir. 1981).

³⁰ 18 U.S.C. § 5036.

³¹ *United States v. Juvenile Male*, 595 F.3d 885, 896–97 (9th Cir. 2010); *United States v. Romulus*, 949 F.2d 713, 716 (4th Cir. 1991); *see also* *United States v. Doe*, 571 F. App'x 656, 661 (10th Cir. 2014) (delaying trial beyond 30-day limit was allowed under the "interest-of-justice" exception because it was made to accommodate the defendant's schedule, even though the delay might have been a result of the court's misinterpretation of the defendant's request).

motion is excluded.³² Similarly, a court excluded time from when the government filed an appeal of a district court's order denying the government's motion to transfer to adult status.³³ A court granted an "interest of justice" exception to toll the speedy trial time where new charges were filed regarding the juvenile's post-majority conduct, allowing the court to evaluate the disposition of such charges before ruling on the JDA transfer motion.³⁴

Courts also exclude JDA speedy trial time even where the government exceeded the 30-day speedy trial limit, but did so in good faith. For example, when the government waited 33 days to file its transfer motion and failed to include necessary allegations in the motion, the Fifth Circuit tolled the relevant days because there was no evidence of the government's bad faith.³⁵ Moreover, a court refused to dismiss an information where trial started 31 days after detention because the federal government had spent a day processing the juvenile's entry into the country and establishing jurisdiction, and the government had acted expeditiously and in good faith.³⁶ A court refused, however, to grant a single day "interest of justice" exception when the prosecution failed to convince the court the delay resulted from something besides the court's congested calendar, even though the government acted expeditiously and in good faith.³⁷

D. Detention prior to adjudication

Pretrial detention is permissible under the JDA. A judge can order pretrial detention if the court determines that detention is required to secure the juvenile's timely appearance in court, or to ensure the juvenile's safety or the safety of others.³⁸ Factors that can be argued for detention of juveniles include risk of flight, dangerousness, alien or nonresident status, and lack of parental supervision or control.

³² See e.g., *United States v. David A.*, 436 F.3d 1201, 1207 (10th Cir. 2006); *United States v. A.R.*, 203 F.3d 955, 963–64 (6th Cir. 2000); *Romulus*, 949 F.2d at 716.

³³ *United States v. Doe*, 94 F.3d 532, 536 (9th Cir. 1996).

³⁴ *United States v. J.D.*, 525 F. Supp. 101, 107 (S.D.N.Y. 1981).

³⁵ *United States v. Sealed Juvenile 1*, 192 F.3d 488, 491–92 (5th Cir. 1999).

³⁶ *United States v. Doe*, 882 F.2d 926, 928–29 (5th Cir. 1989).

³⁷ *United States v. Gonzalez-Gonzalez*, 522 F.2d 1040, 1044 (9th Cir. 1975).

³⁸ 18 U.S.C. § 5034.

The statute also requires that whenever possible, detention shall be in a foster home or community based facility located in or near the juvenile's community.³⁹ Prosecutors therefore should be prepared when seeking detention in a detention facility, arguing factors such as those listed above, with particular focus on dangerousness and inadequacy of supervision at a foster home or halfway house.

Under the JDA, to the extent possible, alleged delinquents pending disposition should be kept separate from adjudicated delinquents.⁴⁰ Any pretrial detention should not be within an institution or setting in which the juvenile has regular contact with adult persons convicted of or awaiting trial on criminal charges.⁴¹

E. The delinquency hearing

The delinquency hearing is basically the trial for a juvenile for whom the prosecutor has not sought to transfer to adult status. There is no jury trial right in delinquency hearings, and thus all such hearings are bench trials.⁴² Nevertheless, a juvenile still enjoys all other constitutional rights of criminal defendants, including the right to counsel, the right to cross-examine government witnesses, and the protection against self-incrimination. The government must still prove the juvenile's delinquency under the "beyond a reasonable doubt" standard.⁴³

In addition, the rules of double jeopardy apply. A juvenile may not be transferred for criminal prosecution following a delinquency proceeding.⁴⁴

The Federal Rules of Evidence appear to apply to juvenile delinquency proceedings.⁴⁵ The Federal Rules of Criminal Procedure do not, however, apply in any circumstance where their application is inconsistent with the juvenile statutes.⁴⁶

³⁹ 18 U.S.C. § 5035.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *See* *McKeiver v. Pennsylvania*, 403 U.S. 528, 545 (1971).

⁴³ *In re Winship*, 397 U.S. 358, 361–62, 368 (1970).

⁴⁴ 18 U.S.C. § 5032, ¶ 7.

⁴⁵ *See* FED. R. EVID. 1101; U.S. DEP'T OF JUSTICE, JUSTICE MANUAL, CRIMINAL RES. MANUAL, 60, STEP 8—PROCEEDING AGAINST A JUVENILE AS A DELINQUENT.

⁴⁶ *See* FED. R. CRIM. P. 1(a)(5)(D).

F. Disposition

If the court finds a juvenile to be a delinquent, a disposition hearing shall be held within 20 days of the finding of delinquency unless a “further study” of the juvenile is ordered by the court.⁴⁷

1. Submission of juvenile records

The disposition hearing is not to be held until any prior juvenile court records of the juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile’s record is unavailable and why it is unavailable.⁴⁸ Failure to do so may subject the case to later reversal for lack of jurisdiction.⁴⁹

2. Observation and study

If the court desires more detailed information concerning the adjudicated delinquent, it may commit him or her to the custody of the Attorney General for observation and study by an appropriate agency. Generally, if the juvenile is in custody, the appropriate agency for conducting the observation will be the Bureau of Prisons. The agency must complete a study of the delinquent to ascertain the juvenile’s personal traits, mental capabilities, background, and previous delinquency or criminal experience, as well as any mental or physical defects and any other relevant factors. The designated agency must submit to the court, as well as to the attorneys for the juvenile and the government, the results of the study within 30 days unless the court grants additional time.⁵⁰

3. Sentencing

At a disposition or sentencing hearing, the court may suspend the findings of juvenile delinquency, order restitution, place the juvenile on probation, or commit him or her to official detention.⁵¹ The length of time for which probation may be ordered or that detention can be imposed depends on whether the juvenile has reached 18 years of age

⁴⁷ 18 U.S.C. § 5037(a).

⁴⁸ § 5032, ¶ 10.

⁴⁹ *United States v. Doe*, 366 F.3d 1069, 1075–76 (9th Cir. 2004); *United States v. Brian N.*, 900 F.2d 218, 222–23 (10th Cir. 1990).

⁵⁰ 18 U.S.C. § 5037(e).

⁵¹ § 5037.

at the time of disposition.⁵² “When selecting among the dispositions authorized under Section 5037, the district court must exercise its discretion ‘in accordance with the rehabilitative function of the FJDA, which requires an assessment of the totality of the unique circumstances and rehabilitative needs of each juvenile.’”⁵³

Probation

Probation may be ordered by the court for a juvenile found to be delinquent, the length of time of which is determined by the age of the juvenile at disposition. If a juvenile is less than 18 years of age, the term may not extend beyond the *lesser* of the date the juvenile becomes 21 or the maximum term that would have been authorized by 18 U.S.C. § 3561(c) had the juvenile been tried and convicted as an adult.⁵⁴ If the juvenile is between 18–21 years of age, the term may not extend beyond the *lesser* of three years or the maximum term that would have been authorized by 18 U.S.C. § 3561(c) had the juvenile been tried and convicted as an adult.⁵⁵

If the juvenile violates a condition of probation prior to expiration of the term, the court may, after a dispositional hearing, revoke the term and order a term of official detention, including a term of juvenile delinquent supervision.⁵⁶ The length of official detention permissible on revocation of probation is set forth in 18 U.S.C. § 5037(b) and is determined by the age of the juvenile at the time of the revocation disposition hearing and the class of the offense.

Detention

Official detention may also be ordered by the court for a juvenile found to be delinquent, the maximum length of time of which is determined by the age of the juvenile at the time of the disposition hearing, not the age at the time the charges were filed. The United States Sentencing Guidelines are relevant only for the purposes of determining the maximum term of official detention, thus

⁵² § 5037(b)–(c).

⁵³ *United States v. H.B.*, 695 F.3d 931, 937 (9th Cir. 2012) (quoting *United States v. Juvenile*, 347 F.3d 778, 787 (9th Cir. 2003)).

⁵⁴ 18 U.S.C. § 5037(b)(1).

⁵⁵ § 5037(b)(2).

⁵⁶ § 5037(b).

they need not be considered when determining a juvenile sentence below this threshold.⁵⁷

If the juvenile is less than 18 years old on the date of the disposition hearing, the court can impose a term of official detention that may not extend beyond the *lesser* of the date when the juvenile becomes 21, the maximum advisory guideline range applicable to a similarly situated adult offender (unless the court finds an aggravating factor warranting an upward departure), or the maximum term that could be imposed if the juvenile had been tried and convicted as an adult.⁵⁸

If the juvenile is between 18–21 on the date of the disposition hearing for a class A, B, or C felony, the juvenile can be subject to a maximum term of official detention which is the *lesser* of five years or the maximum advisory guideline range applicable to a similarly situated adult (unless the court finds an aggravating factor warranting an upward departure).⁵⁹ In all other cases, a juvenile who is between 18–21 on the date of the disposition hearing is subject to a term of detention which cannot extend beyond the lesser of three years, the maximum advisory guideline range applicable to a similarly situated adult (unless the court finds an aggravating factor warranting an upward departure), or the maximum term that could be imposed if the juvenile had been tried and convicted as an adult.⁶⁰

For purposes of Bureau of Prison placement, all juveniles sentenced under the JDA shall be detained and placed in accordance with 18 U.S.C. § 5039.⁶¹ This means that whenever possible, detention shall be in a foster home or community based facility located in or near the juvenile's home, and the juvenile shall not be detained in any institution in which the juvenile has regular contact with adults.⁶²

Like so many areas of concern, the JDA is silent about what happens to a juvenile who turns 21 during his or her period of incarceration. One view is that, without further guidance from the JDA, BOP must keep the individual in a juvenile facility for the entire sentence. According to BOP, however, once he or she reaches the age of 21, a person who had been adjudicated as delinquent may then be

⁵⁷ United States v. M.R.M., 513 F.3d 866, 868 (8th Cir. 2008).

⁵⁸ 18 U.S.C. § 5037(c)(1).

⁵⁹ § 5037(c)(2)(A).

⁶⁰ § 5037(c)(2)(B).

⁶¹ 18 U.S.C. § 5039.

⁶² *Id.*

designated to a BOP institution as an adult. A change in placement is not required, however, and the BOP may retain the inmate in a contract juvenile facility for continuity of program participation.

4. Supervision

If official detention is ordered, the court may include the requirement that a juvenile be placed on a term of juvenile delinquent supervision after official detention.⁶³ If the juvenile is under 18 at time of the disposition, the term of supervision cannot exceed the period of time until the juvenile reaches 21.⁶⁴ If the juvenile is between 18–21, the term of supervision cannot be longer than the maximum term of official detention ordered under 18 U.S.C. § 5037(c)(2)(A) and (B), less the term of official detention ordered.⁶⁵

The court may, prior to the expiration of the term and after a dispositional hearing, modify, reduce, or enlarge the conditions of supervision.⁶⁶ If the juvenile violates a condition of supervision, the court may order a dispositional hearing, revoke the term of supervision, and order a term of official detention.⁶⁷ The length of the authorized additional term of detention or an additional period of supervision following revocation is set forth in 18 U.S.C. § 5037(d)(5), (6).⁶⁸

IV. Transferring defendants to adult status

Given the burdens of the above described process, and the limited punishment available to juvenile offenders, prosecutors of organized crime or gang cases will most likely forgo the juvenile process unless they intend to transfer the offender to adult status. Transfer to adult status is often the most appropriate way to address offenders who have committed the most heinous crimes, yet have done so before their 18th birthday.

Short of the juvenile waiving his JDA rights and agreeing to proceed as an adult, there are two avenues for transfer to adult status—there is a limited *mandatory* transfer process and a somewhat broader

⁶³ *Id.*

⁶⁴ 18 U.S.C. § 5037(d)(2)(A).

⁶⁵ § 5037(d)(2)(B).

⁶⁶ § 5037(d)(4).

⁶⁷ § 5037(d)(5).

⁶⁸ § 5037(d)(5), (6).

discretionary transfer process. Prosecutors are advised that regardless of whether a juvenile is transferred under the mandatory or discretionary transfer process, the juvenile still enjoys the right to appeal the transfer with an immediate interlocutory appeal.

A. Waiver: the preferred method to transfer

The JDA is a statutory, rather than constitutional, scheme, and thus a juvenile defendant can waive his or her rights under the JDA. The JDA provides for waivers; however, it provides little guidance on the form of that waiver other than the waiver must be in writing, and it must be made upon advice of counsel.⁶⁹ In practice, a waiver can be executed in a separate document, with a district court fully allocuting the juvenile, or the waiver can be a provision in a plea or cooperation agreement, and the court can address that provision during the broader plea colloquy.

In addition to foregoing the collection of records and the lengthy evidentiary hearing, the waiver has the advantage of avoiding the interlocutory appeal process, assuming the juvenile also waives his or her appellate rights as part of any plea or cooperation agreement.

B. The mandatory transfer process to adult status

In limited circumstances, transfer of a juvenile to adult status is mandatory. Pursuant to 18 U.S.C. § 5032, ¶ 4, mandatory transfer applies when a juvenile has previously been found guilty of an act, which if committed by an adult, “would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense,” or is a listed offense (18 U.S.C. §§ 32, 81, 844(d), (e), (f), (h), (i), or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of § 401 of the Controlled Substances Act, or §§ 1002(a), 1003, 1009, or 1010(b) (1), (2) or (3) of the Controlled Substances Import and Export Act).⁷⁰ In addition, for mandatory transfer to apply, the juvenile has to have committed the instant offense after his or her 16th birthday, and the

⁶⁹ See 18 U.S.C. § 5032, ¶ 4.

⁷⁰ *Id.*

new offense that the prosecutor seeks to transfer has to be the same type of offense as the prior adjudicated offense.⁷¹

The language that the JDA employs for mandatory transfers implicates *Dimaya*⁷² to an extent. While this portion of the JDA does not employ the phrase “crime of violence,” it does require that the previously adjudicated act, if committed by an adult, “would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another.”⁷³ As discussed above in the section of this article addressing “certification,” this language closely tracks the elements clause under section 16(a), and thus should survive *Dimaya*.⁷⁴ However, the second phrase in the JDA’s mandatory transfer requirements—that the act “by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense,”⁷⁵—is almost identical to section 16(b), which *Dimaya* struck down. Accordingly, post-*Dimaya*, if the act in question is not one of the enumerated crimes set forth in the mandatory transfer section, the act will only be eligible for mandatory transfer if the act, which, if committed by an adult, “would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another.”⁷⁶ Also, as discussed previously, conspiracies would not qualify as crimes of violence.⁷⁷

As for what qualifies as a prior offense, “all of the circuits that have addressed this issue [] hold that [a defendant’s] previous juvenile delinquency adjudication satisfie[s] § 5032’s requirement that [the defendant] ‘has previously been found guilty’ of one of the enumerated offenses that would support his mandatory transfer to district court to be tried as an adult.”⁷⁸ In *United States v. Y.A.*, the defendant was subject to a mandatory transfer to adult status, but he avoided this by

⁷¹ § 5032, ¶ 4.

⁷² *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018).

⁷³ § 5032.

⁷⁴ *Supra* Part III.A.

⁷⁵ § 5032.

⁷⁶ § 5032.

⁷⁷ *Supra* Part III.A.

⁷⁸ *United States v. David A.*, 436 F.3d 1201, 1213 (10th Cir. 2006).

appealing his predicate conviction and thus removing him from the class of offenders subject to mandatory transfer.⁷⁹

C. Transfer in the interest of justice: discretionary transfers

Upon motion, the government can seek to transfer a juvenile to adult status in the interest of justice, that is, a discretionary transfer.⁸⁰ Specifically, the government may make a motion to transfer in the interest of justice where a juvenile 15 years or older has committed an act which if committed by an adult would be a felony that is a crime of violence, or an enumerated offense, including violations of 21 U.S.C. §§ 841 (drug trafficking—but not conspiracy to traffic drugs/21 U.S.C. § 846), 952(a) (drug importation), 955 (drugs on vessels), or 959 (drug manufacture or distribution with intent to import), violations of 18 U.S.C. § 922(x) (possession of a handgun or ammunition), or violations of 18 U.S.C. §§ 924(b) (transporting firearms with intent to commit a felony), (g) (interstate travel to acquire firearms for criminal purposes), or (h) (transferring a firearm to be used in a violent or drug trafficking crime).

As previously discussed, post-*Dimaya*, in determining whether an offense can qualify for transfer under the discretionary transfer process, the crime must either fall within the list of enumerated offenses or qualify under the elements clause in section 16(a), that is, it must be “an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.”⁸¹ Importantly, post-*Dimaya*, conspiracies, including RICO conspiracies and VICAR conspiracies, do not qualify as crimes of violence because they fall under section 16(b).

In addition, the government may move to transfer a juvenile in the interest of justice who is 13 and older where the juvenile has committed specific violent crimes—18 U.S.C. §§ 113(a), (b), (c) (assault), 1111 (murder), 1113 (attempted murder), or if the juvenile possessed a firearm during the commission of violations of 18 U.S.C. §§ 2111 (robbery), 2113 (bank robbery), 2241(a) or (c) (aggravated sexual abuse).⁸² As the JDA specifically enumerates what

⁷⁹ 42 F. Supp. 3d 63, 67–68 (D.D.C. 2013).

⁸⁰ § 5032.

⁸¹ 18 U.S.C. § 16(a).

⁸² § 5032, ¶ 4.

crimes are “crimes of violence” under this paragraph, *Dimaya* is not implicated.

1. Hearing on the motion to transfer

Once the government files a motion to transfer in the discretionary transfer process, the court must conduct a hearing to determine if such transfer would be in the interest of justice.⁸³

Reasonable notice of the transfer hearing must be given to the juvenile, his parents, guardian or custodian, and his counsel.⁸⁴

The strict rules of evidence do not apply to the transfer proceeding, except with respect to privileges.⁸⁵ Therefore, hearsay is admissible at the hearing.⁸⁶ Unlike the requirement of proving delinquency beyond a reasonable doubt, the court makes its determination as to whether transfer to adult status is in the interest of justice by a preponderance of the evidence.⁸⁷ The preponderance standard applies because a transfer hearing is not a criminal proceeding that results in adjudication of guilt or innocence, but rather a civil proceeding that results in the adjudication of the juvenile’s status.⁸⁸

⁸³ § 5032; *United States v. Three Male Juveniles*, 49 F.3d 1058, 1060 (5th Cir. 1995); *see also* *United States v. Y.A.*, 42 F. Supp. 3d 63, 74 (D.D.C. 2013) (juvenile has a right to counsel at the transfer hearing).

⁸⁴ § 5032, ¶ 6; *see* *United States v. David A.*, 436 F.3d 1201, 1208 (10th Cir. 2006) (government must make reasonable efforts to notify juvenile’s parents, guardian, or custodian; transfer motion delay of 84 days, while government attempted to contact fugitive father, was on the outer limits of reasonable but did not violate juvenile’s right to a speedy trial; attempting to notify the father by notifying other family members was deemed to be “reasonable efforts”).

⁸⁵ *United States v. Juvenile Male*, 554 F.3d 456, 460 (4th Cir. 2009);

United States v. SLW, 406 F.3d 991, 995 (8th Cir. 2005);

United States v. Doe, 871 F.2d 1248, 1254–55 (5th Cir. 1989).

⁸⁶ *United States v. Juvenile Male*, 554 F.3d 456, 459 (4th Cir. 2009);

United States v. Doe, 871 F.2d 1248, 1254–55 (5th Cir. 1989).

⁸⁷ *United States v. Robinson*, 404 F.3d 850, 858 (4th Cir. 2005);

United States v. Brandon P., 387 F.3d 969, 976–77 (9th Cir. 2004);

United States v. Doe, 49 F.3d 859, 868 (2d Cir. 1995); *United States v. A.R.*,

38 F.3d 699, 703 (3d Cir. 1994); *United States v. Parker*, 956 F.2d 169, 171 (8th Cir. 1992).

⁸⁸ *Brandon P.*, 387 F.3d at 976–77; *United States v. Doe*, 49 F.3d 859, 868 (2d Cir. 1995); *A.R.*, 38 F.3d at 703.

2. Six factors to consider for transfer to adult status

The six factors that must be considered “in assessing whether a transfer would be in the interest of justice” include: (1) “the age and social background of the juvenile;” (2) “the nature of the alleged offense;” (3) “the extent and nature of the juvenile’s prior delinquency record;” (4) “the juvenile’s present intellectual development and psychological maturity;” (5) “the nature of past treatment efforts and the juvenile’s response to such efforts;” (6) and “the availability of programs designed to treat the juvenile’s behavioral problems.”⁸⁹ On a motion for prosecution of a juvenile as an adult, “a district court is not required to make a specific finding as to whether each of the six factors favors transfer to adult status or juvenile adjudication[;] [t]he district court need only make specific findings as to the six factors and then balance them,’ and ‘the weight a court assigns each factor is within its discretion.”⁹⁰ A court’s failure to make explicit findings on each factor can result in a remand of the court’s decision.⁹¹ As will be discussed more thoroughly below, the factor related to “nature of the alleged offense” often receives significant, if not the most, weight.⁹² The court has discretion, however, on how to weigh the factors.⁹³

Age and social background of the juvenile

In considering the first factor, the court should focus on the defendant’s age at the time of the offense.⁹⁴ Unless the government intentionally delays the filing of juvenile charges, however, the court can also consider the defendant’s age at the time of the transfer motion.⁹⁵ Current age is significant for a determination of the

⁸⁹ § 5032, ¶ 5.

⁹⁰ *Brandon P.*, 387 F.3d at 977 (quoting *United States v. Doe*, 94 F.3d 532, 536–37 (9th Cir. 1996)); *see also* § 5032, ¶ 5; *United States v. Gerald N.*, 900 F.2d 189, 191 (9th Cir. 1990).

⁹¹ *United States v. C.G.*, 736 F. 2d 1474, 1478–79 (11th Cir. 1984).

⁹² *Infra* Part IV.C.2 *The nature of the alleged offense.*

⁹³ *United States v. Doe*, 94 F.3d 532, 536 (9th Cir. 1996);

United States v. Doe, 871 F.2d 1248, 1254 (5th Cir. 1989).

⁹⁴ *United States v. Nelson*, 68 F.3d 583, 589 (2d Cir. 1995).

⁹⁵ *Id.* (“[U]nless the government intentionally delays the filing of juvenile charges, there is every reason to give weight also to the age at the time of the transfer motion.”); *see also* *United States v. Ramirez*, 297 F.3d 185, 193 (2d

appropriate rehabilitation programs for the juvenile.⁹⁶ Thus, factual findings should be made as to how the juvenile would fit into a program for rehabilitation.⁹⁷ Furthermore, a court's likelihood of granting a transfer motion increases with the age of the juvenile.⁹⁸

A judge must also consider evidence concerning the juvenile's social background, such as his or her home environment and relevant cultural considerations.⁹⁹ Proof that the juvenile had a long association with a violent gang may weigh in favor of a transfer.¹⁰⁰ Evidence concerning the age and social background of the juvenile can normally be presented by the juvenile probation officer.

The nature of the alleged offense

As stated above, this factor is often the most significant factor the court will consider in deciding transfer. Most courts weigh this factor more heavily than the other factors, especially if the crime is serious.¹⁰¹

Cir. 2002) (citing *Nelson*, 68 F.3d at 589 (finding district court properly considered defendant's current age at time of the transfer)).

⁹⁶ *Ramirez*, 297 F.3d at 193; *see also* *United States v. H.S.*, 717 F. Supp. 911, 917 (D.D.C. 1989) (finding that "the more mature a juvenile becomes, the harder it becomes to reform the juvenile's values and behavior."), *rev'd on other grounds, In re Sealed Case (Juvenile Transfer)*, 893 F.2d 363 (D.C. Cir. 1990) (reversed due to improper consideration of evidence of crimes with which the juvenile had not been charged during analysis of the nature of the alleged offense factor).

⁹⁷ *Nelson*, 68 F.3d at 589.

⁹⁸ *See, e.g.*, *United States v. Gerald N.*, 900 F. 2d 189, 191 (9th. Cir. 1990); *United States v. Doe*, 49 F.3d 859, 867 (2d Cir. 1995); *see also* *United States v. Juvenile Male*, 554 F.3d 456, 468–69 (4th Cir. 2009) ("A juvenile's age toward the higher end of the spectrum (eighteen), or the lower end (fifteen), is to be weighed either for or against transfer.").

⁹⁹ *See, e.g.*, *United States v. Juvenile Male*, 492 F.3d 1046, 1049 (9th Cir. 2007) (district court made "clearly erroneous finding[s] with regard to the defendant's social background," in failing to consider the defendant's exposure to domestic violence and improperly comparing him to other juveniles in his community even though there was no such comparison in the record).

¹⁰⁰ *See* *United States v. Doe*, 49 F.3d 859, 867 (2d Cir. 1995).

¹⁰¹ *United States v. Juvenile Male*, 844 F. Supp. 2d 312, 319–20 (E.D.N.Y. 2011) (collecting cases that say seriousness of offense can often be the most heavily weighted factor); *see also* *United States v. Robinson*, 404 F.3d 850,

In determining the nature of the offense(s) alleged, the district court should assume the juvenile committed the offense charged in the information.¹⁰² “Such a presumption is not inconsistent with a juvenile’s due process rights because the trial itself [serves to correct] for any reliance on inaccurate allegations made at the transfer stage.”¹⁰³

Although the court shall assume the juvenile committed the offense, it is recommended that the prosecutor present live testimony, rather than relying solely on affidavits or proffer statements, to present to the court. A case agent or other witness can make a record for this factor that will more likely ensure both a successful motion to transfer and a better record for the inevitable interlocutory appeal.¹⁰⁴

The extent and nature of the juvenile’s prior delinquency record

This factor can be established through the presentation of records from prior juvenile adjudications, and does not necessarily require a live witness. In addition, a prosecutor should attempt to present to the court records of prior arrests of the juvenile offender, even if those arrests did not result in adjudication or conviction. Courts may consider juvenile conduct even if it did not result in adjudication or conviction.¹⁰⁵

859 (4th Cir. 2005) (“[I]n determining if a transfer is in the interest of justice, the nature and severity of the crimes is the most important factor.”); *Ramirez*, 297 F.3d at 193 (“[N]ature of the offense and a defendant’s potential for rehabilitation are often properly given special emphasis.”); *United States v. Wellington*, 102 F.3d 499, 506–07 (11th Cir. 1996) (finding district court did not abuse its discretion by weighing factors in whatever manner it deemed to be appropriate; in this case, court focused on seriousness of the offense (carjacking and shooting carjacking victim) and fact that juvenile was nine days away from his 18th birthday).

¹⁰² *United States v. Juvenile Male*, 269 F. Supp. 3d 29, 40 (E.D.N.Y. 2017) (reaffirming *Nelson*, 68 F.3d at 589, in holding that the court, for the purposes of considering this factor, should assume that the juvenile committed the charged offense).

¹⁰³ *In Re Sealed Case (Juvenile Transfer)*, 893 F.2d 363, 369 (D.C. Cir. 1990).

¹⁰⁴ See discussion *infra* Part IV.D.

¹⁰⁵ *United States v. Juvenile Male*, 269 F. Supp. 3d 29, 41 n.13 (E.D.N.Y. 2017) (noting circuit split on whether you can consider prior conduct that did not result in conviction). Compare *United States v. Wilson*, 149 F.3d 610, 613 (7th Cir. 1998) (district court may consider arrests not resulting in

The juvenile's present intellectual development and psychological maturity

Many courts expect that the parties hire experts and subject the juvenile to psychological evaluation(s) to address this factor. Significantly, the JDA does not require such an evaluation.¹⁰⁶

A court ordering a juvenile to undergo psychiatric or psychological evaluation as part of the discretionary transfer process does not implicate or violate the juvenile's Fifth Amendment privilege.¹⁰⁷ The JDA specifically precludes the use of statements made prior to or during a transfer hearing at subsequent criminal prosecutions.¹⁰⁸

convictions), *with* United States v. Juvenile LWO, 160 F.3d 1179, 1183 (8th Cir. 1998) (holding district court may not consider an arrest unless it results in conviction). *See also* United States v. Anthony Y., 172 F.3d 1249, 1253–54 (10th Cir. 1999) (even if you cannot consider unadjudicated conduct as part of the “prior delinquency record” factor, it can still be considered under the other factors, such as “age and social background,” “present intellectual development and psychological maturity,” or “nature of past treatment efforts and the juvenile’s response to such efforts”); United States v. Juvenile Male, 754 F. Supp. 2d 569, 580 (E.D.N.Y. 2010) (citing juvenile’s inability to avoid illegal activity “for more than six months at a time” as a strong factor in favor of transfer).

¹⁰⁶ United States v. J.J., 704 F.3d 1219, 1223 (9th Cir. 2013) (noting that although it is common practice, section 5032 does not require a psychological evaluation and may rely on lay witness testimony to evaluate this factor).

¹⁰⁷ United States v. Mitchell H., 182 F.3d 1034, 1036 (9th Cir. 1999) (“[O]rdering a juvenile to submit to a psychiatric evaluation prior to a transfer hearing does not implicate or violate his Fifth Amendment privilege”). *But see* United States v. J.D., 517 F. Supp. 69, 73–74 (S.D.N.Y. 1981) (“It is all but inevitable that in the course of any psychiatric evaluations of these defendants, the psychiatrists will inquire into the defendants’ social backgrounds, previous delinquency, criminal experience, and other matters. Such inquiry is not prohibited by this opinion. What is prohibited is use of the defendants’ statements about those subjects, in this or any subsequent proceeding, as proof of their content, rather than as verbal acts of diagnostic significance in the psychiatrists’ evaluations of the defendants’ psychological maturity, intellectual development, and possible mental defects.”).

¹⁰⁸ 18 U.S.C. § 5032, ¶ 8 (“Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions.”).

Proof that a juvenile is abnormally low in intelligence or immature for his or her age would not be favorable for transfer.¹⁰⁹ By contrast, a juvenile may have developed a streetwise intellect or precociousness which could weigh in favor of transfer.¹¹⁰ In one case, the juvenile contended that he had the intelligence level of a six to seven year old. The court, nonetheless, ruled in favor of transfer since there was no evidence in the record indicating the juvenile lacked the ability to understand the consequences of his actions, and evidence showed the crime was committed in a calculated fashion.¹¹¹

Past treatment efforts and the juvenile's response to such efforts

In practice, this factor often favors the government's efforts to transfer a juvenile to adult status, for if the juvenile received any kind of treatment or attention in the past, that juvenile clearly did not respond well to it, as the juvenile has suffered the arrest that brought him or her to federal court. The case authority reflects this reality.¹¹² Indeed, one court went so far as to note that "a glimmer of hope in

¹⁰⁹ United States v. Doe, 74 F. Supp. 2d 310, 320 (S.D.N.Y. 1999), *aff'd*, United States v. Ramirez, 297 F.3d 185, 193 (2d Cir. 2002) (immaturity and lack of intellectual development weigh against transfer to adult status).

¹¹⁰ United States v. C.P.A., 572 F. Supp. 2d 1122, 1130 (D.N.D. 2008) (finding that defendant's low IQ and psychological immaturity were not obstacles to rehabilitation and thus weighed against transfer; however her "streetwise" nature and lack of remorse for her actions show a level of psychological maturity that is not conducive to rehabilitation; these competing qualities make consideration of this factor neutral, and thus the court relied on other factors).

¹¹¹ United States v. G.T.W., 992 F.2d 198, 200 (8th Cir. 1993).

¹¹² See United States v. Sealed Appellant 1, 591 F.3d 812, 821–22 (5th Cir. 2009) (finding while defendant responded well to treatment, the fact that he reverted to his old behavior as soon as treatment stopped weighed in favor of transfer due to inability to rehabilitate); United States v. Y.A., 42 F. Supp. 3d 63, 78 (D.D.C. 2013) (finding fact that defendant responded well to incarceration was outweighed by his failure to refrain from gang activity as a condition of supervised probation); United States v. Juvenile Male, 844 F. Supp. 2d 333, 346–47 (E.D.N.Y. 2012) (finding evidence of recidivism undermines expert testimony that defendant has responded well to treatment efforts; court also noted that he was observed wearing gang colors during counseling sessions).

future treatment [for rehabilitation], standing alone, would be insufficient to warrant a finding that rehabilitation is likely.”¹¹³

A district court is also allowed to consider criminal conduct subsequent to actions that formed the bases for the juvenile charges.¹¹⁴ This consideration would fall under the “social background” factor, “responses to treatment” factor, or an unnamed factor that helps determine whether the transfer is in the “interest of justice.”¹¹⁵ Because “the transfer factors are weighed and not numerically tallied, the inaccurate characterization of the consideration of the conduct does not result in error.”¹¹⁶

Availability of programs designed to treat a juvenile’s behavioral problems

Of all the preparation required to conduct an effective transfer hearing, this factor in practice requires very little. The Bureau of Prisons (BOP) is well aware of the JDA and discretionary transfer hearings, and thus has witnesses available who travel the country to testify about the BOP’s programs to address juvenile offenders. As long as that remains the case, prosecutors need only contact BOP and schedule the witness to address this factor.

Once on the stand, the witness should address “the types of programs available, how expansive the offerings are, whether the programs are mandatory, and the length of time that the court could require [the d]efendant to participate in the programs . . . [The court need not] explicitly address the staff-to-offender ratio or specific counseling programs.”¹¹⁷ Though the age of the defendant may affect the availability of programs, the government may still need to make a more thorough showing of lack of availability of programming.¹¹⁸

¹¹³ United States v. Nelson, 68 F.3d 583, 590 (2d Cir. 1995) (citing United States v. Doe, 871 F.2d 1248, 1253 (5th Cir. 1989)).

¹¹⁴ United States v. Male Juvenile E.L.C., 396 F.3d 458, 462 (1st Cir. 2005).

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 463.

¹¹⁷ United States v. J.J., 704 F.3d 1219, 1223 (9th Cir. 2013).

¹¹⁸ See United States v. Juvenile Male, 844 F. Supp. 2d 333, 347 (E.D.N.Y. 2012) (finding even though defendant is over 18 at time of motion to transfer, court should consider, as a factor, the available programs designed to treat juvenile’s behavior problems; the fact that defendant is already eligible to be incarcerated in an adult facility is not dispositive on the issue); United States v. Doe, 74 F. Supp. 2d 310, 321 (S.D.N.Y. 1999), *aff’d*,

D. The interlocutory appeal

An order transferring a juvenile for adult prosecution—regardless of whether it is a mandatory or discretionary transfer—is immediately appealable under 28 U.S.C. § 1291.¹¹⁹ Since a transfer decision made pursuant to the JDA constitutes the equivalent of a “final decision,” both parties can proceed immediately with an interlocutory appeal.¹²⁰

This appellate right poses a particularly difficult challenge in many cases where prosecutors would necessarily consider charging a juvenile offender. In multi-defendant gang and racketeering cases, the interlocutory appeal of a transfer decision almost guarantees that the juvenile will remain severed from a larger conspiracy or RICO case. Even in single defendant cases charging acts of violence, the significant delay that an interlocutory appeal necessarily entails delays justice for the victims and also creates risk that witnesses’ memories will fade, witnesses will become less cooperative, or that the case will deteriorate in other ways.

Accordingly, in deciding whether to proceed against an individual who would be subject to the JDA, prosecutors should give great thought to how the interlocutory appellate process will impact their overall prosecution.

V. Conclusion

The Juvenile Delinquency Act, perhaps by design, is a very difficult statute to navigate, especially for prosecutors investigating and charging serious violent crime cases. All proceedings against juveniles, whether they be delinquency proceedings or transfer proceedings, require a prosecutor to engage in significant investigation to secure relevant records and make important tactical

United States v. Ramirez, 297 F.3d 185 (2d Cir. 2002) (finding that the government witness “did not directly address the issue of whether there are appropriate adult, rather than juvenile, facilities” for the 21-year-old defendant, and relying on expert testimony indicating that there were adequate adult programs to treat the juvenile’s problems to find that “the government ha[d] not carried its burden of persuasion on this factor”). *But see* United States v. SLW, 406 F.3d 991, 994–95 (8th Cir. 2005) (accepting simple assertion by the government of a lack of availability of programs for a 21-year-old defendant).

¹¹⁹ 28 U.S.C. § 1291; United States v. J.J.K., 76 F.3d 870, 871 (7th Cir. 1996).

¹²⁰ *J.J.K.*, 76 F.3d at 872 (collecting cases and noting “an order issued under 18 U.S.C. § 5032 is appealable as a collateral order”).

decisions given how quickly a delinquency proceeding can be scheduled, or how slow a transfer and attendant transfer process may take. Thus, it is strongly recommended that a prosecutor proceed cautiously and deliberately before deciding to proceed federally against juvenile offenders.

About the Author

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Violence Reduction Through Community Engagement: The Omaha 360 Violence Prevention Collaborative

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I. Introduction¹

Strong partnerships with a broad array of stakeholders are a key element of a successful Project Safe Neighborhoods (PSN) program. While law enforcement partnerships are central to PSN's commitment



Solving complex problems, such as gun violence, requires complex and rich protocols, engaging multiple stakeholder groups. Project Safe Neighborhoods was a federal effort that recognized the need to knit strong webs of official and local resources, to strategically develop targeted problem solving interventions, with the goal of creating a unified safety net for communities. However, to be successful, jurisdictions will need to build the capacity to work together, using the best possible information, to create solutions that are truly strategic.

to prioritized and targeted enforcement, partnerships with social service agencies, schools, faith-based organizations, community groups, research partners, and other stakeholders can help create safer and more vibrant communities and sustain lasting reductions in violent crime. Indeed, the enhanced PSN initiative embraces prevention as one of the five pillars of the program, and sets the

expectation that United States Attorneys' Offices will support local efforts to prevent violent crime through a focus on youth and

¹ The quote in the text box comes from EDMUND F. MCGARRELL ET AL., PROJECT SAFE NEIGHBORHOODS—A NATIONAL PROGRAM TO REDUCE CRIME: FINAL PROJECT REPORT 93 (2009).

returning offenders. This approach is based on evidence of “what works:” researchers have found that partnerships with leaders and entities beyond the criminal justice sector, that is, schools, churches, and community-based organizations, have a positive impact on the success of the PSN program.²

Nowhere are these principles more clear than in Omaha, Nebraska, where the coordinated efforts of more than 400 organizations and thousands of participants have resulted in a significant decline in violent crime. In 2017, there were 118 shooting victims in Omaha, which is fewer than half of the number of people shot in 2007 and less than any other year in the last decade.³ According to Omaha Police Chief Todd Schmaderer, this decrease in gun crime “reflects the community’s role in its own well-being.”⁴

II. Background on Omaha 360: the power of a community leader as a change agent

The Omaha 360 Violence Prevention Collaborative (Omaha 360) grew out of the Empowerment Network, which Willie Barney founded in 2006 with the support and engagement of African American leaders and residents.⁵ Barney, a former marketing manager, strategic planning and training consultant, and one of Omaha’s most significant leaders,⁶ was spurred to action by his faith and the 2005 firearm-related deaths of a five-year-old girl and a teenage boy killed during a robbery attempt. He began by reaching out to members of his church and community and facilitating small group meetings with concerned citizens to discuss strategies to address gun violence and improve the community. Barney also met with then-Chief Thomas Warren and then-Deputy Chief John Ewing of the Omaha Police

² NATALIE KROOVAND HIPPLE, ET AL., PROJECT SAFE NEIGHBORHOODS CASE STUDY REPORT: DISTRICT OF NEBRASKA (Case Study 9), 25–27 (2013).

³ Emerson Clarridge, *Omaha saw 30 Homicides, ‘drastic decline’ in shootings in 2017*, OMAHA WORLD-HERALD (Jan. 2, 2018).

⁴ *Id.*

⁵ For more information about the Empowerment Network, see <http://empoweromaha.com/>.

⁶ Erin Grace, *Willie Barney, One of Omaha’s ‘Most Significant Leaders,’ is Constantly Bridging the City’s Dividing Lines of Geography, Race and Social Class*, OMAHA WORLD-HERALD (Aug. 9, 2017).

Department (OPD), and worked to build a stronger police-community relationship. This led to a community forum and gang summit with OPD, pastors and faith leaders, and community members. These efforts were augmented through prayer walks in violent crime hot spots led by Ewing and Pastor Dave Gehrls and continued meetings with community members, current and former gang members, elected officials, OPD, and other city agencies. In 2006, Barney and others launched the Violence Intervention and Prevention Team, which he, Ewing, OPD Sergeant Teresa Negrón, and Ben Gray, a local television reporter, chaired. This team evolved into what is now Omaha 360, which Barney and his team formally launched in January 2009. Gray was later inspired to run for public office and is now the President of the Omaha City Council. After his retirement from OPD, Ewing also ran for office and is now the Douglas County Treasurer. Both remain committed and engaged as advisors to the Empowerment Network and Omaha 360.

Initial meetings with community members—including gang members, at-risk youth, and parents of children lost to gun violence—revealed that the most significant issues facing North Omaha were the lack of employment options and positive activities for youth, and a sense that education was not relevant to real life in the neighborhoods. Omaha 360 partners addressed these concerns by working to prevent crime through community and youth engagement activities, mentoring, and job training and placement programs. The group also proactively responded to spikes in violence with prayer walks, stop the violence demonstrations, door-to-door neighborhood outreach, and multi-faceted interventions. In response to a surge in violent crime, which was attributed to the return of some individuals from prison to the community, Omaha 360 partners, such as Compassion in Action, expanded outreach in prisons. Omaha 360 also bolstered its re-entry activities, including co-hosting summits to help identify funds for employment, housing, and other services to support a more positive transition for offenders returning to the community.

Today, Omaha 360 brings together over 400 organizations and thousands of participants, including elected officials, community leaders, OPD, the United States Attorney's Office, medical and mental health service providers, education professionals, social service providers, outreach workers, pastoral and faith leaders, employment partners, philanthropic foundations, and youth organizations. This wide array of stakeholders meet on a weekly basis and work together

to address the root causes of gun violence and develop positive employment and recreational opportunities to serve as alternatives to violence. These weekly meetings are only one hour in length, but over time the meeting participants have forged bonds of friendship and commitment that make long term success of Omaha 360 and the district's PSN program possible. Barney, Vicki Quaites-Ferris, the Empowerment Network's Director of Operations—and previously, Jami Kemp, the former Omaha 360 Director—skillfully facilitate the Omaha 360 meetings to create a space in which everyone is heard and the group's efforts are focused on working together to prevent and respond to violent crime. At these meetings, OPD precinct commanders give a read out of recent law enforcement activity and field questions, and other participants provide updates and highlight upcoming activities and events. As needed, these weekly meetings are supplemented to address other issues, such as a spike in violent crime or a police-citizen incident.

Through these meetings, North Omaha is able to leverage all available interventions to prevent and deter violent crime. In some instances, community members and organizations are able to intercede; on other occasions, a law enforcement response is more appropriate. The leaders of Omaha 360 recognize that for their collective safety and prosperity, some individuals need to be arrested. The group has outreach partners that work with and minister to individuals while they are incarcerated. Even when law enforcement interventions are necessary, they are often collaborative. In previous years, a smaller group of vetted stakeholders from Omaha 360—including law enforcement, federal and local prosecutors, clergy, and community leaders—met every quarter to share strategies to address the individuals who were driving violent crime and address unexpected spikes in violent crime. Due to Omaha 360's success in helping reduce violent crime, these meetings are now convened on an as-needed basis.



Figure 1: A Weekly Omaha 360 Meeting—Willie Barney (Right) Facilitating the Discussion

Police-community relations have significantly improved as a result of this collaboration and OPD’s robust community engagement programs. Weekly meetings and mutual engagement in violence reduction and community-building efforts has led to increased witness cooperation and clearance rates. The higher clearance rates have also served to reinforce the positive, cooperative relationship between OPD and community members and organizations. Another significant factor is Chief Schmaderer’s willingness to discuss issues candidly and immediately, inform the community of the steps OPD leadership takes when police-community incidents occur, provide transparent data, respond to questions from community members, and hold officers accountable. Omaha 360, OPD, the Omaha NAACP, and other community leaders have worked together on other efforts to improve police-community relations.

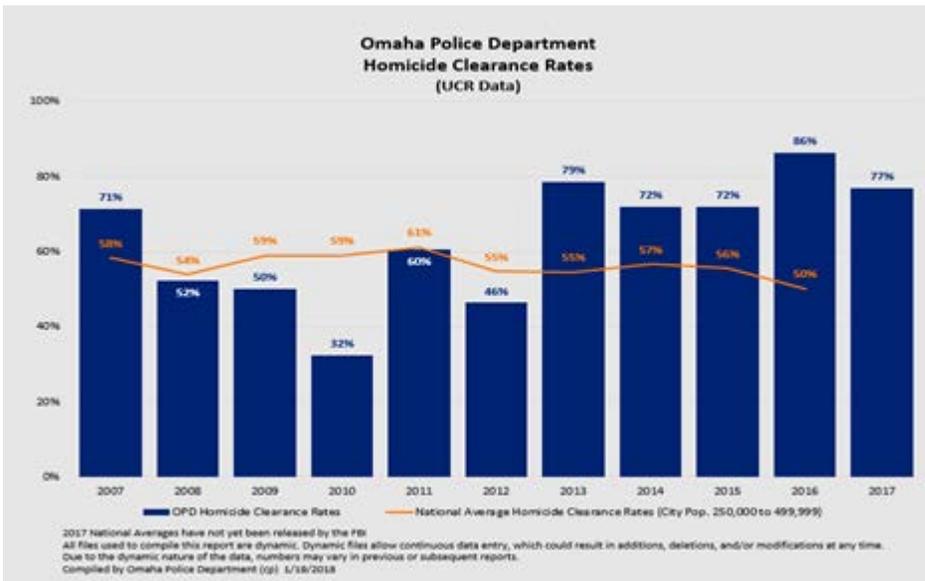


Figure 2: Omaha Police Department Homicide Clearance Rates

III. Role of the United States Attorney’s Office

United States Attorney Joe Kelly is a longtime local Nebraska prosecutor and is committed to the collaborative approach that is embodied in the Omaha 360 program. The United States Attorney’s Office has strong partnerships with OPD, the Douglas County

Attorney's Office (who prosecutes crime in state court), the Empowerment Network, federal law enforcement agencies, and many others. These partnerships make possible the success that Omaha has seen in recent years and enable the strong community-law enforcement ties, which have benefits that go far beyond public safety.

The United States Attorney's Office—represented by Law Enforcement Coordinator Joe Jeanette—attends the weekly Omaha 360 meetings and is a full partner in the collaborative effort. In some respects, the United States Attorney's Office is one stakeholder among many involved in Omaha 360. The United States Attorney's Office, however, has a key role to play in neutralizing the drivers of violent crime. Oftentimes, a successful federal prosecution can remove an individual from the local community and provide greater certainty with regard to the sentence imposed. The United States Attorney's Office therefore offers a valuable service; it also gains invaluable partners through Omaha 360, which acts as a force multiplier. Many aspects of the holistic approach to violence reduction that Omaha 360 employs are simply beyond the ken of the average federal prosecutor. By partnering with an organization such as Omaha 360, the United States Attorney's Office can focus on its primary role—enforcing the law and, by doing so, improving public safety—while allowing other individuals and organizations to address the factors that contribute to violent crime. The combination of these efforts has made a significant impact in Omaha.

IV. Lessons learned from Omaha 360

The facilitators of Omaha 360, Barney and Quaites-Ferris, attribute the success of the group to several factors:

- (1) *Weekly meetings of all stakeholders*: Weekly meetings allow for the development of personal relationships across the spectrum of participants, provide an opportunity to make referrals or obtain information in a timely manner, and help sustain the group's focus on violence reduction. Holding meetings at a consistent and publicly known time and location facilitates the attendance of new members, and adherence to the one hour meeting duration supports continued participation in a weekly meeting over time. Many partnerships have been developed before and after the weekly meetings.
- (2) *Using skilled facilitators*: Meeting facilitators strive to strike the appropriate balance between honest communication and problem

solving. This means that participants are afforded an opportunity to express concerns and raise questions, but that the discussion centers on finding solutions, not airing grievances. This approach allows meeting participants to share information and discuss solutions without feeling attacked or that the meeting was counterproductive.

- (3) *Clear focus on reducing violent crime:* The group is focused exclusively on reducing gun violence and homicides, with the goal of building safer, stronger, and more vibrant communities in all of Omaha. This tight focus on violence reduction is facilitated by the fact that Omaha 360 is part of a larger organization, the Empowerment Network, which has other programs to address related issues that do not directly bear on violence reduction.
- (4) *Broad participation:* The group has strived to maintain a full spectrum of participants and, as necessary, has reached out to agencies and organizations to fill any perceived gaps in the collective.
- (5) *Strong commitment from law enforcement:* Omaha 360 has been effective because OPD leadership—including the Chief, Deputy Chiefs, Captains, and other senior members—have been committed to the community policing model and engaged in the collaborative violent reduction effort. Every Chief since 2007—specifically, Thomas Warren, Alex Hayes, and Todd Schmaderer—has been an active and avid supporter of the Omaha 360 collaborative. Omaha 360 has also benefited greatly from strong internal champions like Sergeant Teresa Negron, Deputy Chief Ken Kanger, Deputy Chief Scott Gray, Deputy Chief Kerry Neumann, and others. This commitment from leadership sets the tone for front line officers, including those from the OPD Gang Unit, who are encouraged to engage in the community policing strategies and activities.
- (6) *Constantly evolving partner-supported prevention and intervention programs:* Omaha 360 benefits from robust engagement from OPD and its commitment to working collaboratively and transparently with the community, as well as several partner programs that help stem the tide of gang activity and gun violence. Some of the key programs include:

- (a) *Step-Up Omaha! (Summer Training, Employment Pathway & Urban Pipeline)*:⁷ A summer employment training and placement program for ages 14–21 that has served over 4,000 youth and grown to approximately 700 placements for 2018 with a budget of approximately \$2 million. Supporters of this program include the City of Omaha (which contributes \$1 million), businesses, foundations, and other donors.
- (b) *Cradle to Career*:⁸ An educational program supported by the Empowerment Network, Omaha Public Schools, and nearly 100 organizations and businesses that work with children before entering kindergarten and throughout their education with the goal of placing all students in a successful career field of choice.
- (c) *PACE (Police Athletics for Community Engagement)*:⁹ An OPD program designed to provide positive opportunities for youth engagement through sports. Founded in 2005, the program has grown to provide opportunities for over 3,000 youth in the summer of 2018. The program is completely free and provides uniforms, equipment, transportation and coaching. OPD has also launched other engagement initiatives including Coffee with a Cop, Cops and Bobbers, Fun in the Park, and other events that attract over 1,000 participants. In addition, OPD helps to plan community parades and cultural events, while also hosting citizen training and precinct advisory committees.
- (d) *Pastors and Faith Leaders Covenant Group*:¹⁰ Pastoral and faith leaders play an integrated role in the Empowerment Network and Omaha 360 through Adopt-A-School (mentoring, coordination of services, and partnerships), Adopt-A-Block (which has evolved into Village

⁷ STEP-UP OMAHA!, <http://stepupomaha.com/StepUp2018/about/>; *Step Up Omaha*, THE EMPOWERMENT NETWORK, <http://empoweromaha.com/step-up-omaha/>.

⁸ *Cradle to Career*, THE EMPOWERMENT NETWORK, <http://empoweromaha.com/cradle-to-career/>.

⁹ POLICE ATHLETICS FOR COMMUNITY ENGAGEMENT (PACE), <https://www.paceomaha.org/>.

¹⁰ *Pastors & Faith Leaders*, THE EMPOWERMENT NETWORK, <http://empoweromaha.com/pastors-faith-leaders/>.

Stakeholders), Adopt-A-Cell (jail, prison, and now detention center outreach), among other programs. This group meets on a monthly basis.

V. How to identify and partner with community resources like Omaha 360

Omaha is fortunate to have a well-established, community-based violence prevention program like Omaha 360, which has been built through the committed leadership from an array of stakeholders over the last decade. While every district may not have the same type of program already in place, under the enhanced PSN initiative, each district is charged with taking steps to prevent additional violence through community outreach, public awareness, and supporting local prevention, intervention, and re-entry efforts. There are three fundamental steps to building out this part of an enhanced PSN program: (1) identify community needs; (2) identify existing resources to address those needs; and (3) create a mechanism for collaborative problem solving.

To more effectively reduce violent crime, law enforcement agencies must have the buy-in and cooperation of the communities in which they operate. A key component of this—as the Omaha 360 collaborative demonstrates—is identifying the violence reduction needs and priorities from the perspective of community leaders and members. Barney’s and the Empowerment Network’s initial efforts in North Omaha were based on a series of small group meetings with input from a spectrum of community members and individuals affected by violent crime to identify the motivation for the violence and the most pressing issues facing the community in this area. Partnering with leaders like Barney can complement the violence reduction efforts of the United States Attorneys’ Offices. Indeed, Omaha 360 demonstrates that an important precursor to partnership and the foundation of collaborative violence reduction efforts is open dialogue among stakeholders. Community outreach—whether through participation in community meetings, police-community forums, or presentations at churches or other venues—will provide an opportunity for United States Attorneys’ Offices to hear about what is important to community members and also share information about PSN and how it will help reduce crime and enhance public safety. This type of ongoing engagement will help create and maintain an

open dialogue that will facilitate the partnerships that are vital to the success of PSN.

To identify existing community-based resources and organizations like Omaha 360, United States Attorneys' Offices may want to reach out to local elected officials, local law enforcement agencies (many of which have community engagement offices and programs), clergy and faith-based organizations, afterschool programs (like the Boys and Girls Club), and local offices of national advocacy organizations.

Finally, the United States Attorney's Office should consider how to incorporate community members and organizations into the PSN program. Under the Omaha 360 model, the full complement of PSN partners meet on a weekly basis under the umbrella of the Omaha 360 collaborative. Other districts incorporate prevention, community engagement, and re-entry efforts into a PSN task force subcommittee. Still others have two sets of PSN task force meetings, one for all partners and a smaller one to discuss more sensitive information related to enforcement efforts (which, as Omaha 360 illustrates, may also include vetted community leaders). As with other aspects of PSN, there is no set formula for precisely how to incorporate community partners and preventative efforts, but it is important to have some vehicle for doing so.

VI. Conclusion

The causes of violent crime are many, and research and experience have demonstrated that the most effective violence reduction programs are collaborative, comprehensive, and community-based. Omaha 360 is an excellent example of how federal prosecutors can partner with community-based efforts to enhance the law enforcement response to violent crime. The success of this program in decreasing violent crime in Omaha demonstrates that true partnerships with non-criminal justice entities can multiply enforcement efforts through front- and back-end prevention and community support. In addition, this support can net dividends in the form of increased reporting, cooperation, and intelligence-sharing with law enforcement and prosecutors. By working together and leveraging each partner's expertise, PSN partnerships with a wide array of stakeholders can vastly improve the impact of the program, both in terms of violent crime rates and quality of life.

For further information about Omaha 360, please contact LEC Joe Jeanette (joe.jeanette@usdoj.gov, 402-661-3725); OPD Deputy Chief Ken

Kanger (ken.kanger@cityofomaha.org, 402-444-5688); Willie Barney (wbarney@empoweromaha.com, 402-502-5153), Empowerment Network Founder, President, and Facilitator; or Vicki Quaites-Ferris (vqferris@empoweromaha.com, 402-502-5153), Empowerment Network Director of Operations.

About the Author

Erin Aslan is senior counsel at the Office of Legal Policy. Ms. Aslan was a key member of the team that developed the enhanced Project Safe Neighborhoods (PSN) program. In conjunction with the Office of the Deputy Attorney General, Ms. Aslan helps oversee implementation of the PSN program, leads the PSN Support Team, and coordinates the Department of Justice's violent crime reduction activities. Ms. Aslan is also the PSN Support Team representative for Mid-Atlantic districts.

Hired through the Attorney General's Honors Program, Ms. Aslan was a prosecutor with the Criminal Division's Public Integrity Section and the Civil Rights Division's Criminal Section. Ms. Aslan also served as an appellate attorney with the Department of Justice for four years. Ms. Aslan clerked in the Southern District of New York and graduated from New York University School of Law (J.D., *magna cum laude*, 2003) and Brown University (B.A., *magna cum laude*, 1996). Ms. Aslan has previously taught at the National Advocacy Center and other venues.

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Understanding At-Risk Students and What That Can Teach Us About Effective Prevention Programs

Mo Canady

Executive Director

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I. Who are “At-Risk Students”?

As numerous studies have shown, at-risk students are more likely to become involved in criminal activity than their not at-risk peers. In order to fully understand the underlying causes of a student being deemed “at-risk” and how to best serve these students, the term “at-risk” must first be clearly defined.

An at-risk student describes a student who “requires temporary or ongoing intervention in order to achieve in school and to graduate with meaningful options for his or her future.”¹ At-risk students are less likely to successfully shift into the responsibilities of adulthood or financially provide for themselves. At-risk students often suffer from emotional and behavioral problems, including but not limited to truancy, low academic performance or interest, and disconnect from the day-to-day activities of the school community.² The process of a student being classified as “at-risk” is accelerated by stress and developmental issues, adverse childhood experiences (ACES), and youth victimization.³

To properly curb the prospect of a student being defined as “at-risk,” school community leaders must take important early intervention steps to best identify these students and to meet their

¹ Valerie Richardson et al., *At-Risk Student Intervention Implementation Guide: A comprehensive resource for identifying programs to help decrease South Carolina’s school dropout population*, EDUC. & ECON. DEV. COORDINATING COUNCIL 4 (2007).

² Heather Koball, *Synthesis of Research and Resources to Support at-Risk Youth*, OPRE REPORT 2011–22, 1–3 (2011).

³ *About Adverse Childhood Experiences*, CTRS. FOR DISEASE CONTROL & PREVENTION (2016), https://www.cdc.gov/violenceprevention/acestudy/about_ace.html.

specific needs. Sound community-based policing strategies, including the placement of a carefully selected and specially trained School Resource Officer (SRO) on a school campus, make law enforcement officers an invaluable asset to at-risk students. To be of the most use to these students, SROs functioning under the SRO Triad concept as law enforcement officers, educators, and informal counselors, must understand the difficulties at-risk students face and the clear, proven link between childhood trauma and injurious behaviors.

II. Challenges to development

“Children exposed to violence, crime, and abuse are more likely to abuse drugs and alcohol; suffer from depression, anxiety, and posttraumatic stress disorder; fail or have difficulties in school; and become delinquent and engage in criminal behavior.”⁴ The relationship between childhood abuse and detrimental behaviors is best understood through an examination of three critical elements: (a) constant traumatic stress, (b) adverse childhood experiences, and (c) youth victimization.

A. Constant traumatic stress

Fostering coping mechanisms for mild or moderate stress is an important part of adolescent development. Some stressful events can even be beneficial, depending on how much stress the body undergoes and the longevity and context of the experience. Context is influenced by the controllability of the event, how often and for how long the body’s stress system has been previously manipulated, and the reliability and security of the child’s at-home and community support systems. A child’s ability to cope with early stress has direct consequences on his or her physical and mental health throughout his or her life. By having a clear understanding of the different types of stressors that contribute to early adverse experiences, health and community professionals can make better judgments about the need for intervention to reduce any future, negative repercussions.⁵

⁴ David Finkelhor et. al., *Children’s Exposure to Violence, Crime, and Abuse: An Update*, JUV. JUST. BULL. 2 (Sept. 2015).

⁵ National Scientific Council on the Developing Child, *Excessive Stress Disrupts the Architecture of the Developing Brain: Working Paper 3*, CTR. ON DEVELOPING CHILD 1 (2014).

Traumatic stress results from stressors that are too intense, too frequent, or too long. Adverse events that are “chronic, uncontrollable, and/or [occur] . . . without children having access to support from caring adults,” result in overwhelming physiological and psychological stress that exceeds a child’s capacity to cope.⁶ The severity of this stress, such as child neglect, maltreatment, and abuse, directly impairs the developing brain by altering its anatomy and its ability to function.⁷

Based on the massive disruptions in healthy development wrought by toxic stress, early trauma can have lifelong and deeply damaging effects on an adolescent throughout his or her life. These effects are often manifested as misbehavior, disrespect for authority, and criminality.⁸

Considerable evidence indicates that delinquency in youth (for example, truancy, criminality, acting out) is strongly associated with childhood trauma and traumatic stress. Youth in the Juvenile Justice System (JJS) report the highest rates of childhood victimization as well as trauma’s signature aftermath, Posttraumatic Stress Disorder. As evidenced by the results of the Northwestern Juvenile Project, examining youth detained at the Cook County Juvenile Temporary Detention Center in Chicago, Illinois, 92.5% of detained youth had experienced at least one traumatic event (that is, raped, beaten badly, experienced a natural disaster, witnessed a murder, etc.). Almost 86% of these youth had experienced more than one of these traumatic events, and almost 60% had suffered six or more of these traumas at some point in their childhoods.⁹

B. Adverse Childhood Experiences (ACEs)

The Adverse Childhood Experiences (ACEs) study is one of the largest investigations conducted to examine the link between childhood stressors and adult physical and mental health and well-being. This collaboration between the Centers for Disease Control and Prevention and Kaiser Permanente Health has evaluated more than 17,000 adults to date, linking ACEs to “risky health behaviors,

⁶ *Id.* at 2.

⁷ *Id.*

⁸ *Id.*

⁹ Karen M. Abram et al., *PTSD, Trauma, and Comorbid Psychiatric Disorders in Detained Youth*, JUV. JUST. BULL. 1 (June 2013).

chronic health conditions, low life potential, and early death,” wherein “as the number of ACEs increases, so does the risk for these outcomes.”¹⁰

The Institute for Safe Families’ Philadelphia Urban ACE Survey in 2003 was designed to examine the extent and impact of ACEs in an urban setting, with a socially and racially diverse populace (Philadelphia, Pennsylvania) and the specific stressors of these communities. This study found that poorer, urban, children of color are much more likely to experience significant stressors such as abuse and neglect than their white, middle and upper-class counterparts. Of the individuals in this study, 35% reported being physically abused during their childhoods and 33% reported childhood emotional abuse.¹¹ More than 40% of participants witnessed at least one significant act of violence (including seeing or hearing a person being beaten, stabbed, or shot), more than $\frac{1}{3}$ of participants grew up in a home with at least one substance-abusing member, and nearly $\frac{1}{4}$ of participants lived in a home with a mentally ill person.¹²

The charts below examine data from two studies: (1) the Kaiser ACE Survey, in which four out of five participants were white (80%) and the majority of which had more than a high school education (32% had completed some college and 43% were college graduates),¹³ and (2) the Philadelphia ACE Survey (as referenced above), in which only two out of five adult participants were white (38.8%), more than three out of ten residents were black (36.1%), 11.4% were latino, and less than $\frac{1}{2}$ had completed more than a high school education (20% had completed some college and 22.5% were college graduates).¹⁴

¹⁰ *About Adverse Childhood Experiences*, CTRS. FOR DISEASE CONTROL & PREVENTION, https://www.cdc.gov/violenceprevention/acestudy/about_ace.html (last visited Nov. 20, 2018).

¹¹ *Findings from the Philadelphia Urban ACE Survey*, INST. SAFE FAM. i (2013).

¹² *Id.*

¹³ *Id.* at 2, 9.

¹⁴ *Id.* at 2, 11.

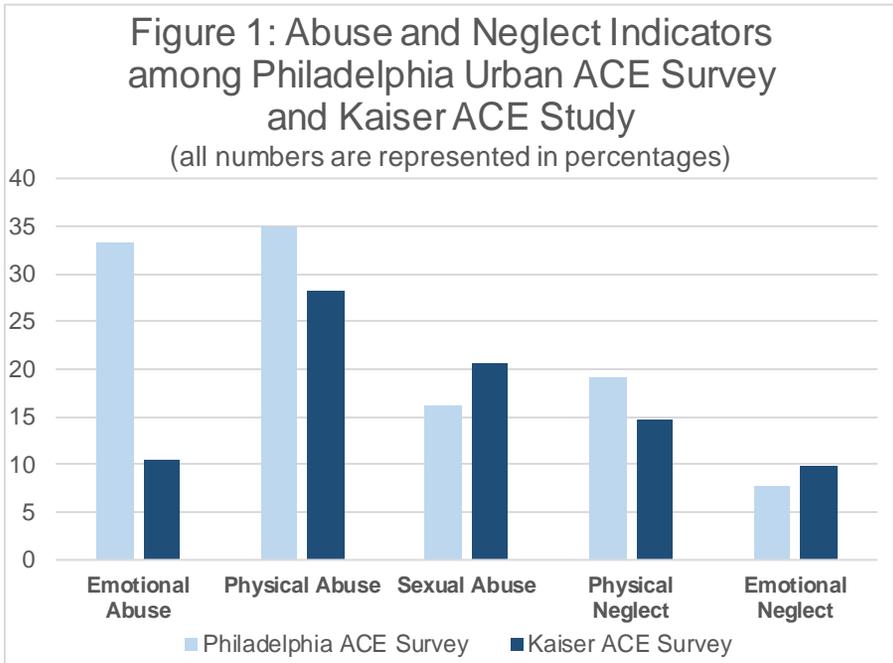


Figure 1. Abuse and Neglect Indicators

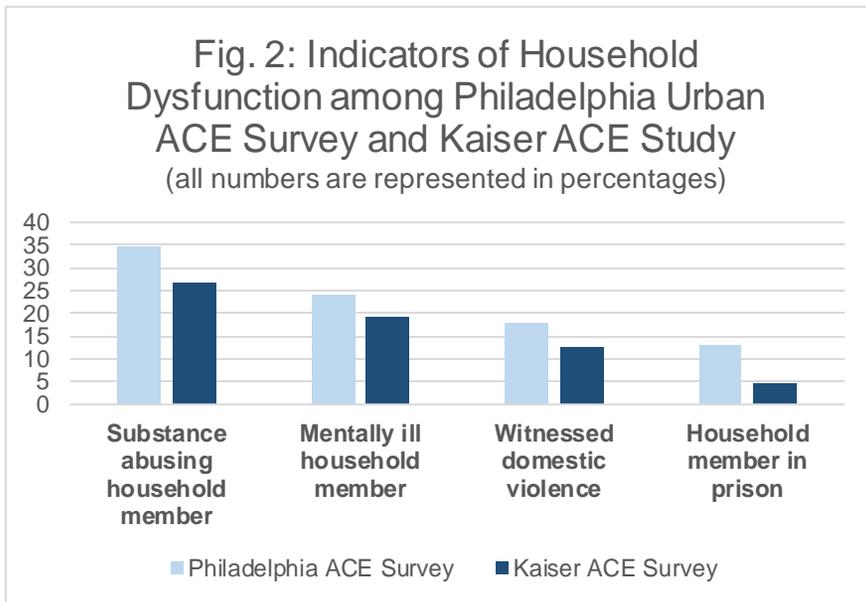


Figure 2. Indicators of Household Dysfunction

In order to understand the relationship of this childhood abuse and neglect to the numerous causes of preventable death and disease in adults, the Department of Preventive Medicine of the Southern California Permanente Medical Group conducted an ACEs study in which a questionnaire about childhood experiences “was mailed to 13,494 adults who had completed a standardized medical evaluation at a large HMO; 9,508 (70.5%) responded.”¹⁵ The study examined seven ACEs categories, including psychological, physical, or sexual abuse; living with individuals who were substance abusers, mentally ill, suicidal, or imprisoned at any time; and violence against mothers. The researchers compared their answers in these categories to risk-taking behaviors and their overall health. The study found that more than half of the respondents reported having experienced at least one ACE category, and one-fourth reported experiencing two or more ACE categories, with a graded relationship between increased adverse childhood exposure and significant health risks for substance abuse (including alcoholism and nicotine and drug addiction), depression, sexually transmitted diseases, and severe obesity.¹⁶ Trauma is consistently linked to deviance, particularly in adolescents.

C. Youth victimization

From 1995–2003, an estimated 1.8 million adolescents (age 12–17) had been sexually assaulted, 3.9 million had been severely physically assaulted, and 2.1 million had been punished by physical violence.¹⁷ The emotional consequences of these experiences, including substance abuse and delinquency, precipitate difficulties in adulthood. In a survey of adolescents nationwide conducted by the Office of Justice Programs’ National Institute of Justice, slightly more than 12% of surveyed adolescents (translated to an estimated 2.7 million of adolescents in the United States) reported committing at least one delinquent offense in their lifetime.¹⁸ The results of this study

¹⁵ Vincent J. Felitti, MD et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, AM. J. PREVENTIVE MED. 245 (1998).

¹⁶ *Id.*

¹⁷ Dean G. Kilpatrick, Benjamin E. Saunders & Daniel W. Smith, *Youth Victimization: Prevalence and Implications*, NAT’L INST. JUST. 1 (2003).

¹⁸ *Id.* at 9.

“strongly suggest that victimization and its mental health correlates play a role in the development of substance use and delinquency behavior among adolescents.”¹⁹

D. Effective programs

To combat youth victimization, communities must implement programs designed to intervene early in order to delay or prevent future substance abuse or delinquency. Effective community programs are also needed to encourage students to report crimes to law enforcement officers, as these crimes against children are regularly underreported. Law enforcement officers, criminal and juvenile justice providers, victim service providers, and school administrations and educators must collaborate to encourage victimized students to report crimes against them and maintain various safe avenues in which to do so.²⁰ Among the more effective programs are those that connect youth with law enforcement with the intent of “bridging the gap” between the two through relationship building.

I recently had the opportunity to observe such a program. Team Kids is an organization based in Irvine, California under the leadership of founder and CEO, Julie Hudash. “The Team Kids Challenge provides an innovative school-based program that trains and mobilizes law enforcement officers as compassionate mentors for elementary students,” said Hudash. “Together we are strengthening youth protective factors to reduce high risk behaviors, while building caring, trusting relationships between youth and police.” Below are some excerpts from a 2017 evaluation of the Team Kids Challenge program undertaken in collaboration with Compton Unified School District (CUSD) in Los Angeles, Compton School Police Department, and the Los Angeles Sheriff Department. The Team Kids Challenge was implemented in three Compton Elementary schools, where quantitative and qualitative data were collected from upper-grade students, principals, and public safety officials.²¹

The program is rooted in the Search Institute’s 40 Developmental Assets framework, which has shown that the more assets children

¹⁹ *Id.* at 13.

²⁰ *Id.* at 13–14.

²¹ *Key Documents, Team Kids Compton Evaluation Report 2017*, TEAMKIDS, <https://www.teamkids.org/who-we-are/key-documents> (last visited Nov. 8, 2018).

acquire, the less likely they are to engage in high risk behaviors (alcohol and other drug use, crime), and the better their chances of positive outcomes like school success, good health, and positive life choices.

The Team Kids Challenge is a month-long program that brings police officers, firefighters, and Team Kids coaches into public elementary schools to inspire youth to engage in service. Each week, children learn about critical issues in their community, and conduct a related donation or service Challenge. The Team Kids Leadership Team is comprised of upper grade students who volunteer to meet weekly at lunch to plan a school-wide carnival for week four. The Challenge program begins with an assembly led by on-duty public safety partners, and ends with a carnival, followed by a celebration of service and a debrief meeting.

The evaluation found good evidence of effectiveness on short-term outcomes targeted by the Team Kids Challenge, including targeted developmental asset indicators.

Children who participated in the Team Kids Challenge had significantly more positive views about themselves.

- Kids see themselves as community assets.
 - Ratings of “I can make a difference in my community” increased significantly, by 10%.
- Kids see themselves as effective leaders.
 - Ratings of “I can be a leader” increased significantly, by 11.5%.
- Kids see themselves as respected and important.
 - Ratings of “I am an important part of my school” increased significantly, by 10.3%, with a higher increase among Leadership Team participants of 13%.
 - Ratings of “Adults think kids are powerful” increased significantly, by 14%.

Children who participated in the Team Kids Challenge had significantly more positive views about law enforcement.

- Kids see police officers as supportive of them.
 - Ratings of “Police officers care about me” increased significantly, by 16.5%, with a higher increase among Leadership Team participants of 17%.

- Ratings of “Police officers believe in me” increased significantly, by 14%, with a higher increase among Leadership Team participants of 18%.
- Kids see police officers as believing they can make a difference in community.
 - Ratings of “Police officers think I can make a difference in my community” increased significantly, by 11%.
 - Ratings on “Police officers think I am an important part of the community” increased significantly, by 11%.

Law enforcement officials believe the Team Kids Challenge helps them build trusting relationships with children that will help reduce crime in the long run.

If you were to ask a kid 20 years ago about their impression of police, they would have told you all about their DARE officer. That program has gone away now and it has left a big hole. The public, especially in the more challenged communities, only see cops in extreme circumstances. We would like to be able to interact in positive ways more often. Team Kids gives us that, and it's a real plus . . . Team Kids provides an opportunity to teach young people about themselves. Kids learn how to use their skills and talent and compassion to help others, and in that process, they develop their own leadership skills. –Los Angeles County Sheriff Jim McDonnell

Given the high cost to society of alcohol and other drug addiction, incarceration, and so on, effective interventions with children before they hit middle and high school amount to a substantial potential return on investment, particularly in communities where such risks are known to be high. Additionally, in light of challenges facing law enforcement today, building trust between community members and police officers has become a national priority. What is needed is a low-cost, scalable, school-based program that builds developmental assets, that is, resiliency, and also knocks down walls between young people and police officers.

Since 2001, the Team Kids Challenge has been implemented in 12 cities, including Orange County and Los Angeles County, California; Arlington County, Virginia; and New York, New York. According to Hudash, “There are nearly a million sworn officers in our country. Just imagine how safe our schools and communities would be

for youth, if we could just add a fraction of time to officers' schedules, to mentor the students in their area schools.”

III. Conclusion

Traditional law enforcement culture tends to see the world in terms of criminal behavior versus non-criminal behavior. Criminal behavior cannot be ignored. There must be consequences regardless of the circumstances of the youth's background. In order to be more effective in its efforts to steer youth clear of involvement in criminal activity, the traditional law enforcement approach must be revised to meet the needs of at-risk students who have been subjected to trauma, adverse childhood experiences, and victimization. While thinking of certain youth as “criminals” may not be entirely inaccurate, a student's criminal behavior does not wholly define a delinquent student and is proven to be a direct result of past, complex experiences. Law enforcement officers, particularly SROs assigned to an underserved school community, must give individualized and specific attention to the parts of their students' lives that are hidden from view but that ultimately drive their actions.

About the Author

Mo Canady holds a Bachelor's degree in Criminal Justice from Jacksonville State University. He is a former Lieutenant with the City of Hoover Police Department in Hoover, Alabama. After a 25-year career, he retired from the Hoover Police Department in 2011. The last 12 years of his career were spent as the supervisor of the School Services Division. He was appointed as an instructor for the National Association of School Resource Officers (NASRO) in 2001 and a NASRO board member in 2005. He is a past President of the Alabama Association of School Resource Officers. Mo now serves as the Executive Director for NASRO. He recently testified on the matter of SRO National Standards before the Federal Commission on School Safety. He has also testified on the matter of school safety before the United States House Committee on Education and the Workforce. He is a co-author of the national report titled, *To Protect and Educate—The School Resource Officer and the Prevention of Violence in Schools*.

Community Policing is Essential to Effectively Addressing Violent Crime

Phil E. Keith

Director

Office of Community Oriented Policing Services

On a periodic basis, the U.S. Department of Justice's Bureau of Justice Statistics (BJS) administers the Law Enforcement Management and Administrative Statistics (LEMAS) survey to a representative sample of the nearly 18,000 law enforcement agencies in this country. In 2013, the most recent survey results available, BJS found that, "about 7 in 10 local police departments, including about 9 in 10 departments serving a population of 25,000 or more, had a mission statement that included a community policing component."¹ In that report, BJS noted that the previous decade saw "significant increases in the percentage of departments with a community policing component occurred in all population categories."² Why such overwhelming majorities? Because over the last several decades, local law enforcement leaders have worked hard to focus their energy and resources on what works to keep the communities they serve safe. What their collective experience has shown is that community policing is an essential strategy to effectively addressing crime and violence.

I. What is community policing?

In a 2003 article looking at what is known to be effective at reducing crime and disorder in communities, noted criminologists David Weisburd and John Eck observed that "police practices associated with community policing have been particularly broad, and the strategies associated with community policing have sometimes changed over time."³ Fifteen years later, this is largely still a valid statement to make. Accepted community policing practices and

¹ Brian A. Reaves, *Local Police Departments, 2013: Personnel, Policies, and Practices*, U.S. DEPT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, OFFICE OF JUSTICE PROGRAMS 8 (May 2015).

² *Id.*

³ David. Weisburd & John E. Eck, *What Can Police Do To Reduce Crime, Disorder, and Fear?* 593 ANNALS AM. ACAD. POL. & SOC. SCI. 42, 52 (2004).

strategies can vary from community to community and from decade to decade. This is because community policing is not an activity or a list of activities to count, but rather a leadership philosophy, an organizational strategy, and a mission organized around activities with an impact. Community policing is the principled foundation on which strategies are planned and operations are carried out.

At the COPS Office, we define community policing as “a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.”⁴ What does that mean? It means that all those departments telling the LEMAS survey that they are community policing agencies are acknowledging that building partnerships to solve problems is how they approach crime, disorder, order maintenance, support for victims, and the fear of crime in their communities.

This is the same basic view that others have arrived at over the last 30 years. In a consensus report published earlier this year by the National Academies of Sciences, Engineering, and Medicine, the Committee on Law and Justice chose to follow the lead author, Charlotte Gill, and colleagues in defining a community policing intervention as one that must include “some type of consultation or collaboration between the police and local citizens for the purpose of defining, prioritizing, and/or solving problems.”⁵

As a result, the daily activities of crime control initiatives, disorder management, victim services, and confronting other societal challenges requires agencies to implement various community policing efforts based on the local conditions and available resources. The commonality of all these activities is that they seek to leverage other stakeholders and together approach crime and disorder in a systematic fashion that reduces violence, increases citizen respect for officers and the rule of law, improves the voice of victims in the

⁴ U.S. DEP'T OF JUSTICE, COMMUNITY ORIENTED POLICING SERVICES, COMMUNITY POLICING DEFINED 1 (2014).

⁵ NAT'L ACAD. OF SCI., ENGINEERING, & MED., PROACTIVE POLICING: EFFECTS ON CRIME AND COMMUNITIES, (David Weisburd & Malay K. Majmundar eds., 2018); Charlotte Gill et al., *Community-Oriented Policing to Reduce Crime, Disorder and Fear and Increase Satisfaction and Legitimacy Among Citizens: A Systematic Review*, 10 J. EXPERIMENTAL CRIMINOLOGY 399, 406 (2014).

criminal justice system, and creates a sense of shared responsibility and accountability across the community for public safety.

Public safety is not solely the responsibility of law enforcement. Law enforcement is just one part of a much larger criminal justice system, with a central role in responding to crime when it occurs, and working with victims, prosecutors, and the courts to hold those who commit crime accountable for their actions. Citizens also play a critical role in creating an environment in which they can live in safe harmony with each other; an environment in which crime is prevented. Community policing is how the criminal justice system professional engages the citizen in that shared responsibility and accountability to create a culture and climate of safety. Crime and victimization are costly. Community policing, with its emphasis on shared responsibility and accountability, is central to creating sustainable and lasting change.

The tenets of community policing are also reflected throughout the Department of Justice's Project Safe Neighborhoods (PSN) Program. PSN includes partnerships at all levels of law enforcement and with the community and targeted and prioritized law enforcement efforts that utilize the full range of available data, methods, and advances in technology to identify the offenders who are driving violent crime rates in the most violent locations in the district. PSN initiatives also take a proactive stance to prevent additional violence by ensuring public awareness of the violent crime reduction strategy and enforcement results; communicating directly to offenders about the consequences of continuing violent behaviors; and supporting locally based prevention and re-entry efforts. Lastly, PSN is about not only outputs, but focuses on accountability for results based on outcomes such as reduction in violent crime.

II. Does it really make a difference?

There is a substantial body of research literature supporting the application of community policing strategies to improve the ability of communities to reduce crime and increase citizen satisfaction with law enforcement. However, large-scale evaluations of the long term impact of community policing are difficult. For one thing, the environment in which a strategy is implemented is critically important to success—making cross-site research difficult to

systematically implement, and generalizing from one community to many others impractical.⁶

Even though a philosophical approach like community policing is difficult to scientifically assess, that is not a reason to dismiss its efficacy. A summary of research looking at the impact of COPS Office funding on crime noted:

Although policing practice has changed over the last 20 years, during which the underlying assumptions of what police do in terms of crime prevention and response have remained the same, research over this time has consistently shown that police do have an impact on crime. What changes there have been—especially in terms of how community policing increases police emphasis on preventative and social engagement activities and moves beyond the implied deterrence of directed patrol—should only increase the impact police have on crime, not lessen it.⁷

Furthermore, the day-to-day experience of police chiefs, sheriffs, police officers/deputies, and community members in practicing community policing is also evidence of how community policing matters in the effort to make our communities safer. As an example, I, along with Deputy Attorney General Rod Rosenstein, recently had the opportunity to visit Camden County, New Jersey. Camden is a small city adjacent to Philadelphia that was well known, for decades, for its systemic crime and violence problems. In the last few years, however, the city has transformed under the leadership of Chief J. Scott Thomson, who has placed community policing partnerships and problem solving at the core of the department's successes in reducing violent crime to their lowest levels in nearly 40 years.

⁶ David Klinger, *Environment and Organization: Reviving a Perspective On the Police*, 593 ANNALS AM. ACAD. POL. & SOC. SCI. 119 (2004); Albert J. Reiss Jr., *Police Organization in the Twentieth Century*, 15 CRIME & JUST. 50 (1992).

⁷ MATTHEW J. SCHEIDER ET AL., U.S. DEPT' OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERV., ASSESSING THE COPS OFFICE: A BIBLIOGRAPHY OF RESEARCH ON THE EFFECT OF FEDERAL FUNDING ON CRIME AND POLICE PRACTICES 2 (2017).

According to the Federal Bureau of Investigation's Uniform Crime Report, in 2007 (the year before Thomson was appointed chief of the then Camden Police Department) the city experienced 1,755 Part One violent crimes and 4,600 Part One property crimes.⁸ In 2016, the most recent year available, those figures reduced by nearly 12% and 46% respectively.⁹ When compared to 2003, violent crime reduced nearly 18%. The biggest improvements are in the reduction of robberies, burglaries, larcenies, and motor vehicle theft—all crimes where a collaborative approach to prevention makes intuitive sense and can greatly reduce the need for costly police services in post-incident follow up.

Increased collaboration with city, county, state, and federal partners in law enforcement and prosecution provided the foundation for meaningful impact. Increased use of strategic technology and information sharing, increased collaboration with a wide range of community members and organizations, increased officer participation in community engagement activities, and heightened prosecutorial efforts by the United States Attorney and state prosecutors all played a pivotal role in Camden County's success. Taken all together, these things have made Camden County a safer place for its citizens to live and work. They also make it clear to police officers that they are not alone fighting a never-ending battle. Shared responsibility for addressing the local problems makes shorter work for everyone.

III. The role of the COPS Office

The COPS Office is here to support communities, and in particular, the law enforcement agencies and officers across this country, in their community policing efforts. There are thousands of Camden Counties in this country, communities of all sizes facing serious crime problems. They each have police departments who want to work collaboratively with their communities to not only improve how they respond to crime, but to prevent crimes occurring in the first place. No

⁸ *Table 8 New Jersey Offenses Known to Law Enforcement by State by City, 2007*, FED. BUREAU OF INVESTIGATION, https://www2.fbi.gov/ucr/cius2007/data/table_08_nj.html (last visited Nov. 8, 2018).

⁹ *Table 8 New Jersey Offenses Known to Law Enforcement by Metropolitan and Nonmetropolitan Counties, 2016*, FED. BUREAU OF INVESTIGATION, <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-8/table-8-state-cuts/new-jersey.xls> (last visited Nov. 8, 2018).

matter how high the arrest and prosecution rate in a community, most reasonable people would agree that it would be even better if the crime never happened at all.

Our mission at the COPS Office is clear: to improve public safety through initiatives to attack violent crime and increase offender accountability and victim support while honoring local responsibility and local control. This includes focusing the national narrative around policing on recognizing the incredible work the men and women in law enforcement do every day. Without their dedication to service, all of our communities would be less safe.

How do we do this? Since our founding in 1994, the COPS Office has been known for its grant programs, and in particular our programs to support the hiring of additional officers. Currently known as the COPS Hiring Program (CHP), studies have shown that our support for increased officers in communities has a positive impact on crime. For example, Mello examined a sample of more than 4,000 agencies who applied for CHP funding and determined that each additional COPS funded officer is associated with 2.9 fewer violent crimes and 16.23 fewer property crimes per 10,000 residents in the year following their hiring.¹⁰ Evans and Owens found in a study of 2,000 agencies, statistically precise negative drops in crime in the years following receipt of a COPS Office hiring grant in four of seven index crimes (auto theft, burglary, robbery, and aggravated assault).¹¹

This, and other similar research, reinforces the work of economist Steven Levitt, who estimated that for each 10% increase in the size of a police force there is a 4% drop in violent crime and a 5% drop in property crime.¹² Therefore, ensuring that agencies have enough officers to put on the streets matters.

How those officers are deployed and what problems they focus their time on, however, is best determined at the local level. That is why we work hard to design grant programs—CHP included—that do not tell agencies what to do but rather empower them to understand their local needs and address them accordingly. The CHP applicants tell us where their greatest need is and in what problem area; this is not so that we can place relative value judgments on different crime

¹⁰ Steven Mello, *More COPS, Less Crime* (Princeton Univ., Feb. 2018).

¹¹ William N. Evans & Emily G. Owens, *COPS and Crime*, 91 J. PUB. ECON. 181 (2007).

¹² Steven D. Levitt, *Using Electoral Cycles in Police Hiring to Estimate the Effect of Police on Crime*, 87 AM. ECON. REV. 270 (1997).

problems, but so that we have data to help us better understand the problem areas communities are facing.

IV. COPS Office training and technical assistance

In addition to awarding grants directly to law enforcement agencies through programs like CHP, we provide numerous training opportunities and technical assistance, which is made available to every community regardless of whether they are a COPS Office grantee. For example, the COPS Training Portal, launched in October last year, offers a centralized hub for law enforcement officers to access both online training courses and COPS Office-sponsored classroom training.¹³

Our in-person trainings vary over time as we develop new courses and phase out funding for others. At present, one of our most substantial investments is in Active Attack Integrated Response Training. Funding through our Preparing for Active Shooter Situations (PASS) Program, which was created by the POLICE Act of 2016,¹⁴ provides an interactive course designed to improve integration between law enforcement, fire, tele-communicator, and emergency medical services (EMS) in active attack/shooter events. The course provides law enforcement officers with key medical skills based on Tactical Emergency Casualty Care (TECC) guidelines, which can be used at the point of injury (POI) to increase survivability of victims. The course also provides a model framework for law enforcement, fire, and EMS to integrate responses during an active attack/shooter event through the rescue task force concept.

Run by the Advanced Law Enforcement Rapid Response Training (ALERRT) Center at Texas State University, agencies across the country can host training in their localities. They also have access to train-the-trainer programs for both first responders and civilians.

In 2013, ALERRT was named the national standard in active shooter response training by the FBI, and, to date, they have trained over 125,000 police officers and 86,000 civilians through these dynamic, scenario-based courses.

¹³ OFF. OF COMMUNITY ORIENTED POLICING SERV., *COPS Office Training Portal*, <https://copstrainingportal.org/> (last visited Aug. 1, 2018).

¹⁴ Protecting Our Lives by Initiating COPS Expansion Act of 2016, Pub. L. No. 114–199, 103 Stat. 780.

The COPS Office also sponsors the delivery of leadership training for supervisors and managers through the Simon Weisenthal Center Museum of Tolerance. For the last 20 years, their Tools for Tolerance for Law Enforcement programs have been nationally renowned in the arena of ethical decision making.

In-person training can also be used to foster community engagement, particularly with youth. The COPS Office has supported the National Organization of Black Law Enforcement Executives (NOBLE) in the development and delivery of the Law and Your Community Program, which is an interactive training program for youth ages 13–18. The goal of the Law and Your Community Program is to improve communication between youth and police officers and increase community understanding of their local, state, and even federal laws. We also have long supported the National Association of School Resource Officers (NASRO) in providing training to all CHP funded officers hired to work in schools. This training provides officers with tools to build positive relationships with both students and school staff while serving as a critical security resource on campus.

Online training currently in the portal covers a wide variety of topics including perspectives on community policing, ethical decision making, tactical community policing for homeland security, and applied evidence based practices for addressing homicide and violent crime reduction. The portal is also a hub through which other components of the Department of Justice can reach state and local officers with e-learning modules. The portal currently hosts a course on ethical considerations for asset forfeiture developed by the Money Laundering and Asset Recovery Section (MLARS) of the department. The purpose of this training is to ensure a command of when and how to properly seize assets for federal forfeiture so that officers can protect the rights of the public while also protecting their case and themselves.

Over the next several months more online courses will be made available through the training portal. Officers can create an account at any time to assure that they will not miss new courses. All COPS-sponsored training, whether in person or online, is free of charge to officers and agencies.

The COPS Office also provides technical assistance to law enforcement agencies looking for ways to implement the principles of community policing. Technical assistance encompasses a host of methods including: peer-to-peer consultation, analysis, and coaching;

strategic planning; and information on anti-crime strategies, offender accountability initiatives, and prosecution coordination. Some agencies may be looking for best practices or peer-to-peer advice in dealing with a specific issue while others may be looking for a more comprehensive, hands-on engagement process.

Through the Collaborative Reform Initiative for Technical Assistance Center (CRI-TAC),¹⁵ the COPS Office provides critical and tailored technical assistance resources to state, local, territorial, and tribal law enforcement agencies on a wide variety of topics, incorporating most critical aspects of policing practices and innovative strategies. The goal is to enhance their organizational capacity, competencies, and skill levels; create greater public safety; reduce and control crime; and create effective community policing while maintaining local control and accountability for effective policing in their communities. CRI-TAC features a “by the field, for the field” approach while delivering individualized technical assistance using leading experts in a range of public safety, crime reduction, and community policing topics. Participating agencies identify areas of assistance to best suit their local needs, and then work with the CRI-TAC partner organizations that can best help them meet those needs.

The CRI-TAC organizations include the International Association of Chiefs of Police, the FBI National Academy Associates, the Fraternal Order of Police, the International Association of Campus Law Enforcement Administrators, the International Association of Directors of Law Enforcement Standards and Training, the National Tactical Officers Association, NOBLE, the National Association of Women Law Enforcement Executives, and the Major Cities Chiefs Association.

V. The COPS Office resource center

Agencies and communities do not always require formal technical assistance like the services provided under CRI-TAC. Sometimes they just have a quick question, are looking for a referral, or want to know more about how others have tried to address different types of problems. To address these types of inquiries, we have a Response Center that is available to answer any question someone may have. If

¹⁵ *Collaborative Reform Initiative Technical Assistance Center*, INT'L ASS'N OF CHIEFS OF POLICE, <http://www.theiacp.org/collaborativereform/> (last visited Aug. 1, 2018).

they do not know the answer they will connect you with a staff person who will provide further assistance, whether it is part of the COPS Office portfolio of work or a connection to another federal or non-federal resource. Yes, a lot of the calls received are from our grantees, however to receive answers to questions and resources from the COPS Office, an agency does not have to be a grantee. We also have a large library of resources covering a wide variety of topics that are important to fighting crime, supporting officers, and inspiring communities as to how they can work together with law enforcement to build safer communities. Today, the Resource Center has more than 500 resources available, which have developed over the last 20 years. All can be downloaded for ease of use on your computer, tablet, or phone. Many are also available for order in print at absolutely no charge. Bulk orders for meetings, trainings, and events can also be arranged.

What topics do we have resources on? Just about anything you can think of. Recent publications include a focus on officer suicides, injuries, line of duty deaths, and efforts to build organizational resiliency to the stress and trauma of the job. We have guides on strategic communication practices, body-worn cameras, and conducting crime analysis. You can read about topics on promoting effective homicide investigations, managing group violence intervention strategies, addressing hate crimes, multiple casualty violence, child sex trafficking, drug endangered children, and gangs. We also have more than 100 problem-oriented policing guides referencing problems ranging from domestic violence, robbery, gun violence, drive-by shootings, and witness intimidation.

All of our resources are informed by law enforcement professionals around the country. Taken all together the COPS Office Resource Center is one of the largest repositories of practice-based evidence in policing in the world. We have distributed millions of copies of our resources over the last 20 years.

The library is constantly being updated with our latest releases and you can stay on top of those and our work in emerging topics in law enforcement in a variety of ways. For the last 11 years we have published a monthly e-Newsletter, the Community Policing Dispatch.¹⁶ With nearly 10,000 subscribers, this publication shares

¹⁶ *Community Policing Dispatch*, OFF. OF COMMUNITY ORIENTED POLICING SERV., <https://cops.usdoj.gov/html/dispatch/index.html> (last visited July 31, 2018).

the latest news from our office, highlights community policing success stories from around the country, and helps us collaborate and promote some of the great work done by our sister components in the Department of Justice. Additionally, we produce a podcast series, called *The Beat*, where we discuss emerging and critical topics with thought leaders in the field.¹⁷ Also, we actively promote all our activities and resources through Facebook and Twitter, where we are followed by more than 13,000 agencies and individuals who care about law enforcement and the men and women who wear the badge.

At the end of the day, the COPS Office is not just here to support the state, local, and tribal agencies fortunate enough to secure our grant funds; all of our resources, training, and technical assistance are at everyone's disposal, your own included. We look forward to assisting you in your work to make all our communities safer.

About the Author

Phil E. Keith currently serves as the Director of the Office of Community Oriented Policing Services (COPS Office) in the United States Department of Justice. He has more than 47 years of experience in the fields of criminal justice, public safety, and business administration. He has 34 years in active law enforcement service, with nearly 17 years as Chief of Police for the Knoxville, Tennessee Police Department.

Mr. Keith served as the principal project director for the Major Cities Chiefs of Police Association, which is an association of the largest police agencies in North America. He has influenced policy development and implementation in all 50 states, the District of Columbia, and four U.S. territories for a variety of law enforcement issues. He participated in the Department of Justice's Law Enforcement Ethics Task Force and other federal working groups designated to implement significant change in policing in America. His experience in operational studies and activities include conducting more than 15 trauma-based victim's roundtables for the Department of Justice, and conducting numerous patrol staffing studies in large and small agencies including Los Angeles, Charlotte, Del Ray Beach, and many others. He served as the principal author for the BJA Law Enforcement Leadership Initiative and published numerous other

¹⁷ *The Beat Podcasts*, OFF. OF COMMUNITY ORIENTED POLICING SERV., <https://cops.usdoj.gov/Default.asp?Item=2370> (last visited July 31, 2018).

articles and technical reports, Mr. Keith has also performed more than 150 organizational assessments for law enforcement agencies, and has conducted the first national survey of best practices and staffing for the United States Fire Administration. Mr. Keith earned his undergraduate degree in criminal justice and business administration from East Tennessee State University, and an M.S. degree from the University of Tennessee.

PSN Training and Technical Assistance Resources

*Office of Justice Programs
United States Department of Justice*

The overarching goal of the Project Safe Neighborhoods (PSN) program is violence reduction through investigative, prosecutorial, and prevention strategies. PSN is a results-oriented, collaborative approach to public safety that provides resources for local, state, and tribal law enforcement to engage in community partnerships that inform strategic efforts to fight violent crime within a given district. The Department of Justice is committed to supporting PSN programs through a variety of training, technical assistance, funding, and other resources. Below is a snapshot of the valuable resources available to United States Attorneys' Offices and their PSN partners.

I. The National Training and Technical Assistance Center (NTTAC)

The Bureau of Justice Assistance (BJA) sponsors the NTTAC. Established in 2008, the NTTAC provides training and specialized guidance for state, local, and tribal justice agencies—ranging from prosecutor's offices to police departments to corrections departments. This free training and technical assistance is provided both in-person and virtually through a variety of providers on a range of criminal justice topics—from crime prevention to mental health to adjudication. Notably, for PSN programs, these resources include specialized training on topics such as gun crime investigations, social network analysis, drug market intervention, and advanced gang investigations. BJA, through NTTAC, can provide PSN partners with specialized training and guidance to advance the goals of the PSN program. Please visit <https://bjatta.bja.ojp.gov/> to learn more about NTTAC and the services it provides.

II. The Violence Reduction Response Center (VRRC)

- Seeking violence reduction grant opportunities, publications, or guidance documents?

- Need training on violence reduction tactics and tools?
- Looking to connect with peers in the field to learn and discuss violence reduction strategies?
- Seeking subject matter expertise to support violence reduction program implementation in your department?

VRRC was established under the direction of Attorney General Sessions to connect state, local, and tribal justice agencies with violent crime reduction training and technical assistance (TTA) resources offered by Department of Justice. By providing direct referrals to the Department of Justice crime reduction publications, grant opportunities, and TTA, VRRC serves as a one-stop shop to connect individuals to the most appropriate resources available. VRRC staff can identify training and grant funding opportunities, and provide connections to peers and subject experts to learn about and discuss violence reduction strategies. VRRC staff will make sure every request receives resources tailored to the specific needs and will facilitate access to resources, saving time otherwise spent searching.

Law enforcement agencies, victims' groups, and other practitioners seeking guidance to address violent crime can contact the VRRC via phone at 1-833-872-5174, or email at ViolenceReduction@usdoj.gov. VRRC staff will answer the phone live or respond to email from 9:00 a.m.–5:00 p.m. (EST), Monday–Friday. All voicemails and emails will receive a response within one business day.

III. Public Safety Partnership Clearinghouse

The Public Safety Partnership Clearinghouse (the Clearinghouse) is a comprehensive online database that provides a large collection of publications, webinars, best practices, and evidence-based enforcement strategies for a wide array of issues. The Clearinghouse was developed as part of the National Public Safety Partnership (PSP), however, all PSN programs may benefit from these resources. The Clearinghouse has 18 topic areas and contains hundreds of trainings, technical assistance opportunities, and other resources publicly available to any jurisdiction in the criminal justice field. To learn more and explore various featured toolkits, please visit <https://www.nationalpublicsafetypartnership.org/clearinghouse/>.

IV. PSN National TTA Program

In Fiscal Year 2018, the Department of Justice's Bureau of Justice Assistance selected multiple TTA providers to support and deliver TTA to state and local law enforcement, criminal justice professionals, research partners, and communities across the United States in support of the implementation of PSN. The TTA providers will be responsible for responding to TTA requests from United States Attorneys' Offices and will assist the United States Attorney's Office PSN task forces to achieve their violence reduction goals. These TTA providers will provide general support to PSN sites as well as specific assistance with the development of law enforcement, prosecution, and victims-centered violence reduction strategies. The PSN National TTA Program is supported by research and evidence-based practices and strategies. The program combines the leadership of the Department of Justice and the expertise of nationally recognized criminal justice practitioners and research experts to deliver a wide variety of training and technical assistance nationwide.

The reinvigorated PSN National TTA Program providers will:

- Upon request, work with PSN task forces and their partners to utilize evidence-based policies and procedures to develop and implement violent crime reduction strategies;
- Enhance services and resources for violent crime victims;
- Provide assistance to reduce witness intimidation and enhance witness protection;
- Assist current and future PSN sites to successfully implement data-driven and problem-solving activities in their efforts to reduce violent crime;
- Improve and enhance PSN partners' understanding of the PSN Program objectives;
- Engage proactively with PSN sites to assess progress, address challenges, and identify solutions;
- Communicate regularly with BJA to assess the impact of TTA services on PSN Program objectives and the progress of individual sites; and
- Collaborate with local United States Attorneys' Offices, BJA, and the Executive Office for United States Attorneys (EOUSA) to identify and provide TTA to address a wide range of violence reduction issues for state and local law enforcement and the community.

Additional information about the PSN National TTA Program will be provided in the coming months. Please continue to watch for these and other helpful PSN resource opportunities.

V. PSN grant funding

A wide selection of grant funding is also available to PSN partner districts through the Office of Justice Programs (OJP). Each district is eligible for a formula-based PSN grant, which is used to competitively award funding at the local level to PSN partners advancing the strategic goals of each district's individualized PSN program. Additionally, the Department of Justice's BJA offers a plethora of competitive grant programs that PSN partners can apply for to advance PSN programs. For additional information about grant opportunities, please see OJP's Funding Resource Center at <https://ojp.gov/funding/>.

EOUSA also provides resources for grant applications, including grant announcements, technical tips, ethics guidance, and eligibility information. Please contact the NTTAC at 1-855-BJA-TTAC for additional information on these and other resources.

VI. Additional resources

- Michigan State University School of Criminal Justice maintains a comprehensive website that provides a host of resources that may be helpful to a PSN program. It includes information on the Violence Reduction Assessment Tool (VRAT), a PSN Strategic Action Plan template, PSN case studies on a variety of issues, litigation reviews, reports, and newsletters. Please visit <http://www.psnmsu.com/> to learn more about the resources available.
- The Department of Justice has established a PSN Support Team, comprised of representatives from the Office of the Deputy Attorney General, the Office of Legal Policy, EOUSA, and the Criminal Division. The PSN Support Teams are divided geographically with a dedicated PSN Support Team member for each district.
- To provide further support for PSN programs, the Department of Justice hosted a PSN Coordinators Conference at the National Advocacy Center in June 2018, and the 2018 National PSN Conference is scheduled for December 5–7 in Kansas City, Missouri.

Note from the Editor-in-Chief

We are very pleased to publish this issue of the *Department of Justice Journal of Federal Law and Practice* focusing on Project Safe Neighborhoods (PSN). I served as the PSN National Coordinator from 2007–2010, and I am very aware of the hard work the women and men who handle PSN investigations and prosecutions invest in this important effort.

We are fortunate to have three of the leading voices in PSN as our Points of Contact for this issue. Robyn Thiemann (ODAG), Steven Cook (ODAG), and Erin Aslan (OLP) designed this issue, recruited the authors, and were instrumental in the editing. Our sincere thanks to each of them. Their talent, experience, and dedication are reflected throughout the issue. And a hats off to the current National Violent-Crime and Narcotics Coordinator, Seth Adam Meinero, who is leading the fight against violent crime in the United States Attorneys' community. We hope Assistant United States Attorneys and Department of Justice attorneys find this issue valuable as they join that fight.

Thank you,

K. Tate Chambers