



# Considerations for Federal and Local Prosecutors

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*The key to the success of a Crime Gun Intelligence Center (CGIC) is the collaboration of its members, the timely entry of shell casings into the National Integrated Ballistic Information Network (NIBIN), the sharing of crime gun intelligence, and the unity of strategy. Prosecutors play a critical role in the CGIC process both before and after arrest.*

## Pre-Arrest

**CGIC Prosecutor Liaison:** Local and federal prosecutors should each assign a prosecutor to be the CGIC liaison. The prosecutor liaison should be experienced in investigating and prosecuting violent crime and should be familiar with the existing crime drivers in their jurisdiction. The liaison should participate in various CGIC activities. The following recommendations apply equally to federal and local prosecutors.

- **Attend Regular Meetings:** The liaison should attend regular meetings with the CGIC team to learn about NIBIN leads and active investigations, share intelligence, and coordinate investigative strategies.
- **Provide Advice:** The liaison should be actively involved in providing guidance on the cases most amenable to prosecution and on the prioritization of cases.
- **Develop Protocols for Case Assignment:** Federal and local prosecutors should work with their CGIC partners to develop protocols for deciding which cases will be prosecuted federally and which will be handled by the local office. Considerations should include an analysis of available resources, local and federal statutes, sentencing guidelines, ability to do long-term investigations, pre-existing prosecutions, community needs, and the judiciary. In some instances, the case may begin in the local prosecutor's office and be subsequently moved to the federal prosecutor. An example of this is when a NIBIN case is handled by original case investigators who make an arrest. That case would go to the local prosecutor so that the suspect can be held locally while the venue decision is made. If the U.S. Attorney decides to take the case, it will be transferred to federal court and the local case can be dismissed, where appropriate.
- **Unify Strategy and Targets:** State and federal prosecutors should work with their CGIC partners to identify and target the most prolific shooters in their community. Pre-existing target lists should be coordinated so that law enforcement priorities are not in conflict.
- **Track NIBIN™-Related Leads and Cases:** The federal and local liaison should develop protocols, both in the prosecutor's office and in the CGIC, to track NIBIN-related cases from NIBIN lead development through conviction. This will require an analysis of the case management systems of the CGIC partners, including prosecutors, police, and the laboratory, to determine how best to capture, share, and report on all information critical to each case. It is essential that the mechanism used to track NIBIN-related cases provide consistent, actionable data to all CGIC partners. Some CGICs have created an Excel spreadsheet or stand-alone database system for tracking NIBIN leads; however, this requires manual data-entry from the various CGIC partners. The prosecutorial data collected should include charges, the bail/bond set, disposition, and sentence. If a case is rejected by the prosecutor, the reason for rejection should also be captured.

*The NIBIN lead tracking system should track not only NIBIN-related cases that are investigated by CGIC investigators, but those handled by local investigators as well.*



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## Post-Arrest

Intelligence developed by the CGIC can result in arrests by CGIC investigators, or it may be relevant to arrests made by original case investigators following up on NIBIN leads. In both instances, an arrest will be brought to a prosecutor's office for review, charging, and prosecution. Useful CGIC intelligence, including additional NIBIN leads, may become available at any time during the pendency of a criminal case. Even after an arrest, the prosecutor must continue to coordinate with the CGIC, so that relevant information continues to flow to the prosecutor. Here are various post-arrest considerations for prosecutors.

- **Arrest Alerts:** An arrest alert system should be developed to notify all CGIC partners when any arrest has been made of a CGIC target or when an offender has been arrested based on a NIBIN lead. The federal and local prosecutor liaison should receive these alerts and forward them to the prosecutors in their offices who are handling the new case and any related pending cases. This will facilitate continued coordination of intelligence.
- **Prosecutor Priority Stamp:** Once a CGIC target or an offender identified through a NIBIN lead has been charged by the prosecutor's office, there should be a special stamp on the prosecutor's paperwork, and/or in the prosecutor's case management system, to highlight that the case involves a CGIC target or NIBIN offender and warrants priority treatment. This will alert anyone in the prosecutor's office — from prosecutors to nonlegal staff — to the significance of the case. The stamp/flag is especially important if the case is being handled by a prosecutor who is not a designated CGIC prosecutor or is not handling the case vertically. The stamp/flag should indicate that the case has received special attention from the CGIC and that there may be more resources available from the CGIC.
- **Prosecutor Liaison and Case Prosecutor:** The CGIC prosecutor liaison should contact the prosecutor who has been assigned a CGIC/NIBIN-related case to explain the CGIC process, the relevance of the NIBIN lead, the CGIC resources available, and the priority of the case. The liaison should also maintain a list of the CGIC/NIBIN-related cases that are being prosecuted in their offices. This will allow the liaison to facilitate the flow of intelligence to the assigned prosecutors and to oversee the collection of necessary case tracking data.
- **Vertical Prosecution:** Having one prosecutor handle a case from arrest through disposition is called "vertical prosecution." Vertical prosecution can benefit a case since information and relationships with witnesses are not lost as the case is transferred from one prosecutor to another. This is standard practice in a U.S. Attorney's Office, but it is less common in a local prosecutor's office. In serious and complex cases involving CGIC targets or NIBIN offenders, vertical prosecution is recommended.
- **CGIC Prosecutors:** Some prosecutor offices may wish to designate special CGIC prosecutors, so that all CGIC/NIBIN-related arrests are sent to this group. These prosecutors should receive specialized training and participate in CGIC meetings. Pre-existing prosecutor units that deal with gun crime could be appropriate for handling CGIC/NIBIN-related cases.
- **CGIC Coordination of Post-Arrest Intelligence With Prosecutors:** The CGIC should develop a way to coordinate arrests of CGIC targets and NIBIN offenders with newly developed information, so that the new information can be forwarded to the assigned prosecutor. This information could be beneficial at every phase of prosecution, including arraignment, bail, pleas, and sentencing. New NIBIN leads that connect to a pending prosecution are an example of post-arrest intelligence that is relevant to a prosecution.
- **Discovery Considerations:** New NIBIN leads and hits may be matters that must be disclosed to the defense as possible Brady/Giglio material. Because a prosecutor may be sanctioned for failure to disclose the information, it is imperative that the prosecutor be notified of new leads related to pending cases.
- **Post-Arrest Prosecutor-Generated Intelligence:** Some prosecutors have their own crime analysts who may uncover additional intelligence that can be of assistance to the CGIC. Once there is an arrest, the prosecutor's crime analyst should coordinate with the CGIC and share information. The crime analyst should also assist with enhancing CGIC/NIBIN-related cases for trial.
- **Witness Intimidation/Cooperation:** Witness intimidation is a significant issue in the violent crime prosecutions that are the essence of CGIC/NIBIN-related cases. Victim advocates from a prosecutor's office can be extremely helpful in working with victims and witnesses to ensure they are safe and willing to cooperate with the prosecution. Some police departments have their own victim advocates, and if so, they should coordinate with the prosecutor's victim advocates to develop a strategy for keeping victims and witnesses safe and engaged in the process.



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## Additional Considerations

In addition to the development of cases, a number of other issues should be addressed by prosecutors during the formation and implementation of a CGIC. These issues include:

### **Training:**

- **Prosecutors:** Federal and state prosecutors should be trained on the significance of NIBIN and on methods to develop viable cases based on the CGIC process.
- **Judges and Defense Counsel:** CGIC leadership and CGIC prosecution partners should develop a strategy to educate local and federal judges, as well as defense counsel, on NIBIN and the CGIC mission and philosophy. Some judges may resist training from prosecutors and police, but may be more amenable to training from a forensic scientist who can discuss the science behind NIBIN. Alternatively, judges may be open to a CGIC class during a judicial training conference or joint training with defense attorneys.

**Analysis of Cases Not Accepted for Prosecution:** The CGIC should develop a consistent feedback process for CGIC/NIBIN-related cases that are not accepted for prosecution by federal or local prosecutors. The process should clarify why a case was rejected and what course of action can be taken in the future to enhance the likelihood of acceptance. The assessment may also provide insight into improving the allocation of cases between federal and local prosecutors.

**Community Outreach:** Local and federal prosecutors should develop a community outreach program that explains the role of the CGIC and the leveraging of local and federal partnerships. If the prosecutor's office has a public information officer and/or a community outreach coordinator, then these members of the office should be familiarized with the CGIC program. Community outreach programs should publicize cases where people associated with numerous shootings or serious crimes were identified, arrested, and prosecuted based in part on the CGIC approach, making the community safer. The program should highlight the objective nature of the CGIC process in identifying those who are the most prolific trigger pullers. These programs should also explain the importance of witness cooperation and the resources available to keep witnesses safe.

## Conclusion

Prosecution collaboration throughout the CGIC process is essential to building stronger cases that will contribute significantly to public safety. CGICs will greatly benefit from having a liaison prosecutor who can provide advice on investigations, coordinate with the assigned prosecutor, and assist with trainings and community outreach. The sharing of intelligence and coordination of investigative work is the hallmark of a successful CGIC.



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