



MEMORANDUM

TO Interested Parties
FROM Lindsay Nichols
DATE January 31, 2022
RE Recommended Actions for the Biden-Harris Administration

Joe Biden and Kamala Harris represented the strongest gun safety presidential ticket in history. Their accomplishments for gun safety in the first year have set the framework to address the current surge in gun homicides being experienced in New York City and elsewhere. Yet the administration must now fully implement these changes, make bolder moves, and continue working closely with federal, state, and local leaders to take further steps to address this surge.

The insufficient pace of change is due to a number of factors, including a bitterly divided Senate, the continued influence of the gun lobby, and the ongoing Covid pandemic. Yet gun violence, and gun homicides in particular, have soared for the past two years, a trend that shows no signs of slowing down.

Unlimited access to guns also poses a grave threat to our democracy—we've seen this play out all too often over the past several years, from armed protesters storming state capitols to Kyle Rittenhouse's acquittal. The right is comfortable using armed intimidation to chill free speech and silence their political opponents. It's on us to resist this dangerous movement.

We know that Joe Biden and Kamala Harris are serious about ending this crisis, and we're committed to helping them take the actions they can in the time that we have left in this administration. Our top priorities for this administration are laid out below.

1. Background Checks

We need bold action to close the gaping loophole in our background check laws. First, we need the President to call for a Senate vote on background checks legislation. It is far too easy for individuals prohibited from possessing guns for reasons such as felony convictions or a history of domestic violence to obtain them. The fact that only federally licensed gun dealers must perform background checks on prospective firearm purchasers, while so-called "private" sellers or unlicensed dealers do not, makes it far too easy for individuals prohibited from purchasing firearms to obtain guns through unregulated transactions at gun shows and online. People who commit crimes with firearms overwhelmingly obtain these firearms from unlicensed sources. The President should publicly express support for closing this loophole and the Senate should vote.

Meanwhile, the FBI should strengthen the National Instant Criminal Background Check System (NICS), which is the system used for background checks on firearms purchasers through new regulations. These new regulations will help ensure that individuals not legally eligible to purchase firearms are not able to pass background checks to purchase guns. These regulation would ensure that NICS:

- Uses the National Data Exchange (NDex), a national database of police reports that contains some information not currently accessible through NICS.
- Retains records of incomplete background checks. Currently, these records are destroyed 88 days after the background checks are initiated, preventing the FBI from making further efforts to complete the checks or properly auditing the system.
- Alerts state and local law enforcement when domestic abusers try to buy guns. Efforts to ensure that law enforcement are notified when domestic abusers fail background checks began under the Obama administration.

The Senate may currently be unable to enact universal background checks legislation, but the Bureau of Alcohol, Tobacco, Firearms, & Explosives (ATF) can publish a new proposed regulation to reduce the impact of the deadly background checks loophole. Federal law requires anyone who is “engaged in the business” of dealing in firearms to conduct background checks. ATF’s new regulation should define “engaged in the business” (EIB) so that: (a) anyone who sells more than a certain number of guns in a year and (b) anyone in the business of facilitating gun sales, including websites such as Armslist, conducts background checks.

2. Community Violence Intervention

The Administration has made major strides in supporting community violence intervention (CVI) strategies. In fact, over the last year, five agencies have made changes to 26 grant programs to support these strategies, which are known to dramatically reduce shootings and gun homicides in the neighborhoods that have suffered the most. CVI programs interrupt cycles of violence and retaliation, saving both lives and money. Yet, the Administration still needs to do more to create an infrastructure based in the White House for CVI. This infrastructure is necessary to ensure that new funding for CVI flows quickly to the communities currently being ravaged by shootings and gun homicides. The Administration has already established the White House Community Violence Intervention Collaborative, which could lead this effort.

Alongside the Collaborative, the Administration should form a CVI stakeholder working group that regularly brings together CVI leaders and stakeholders, including community and faith-based intermediary organizations, to share best practices and advise the White House on this issue. Secondly, the Administration should establish a task force within the Office of Justice Programs to ensure that every community experiencing high rates of community gun violence has access to CVI funding, and should make CV a specific area of focus at the Office of Victims of Crime’s Training and Technical Center, as it does for human trafficking and sexual assault. The Collaborative or another robust coordinating entity should encourage researchers to work with community-based organizations to ensure that CVI projects are accompanied by

evaluations of those projects and that data contributes to our overall knowledge about CVI. Finally, the Administration should build out existing resources, such as the CDC's websites on Community Violence Prevention and Firearm Violence Prevention, and related information from other departments to better serve the CVI field, housing CVI-specific information and resources in one place.

3. Interagency Task Force

Former President Obama issued an executive order establishing a task force on gun safety, which then-Vice President Biden led. As president, Biden should view the revitalization of this task force as a minimum action to be taken. The White House should now issue a similar order, and create a dedicated team to lead similar efforts convening agency leaders charged with making significant strides in this area and, more importantly, accountable to the public for the scope of these efforts.

A spokesperson for this team could hold regular press briefings to discuss the ongoing acts of gun violence, from the localities that are most impacted, and alongside leaders from those areas, and make regular announcements about relevant actions of the Administration, such as awards of grant funding for community violence intervention or suicide prevention work, law enforcement's gun trafficking investigations, the release of data and reports, and the progress of regulatory proposals. This high-level official should also be able to comment on legislation and congressional action or inaction in this area.

4. Overhaul ATF

The Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) is the primary federal agency charged with enforcing our nation's gun laws and regulating the gun industry. Yet ATF is also a troubled agency that is not effectively fulfilling its enforcement or regulatory responsibilities. The agency has been captured by the industry that it is supposed to regulate.

Given the coziness of ATF and the gun lobby, stronger leadership is needed. A new acting director could be named immediately to clean up the agency and, with strong direction from the Attorney General, refocus on ATF's core missions, to address the recent surge in gun violence.

This new acting director, with DOJ leadership, should immediately prioritize policies related to gun trafficking and removing illegal guns from American communities, and lead regular press briefings to discuss these activities. Specifically, ATF should complete actions begun during the past year, including the ghost gun and stabilizing brace regulations and the first annual report on its gun trafficking investigations. ATF should also publicly tout revocations of specific gun dealer licenses and gun trafficking prosecutions, both of which the administration has already created a frame for.

In addition, ATF should further strengthen its policies to promote gun safety. Among other things, ATF could do more to hold irresponsible gun sellers accountable, better trace firearms used in crimes, stop the trafficking of firearms to Mexico, stop the importation of dangerous firearms into the U.S., assist domestic violence victims, provide comprehensive data to the public, and communicate with state and local law enforcement agencies about the data they can release to the public.

Above all things, new leadership could change the culture at ATF. ATF must prioritize public safety over the profits of the gun industry. It is widely known that ATF employees tend to defer to the gun industry when faced with irresponsible sales practices and questionable weapons. The agency needs leadership who will transform attitudes and behavior within the agency to better fulfill its mission.

5. Seek Funding for Efforts to Stop Gun Violence

We need an immediate influx of resources to address the rising gun violence and crime waves that the country is experiencing. Options to address the current resource gap include:

- Deputize federal agents from other law enforcement agencies to ATF to combat illegal firearms trafficking. These agents could be assigned to the five strike forces previously announced by the Department of Justice (DOJ), and a new task force could be focused exclusively on the trafficking of ghost guns.
- Utilize DOJ's Asset Forfeiture Funding to provide additional resources to state and local law enforcement partners. For example, Asset Forfeiture Funding could be used to pay for overtime for state and local law enforcement used to augment the DOJ strike forces.
- Request an emergency supplemental from Congress to immediately address the surge of gun violence. The supplemental would include additional funding for law enforcement, community violence intervention workers, and the federal gun purchaser background check system.

6. Public Health Emergency Declaration.

Our collective experience with Covid also demonstrates what could be accomplished using the public health emergency powers. The Secretary of Health and Human Services (HHS) would be well within his authority to declare gun violence a public health emergency, either nationally, or in particular metropolitan areas.

We have seen that a public health emergency declaration enables the collection of real-time data about deaths on a county-by-county basis. That kind of data collection was really only possible because public health emergency declarations forced country public health departments to start counting and reporting their numbers. We would benefit tremendously if they put the same focus on counting and reporting shootings, gun homicides and gun deaths.

We've also seen through the response to covid how quickly solutions can be found and implemented. If HHS declared a particular outbreak of gun violence in a particular metropolitan center to be a public health emergency, HHS could then call on public health officials to act to address it through CVI efforts and the President could call on Congress to fund these efforts through the Public Health Emergency Fund.

7. Youth and School Safety

Gun violence in schools has increased alongside the rise in gun violence generally. There are things the Department of Education can do to better protect our teachers and students, including:

- Issuing guidance to clarify that purchasing firearms or funding firearms training is not a permissible use of any ED grant funds.
- Expanding the annual report on indicators of school crime and safety to provide more complete data on this issue, so that policymakers and the public better understand the dangers in our communities.
- Urging school districts to provide information to parents about proper gun storage. Far too many school shooters easily obtain guns from the home. The Department should show leadership in this area by encouraging communities to present gun safety information that will make our children and our schools safer.

8. Focus on Homicide Reporting and Clearance Rates

DOJ must act to ensure the FBI has complete data about murder rates. The FBI recently transitioned to using the National Incident Reporting System (NIBRS), instead of the Uniform Crime Reports, to collect crime data from local jurisdictions, but many local jurisdictions are not equipped to submit data through NIBRS. The federal government must help local jurisdictions make this shift. Data about homicide rates is crucial because, among other things, it can inform who gets grant funding.

DOJ should also encourage local jurisdictions to report clearance rates, so that we can identify the states and localities with the highest rates of unsolved homicides. Unsolved murders erode the confidence that communities have in police to keep them safe. Poor clearance rates can also lead to vigilante justice, as victims of gun violence sometimes respond with more violence.

9. Address Police Misconduct

In order to save lives from gun violence, the unjust police shootings of civilians must be addressed. While negotiations have stalled on the Hill, there are provisions of the George Floyd Justice in Policing Act that could be accomplished through executive action and [we expect](#) the Administration to do so soon. These measures may include an analysis of existing accreditation standards for law enforcement, a National Task Force on Law Enforcement Oversight, stronger policies to eliminate racial profiling, and training on racial bias.

In addition to providing the Biden administration with policy expertise and guidance, we are doing our part to remind the public of the urgency of this public health issue and to expose the toxic influence of gun lobby groups like National Shooting Sports Foundation, which sank David Chipman's nomination for ATF director.

We must present a united front as a gun violence prevention movement and help the Biden-Harris administration accomplish the promises made while on the campaign trail. Public safety and the health of our democracy depend on it.

We have three years left of the Biden-Harris administration—more than enough time to turn the tide on this epidemic, but we can't waste a moment of it. In the face of partisan gridlock, we are urging the White House to heed the calls of survivors and advocates across the country and act decisively to reverse surging gun violence.

ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Led by former Congresswoman Gabrielle Giffords, Giffords inspires the courage of people from all walks of life to make America safer.