



RECOMMENDED ACTION MEMO

Agency: Department of Justice, Community Oriented Policing Services (COPS) Office
Topic: Addressing Gun Violence and Homicide through COPS Grant Funding
Date: November 2020

Recommendation: Re-establish gun violence and homicide prevention as priority problem/focus areas for COPS Office grants, and specifically encourage use of COPS grant funding to promote effective implementation of laws and strategies aimed at preventing gun violence and homicides through community-oriented approaches.

I. Summary

Description of recommended executive action

The Office of Community Oriented Policing Services (COPS Office), a component of the US Department of Justice (DOJ), advances the practice of community policing by providing information assistance and grant resources. The COPS Office awards grants to law enforcement agencies to hire community policing professionals; develop and test innovative policing strategies; and provide training and technical assistance to community members, local government leaders, and all levels of law enforcement.

The Obama administration expressly named gun violence and homicide among its priority focus areas in awarding COPS Hiring Program (CHP) grants, but the Trump administration significantly reoriented the program toward immigration enforcement and prosecutorial responses to violent crime generally. The new administration should therefore restore gun violence and homicide prevention as priority focus areas for COPS grants, in addition to community trust building and reform efforts. Through the scoring system it uses to select grant recipients, the administration should specifically prioritize the use of COPS grant funding to support state and local efforts, in communities disproportionately impacted by gun violence and/or homicide, to:

- (1) implement extreme risk protection order (ERPO), firearm relinquishment, and other laws specifically aimed at proactively preventing gun violence and homicides before they occur
- (2) work with federal law enforcement agencies and community members to detect and prevent gun trafficking
- (3) significantly expand utilization of strategies, such as Group Violence Intervention (GVI), that interrupt cycles of community violence through partnerships between law enforcement and community stakeholders

(4) effectively improve law enforcement clearance rates for shootings and homicides.

Overview of process and time to enactment

The Cops Hiring Program solicitation for 2020 grants opened on January 9, 2020, and applications were accepted through March 11, 2020.¹ If the COPS Office follows a similar timeline in 2021, it will have to work quickly to ensure that gun violence and homicide are identified as priority focus areas for 2021 CHP grants.

II. Current state

Background on COPS

The COPS program was created through the Violent Crime Control and Law Enforcement Act of 1994, codified at 34 U.S.C. §§ 10381-10389. The act directs the attorney general to make grants to states, units of local and tribal government, other public and private entities, and multi-jurisdictional or regional consortia for purposes set forth in the act.² This authorizing statute expressly gives “broad discretion” to the DOJ to allocate grants to promote 23 specified purposes, which are all generally linked to the goal of enhancing the crime prevention function of state and local law enforcement through community-policing and partnerships with community residents and stakeholders.³

The authorizing statute specifies numerous COPS grant purposes related to gun violence and homicide prevention, including, among others:

- developing and implementing innovative programs to permit members of the community to assist state, tribal, and local law enforcement agencies in the prevention of crime in the community
- increasing the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention
- establishing innovative programs to increase and enhance proactive crime control and prevention programs involving law enforcement officers and young people in the community
- increasing police participation in multidisciplinary early intervention teams

¹ Community Oriented Policing Service, US Department of Justice, “FY 2020 COPS Hiring Program (CHP) - Methodology,” accessed October 27, 2020, <https://cops.usdoj.gov/pdf/2020AwardDocs/chp/Methodology.pdf>.

² 34 U.S.C. § 10381(a).

³ *Id.*

- establishing, implementing, and coordinating crime prevention and control programs (involving law enforcement officers working with community members) with other federal programs that serve the community to better address the comprehensive needs of the community and its members
- providing specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills they need to work in partnership with members of the community
- developing new technologies to assist state, tribal, and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime, and training law enforcement officers to use such technologies
- participating in nationally recognized active shooter training programs

Federal law specifies that grant applications must, among other things, reflect consultation with community groups and demonstrate a specific public safety need. The applicant must identify related governmental and community initiatives that complement or will be coordinated with the proposal, certify that there has been appropriate coordination with all affected agencies, and demonstrate ongoing community support.⁴

Grants may be renewed and last up to three years.⁵ All grant activities under the program are subject to DOJ monitoring, and may be required to submit to outcome evaluations and periodic reviews and reports.⁶

The term “community-oriented policing” is not defined by statute or regulation, and has been criticized as vague.⁷ Under the Obama administration, the COPS Office interpreted this term to encompass three key components: (1) collaborative partnerships between law enforcement and the people they serve, (2) proactive and systematic examination of identified problems, and (3) organizational transformation to support these partnerships and problem-solving.⁸

At the start of the Obama administration, the COPS account in federal appropriations acts had shifted to non-hiring programs. However, as the result of the recession and state and local budget cuts to law enforcement agencies, Congress began once again directing COPS funding toward efforts to help agencies retain officers, and subsequent federal appropriations have

⁴ 34 U.S.C. § 10382(c).

⁵ 34 U.S.C. § 10383.

⁶ 34 U.S.C. § 10385.

⁷ See Nathan James et al., “Public Trust and Law Enforcement -- A Discussion for Policymakers,” Congressional Research Service, updated July 13, 2020, <https://crsreports.congress.gov/product/pdf/R/R43904>.

⁸ See Community Oriented Policing Service, US Department of Justice, “Community Policing Defined,” revised 2014, <https://cops.usdoj.gov/RIC/Publications/cops-p157-pub.pdf>.

continued to prioritize the use of COPS funding for law enforcement hiring and retention support.⁹

Although there was a significant drop in funding during the Obama administration, CHP continues to be the largest grant program administered by the COPS Office. COPS grants are competitive, and congressional appropriations have been historically insufficient to fund all grant requests.¹⁰ Accordingly, each year, the COPS Office scores and ranks each submitted application to determine which applications to fund. The electronic CHP application system assigns a specific (and undisclosed) number of points for each answer an applicant jurisdiction provides.¹¹

Consistent with the statutory criteria, the DOJ gives points to applicants that best demonstrate "a specific public safety need" and show an "inability to address the need without Federal assistance,"¹² and to applicants that best "explain how the grant will be utilized to reorient the affected law enforcement agency's mission toward community-oriented policing or enhance its involvement in or commitment to community-oriented policing."¹³ The DOJ also gives points to applicants in jurisdictions with higher crime rates and comparatively lower fiscal health. Additionally, the DOJ scores applicants on how their proposals relate to that year's federal goals. In various years, the DOJ has awarded points for applicants that gave work to military veterans; adopted specified management practices (such as making regular assessments of employee satisfaction; operated an early intervention system to identify officers with specified personal risks); or experienced certain catastrophic events, such as a terror attack or school shooting.¹⁴

Importantly, since the fiscal year 2011 application cycle, the COPS Office has determined priority focus areas for CHP, and awarded bonus points to applications that seek funding to address one of that year's priority areas in their community. The bonus points give a competitive advantage to applicants advancing community-oriented policing work in the program's focus areas.¹⁵

COPS under the Obama administration

Under the Obama administration, the COPS Office played a significant role in a number of initiatives to build police–community trust, including the President's Task Force on 21st Century Policing and the promising Collaborative Reform Initiative.¹⁶

⁹ Congressional Research Service, "In Focus: Community Oriented Policing Services (COPS) Program," updated January 30, 2020, <https://crsreports.congress.gov/product/pdf/IF/IF10922>.

¹⁰ *Id.*

¹¹ See *City of Los Angeles v. Barr*, 929 F.3d 1163 (9th Cir. 2019).

¹² 34 U.S.C. §§ 10382(c)(2), (c)(3).

¹³ *Id.* § 10382(c)(10).

¹⁴ *Barr*, 929 F.3d at 1171.

¹⁵ *Id.* at 1172.

¹⁶ Office of Public Affairs, US Department of Justice, "Department of Justice Awards \$12 Million to Advance Community Policing Efforts and Collaborative Reform," October 6, 2016,

The Obama administration also repeatedly identified “homicide” and “gun violence” prevention as other priority areas for COPS grants. In FY 2013, the CHP funded 48 agencies that had selected either “homicide” or “gun violence” as their jurisdiction’s problem area, and committed to hire 319 officers to address these problems.¹⁷ Similarly, in FY 2014, 46 funded agencies selected either “homicide” or “gun violence” as the jurisdiction’s problem area, and committed to hire 400 officers to address these problems.¹⁸

The focus areas for CHP in 2016 were: (1) building trust, (2) homeland security, (3) homicide and gun violence, and (4) school resource officers.¹⁹ For FY 2016, 24 funded agencies selected either “homicide” or “gun violence” as their jurisdiction’s problem area, and committed to hire 225 officers to address these problems.²⁰ Cities that received COPS hiring grants that year to focus specifically on gun violence included: Camden, New Jersey; Hartford, Connecticut; Vallejo, California; and Miami, Florida.²¹

COPS under the Trump administration

Under the Trump administration, gun violence and homicide prevention ceased to be a priority focus area for CHP grantmaking, and the initiatives described above were altered to focus on immigration enforcement and prosecutorial approaches to violent crime generally, such as Operation Relentless Pursuit.²² In 2020, the administration required applicants to identify specific crime and disorder problem/focus areas, and gave preferential consideration to those who chose the focus areas of (1) violent crime, (2) “homeland & border security problems,” and (3) school-based policing.²³

As part of its focus on immigration enforcement, the Trump administration chose to withhold CHP funding from sanctuary cities. This led the Ninth Circuit Court of Appeals in *City of Los*

<https://www.justice.gov/opa/pr/department-justice-awards-12-million-advance-community-policing-efforts-and-collaborative>.

¹⁷ Community Oriented Policing Service, US Department of Justice, “COPS Hiring Program Award Selection Methodology,” 2013, <https://cops.usdoj.gov/pdf/2013AwardDocs/CHP/2013-CHP-Methodology.pdf>.

¹⁸ Community Oriented Policing Service, US Department of Justice, “FY 2014 COPS Hiring Program Selection Methodology,” 2014, <https://cops.usdoj.gov/pdf/2014AwardDocs/CHP/2014CHP-Methodology.pdf>.

¹⁹ Community Oriented Policing Service, US Department of Justice, “COPS Hiring Program Selection (CHP) Methodology,” 2016, https://cops.usdoj.gov/pdf/2016AwardDocs/chp/2016_CHP_Methodology.pdf.

²⁰ *Id.*

²¹ Community Oriented Policing Service, US Department of Justice, “2016 Award List by Problem Area,” accessed October 27, 2020, https://cops.usdoj.gov/pdf/2016AwardDocs/chp/Award_List_by_Problem%20Area.pdf.

²² US Department of Justice, “Justice Department Releases \$61 Million in Awards to Support Efforts to Combat Violent Crime in Seven U.S. Cities,” May 11, 2020, <https://www.justice.gov/opa/pr/justice-department-releases-61-million-awards-support-efforts-combat-violent-crime-seven-us>.

²³ Community Oriented Policing Service, US Department of Justice, “COPS Hiring Program,” accessed October 27, 2020, <https://cops.usdoj.gov/chp>. See also Community Oriented Policing Service, US Department of Justice, “2017 COPS Hiring Program (CHP) Methodology,” 2017, <https://cops.usdoj.gov/pdf/2017AwardDocs/chp/Methodology.pdf> (establishing similar focus areas for fiscal year 2017).

Angeles v. Barr to consider the scope of the DOJ's discretion in interpreting the COPS authorizing statute's purpose in administering the CHP program.²⁴ The municipal plaintiffs in that case specifically challenged two of the many factors the DOJ used to determine the scores for each applicant in 2017: (1) whether the application focused on control of illegal immigration, and (2) whether the applicant would certify that it would cooperate with federal law enforcement agencies regarding certain immigration matters. The court upheld the DOJ's administration of the program, holding that the DOJ did not exceed its statutory authority in awarding bonus points to applicants that selected the illegal immigration focus area, or provided the requested certification. Notably, the majority found that the COPS Office was authorized to fund programs in support of any of the purpose areas listed in the statute.²⁵

This ruling helps establish that the new administration will have a significant degree of discretion and flexibility to award COPS grants for select priorities, including implementation of state and local gun safety laws, investment in community-based violence intervention strategies, and efforts to improve clearance rates for shootings and homicides.

III. Proposed action

We expect a significant proportion of COPS funding in the near future will be directed to efforts to oversee and reform police departments, and build police-community trust and partnerships.²⁶ We strongly support these efforts and believe they are critical to addressing gun and community violence.

The next administration should also once again make gun violence and homicide prevention priority focus areas for the CHP, and encourage use of CHP grant funding to support state and local efforts in communities disproportionately impacted by gun violence and/or homicide, to:

- (1) implement extreme risk protection order (ERPO), firearm relinquishment, and other laws specifically aimed at proactively preventing gun violence and homicides
- (2) work with federal law enforcement agencies and community members to detect and prevent gun trafficking
- (3) significantly expand the utilization of strategies, such as Group Violence Intervention (GVI), that interrupt the cycles of community violence through partnerships between law enforcement and community stakeholders

²⁴ 929 F.3d 1163 (9th Cir. 2019).

²⁵ 929 F.3d at 1170, n. 2 ("Congress has set aside funds that could be expended for any of § 10381's purposes. Appropriations bills have directed funds "for community policing development activities in furtherance of [§ 10381's purposes]" and "for the collaborative reform model of technical assistance in furtherance of [§ 10381's purposes]," ...as well as for the hiring and rehiring of additional career law enforcement officers.").

²⁶ See President's Task Force on 21st Century Policing, "Final Report of the President's Task Force on 21st Century Policing," Office of Community Oriented Policing Services, May 2015, https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

(4) effectively improve law enforcement clearance rates for shootings and homicides

The DOJ should adjust the scoring system used to choose recipients for CHP funding to prioritize grant applications which propose to dedicate COPS funding for these purposes.

Making gun violence and homicide prevention priority problem/focus areas

As mentioned above, gun violence and homicide were already recognized as priority focus areas for CHP grants from 2012 through 2016. Gun violence and homicide have remained at intolerably high levels, and preliminary data indicates that gun violence spiked significantly in 2020. A strong body of research has also demonstrated that law enforcement agencies' failure to protect communities from epidemic levels of gun violence and homicide is both a significant cause and effect of community distrust and estrangement from law enforcement.²⁷ Effective investment in proactive, preventative measures to keep and remove firearms from individuals found to pose a significant danger to self or others, and to refocus law enforcement resources on prevention of and accountability for shootings and homicides can lead to significant reductions in violence and reinforce gains in community trust and partnership.

(1) Use of COPS funding to support implementation of extreme risk laws and other state and local gun safety laws

A growing number of states and local governments have enacted gun safety laws that call upon law enforcement to proactively address gun violence and homicide through preventative community-oriented strategies. As described below, these strategies include extreme risk protection orders, firearm relinquishment requirements, gun dealer oversight, lost and stolen firearm reporting requirements, and firearm purchaser permitting. COPS funding should be used to support implementation of these and similar laws at the state and local level.

A. Extreme risk protection orders

In September 2019, the House Judiciary Committee reported a bill that would create a new grant program, to be administered by the COPS Office, that would provide funding assistance to support states' implementation of extreme risk protection order laws.²⁸ However, existing COPS Office programs, including the CHP, could support these same purposes without new legislation.

Extreme risk laws provide a strategy for intervening in a civil capacity with individuals who may be experiencing a mental health crisis or who are otherwise a significant danger to themselves or others. Nineteen states and DC have enacted extreme risk protection order (ERPO) laws authorizing law enforcement officers, and in some states, families, household members, and

²⁷ See Giffords Law Center to Prevent Gun Violence, "In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence," January 2020, <https://lawcenter.giffords.org/wp-content/uploads/2020/01/Giffords-Law-Center-In-Pursuit-of-Peace.pdf>.

²⁸ H.R. 1236, 116th Cong. (2019).

other specified individuals, to petition courts directly for a civil protection order that temporarily restricts a person's access to guns when they are found by a judge to present a significant risk of harm to self or others in the near future.²⁹ This civil remedy is vital to preventing gun violence by allowing the people who are most likely to observe warning signs of violence to take concrete steps to prevent shootings before they occur. In most cases, ERPO petitions are filed by law enforcement agencies, or officers who work closely with family members and other members of the community to gather and present necessary evidence, and prevent violent tragedy before it occurs.³⁰

Properly implemented and utilized extreme risk laws help to prevent mass shootings and gun homicides.³¹ States are already using these laws to temporarily disarm individuals who have made significant and credible threats of violence. Extreme risk laws also save lives from suicide by creating a tool to intervene proactively and keep those at risk of hurting themselves from accessing the most lethal means of suicide during temporary periods of crisis.³²

Law enforcement officers participate in petitions for extreme risk protection orders in a way that fundamentally differs from traditional approaches. Typically, law enforcement reacts to crimes by arresting and prosecuting offenders. Extreme risk laws are different and innovative because they work primarily through a civil, rather than criminal, process. Extreme risk laws call on law enforcement officers to bear witness to threats to the community; partner with community residents to gather necessary evidence to present in civil court; and proactively participate in a civil judicial process to reduce these threats through the removal of firearms from high-risk individuals. In this way, extreme risk laws exemplify all three elements of community policing: partnership with the community, transformational change, and problem solving. The DOJ should therefore prioritize the use of CHP funding to support robust, effective, and equitable implementation of ERPO laws in communities that identify gun violence and homicide as key problem areas.

Law enforcement officers may be able to implement and utilize these laws most effectively if they are trained to recognize and proactively respond to individuals who exhibit clear warning

²⁹ *Id.*

³⁰ See, e.g., Garen J. Wintemute, MD, MPH, et al, "Extreme Risk Protection Orders Intended to Prevent Mass Shootings," *Annals of Internal Medicine* (2019), <https://www.acpjournals.org/doi/10.7326/M19-2162>; Giffords Law Center to Prevent Gun Violence, "Preventing the Next Parkland: A Case Study of Broward County's Use and Implementation of Florida's Extreme Risk Law," February 2020, <https://lawcenter.giffords.org/wp-content/uploads/2020/02/Giffords-Law-Center-Preventing-the-Next-Parkland-Report.pdf>.

³¹ *Id.*

³² Jeffrey W. Swanson, et al., "Implementation and Effectiveness of Connecticut's Risk-based Gun Removal Law: Does it Prevent Suicides." *Law & Contemporary Problems* 80 (2017): 179–208; Jeffrey W. Swanson, et al., "Criminal Justice and Suicide Outcomes with Indiana's Risk-Based Gun Seizure Law." *The Journal of the American Academy of Psychiatry and the Law* (2019); Aaron J. Kivisto and Peter Lee Phalen, "Effects of Risk-based Firearm Seizure Laws in Connecticut and Indiana on Suicide Rates, 1981–2015," *Psychiatric Services* 69, no. 8 (2018): 855–862.

signs of imminent violence, and also trained to recognize and avert racial and other biases in implementing these laws.³³ CHP funding may appropriately be used proactively for this training.

B. Firearm relinquishment laws

Firearm relinquishment laws help to verify that gun owners who become legally ineligible to keep or possess guns, such as those convicted of a domestic violence offense, actually comply with the law, and transfer their firearms to an authorized third party or law enforcement.

There is no federal law regarding relinquishment of firearms by people who have become prohibited from possessing them. Though people may be prosecuted and incarcerated for illegally retaining their firearms after a criminal conviction or other firearm-prohibiting event, federal law provides no standard mechanism to proactively ensure that such individuals relinquish their firearms.

Unfortunately, in most contexts, the majority of states also rely largely on the honor system, instead of proactively ensuring that people relinquish their weapons once they become prohibited from owning them. An analysis by the *Chicago Tribune* in 2019, for instance, found that nearly 80% of Illinois residents whose firearm licenses had been revoked by state law enforcement may still have been armed, because law enforcement had not recovered these prohibited individuals' firearms, or required any verification that they relinquished them themselves.³⁴ Similarly, reports from California's Department of Justice indicate that in 2018 alone, more than 11,000 Californians who became newly prohibited from possessing guns unlawfully failed to relinquish their weapons.³⁵

However, some state and local governments have implemented effective firearm relinquishment laws, especially to ensure firearms are removed from people who have perpetrated domestic violence, or who become subject to domestic violence, extreme risk, and other violence-related protective orders. Many of these laws require newly prohibited gun owners to sell or transfer their firearms within specified time periods and provide receipts and/or affidavits to courts or law enforcement verifying that they relinquished all firearms.

Research has shown that these requirements are effective: laws which require people who become subject to domestic violence-related firearm prohibitions to verify that they relinquished

³³ See, e.g., Jeffrey W. Swanson, "The color of risk protection orders: gun violence, gun laws, and racial justice," *Injury Epidemiology* 7, no. 46 (2020), <https://injepjournal.biomedcentral.com/articles/10.1186/s40621-020-00272-z>.

³⁴ Annie Sweeney, Stacy St. Clair, Cecilia Reyes, and Sarah Freishtat, "More than 34,000 Illinoisans Have Lost their Right to Own a Gun. Nearly 80% May Still be Armed," *Chicago Tribune*, May 23, 2019, <https://bit.ly/2HQpFqJ>.

³⁵ Office of the Attorney General. "APPS 2018: Annual Report to the Legislature," California Department of Justice, March 1, 2019, 1, <https://oag.ca.gov/system/files/attachments/press-docs/apps-2018.finaldocx.pdf> (noting that "an annual record number of 11,333 prohibited persons were added to the APPS [Armed Prohibited Persons System] database" in 2018).

their guns were linked to a 16% reduction in intimate partner gun homicides.³⁶ After King County, Washington, established a dedicated law enforcement unit tasked with removing guns from people subject to domestic violence protective orders, the number of firearms recovered from these prohibited individuals quadrupled.³⁷ In California, a dedicated state law enforcement team tasked with proactively recovering firearms from unlawfully armed individuals proactively recovered more than 2,100 illegally owned firearms in 2019.³⁸

These efforts require proactive partnerships between law enforcement, courts, and community members, including newly prohibited gun owners, who should work together to prevent firearm violence and homicide, and reduce the risk that community members will be subsequently arrested and prosecuted for unlawful possession of firearms. By involving law enforcement in preventative efforts to address gun violence and homicide and reduce arrest and incarceration, these laws can help build trust and legitimacy while more effectively and justly keeping vulnerable community members, especially victims of domestic violence, safer from harm.

C. Oversight of gun dealers

Federal law requires gun retailers to obtain a federal license from the ATF, but oversight of these licensees is strictly limited. For this reason, 26 states have enacted their own laws, providing for stronger local oversight of businesses that sell firearms. Sixteen of these states and DC require gun dealers in their jurisdictions to obtain a state license, and many impose stricter safety, security, and transparency requirements than federal law.³⁹ COPS funding may help states implement these laws.

For example, Illinois enacted a law in 2019 that requires gun dealers in the state to obtain a license from the state police, and comply with specified regulations governing storage of firearms, employee training, and other safety concerns.⁴⁰ In Maryland, state police are directed to license handgun dealers, ensure dealers' compliance with state laws regarding the retention of sale records, and inspect dealers' inventory and records at least once every two years.⁴¹

These kinds of laws are effective. A 2009 study found that cities in states that comprehensively regulate retail firearms dealers and cities where these businesses undergo regular compliance

³⁶ April M. Zeoli, et al., "Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations With Intimate Partner Homicide," *American Journal of Epidemiology* 187, no. 11 (2018): 2365–2371.

³⁷ Chris Ingalls, "New Rapid Response Team Disarms Accused Abusers," King 5 News, February 8, 2018, <https://kng5.tv/2VKdFMH>.

³⁸ Office of the Attorney General, "APPS 2019: Annual Report to the Legislature," California Department of Justice, accessed October 27, 2020, 17, <https://oag.ca.gov/system/files/attachments/press-docs/APPS%202019%20Report.pdf>.

³⁹ See Giffords Law Center to Prevent Gun Violence, "Gun Dealers," accessed October 27, 2020, <https://lawcenter.giffords.org/gun-laws/policy-areas/gun-sales/gun-dealers/>.

⁴⁰ 2017 IL SB 337 (codified at 430 Ill. Comp. Stat. Ann. 68/5-1, et seq.).

⁴¹ Md. Code Ann., Pub. Safety §§ 5-110, 5-145.

inspections have significantly lower levels of gun trafficking than other cities.⁴² The International Association of Chiefs of Police has also recommended that state and local governments enact their own dealer licensing requirements, because they can respond to specific community concerns, and because state and local oversight of licensees helps reduce the number of corrupt and irresponsible dealers.⁴³

These laws require law enforcement staffing and resources for proper implementation. They also require law enforcement to interact with community members in a proactive manner to identify patterns of corrupt or irresponsible gun dealer practices that fuel the black market supply of firearms. CHP funding should be available for these purposes.

D. Reporting of lost or stolen firearms

Stolen guns also enter the illegal market, and are an appealing source of firearms for people who are legally prohibited from acquiring guns, or intend to commit crimes. Laws that require firearm owners to notify law enforcement about the loss or theft of a firearm, therefore, serve several public safety functions by helping deter gun trafficking and straw purchasing. Without reporting laws, straw purchasers can often falsely claim that a gun they bought and gave to a prohibited person was lost or taken in an unreported theft. Reporting laws also help ensure that prohibited persons—such as people who have a serious criminal conviction or are subject to a domestic violence restraining order—cannot falsely claim that guns have been lost or stolen when law enforcement acts to remove firearms from their possession. Twelve states and DC require firearm owners to report the loss or theft of at least some firearms to law enforcement.⁴⁴

In order for lost and stolen reporting laws to be effective, law enforcement must have the trust of the community members, and an accurate and efficient method for recording reports of lost and stolen firearms. This requires resources, which CHP funding could provide.

E. Firearm purchaser permitting

Twelve states and DC require individuals to obtain a license or permit from law enforcement before purchasing or owning at least some firearms.⁴⁵ These laws ensure that gun owners have passed a background check before they purchase a gun. In contrast to states which require a background check at the point of sale of a firearm, licensing laws typically require an in-person

⁴² Daniel W. Webster et al., “Effects of State-Level Firearm Seller Accountability Policies on Firearms Trafficking,” *J. Urban Health* 86 (2009): 525.

⁴³ Int’l Ass’n of Chiefs of Police (IACP), “Taking a Stand: Reducing Gun Violence in Our Communities,” August 3, 2007, 14, <https://www.theiacp.org/resources/taking-a-stand-reducing-gun-violence-in-our-communities>.

⁴⁴ See Giffords Law Center to Prevent Gun Violence, “Reporting Lost & Stolen Guns,” accessed October 27, 2020, <https://lawcenter.giffords.org/gun-laws/policy-areas/gun-owner-responsibilities/reporting-lost-stolen-guns/>.

⁴⁵ Giffords Law Center to Prevent Gun Violence, “The Case for Firearm Licensing,” April 2020, <https://lawcenter.giffords.org/wp-content/uploads/2020/04/Giffords-Law-Center-The-Case-for-Firearm-Licensing.pdf>.

application at law enforcement agencies, which provides an additional safeguard against fraud or inaccuracies that could allow ineligible individuals to obtain guns unlawfully.

In addition, licensing laws that require periodic renewal can also reduce gun crimes by helping law enforcement confirm that a gun owner remains eligible to possess firearms and facilitating the removal of firearms from people who become ineligible. Furthermore, many states will only issue or renew firearm licenses after an applicant has completed a safety training course, and firearm safety tests showing that the applicant knows relevant gun laws and how to safely load, fire, and store a gun.⁴⁶

Studies show that these components of licensing laws can lead to significant reductions in gun homicides, gun suicides, and mass shootings.⁴⁷ Licensing laws also are associated with reduced rates of gun trafficking and crime gun diversion.⁴⁸ One reason these laws may be so effective is that they mandate face-to-face interaction with law enforcement. Research suggests that people seeking to commit crimes are more deterred from purchasing a gun when a background check is conducted by a law enforcement officer than when it is conducted by a federally licensed firearms dealer.⁴⁹

Requiring prospective purchasers to interact with law enforcement also appears to deter straw purchasing.⁵⁰ Straw purchasing—in which a purchaser buys a gun on behalf of another individual—is the most common way guns are diverted to the illegal market.⁵¹ People may be less likely to misrepresent themselves and their intentions when face-to-face with law enforcement as opposed to in a gun store.

⁴⁶ *Id.*

⁴⁷ Kara E. Rudolph et al., “Association Between Connecticut’s Permit-to-Purchase Handgun Law and Homicides,” *American Journal of Public Health* 105, no. 8 (2015): e49–e54; Cassandra K Crifasi et al., “Effects of Changes in Permit-to-purchase Handgun Laws in Connecticut and Missouri on Suicide Rates,” *Preventive Medicine* 79 (2015): 43–49; Daniel Webster, et al., “Effects of the Repeal of Missouri’s Handgun Purchaser Licensing Law on Homicides,” *Journal of Urban Health* 91, no. 2 (2014): 293–302; Cassandra K. Crifasi, et al., “Association Between Firearm Laws and Homicide in Urban Counties,” *Journal of Urban Health* 95, no. 3 (2018): 383–390.

⁴⁸ Daniel W. Webster et al., “Relationship Between Licensing, Registration, and Other Gun Sales Laws and the Source State of Crime Guns,” *Injury Prevention* 7, no. 3 (2001): 184–189; Glenn L. Pierce et al., “Impact of California Firearms Sales Laws and Dealer Regulations on the Illegal Diversion of Guns,” *Injury Prevention* 21, no. 3 (2015): 179–184; Daniel W. Webster et al., “Preventing the Diversion of Guns to Criminals through Effective Firearm Sales Laws,” in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, eds. Daniel W. Webster and Jon S. Vernick (Baltimore, MD: Johns Hopkins University Press, 2013), 109-122.

⁴⁹ Cassandra K. Crifasi, Alexander D. McCourt, Daniel W. Webster, “The Impact of Handgun Purchaser Licensing on Gun Violence,” accessed October 27, 2020, https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/docs/Impact_of_Handgun.pdf.

⁵⁰ Kara Rudolph, Elizabeth Stuart, Jon Vernick, and Daniel Webster, “Association Between Connecticut’s Permit-to-Purchase Handgun Law and Homicides,” *American Journal of Public Health* 105, no. 8 (2015): e49–e54.

⁵¹ Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, “Following the Gun: Enforcing Federal Laws Against Firearms Traffickers,” June 2000, <https://giffords.org/wp-content/uploads/2020/07/Following-the-Gun-Enforcing-Federal-Laws-Against-Firearms-Traffickers-1.pdf>.

Like all the state gun laws discussed above, firearm purchaser permitting requires a considerable investment of law enforcement time and resources. Most of this time and resources are not spent investigating and prosecuting crimes; rather, they are spent informing the public of legal requirements, and processing applications. Implementation occurs in this way, and enforcement can occur primarily through the regulation of gun sellers, who must ensure that all gun buyers have licenses. Law enforcement must monitor and inspect gun sellers to ensure that they are only selling guns to license holders. This approach focuses on bringing businesses and gun purchasers into compliance with the licensing requirements, rather than prosecuting non-compliant individuals. This oversight requires law enforcement to work in a spirit of cooperation, rather than conflict, with businesses and the public to fully implement the law. The COPS Office should prioritize the use of CHP funding to assist with effective implementation of these laws using this approach.

(2) Federal efforts to reduce gun trafficking

In many cases, gun trafficking crosses jurisdictional boundaries. Gun traffickers take advantage of our nation's porous gun laws by buying guns in states with weak gun laws and illegally reselling them in states with strong gun laws. Gun traffickers often target particular localities as sources for the guns they sell. They often choose to sell those guns in other localities where there is a strong market for illegal guns.⁵²

Federal law enforcement efforts to reduce gun trafficking are therefore dependent on partnerships with both local law enforcement and members of the community. The gun tracing process often begins when a local law enforcement officer recovers a gun that has been used in a crime. The officer can then submit the firearm's make, model, and serial number to the ATF, and the ATF can trace the gun. In this way, gun trafficking investigations necessarily involve partnerships between federal and local law enforcement. They also involve eTrace, the system developed by the ATF so law enforcement agencies across the country can quickly request gun tracing. The COPS statute explicitly encourages the use of COPS funding for the development of "interoperable communications technologies" like eTrace.⁵³

As the House Committee on Appropriation recognized in its report on its FY 2020 bill, law enforcement agencies often submit incorrect information to the ATF for firearms tracing. The committee urged the ATF to increase trace submission training for law enforcement agencies, to include online training.⁵⁴ COPS funding could also support this training.

Gun trace data collected by the ATF can be used to identify the sources of crime guns. The sources may be a gun dealer or dealers, or a gun trafficking ring localized in a community far from where the guns were recovered. Turning gun trace information into actionable leads often involves talking to members of the community that have knowledge about the sources of crime

⁵² Brian Knight, "State Gun Policy and Cross-state Externalities: Evidence from Crime Gun Tracing," *American Economic Journal: Economic Policy* 5, no. 4 (2013): 200–229.

⁵³ 34 U.S.C. § 10381(b)(8).

⁵⁴ H.R. Rep. No. 116-455 (2020): 81, <https://www.congress.gov/116/crpt/hrpt455/CRPT-116hrpt455.pdf>.

guns. Federal law enforcement officers may have difficulty doing these investigations because they lack the necessary connections in the community. Consequently, they are often dependent on local police to make these connections.

Local law enforcement agencies are often focused on violent crimes occurring within their own communities. Re-orienting them to focus on the source of guns that are being used in violent crimes in other communities may require transformational change. This kind of transformational change within police departments is one of the elements of community oriented policing, and requires training and funding, which can be provided by CHP grants.

An example of what can be accomplished to address gun trafficking through coordination between federal and local law enforcement is shown through the Youth Crime Gun Interdiction Initiative (YCGII). The YCGII, part of the ATF's national illegal firearms trafficking prevention program in the 1990's, developed information about how juveniles and criminals illegally obtain crime guns, and used that information to support federal, state, and local law enforcement efforts to reduce illegal access to firearms. A cornerstone of YCGII was support for comprehensive crime gun tracing by law enforcement agencies. In 1997, 17 cities across the United States participated in the YCGII. By 2000, the number of participating jurisdictions increased to 50. The YCGII made substantial accomplishments both in tracing and investigative activity.⁵⁵

Gun traffickers constitute a problem both in the community where the guns are used and in the community where the guns originate. In order to solve this problem, local law enforcement must often cooperate with federal law enforcement efforts. In *City of Los Angeles v. Barr*, the Court upheld the requirement that CHP grant applicants certify that they would cooperate with federal law enforcement efforts to reduce illegal immigration. While no certification requirement is necessary with respect to gun trafficking, funding should be directed to helping local law enforcement work with federal law enforcement to stop crime guns from originating in their communities.

(3) Use of COPS funding for community violence interruption strategies, such as Group Violence Intervention

Community violence interruption strategies, especially the Group Violence Intervention (GVI) strategy discussed below, have demonstrated how robust partnerships between law enforcement and community stakeholders can help achieve significant reductions in shootings and homicides in a short period of time, while also building community trust and reducing law enforcement agencies' traditional reactive approaches to "anti-gang" enforcement.

Shootings and homicides in America are highly concentrated in our cities, particularly within city neighborhoods marked by high levels of racial segregation, severe concentrated poverty, and

⁵⁵ Bureau of Alcohol, Tobacco, Firearms & Explosives, "Youth Crime Gun Interdiction Initiative Performance Report for the Senate and House Committees on Appropriations Pursuant to Conference Report 105-825, October 1998," February 1999, <https://www.atf.gov/file/5601/download>.

estrangement from law enforcement. An analysis by *The Guardian* observed that more than a quarter of the nation's gun homicides occurred in city neighborhoods containing just 1.5% of the US population.⁵⁶ This violence imposes an enormously unequal burden on communities of color, and Black men in particular. Black men constitute just 6% of the US population, but account for more than half of the nation's gun homicide victims.⁵⁷

Traditional law enforcement approaches often fail to recognize that the vast majority of shootings—even in our most distressed and homicide-plagued neighborhoods—are perpetrated by a relatively tiny segment of the community, affiliated with loosely organized street groups, and that people typically join these groups not because they are prone to violence, but because they are seeking protection *from* it. According to a research review by the US Justice Department, young people most commonly join these groups seeking safety and security.⁵⁸ People who have been victims of or witnesses to violence are particularly likely to join violent street groups, and are at significantly higher risk of both perpetrating violence, and being shot or killed.

In multiple cities, intervention strategies designed to interrupt cycles of group-related violence and retaliation have been remarkably effective.⁵⁹ For example, in some cities, including Stockton and Oakland, California, and Camden, New Jersey, law enforcement agencies have been able to leverage and cement gains in community trust by implementing initiatives like the Group Violence Intervention (GVI) strategy, which actively refocuses law enforcement resources around the prevention of lethal violence and protection of people at highest risk. To be effective, this strategy relies on a robust partnership between law enforcement, community leaders, and service providers.

⁵⁶ Aliza Aufrichtig, et al., “Want to fix gun violence in America? Go local,” *The Guardian*, January 9, 2017, <https://www.theguardian.com/us-news/nginteractive/2017/jan/09/special-report-fixing-gun-violence-in-america>. In 2019, the National Network for Safe Communities confirmed that at least half of homicides and nonfatal shootings involve people—as victims and/or perpetrators—known by law enforcement to be affiliated with “street groups” involved in violence constituting, on average, less than 0.6% of a city's population, and an even smaller percentage actually perpetrate violent crime. See Stephen Lurie, et al., “The Less Than 1%: Groups and the Extreme Concentration of Urban Violence,” National Network for Safe Communities (forthcoming); Stephen Lurie, Alexis Acevedo, and Kyle Ott, “Presentation: The Less Than 1%: Groups and the Extreme Concentration of Urban Violence,” National Network for Safe Communities, November 14, 2018, https://cdn.theatlantic.com/assets/media/files/nnsc_gmi_concentration_asc_v1.91.pdf; Giffords Law Center to Prevent Gun Violence, “In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence,” January 2020, 31-32, <https://lawcenter.giffords.org/wp-content/uploads/2020/01/Giffords-Law-Center-In-Pursuit-of-Peace.pdf>

⁵⁷ Giffords Law Center to Prevent Gun Violence, “Intervention Strategies,” accessed October 27, 2020 <https://lawcenter.giffords.org/gun-laws/policy-areas/other-laws-policies/intervention-strategies/>.

⁵⁸ James C. Howell, “Gang Prevention: An Overview of Research and Programs,” US Department of Justice Office of Juvenile Justice and Delinquency Prevention, *Juvenile Justice Bulletin*, December 2010, <https://www.ncjrs.gov/pdffiles1/ojjdp/231116.pdf>.

⁵⁹ See e.g., Giffords Law Center to Prevent Gun Violence, “A Case Study in Hope: Lessons from Oakland's Remarkable Reduction in Gun Violence,” April 23, 2019, <https://lawcenter.giffords.org/wp-content/uploads/2019/05/Giffords-Law-Center-A-Case-Study-in-Hope.pdf>

The GVI strategy is a form of problem-oriented policing (as opposed to traditional “incident-driven” policing), that was pioneered in the enormously successful Operation Ceasefire in Boston in the mid-1990s, where it was associated with a 61% reduction in youth homicide.⁶⁰ To implement the GVI strategy effectively, police departments must partner closely with credible community leaders and service providers to jointly convene “call-ins” with a relatively small number of individuals identified as having the highest risk of becoming a victim and/or perpetrator of violence in the near future. These individuals are typically young men involved with street groups, who often have extensive histories of violent victimization, trauma, and criminal involvement. In other words, they are often fearful of violence and distrustful of the police, yet interested in opportunities to become safer.

At the call-ins, people representing the community’s moral voice communicate a strong demand for the shooting to stop and give an explanation about how violence has affected their families and community. Parents who lost their children to violence are often the most effective voices, along with former group members who lost friends to violence.

Social service providers then present plans to connect high-risk individuals with services, ranging from trauma counseling, mediation, and peer coaching to job training and relocation assistance to help people at risk of being shot find temporary housing away from a dangerous situation. These providers offer genuine support and interventions to promote pathways to peace and healing for the community’s highest-risk, often desperate young men.

And finally, law enforcement officers often deliver a respectful notification regarding the legal risks individuals may face if the community’s plea for peace is ignored. Because most shootings and murders do not lead to arrests in many communities, this notification or promise of accountability can have a focused deterrent effect on people involved in cycles of violence.

By working to engage with the community on a targeted effort to prevent the most serious crimes, law enforcement agencies can demonstrate that they are responsive to community concerns and begin to build more trust. By building police legitimacy and decreasing violence, these efforts can create a positive feedback loop of increased community engagement, increased law enforcement effectiveness, decreased vigilante violence and less heavy-handed law enforcement, and save more lives.

While law enforcement plays an essential role in GVI, the strategy’s success depends on the dedicated participation of community leaders. When this happens, at-risk individuals are more likely to recognize that police officers are acting on behalf of the neighborhood, rather than as an occupying, external force.⁶¹ In this way, the GVI model exemplifies community-oriented policing at its best.

⁶⁰ Anthony A. Braga, et al., “The Boston Gun Project: Impact Evaluation Findings,” May 17, 2000, <https://nij.ojp.gov/library/publications/boston-gun-project-impact-evaluation-findings>.

⁶¹ “The places in which violence is most prevalent too often are the very places in which police-community relations are the most strained.” Tracey L. Meares and Dan M. Kahan, “Law and (Norms of) Order in the Inner City,” *Law and Society Review* 32 (1998): 805–838,

The GVI model has a remarkably strong track record, featuring a documented association with homicide reductions of 30–60%.⁶² When violence intervention experts compared more than 1,400 individual studies of crime-reduction strategies in 2016, they identified GVI as having “the strongest and most consistent anti-violence effects.”⁶³ Additionally, the DOJ has compiled a review of known crime prevention strategies, in which it gives the GVI approach its highest rating, noting the existence of multiple studies confirming GVI’s efficacy.⁶⁴

Despite these impressive results, GVI is still not receiving sufficient public funding, and cities are being turned away. The COPS Office should focus funding on GVI strategies, because they accomplish many of the purposes of the COPS statute at one time. The COPS statute calls for more law enforcement officers involved in activities like GVI “that are focused on interaction with members of the community on proactive crime control and prevention.”⁶⁵ GVI programs seek “to increase police participation in multidisciplinary early intervention teams” and “to develop and implement innovative programs to permit members of the community to assist State, tribal, and local law enforcement agencies in the prevention of crime in the community.”⁶⁶

For these reasons, the COPS Office should prioritize funding for law enforcement officers to engage in GVI and similar programs.

(4) Use of COPS funds to improve law enforcement agencies’ clearance rates for shootings and homicides

COPS grants should be used to support evidence-based efforts to improve law enforcement agencies’ poor and declining record of solving homicides and shootings.

http://digitalcommons.law.yale.edu/fss_papers/482; see also Chris Melde et. al., “On the Efficacy of Targeted Gang Interventions: Can We Identify Those Most At Risk?,” *Youth Violence and Juvenile Justice* 9 (2011): 279–94, <http://yvj.sagepub.com/content/9/4/279>.

⁶² Giffords Law Center to Prevent Gun Violence, “Intervention Strategies,” accessed October 17, 2020, <https://lawcenter.giffords.org/gun-laws/policy-areas/other-laws-policies/intervention-strategies/>.

⁶³ Thomas Abt, “We Can’t End Inequality Until We Stop Urban Gun Violence,” *The Trace*, July 12, 2019, <https://www.thetrace.org/2019/07/we-cant-endinequality-until-we-stop-urban-gun-violence/>; Democracy International, “What Works in Reducing Community Violence: A Meta-review and Field Study for the Northern Triangle,” US Agency for International Development, February 2016, <https://www.usaid.gov/sites/default/files/USAID-2016-What-Works-in-Reducing-CommunityViolence-Final-Report.pdf>; National Academies of Sciences, Engineering, and Medicine, *Proactive Policing: Effects on Crime and Communities*, David Weisburd and Malay K. Majmundar eds. (Washington: The National Academies Press, 2018), <https://www.nap.edu/catalog/24928/proactive-policing-effects-on-crime-and-communities>.

⁶⁴ National Institute of Justice, Office of Justice Programs, “Crime & Crime Prevention,” accessed February 22, 2016, <https://www.crimesolutions.gov/TopicDetails.aspx?ID=13>; see also US Department of Justice, Office of Justice Programs, “Community Crime Prevention Strategies,” accessed February 22, 2016, <https://www.crimesolutions.gov/TopicDetails/>.

⁶⁵ 34 U.S.C. § 10381(b).

⁶⁶ *Id.*

Traditional law enforcement efforts to address community violence by punitively targeting “gang” members and identities have largely failed, and often cause significant harm and mistrust among the larger community. Homicide remains the leading cause of death for young Black men in this nation.⁶⁷ A majority of homicides of Black Americans never lead to an arrest, let alone a conviction.⁶⁸ In the absence of an effective and trusted public safety system, victims of violence and young people seeking protection from violence may become embroiled in cycles of retaliatory violence and vigilantism that threaten the safety and wellbeing of entire communities caught in the crossfire. Deep alienation from law enforcement fuels this violence, along with ready access to firearms; researchers have found strong evidence that “neighborhoods where the law and the police are seen as illegitimate and unresponsive have significantly higher homicide rates,” even after accounting for differences in race, age, poverty, and other structural factors,⁶⁹ and that the proliferation of guns among a community’s young people can lead to a contagious and deadly arms race.⁷⁰

For families grieving a murdered or injured loved one in cities across the country, the jarring truth is that the justice system usually fails to deliver justice. This helps explain why a desperate few decide to take justice into their own hands, fueling cycles of retaliatory shootings. Cities that solve fewer homicides have much higher rates of homicide on average.⁷¹ And low and decreasing law enforcement clearance rates for shootings and homicides are both a significant cause and effect of community distrust and cycles of violence.

A recent in-depth investigation by *The Washington Post* found that across 52 of the nation’s largest cities over the past decade, a majority (53%) of all murders of Black Americans never led to an arrest, let alone a conviction, and nearly three-quarters of all unsolved murders in these cities involved a victim who was Black.⁷² Gun homicides and nonfatal shootings are even less likely to lead to an arrest; researchers found that across 22 cities, law enforcement failed to

⁶⁷ CDC WONDER, “Underlying Cause of Death, 1999–2017,” accessed November 7, 2019, <https://wonder.cdc.gov/>.

⁶⁸ Wesley Lowery, Kimbriell Kelly, and Steven Rich, “Murder with Impunity: An Unequal Justice,” *The Washington Post*, July 25, 2018, https://www.washingtonpost.com/graphics/2018/investigations/black-homicides-arrests/?utm_term=.bb58c728ae95.

⁶⁹ David S. Kirk and Andrew Papachristos, “Cultural Mechanisms and the Persistence of Neighborhood Violence,” *American Journal of Sociology* 116, no. 4 (January 2011): 1190–1233, https://liberalarts.utexas.edu/files/kirkds/KirkPapachristos_AJS2011_Published.pdf.

⁷⁰ David Hemenway, et al., “Gun Carrying Among Adolescents,” *Law & Contemporary Problems* (1996): 39, 47–48, (finding “carrying firearms makes other students feel less safe, which increases the likelihood that they will in turn carry guns” and concluding “results of contagion modeling suggest that small initial changes in gun carrying can have multiplicative effects”); Richard B. Felson and Paul-Philippe Pare, “Firearms and fisticuffs: Region, race, and adversary effects on homicide and assault,” *Social Science Research* 39, no. 2 (2010): 274, <https://richardfelson.files.wordpress.com/2013/06/firearms-and-fisticuffs.pdf>.

⁷¹ See e.g., Thomas K. Hargrove, Rachael Rosselet and Eric W. Witzig, “Are Murders Worth Solving?” Murder Accountability Project, January 24, 2018, <http://www.murderdata.org/2018/01/are-murders-worth-solving-new-analysis.html>.

⁷² Wesley Lowery, Kimbriell Kelly, and Steven Rich, “Murder with Impunity: An Unequal Justice,” *The Washington Post*, July 25, 2018, https://www.washingtonpost.com/graphics/2018/investigations/black-homicides-arrests/?utm_term=.bb58c728ae95.

make an arrest in 65% of fatal shootings involving a Black or Hispanic victim, and 80% of nonfatal shootings involving a Black victim.⁷³

The lack of accountability for gun violence is no secret in impacted communities. When the Urban Institute surveyed young people from Chicago neighborhoods with the highest rates of homicide, only 14% said they thought a person was likely to “get caught” for shooting at someone in their neighborhood, and that number was even lower among young people who said they had carried a gun before.⁷⁴ Unsurprisingly, just 13% said police in their neighborhood were effective at reducing crime.⁷⁵ Violence prevention experts have noted that this “near-total impunity for homicides and shootings in distressed communities” is a major driver of community distrust and community violence, as it “signals that the state can’t or won’t actually protect people from the most significant harm. Where that’s true, people feel the need to protect themselves and settle disputes through other means, including private violence.”⁷⁶

In 2013, the Bureau of Justice Assistance partnered with the International Association of Chiefs of Police to identify best practices for improving law enforcement agencies’ capacity to solve homicide cases in order to address the concern that in many communities, “offenders were literally getting away with murder.”⁷⁷ Their best-practices report included a host of practical recommendations but ultimately concluded that all of them “rely on a community who trust and support the police and are therefore willing to talk with investigators and/or voluntarily provide information to the police.”⁷⁸

COPS funding should be used to update these best practices recommendations, and support training and hiring of officers and other personnel dedicated specifically to improving clearance rates for shootings and homicides through best practices, including partnerships with the community, use of innovative technology, and efforts to better secure witnesses’ safety and participation. Solving more homicides and shootings would help significantly to prevent and deter retaliatory shootings and build self-reinforcing gains in community trust.

IV. Legal justification

⁷³ Sarah Ryley, Jeremy Singer-Vine, and Sean Campbell, “Shoot Someone In a Major U.S. City, and Odds Are You’ll Get Away With It,” *The Trace*, January 24, 2019, <https://www.thetrace.org/features/murder-solve-rate-gun-violence-baltimore-shootings/>.

⁷⁴ Jocelyn Fontaine, et al., “‘We Carry Guns to Stay Safe’ Perspectives on Guns and Gun Violence from Young Adults Living in Chicago’s West and South Sides,” *The Urban Institute*, October 2018, 8, https://www.urban.org/sites/default/files/publication/99091/we_carry_guns_to_stay_safe_1.pdf.

⁷⁵ *Id.*

⁷⁶ Stephen Lurie, “There’s No Such Thing as a Bad Neighborhood,” *CityLab*, February 25, 2019, <https://www.citylab.com/perspective/2019/02/brokenwindows-theory-policing-urban-violence-crime-data/583030/>.

⁷⁷ See David L. Carter, “Homicide Process Mapping: Best Practices for Increasing Homicide Clearances,” Bureau of Justice Assistance, September 2013, https://www.iir.com/Documents/Homicide_Process_Mapping_September_email.pdf.

⁷⁸ *Id.* at 12.

The DOJ has broad discretionary authority to select focus areas for CHP grants. In *City of Los Angeles v. Barr*, the Ninth Circuit described this authority as subject to a “highly deferential standard.”⁷⁹ The court in that case upheld the DOJ’s choice of illegal immigration as a focus area, because the DOJ was authorized to fill “gaps” in the statute and nothing about that choice conflicted with the statute.⁸⁰ The same is true here; addressing gun violence and homicide fits even more squarely within the statutory purposes outlined in the authorizing act than immigration enforcement.

In *City of Los Angeles v. Barr*, the court also addressed the city’s claim that “elements of DOJ’s scoring system are unlawful because they (1) violate constitutional principles of separation of powers and exceed DOJ’s lawful authority, (2) violate the Spending Clause, and (3) are arbitrary and capricious under the Administrative Procedure Act.”⁸¹ The court rejected all of these claims, however, holding, among other things, that:

Because DOJ’s scoring process does not coerce an applicant or authorize the federal government to exercise any control over state or local law enforcement, it does not violate 34 U.S.C. § 10228(a), which states: “Nothing in this chapter or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any State or any political subdivision thereof.”⁸²

Consequently, similar claims are not likely to succeed against the proposals put forth in this memorandum. Choosing to focus on gun violence homicide in the administration of COPS grants is an appropriate use of DOJ’s discretion with regards to these grants.

⁷⁹ 929 F.3d 1163, 1177 (9th Cir. 2019).

⁸⁰ *Id.*

⁸¹ *Id.* at 1172, 1183.

⁸² *Id.* at 1176, fn.7.