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SERVING OUR NATION

Crime Gun Intelligence

An Evidence-Based Approach to Solving Violent Crime



National Crime Gun Intelligence Governing Board



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U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
National Crime Gun Intelligence Governing Board
Washington, DC 20226
www.atf.gov

Introduction from the National Crime Gun Intelligence Governing Board

Established in 2016, the National Crime Gun Intelligence (CGI) Governing Board leverages the collective experience of Federal, State, and local experts working in forensics, law enforcement, and criminal law to ensure that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) receives valuable input on national programs relating to CGI. As part of this mission, the Governing Board created this best practice guide to help our law enforcement partners successfully use a CGI model to reduce violent crime.

The mission of all CGI programs is to reduce firearms violence through aggressive evidence-based targeting, investigation, and prosecution of shooters and their sources of crime guns. CGI marries forensics with investigations through innovative technology, effective processes, and dedicated professionals to combat violent gun crime across the United States.

To fulfill this mission, coordination among key stakeholders is critical. The laboratory or National Integrated Ballistic Information Network (NIBIN) site, the law enforcement agencies, and the prosecutor's office must align efforts to ensure a streamlined and effective process.

Most importantly, the foundation of a CGI program is participation from Stakeholders in two law enforcement databases: ATF's eTrace system and NIBIN. Comprehensive tracing of firearms in eTrace, the collection and timely entry of recovered cartridge cases and firearms, and the use of other technologies propels this program forward.

The processing of crime gun evidence begins at the scene and continues at the laboratory or NIBIN site. Timely processing of ballistic evidence is critical to provide investigators with leads that will enable them to solve shootings and disrupt future shootings by removing violent trigger-pullers from the community. Academic studies of shooting events linked by NIBIN have shown there is a high likelihood for reoccurring gun violence within a short period of time.

Thus, to solve shootings and prevent gun violence, it is crucial that law enforcement agencies have a well-coordinated process in place to triage, refer, investigate, and track CGI leads. Dedicated regional intelligence assets and enforcement teams are important as leads will often span across multiple jurisdictions.

Finally, coordinating CGI investigations with the prosecutor's office is critical. In an era of limited resources and greater demand on the justice system, it is imperative that violent individuals are prioritized for prosecution. A proper application of CGI will also allow prosecutors to inform the court in detention, cooperation, and sentencing decisions.

Regular coordination among all three entities will lead to a more effective partnership that fill gaps and promote public safety.

We hope that you will find this guide helpful as you embark on a successful CGI strategy to reduce violent crime.

National Crime Gun Intelligence Governing Board Participating Members, Past and Present

Christopher Amon, Chair*

Chief
ATF Firearms Operations Division

Thomas Chittum

Assistant Director
ATF Office of Field Operations

John Durastanti

Deputy Assistant Director
ATF Office of Field Operations—Programs

Robert Cekada

Special Agent in Charge
ATF Miami Field Division

Jeffery B. Jensen

U.S. Attorney
Eastern District of Missouri

Jay E. Town*

U.S. Attorney
Northern District of Alabama

Elizabeth Privitera

Asst. U.S. Attorney
Eastern District of Louisiana

Zachery Terwilliger

U.S. Attorney
Eastern District of Virginia

Melissa Nelson

Florida State's Attorney's Office
Fourth Judicial District

Lt. Colonel, Paul W. Neudigate

Assistant Chief
Cincinnati Police Department

Pamela Hofsass

Chief, Forensic Sciences Division
Contra Costa County Sheriff's Office

Dr. Gregory LaBerge

Director
Forensic and Evidence Division
Denver Police Department

David Roddy

Chief
Chattanooga Police Department

Michael Garvey

Director
Office of Forensic Science Philadelphia
Police Department

Scott Schubert

Chief
Pittsburgh Police Department

Anne E. Kirkpatrick*

Chief Emeritus
Oakland Police Department

Peter Newsham

Chief
Washington, D.C. Metropolitan Police Dept.

Michael Rallings

Director of Police
Memphis Police Department

Robert J. Tracy

Chief,
Wilmington Police Department

* indicates past members

**CRIME GUN INTELLIGENCE LABORATORY
NIBIN SITE BEST PRACTICES**



Since its inception in late 2012, the Crime Gun Intelligence (CGI) model and resulting processes have positively impacted the identification, apprehension, and prosecution of serial shooters in American cities. The process of digitally recording images of fired shell casing breach face detail was introduced in the mid-1990's as an extension of firearms/ballistics laboratory procedures. At that time the focus was on creating a searchable database and most laboratories that installed the technology entered fired shell casings to the NIBIN database as part of routine casework that would have occurred months after the original crime. Steps were taken in 2012 to re-think how NIBIN could be used as a tracking system for gun crimes and implemented proactively to aid in the identification of shooters. This was accomplished by changing how laboratories handled fired cartridge case evidence. Instead of following traditional evidence handling protocols, new rapid handling methods were developed to allow the triage, entry and correlation of fired cartridge casings in as little as 24-48 hours post incident from any type of shooting case. Timely correlation and match reporting of shell casings coupled with additional demographic and location details in an 'intelligence packet' allowed investigators a timelier and more active look at the current crime situation in their areas of enforcement. As acoustic detection systems, such as ShotSpotter, have evolved, cities increased the number of recovered shell casings being entered and correlated within NIBIN, leading to even more timely results.

Most local, state, or federal forensic science laboratories are often the focal point to NIBIN evidence entry of both recovered fired cartridge casings and test-fired semi-automatic firearms due to the history of the NIBIN program as well as the requirements of other evidence collection such as latent prints or DNA. As laboratory accreditation has evolved over the last 20 years to include standards under ISO 17025 and ISO 17020, quality systems have changed to handle all types of evidence including firearms. Often, laboratories encounter difficulties in implementing effective NIBIN programs such as delayed submission of evidence from external jurisdictions or the perceived inability to adapt internal protocols to meet a 24 to 48-hour turnaround while still complying with ISO standards. Efforts by ATF and many others since 2012 have highlighted ways that both police agencies without forensic science laboratories and established forensic laboratories have handled these challenges. They operationalize NIBIN and the crime gun intelligence center duties efficiently, allowing shooters to be identified and apprehended rapidly.

The role of the laboratory is central to defending the correlations and confirmed NIBIN matches as investigations proceed to the courts for prosecution. Lessons learned from laboratory experience highlight steps that must be taken by agencies that operate NIBIN in non-laboratory settings as evidence may be submitted later for forensic processing. This chapter will introduce you to the challenges encountered and the methods, procedures, and solutions developed to help guide you toward a successful NIBIN and crime gun intelligence center implementation. All successful sites have a history of evolving their programs, and none are identical, nor is there a single template that can work for all agencies. Successful programs result from collaborative teams trying various approaches and learning from setbacks with the goal of creating a high quality and trusted NIBIN/CGIC program.

Dr. Gregory S. LaBerge, Director
Denver Police Forensics and Evidence Division

Police Department/Department of Public Safety
Forensics and Evidence Division
1371 Cherokee St | Denver, CO 80204
www.denvergov.org/police
p. 720-337-2010 | f. 720-337-2012

311 | POCKETGOV.COM | DENVERGOV.ORG | [DENVER 8 TV](http://DENVER8TV)



Crime Gun Intelligence Laboratory/NIBIN Site Best Practices

MISSION

With the rapid advancement of technology, it is only logical that law enforcement agencies apply those advancements to assist in solving crimes. At the forefront of this trend in policing, ATF and the National CGI Governing Board are promoting the use of available tools and technology to aid in the identification and investigation of shooters and reduction of violent crime.

OBJECTIVE

NIBIN is a program managed by ATF that automates the imaging of unique identifiers of cartridge cases fired from firearms and stores the digital images in a database. NIBIN links crime scenes by these unique markings and thus, helps pinpoint repeated violent offenders.

ATF and the National CGI Governing Board recommend that NIBIN move to the front-end of firearm related casework to allow the NIBIN results and other CGI investigative methods to guide further work before these violent subjects can reoffend.

NIBIN is a valuable investigative tool. Whether or not it is part of a forensic science laboratory, NIBIN must be treated as a tool to aid in active investigations as opposed to an open case file on the backend of casework. Without an active and concerted effort by law enforcement and forensic laboratories, NIBIN cannot achieve its full potential as an investigative tool used to identify and target shooters and their sources of crimes guns. NIBIN's focus is getting active shooters off the streets before they can shoot again.

NIBIN sites and their law enforcement partners help facilitate comprehensive data collection and timely turnaround for firearm-related evidence — two key steps critical to a successful NIBIN program. In general, this means moving NIBIN to the front-end of firearm-related casework instead of having it at the back end. In some cases, this approach requires a change in mindset and a willingness to critically review established processes and procedures (and the reasons for them). Some must even make hard decisions so that processes better suited to using NIBIN as an investigative tool can be developed and implemented. In this way, the true potential for NIBIN can be better realized.

There is nothing inherent in ASCLD/Lab-ISO or FQS accreditation guidelines that would prevent a laboratory from implementing such an approach. In fact, there are areas in which ASCLD/Lab has been proactive in allowing for a more streamlined approach to forensic databases in general and NIBIN in particular.

Similarly, with efficiency and overall effectiveness in mind, this document was created to guide NIBIN sites in implementing best practices and protocols to optimize NIBIN's role as an investigative tool.

BEST PRACTICES FOR NIBIN SITES

ATF and the National CGI Governing Board recommends that NIBIN sites follow the best practices below, which are based on the four critical steps of comprehensive collection, timeliness, investigative follow-up, and feedback. These practices are derived from successful NIBIN operations and strengthen the effectiveness of NIBIN programs, allowing them to identify and disrupt violent gun crime throughout the country.

A. Comprehensive Collection

Comprehensive collection is the foundation for NIBIN. Using advanced technology, NIBIN automatically compares ballistic evidence, fired cartridge casings, and test-fires to hundreds of thousands of previously recovered and entered ballistic evidence. It is therefore imperative to:

1. Develop and institute agency/department policies to recover and process through NIBIN all suitable ballistic evidence from crime scenes.
2. Avoid policies that require a submitting agency request to process recovered ballistic evidence through NIBIN.
3. Avoid policies that require a submitting agency to pay for NIBIN processing of ballistic evidence. Agencies will tend to prioritize the processing of ballistic evidence if they are charged a fee, which inhibits comprehensive collection and entry of recovered ballistic evidence.
4. Avoid policies that limit ballistic evidence submissions for processing through NIBIN.
5. Identify and remove any obstacles to the comprehensive submission of ballistic evidence.

B. Timeliness

Violent crime investigations can go cold quickly; as a result, timely intelligence gained through NIBIN may be critical to solving violent crimes and preventing violent offenders from reoffending. Timely turnaround during all phases of NIBIN analysis, including the entry and acquisition into NIBIN, correlation reviews, and the dissemination of NIBIN Leads, is vital. Processes often pose a bigger obstacle to turnaround times than resources. It is therefore imperative to:

1. Remove unnecessary delays from:
 - (a) Evidence submission procedures.
 - (b) Evidence submission times at the NIBIN site.
 - (c) Transferring NIBIN-suitable evidence to examiners/technicians.
 - (d) Acquisition and correlation procedures.
 - (e) Other laboratory analyses (e.g., DNA, latent fingerprints, firearms examination).
2. Triage ballistic evidence to use the best samples for NIBIN acquisition.
3. Make acquisition/correlation process more technician-driven than firearms examiner-driven.
4. Establish a goal for turnaround time (from evidence submission to NIBIN results) and develop and implement a plan to optimize all processes related to NIBIN.

5. Process the most recent evidence first and, if current, then work backwards on any existing backlog.
6. Seek advice from other successful sites.

C. Investigative Follow-up

NIBIN provides valuable intelligence and leads for the identification, investigation, and prosecution of associated violent crime and shooters. If NIBIN is not used, however, investigators may miss crucial information and opportunities. When combined with other resources, NIBIN generates comprehensive CGI that may immediately help identify potential shooting suspects and allows law enforcement to gauge and evaluate patterns of violent crime occurring in their region. It is therefore imperative to:

1. Develop and implement a plan to integrate NIBIN with other forms of intelligence in investigating violent crimes.
2. Identify information needed by investigators to follow up.
3. Triage NIBIN Leads to determine investigative priorities and tasks.
4. Forward NIBIN Leads to the submitter and the ATF field division CGI Center (CGIC). ATF CGICs are a valuable asset in layering NIBIN and other intelligence resources to develop investigative leads and referrals.
5. Ensure open communication between all investigative, intelligence, and lab resources.
6. Track the dissemination/results of NIBIN Leads (by either the CGIC or investigative entity).
7. Develop and institute methods to streamline notification procedures of NIBIN Leads to investigators.
8. Follow up regularly to determine if further changes are necessary.

D. Feedback

Feedback for all parties involved in the NIBIN process is vital to sustaining a successful NIBIN program. Officers/investigators recovering crime guns and fired casings, technicians performing NIBIN entries and correlation reviews, intelligence analysts developing investigative leads, and investigators working the violent crime cases must all be included in the feedback cycle. This information emphasizes each party's crucial role in targeting shooters, improves communication among stakeholders, and leads to improvements in the NIBIN process and the use of CGI. Promoting NIBIN successes is also necessary to continue funding and expansion of NIBIN programs. It is therefore imperative to:

1. Develop and employ effective methods of informing everyone involved in NIBIN process of follow-up or investigative results/successes.
2. Work with the local ATF CGIC to develop tools to evaluate performance.
3. Use feedback to determine how to make the program more effective.
4. Keep the command staff informed of any changes made and their effectiveness.
5. Meet regularly with all parties to discuss progress, successes, and potential improvements.

MINIMUM REQUIRED OPERATING STANDARDS (MROS)

After years of struggling with how to best maintain the integrity of forensic firearm services and provide investigators with timely and actionable NIBIN Leads involving shooting events, ATF and the National CGI Governing Board established seven NIBIN MROS and presented them to all Partner Agencies at a meeting in ATF Headquarters. These standards were implemented in July 2018, requiring sites to comply by December 31, 2020:

1. Enter all fired or test-fired cartridge cases from serviced law enforcement agencies/departments through a NIBIN acquisition machine within 2 business days of receipt.
2. Enter accurately all required information during the acquisition process on the NIBIN acquisition machine.
3. Correlate and conduct a secondary review of any potential NIBIN Leads through an approved NIBIN correlation machine within 2 business days.
4. Disseminate NIBIN Leads within 24 hours.
5. Designate and maintain a NIBIN program administrator.
6. Have no policies that inhibit or restrict NIBIN submissions by serviced law enforcement agencies/departments.
7. Operate with only qualified NIBIN users.

Please note that Standards 3 and 4 are not applicable to NIBIN sites when using the NIBIN National Correlation and Training Center (NNCTC) for correlation reviews of ballistic images.

ATF proceeded to conduct preliminary NIBIN MROS site visits in Fiscal Year 2019, and completed assessments of 101 NIBIN sites. During these visits, it was noted that the timeliness standards pose the most common challenges for sites. Nonetheless, ATF witnessed much progress and committed efforts toward meeting these goals.

The following notable best practices were observed during the Fiscal Year 2019 preliminary MROS visits:

1. Expedited forensic processing typically conducted by a Technician or field personnel immediately upon evidence impound, or shortly thereafter.
2. Automatic Forensic and NIBIN Processing – sites that automatically do forensic and NIBIN processing are typically more MROS-compliant than those that are request-driven.
3. Each serviced agency has their own NIBIN Technician conducting acquisitions at laboratories or sites that have multiple contributing agencies. The lab provides basic training and permits 24/7 access for these technicians. This alleviates the need to transfer chain-of-custody from the serviced agencies to the lab, thereby contributing to timeliness.
4. Accept test-fire cartridge cases for entry and limit the number of firearms submitted by serviced agencies for test-fire purposes. Encourage submitting agencies to conduct their own test-fires and submit only cartridge cases to the laboratory/NIBIN site for acquisition into NIBIN.

5. Have dedicated NIBIN Technician(s).
6. Have dedicated NIBIN Technician or submitting agency Detective(s) assigned to NIBIN Lead triage, Lead dissemination, and follow up.
7. Regular Meetings with Investigators – sites that participate in regular meetings with the CGIC or NIBIN Task Forces established in their AOR are typically more MROS-compliant.

After the July 2018 MROS meeting at ATF Headquarters, many sites began reviewing their policies and procedures to work toward compliance. These sites found ways to shorten the time it takes to get the evidence from a Property Room into NIBIN, and then provide Leads to investigators without compromising any of their laboratory/NIBIN site standards. They continue to find ways to shorten these time gaps that have historically existed in NIBIN forensic firearm processing.

The most frequent issue voiced by NIBIN sites is the lack of personnel dedicated to the acquisition of ballistic evidence into NIBIN and the subsequent correlation reviews. ATF has worked to address this issue by deploying contractor support in the field to aid in acquisitions, and by expanding the NNCTC in Huntsville, Alabama, to take on the correlation reviews for sites with high volumes of correlations or those that simply have a BrassTRAX acquisition unit at their location. There are currently 56 field contractors working with NIBIN sites nationwide and the NNCTC now assists 72 of 233 NIBIN sites with their correlation reviews and provides leads to the sites, the submitting agency investigator(s), and the ATF CGICs.

SUMMARY

The purpose of this new front-end approach is to provide timely, actionable intelligence that is reliable. There is a heavy cost to society in terms of impacted lives, monetary expenditures that could be diverted elsewhere, and quality of living due to firearms-related crime. Proper use of NIBIN can help to reduce that cost and keep communities safe by empowering law enforcement to be as effective as possible with their available resources. This would include approaching shooting investigations in new and different ways, coordinating NIBIN and forensic science laboratory efforts to help facilitate the identification, and targeting and prosecution of shooters and their sources of crime guns.

CRIME GUN INTELLIGENCE ENFORCEMENT BEST PRACTICES

City of Wilmington



MICHAEL S. PURZYCKI
Mayor

When I was appointed chief of police in Wilmington, Delaware in April 2017, the city was in the midst of one of its most violent years – with levels of gun violence far outpacing cities of a comparable size. It was clear that reactive policing and some traditional law enforcement strategies were not successful in combatting the actions of a very small percentage of the city’s population that was involved in the vast majority of this gun violence. Based on my own past experiences in the New York City Police Department and the Chicago Police Department, I knew that Wilmington needed to embrace some of the proven crime-reduction strategies that have turned around violent trends in other jurisdictions. We heightened our community engagement efforts, implemented an intelligence-led policing strategy and integrated CompStat management practices into our departmental structure.

Within months of my appointment, the Wilmington Police Department partnered with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives to launch a Crime Gun Intelligence Center that, to this day, continues to be based inside of our agency. This has been one of the most important innovations, and a significant factor, in driving down violence in Wilmington since that time.

While our department had utilized NIBIN and firearms tracing and analysis in the past, the launch of our CGIC took our use of this platform to a higher level. We began to collect and trace shell casings at every scene where a gun was used, rather than only incidents in which a victim was located. As I tell my officers, we treat every incident as we would a shooting incident – and we look at every ‘shots fired’ complaint as a failed shooting. In this way, we can disrupt the shooting cycle.

Within a matter of hours, our CGIC is able to provide investigators and patrol officers with intelligence related to the firearms that are present at, and responsible for, incidents of violence. This allows us to identify and track not only offenders, but the very weapons they are using. As we continue to expand our database of traced shell casings and firearms, our ability to determine which individuals and groups are associated with one another, and which might be at odds, have only been strengthened.

We have been able to interrupt gun violence and prevent shootings and homicides thanks in large part to our Crime Gun Intelligence Center, our use of the NIBIN platform and our partnership with the ATF. In 2018, Wilmington reported significant reductions in crime and ten-year lows in gun violence, and preliminary data indicate sustained progress in 2019 as well.

Our experience in Wilmington underscores the tremendous crime reduction potential that comes with adoption of Crime Gun Intelligence strategies, the use of the NIBIN platform, and partnering with the ATF on gun violence reduction efforts. I can say with confidence that Wilmington is a safer community because of these efforts.

- *Chief Robert J. Tracy, Wilmington Police Department*

WILMINGTON POLICE DEPARTMENT

WILLIAM T. MCLAUGHLIN PUBLIC SAFETY BUILDING • 300 N. WALNUT STREET • WILMINGTON, DELAWARE • 19801-3936
WWW.WILMINGTONDE.GOV



Crime Gun Intelligence Enforcement Best Practices

MISSION

The mission of CGI enforcement is to disrupt the shooting cycle by identifying, investigating, and prosecuting shooters and their sources of crime guns.

OBJECTIVE

Enforcement teams should be dedicated solely to intelligence-driven targeting of violent offenders and timely follow up of CGI leads through well established protocols. Enforcement teams should be devoted to the immediate follow up of NIBIN/CGI leads and the interdiction of shooters. The core functions are to:

- 1) Collect all NIBIN, firearms trace, and Records Management System (RMS) data for the respective area.
- 2) Analyze information collected.
- 3) Triage and timely dissemination of CGI Leads to the dedicated investigators.
- 4) Investigate and follow up all viable CGI Leads developed.
- 5) Track all CGI Leads and any investigative results.

The enforcement team should work in conjunction with the United States Attorney's Office (USAO), State prosecutor's office, State and local law enforcement, forensic partners, and must secure participation, investment, and commitment from these partners in formalized agreements and/or Memorandum of Understanding (MOUs). Consistent with ATF's strategic goals to reduce violent firearm related crimes, an enforcement team's primary objective is to integrate with and enhance local violent crime strategies to impact violent crime in a specified area of responsibility (AOR).

The CGI enforcement teams differ from other criminal enforcement units in its strict intelligence-driven model to focus on violent offenders. Thus, to ensure the success of a CGI enforcement strategy and to establish a sustainable plan and framework to reduce violent crime within the AOR, the following is recommended:

- 1) Implement intelligence and investigative strategies rooted and strictly focused on CGI.
- 2) Coordinate with local NIBIN sites and partners to ensure comprehensive and timely NIBIN processing.

- 3) Forge key working relationships with and recruit critical resources from Federal and State prosecutors, State and local law enforcement, and forensic participants with MOUs to enhance operations.
- 4) Enhance local violent crime reduction activities through participation in community and public safety programs.

KEYS TO SUCCESS

Prior to creating this Best Practices Guide, the ATF Firearms Operations Division (FOD) consulted with National CGI Governing Board members. Additionally, FOD personnel visited several highly successful ATF CGI Groups to identify best practices and implementation concepts for the development of CGI enforcement best practices. The following key findings were consistent among every CGI group and should be considered while planning individual strategies. While some of these findings may seem obvious, they illustrate how simple, planned measures can lead to success.

PARTNERSHIPS AND RELATIONSHIPS
MROS COMPLIANT NIBIN PROCESSES
STAFFING AND PERSONNEL
LEAD TRIAGE
IRS SUPPORT
ATTORNEY LIAISON
WEEKLY INVESTIGATIVE MEETINGS
FEEDBACK

A. Partnerships and Relationships

It is imperative to have “buy-in” from local stakeholders and participating partner agencies. FOD and the National CGI Governing Board recommends that each enforcement team establish and maintain open dialogue with the Chief Law Enforcement Official for the partner agencies, the USAO, the local prosecutor’s office, and the local laboratory. These relationships are critical to ensure the CGI enforcement team receives the proper support and resources to be successful.

It is incumbent on the CGI enforcement team to develop and foster effective partnerships with State, local, and Federal law enforcement in the realm of violent gun crime. Initial training, continued education, and constant feedback are crucial to establishing and maintaining these relationships.

FOD and the National CGI Governing Board recommend quarterly or semi annual stakeholder meetings with key executives or leaders from their partner agencies to discuss the overall direction and impact of CGI investigations. Ideally, these executive meetings would be planned and organized by the ATF Special Agent in Charge of that AOR in collaboration with the USAO.

The CGI enforcement team should also endeavor to identify and participate in community and faith-based activities in line with their mission objectives, which might include participation in local focused deterrence/educational programs that support local violent crime reduction initiatives.

FOD and National CGI Governing Board members can and will provide CGI interactive training seminars for cities that have concerns or issues securing buy-in from their respective partners. These seminars will provide an overview of a national NIBIN program and discuss best practices by bringing in law

enforcement professionals and prosecutors who have successfully leveraged CGI. FOD can also provide NIBIN mobile units, which are effective tools for demonstrating the impact of timely NIBIN Leads. Finally, FOD offers multiple training courses to include CGI Expert, CGI Scenario, and specific CGI training for all personnel assigned to a CGI enforcement team.

B. MROS Compliant NIBIN Processes

A CGI enforcement team should be established only when certain criteria related to an area's CGI program(s) are either 1) well defined and fully mature or 2) rapidly developing. Areas where existing CGI programs and strong stakeholder partnerships are in place are ideal for the establishment of a CGI enforcement team. Relating to NIBIN, the "four critical steps" (Comprehensive Collection, Timeliness, Follow Up, and Feedback) are measurable and should be firmly in place with relatively assured sustainability.

Timely and comprehensive NIBIN processing from local NIBIN sites and effective analysis of CGI leads are critical to achieving this goal. The CGI enforcement team will use CGI exclusively to further develop leads, target violent offenders, and address firearms diversion directly related to violent gun crime.

It is critical for the local laboratory/NIBIN site to comply with the requirements of the MROS to facilitate the timely dissemination of NIBIN data. FOD maintains oversight over the NIBIN program and all NIBIN sites. FOD can help address issues with timeliness or provide additional resources if needed by the requesting city. FOD can provide assistance such as temporary or permanent access to the NNCTC or help establishing new NIBIN sites. (See *CGI Laboratory/NIBIN Site Best Practices* section.)

It is important for the CGI enforcement team to establish and maintain a line of communication with the local lab director and NIBIN Program Administrator. Personnel from the local lab or NIBIN site should be invited to stakeholder group meetings and be provided with regular feedback for CGI-related arrests and prosecutions and potential pleas that may alleviate some of the workload for the NIBIN site.

C. Staffing and Personnel

The selection of personnel for the CGI enforcement team is an essential component for the overall success of the group. The designated Group Supervisor (GS) should have a good understanding of the NIBIN process, terminology, and investigative techniques. Law enforcement officers assigned to the group should be highly motivated, have experience using a plethora of investigative strategies/ techniques, and believe in the CGI mission. FOD and the National CGI Governing Board recommends the selection of investigators with strong interviewing skills because of the need to often interact with victims and suspects of violent crime.

Another critical position necessary for the success of the CGI enforcement team is using a ranking member of one of the local partner agencies as a Task Force Officer (TFO), preferably at a rank of Sergeant or above. A ranked level law enforcement officer will have the ability to streamline coordination with assigned detectives and facilitate cooperative investigative efforts. This individual will work in conjunction with the Triage Coordinator and will routinely contact the original detective(s), advise them of the NIBIN Lead, and offer assistance from the CGI enforcement team.

In many cities, local partners may be reluctant to provide TFOs due to manpower limitations. One alternative to only selecting detectives as TFOs for the CGI enforcement team is to request highly successful officers from specialty units who are familiar with the area. The CGI enforcement team should also solicit TFOs from surrounding jurisdictions that may be impacted by the same violent criminals. Adding TFOs from Probation/Parole or the United States Marshals Service should also be explored. The CGI enforcement team should also use partner agency resources in light of localized priorities and remain flexible enough to add a TFO or local intelligence resources as deemed necessary.

The CGI enforcement team should be comprised of team motivated personnel who do not seek individual glory and have a positive attitude, specifically as it relates to NIBIN/CGI investigations. Do not be afraid to remove personnel who do not adhere to this mentality. The CGI enforcement team's mission requires dedicated professionals who have demonstrated the ability to overcome challenges in a team-oriented environment. Innovation and initiative are core requirements for all CGI enforcement team personnel. Rotation of personnel may be appropriate as leadership assesses the success of the enforcement team.

D. Lead Triage

Not all CGI is equal. Some ballistic matches or crime gun traces will be more relevant to an investigation than others. With the number of both NIBIN Leads and firearms traces increasing, a system of triage is critical to assuring resources are properly allocated. The overriding goal of CGI is to provide the CGI enforcement team with relevant leads in violent crime cases. All leads must be reviewed in a manner that ensures those with the highest investigative potential are given priority for analysis and investigative follow-up.

Investigators have succeeded in triage processes by using an **ATF Level III Contractor**. The Triage Coordinator should have an extensive investigative background, because he or she will use their training and experience to easily identify solvability factors after reviewing NIBIN Leads and associated police reports. This experience is not only valuable in triage but contributes to streamlined coordination with local detectives with whom they may have previously worked.

The Triage Coordinator shall triage all NIBIN Leads; however, the volume of Leads will influence the depth at which the Triage Coordinator will be able review the individual Leads. The NIBIN Enforcement Support System (NESS) will provide the capability to document all NIBIN Leads using the following priority system:

1. **Tier I:** Highest Priority and/or Most Actionable for Investigative Follow-Up.
2. **Tier II:** Moderate Priority and/or Somewhat Actionable for Investigative Follow-Up.
3. **Tier III:** Lowest Priority and/or Not Actionable for Investigative Follow-Up.

Tier I

NIBIN Leads exhibit high solvability factors or are related to high profile cases. These leads will take precedence over all other leads and should be assigned to CGI Investigators for immediate follow-up. Examples include but should not be limited to: homicides, officer involved shootings, a recovered crime gun, firearms trafficking indicators, or a repeat firearm offender. Typically, the lowest percentage of leads will be classified as a Tier I Lead. The totality of the circumstances and the Triage Coordinator's instincts will dictate which leads are designated as a Tier I Lead. The recovery of a firearm alone may not warrant this classification and the absence of a firearm recovery should not eliminate a lead from this category. There are multiple factors to consider when identifying and prioritizing leads.

Tier II

NIBIN Leads have less investigative potential but should be evaluated and routed to the local investigators originally responsible for investigative follow-up. If at any time additional information improves or becomes solvable, the lead will be upgraded to Tier I. Tier II Leads should be worked if time and resources are available.

Tier III

NIBIN Leads have limited or no investigative potential. These leads should be reviewed and routed to local investigators for situational awareness. Examples include a "shots fired" incident with no suspect, victim, or witnesses. If time permits, the Triage Coordinator should conduct a more thorough review of police reports and other available resources to identify additional solvability factors.

The Triage Coordinator will quickly become familiar with the geography of the area and many of the victims, witnesses, and suspects. This familiarity will allow the triage process to become more fluid and responsive. The Triage Coordinator should create a short summary/synopsis of the aforementioned leads and related reports and ultimately forward the lead and summary/synopsis to the CGI enforcement team for investigative follow-up. The lead summaries will save a significant amount of time for the law enforcement officers and is a key component for timely triage. In cases where NIBIN Leads are more complex in nature, link charts may be created to provide a broader scope of the associated cases.

E. Intelligence Analyst

The intelligence analyst assigned to the CGI enforcement team should be experienced with national and local data sources such as trace data, multiple sales, secondary market, TIPS and Leads online, etc., and proficient in telephone toll and tower dump analysis, network analysis, pattern analysis, timeline analysis, geospatial analysis and mapping, site exploitation, and human intelligence analysis and exploitation. This individual should be proficient with creating and following up on tactical intelligence products that facilitate the successful identification and prosecution of violent criminals and support cases in conjunction with law enforcement officials across Federal, State, and local offices. The analyst may also be required to assist with lead triage and should be familiar with the triage process.

F. Attorney Liaison

For jurisdictions with smaller prosecuting agencies, the CGI enforcement team should consider using a single point of contact (POC) who possesses extensive knowledge of CGI investigations and NIBIN in their respective USAO and local prosecutor's office. These POCs can work collaboratively as screening officials and determine which investigations are best suited for Federal or State prosecution. The investigations may subsequently be reassigned to a separate Assistant United States Attorney (AUSA) or local prosecutor, but these POCs will meet weekly with the CGI Group to discuss investigations. It is important to have a single POC to streamline information and ensure this information is disseminated appropriately, thereby mitigating any potential misunderstanding or miscommunication.

The primary downside of using a single point of contact is that it can unintentionally create a single point of failure when investigations require rapid responses and the POC is unavailable. For jurisdictions with the available manpower resources, the CGI enforcement team should consider using a team of prosecutors to work directly with the CGIC. These dedicated prosecutors are able to develop similar expertise and fulfill the same roles as noted for the single point of contact. They also possess the capacity to work closely with local, State, and Federal law enforcement partners from the beginning of a crime gun investigation through the charging and prosecution of the criminal matter and concluding only upon resolution. This vertical form of prosecution — a single attorney involved from beginning to end — ensures that there is no loss of intelligence, planning, or prosecutorial strategy that may result from potential miscommunication during transfer of a case between attorneys. It also creates an environment in which prosecutors and law enforcement symbiotically and simultaneously build expertise in combatting violent gun crime. With a core group of experienced prosecutors, law enforcement agencies have a ready resource, available 24 hours per day and 365 days per year. There is no single point of failure.

While the size of the respective prosecuting office is a factor in determining whether a single prosecutor or a team of prosecutors is appropriate, it is not the key factor. The primary consideration is the significance of the crime gun problem in the respective jurisdiction. If the threat of violent crime is high, it justifies the dedication of the maximum amount of prosecutorial resources available to address this challenge.

G. Weekly Investigative Meetings

The CGI enforcement team should hold mandatory weekly meetings to track leads and successes, share information and intelligence, and solicit input for continuing improvement. It is imperative to share information with as many individuals and agencies as possible. Various agencies or investigators may have information that could be relevant to an investigation, such as background of an ongoing gang turf war, for example. These meetings make it easier for all offices/agencies to efficiently communicate with one another, assuring that decisions related to charging, pretrial detention, and other important prosecutorial decisions are made with all available information.

It is crucial to discuss potential suspects, witnesses, or even associates to ascertain if other investigators may have actionable intelligence regarding these individuals. These meetings should not be limited to the CGI enforcement team but open to other law enforcement groups, detectives, assigned prosecutors, forensic counterparts, probation/parole, patrol supervisors, and other specialty

units (Gang, Flex, Suppression, Narcotics, etc.). Especially in investigations involving juvenile suspects, which are characterized by relatively quick detention decision, sentencing decision, and trial timelines, intelligence gathering, coordination, and communication should be increased through the assignment of a juvenile prosecutor liaison to the weekly CGI meetings.

Routine meetings attended by CGI enforcement team members and other relevant partners improve information sharing and assist in operational awareness for stakeholders. Often, these meetings result in the identification of important information related to violent actors and can assist in coordinated effort among stakeholders to target them. This information sharing is especially beneficial for prosecutors during case acceptance decisions.

These meetings provide an opportunity for investigators to present cases that prosecutors may not routinely accept because of a lack of felony convictions but for whom CGI indicates is a violent offender.

H. Feedback

Continuous feedback throughout the entire process is necessary for sustained success of the CGI enforcement team. It is important to update all stakeholders of successful CGI-initiated case events like arrests, detention, or pleas/convictions. It is important to acknowledge the efforts of patrol officers, NIBIN Technicians/Firearms Examiners, and Intel analysts for their roles in the NIBIN process. Feedback also includes highlighting successes, which are valuable in securing continued and expanded support, and funding for the NIBIN program.

Feedback can be provided by simply calling the local lab to thank them for a timely lead or emailing a patrol officer's supervisor to thank them for comprehensive collection. Other effective ways to provide feedback include:

1. Regularly attending Roll Call.
2. Sharing positive results with media.

The Public Information Officer (PIO) can play a vital role in the feedback process. The PIO can provide assistance with stakeholders and keep them apprised of significant arrests and convictions of violent offenders. The PIO may have additional resources available to help promote the success of the CGI enforcement team.

INVESTIGATIVE STRATEGIES AND TECHNIQUES

CGI is informational until it is acted upon through investigative follow up and prosecution. Unfortunately, misunderstandings surround this last phase of the process. It is often assumed that a casing or recovered firearm sent through the CGI process directly results in a relevant investigative lead or arrest. This, however, is not true. As with any piece of information, CGI is relevant or useful only in context and only if acted upon.

Solving shooting crimes should be the primary consideration for NIBIN/CGI investigations. At its highest benefit, NIBIN provides the investigator leads towards identifying and successfully prosecuting shooters for committing acts of gun violence. This benefit should not be understated, because swift and certain legal accountability for acts of gun violence provide victims justice, improve community and law enforcement relations, and offer the highest potential for deterring future gun violence. Being unable to solve shootings, however, does not equal failure or an end to investigative effort.

It is well established that proving criminal charges beyond and to the exclusion of all reasonable doubt is a significant burden. There are many factors that can contribute to a situation where a criminal charge cannot be proven to this legal standard, even if the identity of the shooter is known. Uncooperative witnesses, reluctant victims, and lack of corroborating physical evidence are significant and all-too-common challenges in prosecuting gun crime. In this situation, it is incumbent upon law enforcement agencies to use any available investigative tool to get these identified shooters off the streets, by any means legally permissible. *The goal of this initiative is to reduce violent crime by removing the violent actor(s) from the community for the longest possible amount of time.* Examples might include the Federal adoption of a firearm possession violation, proactive undercover drug or gun buys from the target, or even shoring up a pending drug charge against the target. *All legal and ethical means are up for consideration and application because the target has demonstrated an articulable threat to public safety. While the investigation of violent gun crimes must remain the primary focus, prosecuting these criminal actors for other — even less significant — criminal behavior will result in great positive impact on the community and public safety.*

The prosecution of individuals who conduct straw purchases and unlawfully provide a shooter the firearm used to commit acts of violence should always be given consideration in any investigation. NIBIN has changed the way in which straw purchase, illegal transfer, and trafficking of firearms is viewed. The role of NIBIN is to show that the unlawful transfer of a firearm was used in a violent crime. This intelligence directly connects the purchaser to the violent crime. It is the unlawful transfer that most often provides the violent actor the means by which to perpetrate acts of gun violence. Those who engage in illegal gun purchases or provide crime guns to violent actors should be held accountable. And these defendants also provide the potential for valuable cooperation in the subsequent prosecution of the violent gun crime target.

CGI INVESTIGATIVE PROCESS

The basic CGI investigative process consists of the following steps:

1. Triage
2. Case assignment
3. Coordination with local investigators
4. Investigate shootings; identify shooters
5. Disruption
6. Investigate sources of crime guns
7. Prosecution

1. Triage

Triage is the first step of the investigative process. The underlying goal of the triage process is to identify leads that triage personnel believe can lead to the apprehension of a violent offender. After triage, developing an understanding of the circumstances surrounding the NIBIN Lead's associated events will provide an opportunity to consider potential violations. Understanding all potential violations is an important first step to recognizing evidence that supports a possible charge, and that information that is not as relevant.

2. Case Assignment

The Triage Coordinator will identify leads that exhibit high solvability factors and may coordinate with the CGI intelligence analyst and TFO to obtain additional information prior to creating a Lead Summary Sheet for CGI enforcement team investigators. The Triage Coordinator should use the triage feature and Intelligence Report function in NESS. NESS also has the capability of creating lead summary sheets and can be used to refer cases directly to the CGI enforcement team supervisor or investigators. ATF and FOD are available to provide training and support for all NESS users.

The Triage Coordinator will coordinate with the supervisor regarding all viable leads prior to assignment of the lead to an investigator. Another successful practice is to discuss all viable leads at the weekly stakeholder meetings and assign investigators with knowledge of the area or potential suspects.

3. Investigator Initial Assessment

The CGI enforcement team should collect and analyze available information related to the events, persons (suspects, witnesses, victims) and locations prior to meeting with local detectives. The results of this work may include suspect biography sheets, links charts, trace results, and maps. The initial assessment should be a quick, precursory review, not an in-depth analysis of the associated data. In some instances, the Triage Coordinator, TFO, or CGI enforcement team intelligence analyst will assist with this process; however, it is incumbent on the assigned CGI enforcement team investigator to review this information prior to meeting with local detectives.

- (a) Collect available information for possible related cases and other leads.
- (b) Conduct research (i.e. credibility of complainants and offense location, vehicles, home address, phone numbers, etc.).
- (c) Follow up on any discernible leads while attempting to develop possible suspect(s).
- (d) Review Trace data.
- (e) De-confliction.
- (f) Identify suspects through open source searches.
- (g) Analyze all available phone data.
- (h) Locate suspects and associates using social media.
- (i) Create link charts and/or timelines.
- (j) Mapping all linked NIBIN Leads.

These items will allow investigators to provide a better understanding of the related NIBIN Leads and associated CGI.

4. Coordination with Investigators

Prior to commencing an investigation, CGI investigators should first coordinate with the case detectives from the originating agency to offer assistance, suggestions, and/or resources. FOD and the National CGI Governing Board recommends in-person meetings with local investigators whenever possible. The goal of these initial meetings is to build and foster a solid working relationship with the local investigator.

By its very nature of tying together multiple incidents of violent gun crime, NIBIN creates the potential for conspiracy charges. Federal violations relating to gun violence by criminal groups or gangs could also begin to take shape. The use of NIBIN and CGI can provide a more comprehensive picture of the overall impact of a single crime gun and the violence that may span across multiple jurisdictions and involve multiple incidents. NIBIN and CGI can illustrate a pattern of violence related to one or multiple violent offenders, including retaliatory violence. In many instances, the cycle of violence indicates that victims of past shootings will be involved as suspects in future shootings.

It is imperative that CGI enforcement team investigators review all available details related to the associated NIBIN cases to provide value to an investigation. Simply providing a link chart without any substantial or relevant information may not be beneficial to the local investigator. CGI investigators must demonstrate the value of their involvement in these investigations. The CGI enforcement team should offer to interview the original purchasers of crime guns, because in many cases, the local investigators may not consider firearms tracing as part of their investigations or be permitted to leave their assigned area for extended amounts of time to conduct these interviews. Many original firearms purchasers may reside outside of a local agency's jurisdiction or even in another State.

CGI enforcement team investigators may be able to provide assistance with Federal adoption of a firearm possession case. These adoptions can be valuable for multiple reasons. Often, victims and witnesses may be reluctant to cooperate with local investigators for fear of reprisal. Removing a known violent offender from the area for an extended amount of time may increase cooperation from the community. In some cases, Federal sentencing guidelines may be more stringent than State or local sentences, which could encourage cooperation from individuals possessing crime guns. These possessors of crime guns may provide valuable information regarding the violent offenses associated with the firearms.

CGI enforcement team investigators can provide assistance with surveillance and search/arrest warrant operations. More importantly, CGI enforcement team investigators may have time to conduct a more detailed review of jail calls and cell phone extractions.

CGI enforcement team investigators should constantly keep local investigators apprised of any relevant investigation and encourage local investigators to participate in any enforcement operations or interviews.

5. Investigate Shootings

All CGI enforcement team investigations should be conducted with the primary goal of solving shootings. NIBIN provides a valuable investigative tool for identifying violent offenders and should be the first consideration upon receipt of a NIBIN Lead. Violent crimes are very difficult to investigate but solving these violent crimes will help garner support and continued cooperation from the community, and increase buy-in from stakeholders.

There are numerous techniques and strategies associated with CGI investigations. The primary goal of CGI investigations is to identify shooters and disrupt the shooting cycle as quickly as possible; however, emphasis should be placed on using CGI to solve the associated NIBIN linked events. Here are just a few successful techniques to consider:

- (a) Neighborhood canvass.
- (b) Re-interview victims and witnesses (with concurrence from local detectives).
- (c) Social media exploitation (obtain evidence of criminal activity and/or identify unknown suspects).
- (d) Cell phone analysis (pings, cell tower).
- (e) Geolocation warrants.
- (f) Geospatial mapping.
- (g) Grand Jury investigations.
- (h) Photo arrays.
- (i) Use Confidential Informants for local intelligence.
- (j) Gun detection systems.
- (k) Obtain arrest and/or search warrants.
- (l) Interview suspects.

NIBIN, within the entire body of CGI, has dramatically changed the environment in which violent gun crime investigators work. By revealing patterns of gun violence, groups acting cooperatively to commit gun violence, and individuals unlawfully providing firearms to commit gun violence, investigations have been made complex. This complexity is an invitation for innovation, wherever possible.

Gunshot detection systems are an effective tool to investigate previously undetected firearms related criminal activity. A unique approach to using gunshot detection is to identify and actively pursue single shot notifications/detections. This strategy is predicated on the assumption that an individual will test-fire their firearm soon after obtaining it, possibly during a street transaction, to ensure it functions properly.

Search warrants should not be limited to seizing narcotics and firearms, but also as a means to obtain valuable evidence, such as a suspect's clothing, documents, photographs, phone(s), and evidence of association with a particular violent group or gang.

6. Disrupt the Shooting Cycle

In addition to solving the associated NIBIN events, there are also several disruption techniques that can be used to take a violent criminal off the streets, allowing more time for crimes to be investigated fully. In many instances, the investigation phase of associated violent crimes may be lengthy, but there is an immediate public safety need to remove the suspected shooter from society to prevent further violence. These techniques can also be very valuable in obtaining evidence of the associated NIBIN-related offenses. These techniques should not be limited to only suspects but other persons of interest (victims, witnesses, and associates) and should include:

- (a) Probation home visits.
- (b) Regular warrant checks.
- (c) Surveillance

Another effective technique is to establish a system to identify and flag individuals who are proven violent actors in the community. These alerts or BOLOs ("Be On the Look Out") can be an effective tool to notify CGI enforcement team investigators of an arrest or traffic stop, which could lead to interviews and possible search warrants. Flagging these violent offenders, their associates, or even the victims and witnesses of violent crimes can be an effective tool if coordinated with local prosecutors and USAO. An arrest notification could result in an immediate interview by local investigators, a review of charges for possible Federal prosecution, and coordination with the associated prosecutor for eventual proffer opportunities.

Using social media as a means for obtaining relevant evidence corroborates and solidifies CGI evidence. Violent offenders typically maintain an online presence and post photographs and videos of narcotics and firearms. These violent offenders also brag about their involvement in criminal activities. A proactive strategy is the use the social media platforms to solicit transactions for narcotics and firearms. Once a backstopped undercover account has been created, investigators may create an online presence and make contact with previously identified violent offenders. Investigators may initiate transactions for narcotics and firearms, and establish communication via phone, which would enable

investigators to track or “ping” the suspect’s phone. Prior to contact between the investigator and suspect, a local unit may conduct a traffic stop with the violent offender and seize narcotics and/or firearms from the violent offender (e.g. a “wall stop”).

7. Investigate Sources of Crime Guns

CGI also assists in identifying offenders who are illegally purchasing or transferring firearms to violent offenders. The unlawful transfer of firearms occurs in a number of ways, including firearms trafficking or straw purchase, illegal transfer of a firearm, or theft from a gun dealer or citizen. There are several tools available to help identify sources of crime guns and emphasis should be placed on following through with these investigations. In cases where the firearm is stolen, the CGI enforcement team should contact the agency where the report was taken to share information related to either investigation.

FOD and the National CGI Governing Board recommend that, at a minimum, the CGI enforcement team investigate all NIBIN-related firearms purchased less than 1 year from the first NIBIN event and interview the original purchaser. Not only have these purchasers potentially committed a Federal offense, they typically have gone undetected by law enforcement. In some instances, these purchasers have a relationship with a violent offender or can provide information to the CGI enforcement team. Interviews of these individuals often lead to a confession to providing a firearm to a violent criminal. A successful interview of the original firearm purchaser could lead to valuable evidence against a violent offender.

CGI enforcement investigators should attempt to interview every purchaser of a crime gun used in a shooting associated with a homicide or victim shooting. Often, the time to crime (the first NIBIN-linked shooting) is reduced based on information received during the interview process.

In partnership with prosecutors, law enforcement can develop a Visor Card for officers to use on the street (to be stored in the sun visor of their car) to make decisions when encountering situations involving a firearm to ensure viable, prosecutable cases.

8. Prosecution (See *CGI Prosecution Best Practices section*)

Coordination between the USAO and local prosecutors is of penultimate importance. Many CGI investigations will result in local charges due to the nature of these crimes, and the CGI enforcement team should never limit investigations to only Federal offenses. Most criminal acts do not fall under Federal jurisdiction, however, Federal charges may be applicable related to the illegal use of firearms.

NIBIN/CGI investigations pose unique challenges at both the Federal and local levels. The USAO and local prosecutors both have different but very valuable resources that the CGI enforcement team should leverage to prosecute all violent offenders and maximize sentences. For instance, local prosecutors may be more adept at addressing violent juvenile offenses, whereas the USAO does not frequently engage in these investigations. The CGI enforcement team should not dismiss these investigations but enhance local investigations whenever appropriate.

CGI typically affects single violent gun crime investigations, typically investigated at the local level, but inherently all CGI investigations are complex in nature. During investigation of NIBIN-related events and individuals, investigators will uncover multiple linked events or suspects associated to the same crew or neighborhood gang. The CGI enforcement team should work closely with the USAO and local prosecutors to pursue a criminal case against multiple defendants for acts of violence.

CGI may create Brady and/or exculpatory evidence, which requires a comprehensive investigation for all firearms purchases and associated offenses connected through CGI. CGI investigations may span across multiple jurisdictions, outside the local investigator's jurisdiction, and involve firearms that may have been illegally transferred or trafficked to violent offenders. The USAO is accustomed to prosecuting these types of offenses and investigators will be able to provide valuable expertise in these cases. The CGI enforcement team must provide CGI training, updates, and encourage continued coordination between their prosecutors' offices.

Another effective way to use CGI is during detention and sentencing hearings, where relevant conduct comes into play. A good practice is to keep folders for repeat violent offenders detailing arrest histories, NIBIN associations, and social media activity related to the possession of firearms or their connection to others who are suspected of committing violent crimes. In some instances, it may be valuable to transcribe music videos where violent criminals boast about possessing firearms and the violent acts they have committed. Files containing this background knowledge and information can be valuable at detention and sentencing hearings.

METRICS FOR SUCCESS

To fully understand the impact that NIBIN/CGI may have on a community, it is important to track the success of the CGI enforcement team. While there are a number of data sources that can be used to monitor the efficiency and effectiveness of a violent crime reduction strategy, the most valuable metric for success is the reduction of violent crime. Every jurisdiction looking to institute a CGIC model has already identified the need for this initiative based on existing conditions. It is critically important to articulate the desired end-state with specificity so that all members of the CGI enforcement team are able to routinely monitor their efforts and ensure that they remain focused on the ultimate goal. More importantly, a well-articulated end-state allows CGI partners to make necessary adjustments to their efforts if they determine at any point that their resources are not being appropriately expended to achieve the desired goals. The National CGI Governing Board recommends the CGI enforcement team initially review all viable NIBIN Leads and the associated cases, but also track State and local investigations on a 30-day basis. If for some reason, the local investigation does not result in an arrest but the investigation still merits additional follow-up, the TFO should attempt to have the case reassigned to the CGI enforcement team.

Success of the CGI enforcement team's operations should extend beyond arrests. As a specialized group focused on intelligence-driven investigations, the CGI enforcement team requires unique success criteria. The CGI model is closely integrated with State and local enforcement operations relating to violent crime and therefore may be involved in activity that assists a local investigation. This assistance is critical measurable criteria since a large percentage of CGI leads will be directly related to State-level violent crime investigations.

Additional unique measurements of success include:

- 1) Incarceration of a violent offender, identified through CGI processes and CGI enforcement team activity, regardless of jurisdiction, charged with violation or sentence exposure. This practice would include such things as a known shooter targeted and held on an outstanding warrant with a goal to perfect additional violent crime-related charges.
- 2) Firearm possession charges against a defendant related to a firearm, shown through CGI, to have been used in violent crime(s).
- 3) Charging or interdiction of firearms diversion offender, which CGI demonstrates is directly related to violent crime.
- 4) The proactive recovery of a crime gun that CGI shows was used in multiple shooting events.
- 5) Number of CGI leads resulting in a Federal or State arrest of a shooter.
- 6) Development of sustainable communication and accountability model to ensure timely follow up of CGI leads.
- 7) Presenting CGI-related evidence that results in the pre-trial detention or sentencing enhancement of a defendant.
- 8) Regular meetings with all participants to discuss progress, goals, and improvement of the Crime Gun Enforcement Group.

The National CGI Governing Board will continue to develop procedures to evaluate the overall impact of each CGI enforcement team in their community. Every aspect of the CGI enforcement team concept, to include best practices, the training curriculum, and metrics for success will be evaluated and refined over time to advance the CGI concept.

CRIME GUN INTELLIGENCE PROSECUTION BEST PRACTICES



U.S. Department of Justice
United States Attorney's Office
Eastern District of Virginia

G. Zachary Terwilliger
United States Attorney

2100 Jamieson Avenue
Alexandria, VA 22314

(703) 299-3700

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Synergy: the interaction or cooperation of two or more organizations, substances, or other agents to produce a combined effect greater than the sum of their separate effects.

As we move closer to sunset on the first quarter of the 21st century, the exploitation of data becomes that much more critical in our fight to combat firearm-related violence. Further, it would be an abdication of our responsibility to not use every tool that technology and the Information Age has provided to attack the age-old problem of violent crime.

Enter ATF's Crime Gun Intelligence (CGI) model. CGI is precisely what prosecutors need and the public expects: cutting-edge technology and expert analysis to combat gun violence.

Crime Gun Intelligence, which combines the benefits of the National Integrated Ballistics Information Network (NIBIN) and eTrace (the tracing of a firearms serial number back to the last known purchaser) provides a narrative of a particular firearm. Why do we care? Ideally, our federal, state, and local law enforcement partners are engaged in comprehensive (spent) shell collection, which they then enter into the national NIBIN system. From there, ATF specialists are able to track the events where a particular firearm was used: celebratory gun fire from a particular address; casings collected from the scene of a drive-by shooting at the known residence of a gang member; and brass recovered from the body of an innocent crime victim. Like a snowflake, every firearm leaves a *microscopically unique imprint* on the bullet's casing. This fingerprint left by firing pins and extractors allows our law enforcement partners to link, beyond a reasonable doubt, discharges from the same firearm. While this verification is used as another layer of proof at trial, it now also is a critical lead generator during the investigative stage. Rather than wait months to have an expert review casing comparisons, now technology can capture the image and make the comparisons in a matter of minutes. This is a massive leap forward for law enforcement and prosecutors. These NIBIN leads allow for lead generation regarding firearms used in separate incidents and helps law enforcement identify potential trigger-pullers by linking the shootings, many of which cross jurisdictional lines and otherwise would not be connected. Put simply, this technology is a game changer. It is a race-neutral, highly scientific, accurate technique to identify precisely the individuals we want to target and prosecute.

As prosecutors, we want to use our limited resources to go after those trigger-pullers and fish with the proverbial spear rather than a net. We know from our experience that it is a subset of any organized crime group who are the shooters, and that is who we want to target first.

What is more, when eTrace, the second pillar of the Crime Gun Intelligence Model, is added, information regarding the firearms purchase history can be gleaned. Utilizing eTrace, prosecutors can potentially learn the transaction history of the firearm at issue. This information, which includes all of the personally identifying information found on ATF Form 4473, provides critical identifiers and location information for the purchaser. This represents additional actionable intelligence that allows agents and prosecutors to identify trigger-pullers and firearms traffickers. eTrace is also often the first step in any potential straw purchase or firearms trafficking investigation, with agents interviewing the documented purchaser for any recovered crime guns.

Put simply, failure to utilize the CGI model of NIBIN and eTrace leaves critical investigative stones unturned. The synergy of the CGI model and the information gleaned through that process produces a combined effect greater than the sum of its parts and is crucial to advancing firearms investigations as well as establishing elements of the offense at trial.

Sincerely,

G. Zachary Terwilliger
United States Attorney



Crime Gun Intelligence Prosecution Best Practices

MISSION

The mission of CGI prosecutions is to fully leverage limited prosecutorial resources to prioritize offenders who illegally transfer, possess, and operate firearms in violent crimes.

OBJECTIVE

The objective of CGI prosecutions is to ensure collaboration between investigators who use CGI and prosecutors to secure judicial outcomes that keep the community safe from violent criminals.

PROSECUTION BEST PRACTICES

1. Strategic Deployment of Prosecutorial Resources

Prosecutors' offices should realign resources to address violent crimes in several important ways, including but not limited to modifying the office's organizational structure; creating new partnerships in the law enforcement community; and using State statutes creatively to more fully and intentionally prosecute the most dangerous repeat offenders. Offices should consider crafting and publishing a strategic plan to help guide operations and priorities. Additionally, offices should consider implementing administrative efficiencies that not only improve internal processes, but allow for better allocation of resources that keep law enforcement officers on the street — making the community safer — and preserving resources.

2. Organizational Structure

Often, prosecutors' offices have specialized divisions that focus on sex crimes, homicides, crimes committed by juveniles, etc., but that focuses on offenses not offenders. When a small population is responsible for a significant number of a city's violent crimes, prosecutors' offices should focus on allocating limited resources and intelligence efforts on the small segment of the community who are responsible for a significant portion of the violent gun crime.¹ These offenders are often referred to as the "crime movers" and should be the primary targets of every violent crime reduction initiative.

This division should have a Proactive Unit (focusing on investigations) and a Reactive Unit (focused on prosecutions post-arrest). The prosecutors assigned to this division should be some of the most experienced and talented in the office and dedicate their attention to these "crime movers."

¹ In 2017, Florida's Fourth Circuit State Attorney's Office created a Targeted Prosecution Division with the goal of promoting intelligence-driven prosecution and enhanced support of local, State, and Federal violent crime initiatives. This division has a proactive unit focused on those crime movers responsible for a significant portion of the violent gun crimes and a reactive unit focused on prosecuting incidents of violent gun crime. The unit also strategizes the prosecution of high-priority offenders, including gang-involved juveniles and young adults associated with criminal enterprises, and is actively involved in numerous law enforcement initiatives, such as city-wide deployments, legal training for patrol and detective divisions, and community outreach.

The way of thinking about the charges brought against these offenders should be flexible as well. Prosecutors should use every statutory tool available to address the community's most serious, violent offenders. To the extent possible, local gang detectives and other violent crime resources should be embedded within this unit to share criminal intelligence.

3. Law Enforcement Partnerships

Additionally, prosecutors should champion the creation of, participation in, and support to CGICs to enhance support of local law enforcement's violent crime initiatives. CGICs should host a weekly meeting to review NIBIN Leads, discuss pending cases and targets, and use cross-agency collaboration to learn about developing issues. These meetings should be attended by the various relevant divisions in local and Federal law enforcement, Federal prosecutors, and the prosecutor's aforementioned strategic division.

4. Aggressive Prosecution of Prohibited Persons

The majority of violent crimes committed in today's day and age are committed with guns, and many individuals who commit these violent acts are prohibited from having firearms because they have a prior felony conviction or have been adjudicated a juvenile delinquent.

Policy Directive

Prosecutors' offices should contemplate the creation and issuance of a policy directive to all prosecutors that they "shall charge the most serious, readily-provable minimum mandatory enhancements when making filing decisions [related to gun crimes] unless permission is obtained...to not file those enhancements."

Novel Prosecutions

A less tangible but essential factor relating to CGI for prosecutors is the challenge to innovate in charging. Innovation is important in employing CGI/NIBIN to its fullest potential. Innovative charging explores all statutory means to address the violent gun crime that is uncovered by CGI/NIBIN.

Prohibited persons often show off their long guns, rifles, and drum magazines on their social media platforms and through music videos, used to threaten and celebrate murder and send messages between rival groups, thereby driving the cycle of retaliatory activity. Offices have successfully responded with novel prosecutions using their own videos, words, and photos against them.

Without recovery of the actual firearms, prosecutions of these cases can be painstaking. But, where experts can prove that the firearms are indeed real, charges are sought. Prosecutors must send the message to these individuals and to the community that every tool in the arsenal will be used to combat their criminal conduct. This prosecutorial strategy can successfully obtain prison sentences for prohibited persons, known as "shooters," for whom the State could not prove a shooting case.

For groups of violent actors working in concert to commit a series of violent crimes, this novel strategy may include prosecutorial consideration of conspiracy or even racketeering violations. In all instances, capitalizing on CGI/NIBIN-generated intelligence presents the opportunity for significant impact in communities plagued by violence.

Audit

Offices should audit prosecutions of gun crimes to understand how these cases are handled and how procedures can be modified to ensure they are handled in accordance with the prescribed best practices. Consider the creation and use of checklists.

- **Firearms Checklist:** This evaluative tool ensures that in those cases where formal charges cannot be brought, everything has been done to try to make the case, and the crime gun (its owners, history, and connections) has been exhaustively investigated.
- **Risk Assessment Tool:** This tool for gun possessions outlines criteria and enhancements for identifying High Risk Offenders and mandating uniform government offers.

Proffer Agreements and Cooperation Tools

It is imperative that law enforcement tap every potential resource of CGI to reduce violent crime. This exhaustion of resources may sometimes include offering cooperation to defendants for some modicum of leniency — a formal agreement known as a proffer. The challenge to prosecutors is in determining when a defendant has information of authentic value and in motivating that individual to provide it to law enforcement. The proffer agreement is a tool that allows prosecutors to begin the process of cooperation while offering necessary protections to the defendant. If an office chooses to engage in proffer protocols, the following are some guidelines to consider:

- CGIC detectives/law enforcement must consult prosecutors before engaging in a proffer. The most critical phase of the proffer — unlike the traditional interview or interrogation — is the beginning. The detective asking the questions must have the requisite knowledge of the defendant and their criminal activity to quickly determine the defendant's credibility and willingness to be truthful. If the defendant lacks candor, a knowledgeable and informed interviewer will recognize this immediately. Proffers may entail more than one interview session. If a defendant who has reviewed and signed a formal proffer agreement demonstrates a lack of honesty at the outset, the likelihood of law enforcement receiving valuable information is dramatically reduced, and the defendant's perception of the benefit of cooperation is also distorted.
- The proffer agreement outlines protocols — but does not delineate expectations. It is critical that the prosecuting agency, law enforcement, and the defense all possess a clear understanding of the form and scope of any potential benefits prior to the initial proffer interview. This arrangement does not imply that promises must be made in advance. In fact, this guidance is to the opposite. It must be abundantly clear that there are no promises other than those specifically outlined in the proffer agreement, such as use of immunity. Any promises or negotiations made prior to the proffer and subsequent interviews undermine the credibility of the statements and provide room for possible codefendants' counsel to attack the veracity of their statements during courtroom proceedings.

- In criminal investigations involving multiple codefendants, such as a gang Racketeer and Influenced Corrupt Organizations Act (RICO) case, it is important to reward the defendant who is the first to cooperate and the defendant who has the most valuable information. This is an effective tool to motivate defendants to cooperate by indicating that the first to accept a proffer may receive the greatest downward departure for cooperating. The next to cooperate will receive the next best, and so on. While it may seem counterintuitive to offer more culpable defendants greater leniency at sentencing, the value of early cooperation via a proffer agreement must be taken into consideration.
- Prior to conducting a proffer, teams must have a clear understanding of the facts of the cases/ investigations to be discussed.
 - o Weigh the relative culpability of the defendants involved in the case. (Example: gunman versus getaway driver in a robbery.)
 - o Carefully review and compare prior criminal records of the defendants in the case.
 - o Consider the strengths and weaknesses in the case to determine if the codefendant's testimony is even needed.

While proffer agreements are focused on defendants closely associated with violent crime, prosecuting agencies should also consider a broader cooperation program for individuals under arrest. Specifically, individuals taken into custody who may hold valuable intelligence regarding violent crime, but have not historically been given the opportunity to offer it or collect the subsequent benefits of doing so.

One example of this type of program is styled "Operation Cooperation." To encourage informants and witnesses to come forward, Operation Cooperation is a multi-faceted approach in offering the community a means of participating in reducing violent crime.

As noted in the attached outline, one of the four lines of effort is defendant cooperation. Under this model, law enforcement simply engages in initial conversations with defendants, often at the time of their detention, and asks them what, if anything, they know about recent incidents of unsolved gun violence that may have occurred near where they are taken into custody or claim to live. These lines of questions are not generally focused on the involvement of the defendant, and therefore do not trigger Fifth or Sixth Amendment concerns. These post-arrest conversations are more focused on information the defendant may possess about violent crime in the area. While most of these discussions will generate little actionable intelligence, on rare occasion critical, even eye-witness testimony may be uncovered simply by asking what one knows.

Federal Charging Strategies

Coordination and collaboration between State and Federal prosecutors are a significant component of proper deployment of prosecutorial resources. State prosecutors have broad jurisdiction over a wide variety of criminal activity, whereas Federal jurisdiction is more limited, often requiring a commerce clause element. Frequent communication amongst prosecutors and agents ensures effective allocation of investigative and prosecution resources to reach the best outcome for a case.

Two things are generally known about violent crime. First, only a small percentage of the population in any city is usually responsible for committing violent crime. Second, groups of two or more individuals usually commit violent gun crime together. Keeping these two key factors in mind, CGIC prosecutors should consider the following, non-exhaustive list of charging categories:

- **Violent Crime:** RICO and Violent Crimes in Aid of Racketeering (VCAR) conspiracies should be considered, if possible. These are powerful charging tools to bring down organized groups engaged in violent crime. These groups must be engaged in or its activities affect interstate or foreign commerce. The existence of an enterprise must be established to demonstrate ongoing organization, formal or informal, and that the various members function as a continuing unit. Hobbs Act robbery charges are another consideration for groups or individuals who rob businesses that affect commerce.
- **Drugs:** Groups engaged in violent acts often use drug dealing as a source of income. Federal charges against groups of armed drug dealers can often lead to significant sentences with minimum mandatory penalties for the drugs and firearms. Drug conspiracy charges, when available, can also serve as a useful tool to take down an entire group.
- **Firearm Possession (Prohibited Status):** Simple possession of firearms by prohibited individuals can carry a significant sentence. Federal prohibitions include:
 - o Felonies
 - o Domestic Violence
 - o Domestic Violence Injunctions
 - o Illegal Drug Use
 - o Illegal Alien Status

When considering the expeditious removal of a shooter from the streets, these types of statuses may warrant Federal charges.

- **Illegal Firearms:** Possession of a firearm, and knowledge of its illegal characteristic(s), is a Federal felony offense. Certain types of firearms are illegal to possess, such as:
 - o Machine guns
 - o Short barreled rifles or shotguns
 - o Silencers
 - o Stolen firearms
 - o Firearms with damaged or destroyed serial numbers
- **Illegal Firearm Purchase:** It is a Federal felony to knowingly lie to a Federally licensed gun dealer during the purchase of a firearm. ATF Form 4473, completed during the purchase of a firearm, includes a question specifically addressing the illegal straw purchase of a firearm. Straw purchasers of firearms for prohibited members of a group could face felony charges.

The NIBIN, RICO Act, and VCAR statute are formidable tools that, in the right case, can aid in violent gun crime investigations and prosecutions, particularly when targeting violent groups. The goal is to remove violent gangs, not just individuals, from the streets and hold these members accountable for the violent crimes they commit.

NIBIN, along with the CGIC model, are powerful instruments that support evidence-based police enforcement and investigatory efforts. The RICO Act, 18 U.S.C. §1962, and VCAR, 18 U.S.C. §1959, statutes² are effective prosecution tools for addressing criminal conspiracies. Using these tools together can lead to the successful removal of violent gangs from the streets of communities.

NIBIN can reveal patterns of criminal behavior, which in turn leads to identification of shooters and violent crime participants in a group. NIBIN can link multiple shootings to the same firearm(s). Shootings often happen over a short period of time and in close geographical proximity to each other. Often, the same individuals or groups are responsible for committing multiple linked shootings. While NIBIN does not produce identifications, it does provide leads and linkages, which can expose evidence such as identification of rivals (in terms of future targets and potential witnesses); identification of uninvolved witnesses to shootings (witnesses other than cooperators); identification of innocent victims caught in the crossfire of shootings; and identification of territories of gangs and rivals.

Law enforcement focuses on a broad range of criminal violations to effectively investigate and prosecute NIBIN-linked shootings. When an investigation, with the assistance of NIBIN intelligence, reveals a pattern of violent gun crime committed by members of the same gang, RICO and VCAR charging options should be considered. A drug conspiracy prosecution is bolstered by a series of drug activities linked to the same distribution network. Heroin stamped or named is a prime example. NIBIN also provides a stamp that routinely leads to the same criminal network. NIBIN's stamp is the firearm — specifically, the firearm linked to the conspiracy whose members are committing a series of violent acts. That firearm stamp leads investigators to commonalities such as geography, rivals, and witnesses, as discussed above.

In most cases, criminal street gangs meet the three primary criteria for RICO prosecution: 1) they are associated in fact, 2) they participate in the affairs of the gang, and 3) they individually and collectively commit a pattern of racketeering acts. RICO provides powerful criminal penalties for persons who engage in a “pattern of racketeering activity” and who have a specified relationship to an “enterprise” that affects interstate or foreign commerce. Under the RICO statute, “racketeering activity” includes State offenses involving murder, robbery, extortion, and several other serious offenses, and more than one hundred serious Federal offenses including extortion, interstate theft, narcotics violations, and mail fraud. A “pattern” may be comprised of any combination of two or more of these State or Federal crimes committed within a statutorily prescribed time period. Moreover, the predicate acts must be related and amount to, or pose a threat of, continued criminal activity. An “enterprise” includes any group of individuals associated in fact although not a legal entity.

² Federal RICO/VCAR prosecutions require guidance and approval by the Organized Crime and Gang Section.

The RICO and VCAR statutes are well suited to charge street-level violent gun crime when it is associated with criminal conspiracies or gangs. Most importantly, charging RICO allows for the inclusion of the full breadth of the defendants' criminal acts, including multiple acts of violence. In contrast to charging a single act of violence, with reliance on Federal Rule of Evidence 404(b) to put similar acts into the trial record, RICO makes those acts, including violent gun crimes, intrinsic elements of proof for RICO/VCAR.

Simply, RICO permits the introduction of all violent acts committed by a gang during the course of its conspiracy. The introduction of this evidence paints an accurate and truthful picture of the levels of violence committed and leads to successful prosecutions of the gang and its members.

VCAR is a natural extension of a RICO-based prosecution that addresses defendants who engage in violent crime. More than a predicate or overt act in a RICO prosecution, a homicide may very well meet elements of VCAR if it is committed to maintain or increase the reputation of the individual defendant or gang. This foundational *mens rea* for VCAR naturally reveals itself through the investigation that uncovers the informal "code of conduct" and expectations for individuals associated within a gang.

It is wise to consider RICO/VCAR at the front end of a gang investigation. The complexities and administrative requirements of RICO prosecutions within the Department of Justice are best managed through cooperative effort between investigator and prosecutor at case initiation. RICO charges can impact violent gun crime by exposing habitual violent offenders who act together. These offenders will be exposed to significant jail terms. Moreover, a RICO indictment charges multiple violent offenders together, thereby dramatically inhibiting their ability to intimidate witnesses or otherwise attempt to thwart prosecution. And finally, RICO is a mechanism through which violent groups can be removed from the streets.

NIBIN is a useful tool in identifying gang members who commit violent gun crimes. The RICO/VCAR statutes are useful tools in convicting these members and removing them from the streets. As such, they are complements both to one another and to law enforcement and prosecutors in the fight against gun violence.

5. Innovations in Technology

Advances in technology are critical to intelligence gathering and successful prosecutions, particularly of gun crimes. Because technology is evolving rapidly, case development depends on continuing education of both attorneys and staff. Obtaining and staying abreast of the latest technological advances should be a priority of any innovative prosecutorial strategy.

Use of IBIS, NIBIN, and ShotSpotter

As discussed, the CGIC is the central point for innovations in gun prosecutions. In addition to law enforcement partners and collaboration, the most important component of the CGIC is cutting-edge technology, which includes IBIS software, NIBIN technology, and ShotSpotter. Using NIBIN information as a lead generator is a game-changer since investigators are now able to connect crimes by following the crime gun used in their execution; but teaching prosecutors how to understand and use this information requires training, and should be provided.

Developing Expertise in Technology

Because criminals use a variety of new technology platforms and tools to both communicate their plans and celebrate their violence, offices should cultivate a POC who is responsible for staying abreast of new technology and educating investigative teams about using technology in prosecution. This is particularly true for wires, GPS, cell-site search warrants, and social media accounts. This POC should seek out and receive training and continued education from sources across the country.

Creating a Digital Forensic Task Force, using collaborative effort among law enforcement and businesses, is also useful. This task force should have representatives from both the public and private sectors who have a specialized expertise in emerging technologies. They will share information about intelligence gathering practices and the intersection of these practices with the law.

An Arrest Alert System may be another powerful technological tool in intelligence-driven prosecution. The launch of an arrest alert system ensures that those key criminal actors are appropriately prosecuted regardless of the nature or level of their offense. An Arrest Alert System notifies prosecutors by email and/or other instantaneous communication of priority arrests involving a specific individual, charge, or arrest location. Additionally, arrest alerts can also be used to locate uncooperative witnesses and to gather information through debriefings on crimes in specific areas or among specific gang members.

Prevention and Intervention Efforts to Reduce Gun Crime

While it is imperative to be strategic and deliberate in prosecution of the most significant public safety threats, violence cannot be eliminated by enforcement alone. To that end, engagement with community stakeholders to expand and enhance frontend prevention and intervention efforts is recommended. Some examples are listed below.

City Government, Multi-Pronged Approach

The cities of Los Angeles, Durham, Palm Beach, and Miami have all adopted similarly structured, multi-pronged strategies that seek to impact violence and reduce gang activity at the individual, family, and community levels. These comprehensive plans are designed to target criminality or violence at each stage of its development.

Although the specific, enumerated stages vary slightly in each city, a traditional framework includes: prevention, intervention, and enforcement or prosecution. Some cities also include a stage for re-entry. Palm Beach's model includes four components: crime prevention, law enforcement, courts, and corrections as a part of a joint county/city effort. Each of the cities employing this multi-pronged strategy relies upon community-based partnerships and law enforcement tactics specific to the needs of their city.

For example, Los Angeles' Gang Reduction and Youth Development (GRYD) employs a four-prong strategy to increase or facilitate:

1. The community's ability to effectively address gang involvement and violence;
2. Protective factors and reduce gang joining among at-risk youth between the ages of 10 and 15;
3. Pro-social connections and other protective factors for gang-involved young adults between the ages of 14 and 25; and
4. Effective communication and coordinated responses to address gang violence.

This strategy for crime reduction, although still relatively new, has been proven effective. A 4-year comprehensive study found that GRYD zones experienced reductions in gang violence, and some targeted hot spots experienced a significant decrease in gang or gun violence. Other initiatives of this comprehensive strategy, such as prevention, are more difficult to measure due to their recent implementation.

City Government, Public Health Strategy

Other jurisdictions have adopted a public health model to prevent and reduce violence within their communities. According to the CDC, violent behavior, like disease, is transmitted through close contact with others, particularly young adults and teens. Based upon the same strategies used by doctors to treat epidemics like AIDS and tuberculosis, a public health approach to violence works by preventing the transmission of violence within the community by targeting and treating people with highest risk, and changing community norms that led to and enable violent crime.

Office of Violence Prevention (OVP)

An OVP is a collaborative office founded upon the premises of public health. It works by providing strategic oversight and direction for communities' efforts to reduce violence. They bring stakeholders, law enforcement, attorneys, and nonprofit organizations together to identify and address violence within their community. Several cities have created OVPs with great success, including Philadelphia, Chicago, Stockton, and Milwaukee.

OVPs identify a city's specific areas of concern, tailored for the citizens it serves, and select and administer programs specifically targeted to address the issue. For example, one of the Chicago OVP's primary initiatives is to promote resilience within the community after traumatic events have occurred. As such, the OVP has focused on police crisis intervention training, policy development, and community outreach and education. Some other successful programs used by OVPs include Operation

Cease Fire and peacekeeping initiatives to specifically address gun violence. There are a number of different models of OVPs that have been studied and evaluated. OVPs are often located within a city's department of health.

Local Law Enforcement

Some local law enforcement entities have engaged in a partnership with the National Network for Safe Communities at John Jay College with successful results. This programming educates law enforcement on the philosophy behind and implementation of the Individual Gun Violence Intervention (IGVI) strategy that reduces gun violence by targeting individual offenders. This IGVI strategy includes (but is not limited to):

- **Gang Call-Ins:** Individuals who are known to participate in gangs or violent groups are called together to receive a dual message of warning and encouragement. Those who attend are reminded of the laws they are at risk of breaking, given a clear anti-violence message from community leaders and ex-offenders, and then offered community resources and services. These Call-Ins feature an enforcement “hammer” component, warning individuals of the risks of continued negative actions, and a “hope” component, pleading with them to make positive choices and offering them services and opportunities.
- **Custom Intervention Notifications:** A small and narrowly focused group of the most violent repeat offenders is investigated and monitored by local law enforcement. This custom strategy features a personal visit from the agency's gang unit to individuals with known gang involvement. At these notifications, law enforcement clearly communicates that they are aware of the violent actions being committed by the individual and their group and offer them an opportunity to make positive and long-lasting changes.

Prosecutors Office

In a traditional prosecution program, the role of prosecutors is narrowly focused: attorneys receive case referrals, file criminal cases, and seek convictions. They rarely engage in prevention, intervention, or community strategies to reduce crime and increase the health of the community. In a Community Prosecution model, however, prosecutors step outside of the traditional role to engage as problem-solvers in the community.

Prosecutors work directly in neighborhoods, develop relationships with local groups, align enforcement priorities with residents' public safety concerns, and seek solutions to prevent crime. Community Prosecution programs have been universally recognized as successful crime-reduction initiatives. One or two prosecutors are assigned to each local law enforcement sector or zone. Placement within a zone will allow for a community presence, for prosecutors to continue to study and learn about the specific issues and problems facing citizens in each zone, and to maintain open and effective communication between residents, businesses, neighborhoods, community organizations, educational institutions, and local government.

METRICS FOR SUCCESS

As noted, the most valuable metric for success is the reduction of violent crime. To achieve this goal, successful prosecutions must be closely aligned with their respective CGI enforcement teams. Prosecutors play a significant role in the CGI process through not only criminal prosecutions of CGI-revealed violent offenders, but also through involvement at the investigative stage. Both State and Federal prosecutors' offices are impacted by the CGI process because violent crimes linked through NIBIN routinely begin as State-level cases. The program is designed with necessary communication and coordination to efficiently manage prosecutorial jurisdiction based on available CGI. In many instances this coordination results in Federal adoption of State cases and may involve leveraging Federal resources to charge multiple defendants who are engaged in violent gun crime. Throughout the process, investigators and prosecutors work through often times complex CGI to focus limited resources on those criminals who perpetuate most of their region's violent gun crime.

It is imperative for prosecutors' offices to be engaged members of the CGI mission. This engagement often includes assignment of personnel to the CGI enforcement team. These assigned prosecutors attend regular meetings, consume and share relevant information, and act as liaison to their colleagues who may be assigned CGI-related cases.

CGI is often cross-jurisdictional, with violent crimes in one jurisdiction linked to other violent crimes or a crime gun recovery in another. Moreover, straw-purchase and firearms diversion schemes routinely occur outside of the jurisdiction where the firearm(s) are recovered or used in violent crimes. These circumstances require careful prosecutorial consideration, especially when violent suspects are working in concert to attain firearms for use in violent gun crime.

State and Federal prosecutors should be consistently engaged in discussions of case circumstances relating to CGI/NIBIN. These communications are critical for making charging and/or pre-trial detention decisions with benefit of all relevant case and defendant information available. This coordination can help avoid inadvertent case refusal or release of a CGI-revealed violent actor.

The prosecutor's role in an effective proffer strategy relating to CGI is extremely important. CGI/NIBIN links gun crimes and creates a circumstance that presents potential for additional information gathering from a charged defendant who possesses knowledge of crimes not yet charged. When that defendant becomes cooperative as a part of plea negotiations or post sentencing, proffers should consider the uncharged NIBIN-linked crimes. This scenario might include assurance that assigned detectives from uncharged crimes are provided opportunity to question the cooperating defendant or are present for proffer sessions.

It is the prosecutor who elevates CGI-generated cases to ultimate success: conviction of the violent offender or unlawful firearms purchaser. Because of this role, it is important that prosecutors' offices communicate case dispositions with their respective CGI enforcement teams and other relevant partners. Successes attributable to the CGI process are critically important for continued support and funding. As importantly, successful outcomes of violent crime through intelligence-based processes such as CGI are an important aspect of public outreach programs.

It is important for senior leadership of prosecutors' offices to participate as members of and attend quarterly or biannual CGI executive meetings. These meetings help coordinate efforts at both a local and regional level and include attendees who can make policy decisions necessary for sustaining and improving CGI programs. The ATF division office hosts the meeting, which is jointly led by the ATF Special Agent in Charge, or designee, and the United States Attorney, or designee.

A critical aspect of CGI program sustainability is training. Prosecutors at the State and Federal level who are assigned to a CGI enforcement team commonly become experts in CGI, NIBIN, and the intricacies CGI-related case prosecutions. These prosecutors understand the implications of NIBIN in discovery and Brady ramifications, and other unique issues presented by the CGI process. As experts in their discipline, prosecutors play an important role in training and mentoring within the CGI enforcement team, which helps expand the critical knowledge of prosecutors and investigators less familiar with CGI and NIBIN.



ATF and the National Crime Gun Intelligence Governing Board recognize the need for coordination between enforcement, laboratories, and prosecution to identify, target, and prosecute “trigger pullers” and identify the sources of crime guns. The advancement of crime gun intelligence strategies in jurisdictions across the nation have enabled these joint disciplines to not only identify violent criminals but prosecute them as well, thus bringing justice to the victims of gun violence and creating safer communities. Attorney General Barr has addressed the importance for this strategy and coordination in Project Guardian by emphasizing that the fifth principal of initiative is crime gun coordination.

Partnerships are the ultimate resource for the fight against violent crime. The stakeholders needed to advance crime gun intelligence and violent crime suppression strategies come in three distinct forms: the police (patrol, investigators, and analysts), laboratory technicians, and prosecutors. Bringing these diverse entities together in a meaningful way to communicate, coordinate, and collaborate towards the shared purpose is the responsibility of senior level policy advocates. These advocates of crime gun intelligence within a particular AOR are tasked with harnessing the collective knowledge, skills, and abilities of all these stakeholders.

It is not enough to say that reducing violent crime requires a shared purpose among interagency partners. The reduction of violent crime is no easy task and requires a combination of stakeholders that may not normally communicate or collaborate routinely. For example, it is not often that line-level policy personnel — whether it be a detective or the patrol officer responsible for collecting ballistic evidence found on a street — have the opportunity or structure to collaborate with ballistic lab personnel, or for that matter, investigators or analysts from the ATF. It is no different when you add State- or Federal-level prosecutors to the equation and their familiarity with detectives or State level analysts. An unintended consequence of the specialization within the greater law enforcement community has been the creation of silos that often prevent communication, coordination, and collaboration. The silos become even more noticeable in AORs seeking to advance crime gun strategies. In the most basic terms, advancing crime gun intelligence strategies requires many “handoffs and handshakes” among interagency partners who must trust in one another.

Through collaboration and cooperation, the ATF and the National CGI Governing Board are aggressively and diligently working to sustain and advance crime gun intelligence strategies to reduce violent crime in our communities nationwide.

Christopher Amon, Chair
Chief, ATF Firearms Operations Division

REFERENCES

12.541 SHOTSPOTTER GUNSHOT LOCATION SYSTEM

Reference:

Procedure 12.715 – Property and Evidence: Confiscation, Accountability, Processing, Storage, and Release

CPD Training Bulletin #2017-01, ShotSpotter Gunshot Locations System

<http://www.shotspotter.com>

Definitions:

ShotSpotter Gunshot Location System (SSPTR) – Technology that detects and alerts law enforcement to outdoor audible gunfire within a specific coverage area through the use of acoustic sensors which pinpoint the accurate location of the gunfire.

ShotSpotter Flex Alerts Console – A mobile password protected console available to CPD personnel that provides a visual map representation and address of a gunfire alert.

ShotSpotter Real-Time Incident Review Center (IRC) – A remote operating center staffed by professional reviewers 24 hours a day, seven days a week, who analyze audio data and recordings to confirm gunfire, then create alerts.

Purpose:

Provide an outline for the appropriate monitoring and response to an SSPTR alert.

Policy:

Department members utilizing SSPTR will investigate all SSPTR alerts following established standards of officer safety and investigative protocols set forth in this procedure.

The concept of Crime Gun Intelligence is based upon the use of the ATF's National Integrated Ballistic Information Network (NIBIN) which identifies cartridge casings fired from the same gun which then provides critical investigative leads by linking offenses, crime scenes, and suspects. To maximize the use of NIBIN, all officers responding to an SSPTR alert, or coming across fired cartridge casings in any other manner, will process, collect, tag, and submit **all** recovered casings to the Property Unit.

Information:

The SSPTR is comprised of dozens of acoustic sensors placed in areas where gun violence is prevalent. The sensors are designed to detect the acoustics of outdoor gunfire. When three or more sensors detect suspected gunfire, the software system triangulates the exact location of the gunfire within 82 feet.

After gunfire triggers SSPTR sensors, audio from the incident is sent to the IRC via secure, high-speed network connections for real-time qualification. Within seconds, an SSPTR professional reviewer analyzes audio data and recordings to confirm gunfire. The qualified alert is then sent directly to any desktop or MDC logged into ShotSpotter Flex Alerts Console or any smart phone logged in to the SSPTR mobile app.

SSPTR's team of expert reviewers has direct experience reviewing thousands of incidents captured by SSPTR systems. Reviewed alerts help law enforcement respond safely and effectively to gunfire by providing:

- Precise location of gunfire, both latitude/longitude and street address
- Number of shots and exact time of shots fired
- Shooter position, speed and direction of travel (if moving)
- Gunfire incident history and pattern analysis

The IRC operates 24 hours a day, 365 days per year and offers live chat functionality via SSPTR software for immediate communication and assistance when required. Officers can also email SSPTR at support@shotspotter.com or call 1-888-274-6877 option 4 Monday-Friday, 0900-2100 hours and Saturday-Sunday, 1100-1900 hours.

Procedure:

A. Monitoring and Receiving an SSPTR Alert

1. All officers with a Mobile Data Computer (MDC) are required to log in to the ShotSpotter Flex Alerts Console at the beginning of the shift.
2. A gunshot alert can be communicated to officers in three different ways:
 - a. Emergency Communications Section (ECS)
 - 1) ECS may dispatch officers to an SSPTR alert after the alert is communicated to ECS by the IRC.
 - b. Shot Spotter Flex Alerts Console
 - 1) Officers will receive alerts directly from the IRC by logging in to the ShotSpotter Flex Alerts Console via a desktop computer or MDC.
 - c. Mobile Alerts
 - 1) Officers may receive alerts on a personal smart phone directly from the IRC through the SSPTR mobile app available for use on iPhones and Android platforms.

B. Responding to an SSPTR Alert

1. All SSPTR alert runs are priority runs and will be dispatched immediately.
2. When an officer receives an alert via the Shot Spotter Flex Alerts Console or SSPTR mobile app prior to ECS, the officer will immediately notify ECS of the following information:
 - a. The address of the alert
 - b. The time frame of the alert
 - c. The number of shots detected
 - d. Any other information communicated by the IRC, e.g., multiple shooters, direction of travel, high-powered firearm, etc.

3. At least two units or one double-unit must respond to the location of the SSPTR alert.
 - a. If two single-unit cars respond to an alert, they must meet up at a remote location in the vicinity of an alert prior to responding to the exact location of the alert.
 4. A supervisor will respond to all alerts and may require more than two units to respond if additional information suggests a high volume of shots, multiple shooters, high-powered firearms, etc.
 5. Respond to the dot(s).
 - a. Responding officers should not rely solely on the numeric address provided and should use the map via the ShotSpotter Flex Alerts Console, SSPTR mobile app, or by navigation from ECS to locate the area indicated on the map by the dot(s).
 - 1) **Example:** An SSPTR alert in a park will provide officers with the address of the park but the dot(s) on the map will provide officers with the location of the detected gunshot(s) inside the park (usually within 82 feet). It is imperative that officers respond to the area of the dot(s) and not just the address.
- C. Investigating an SSPTR Alert
1. Search the area
 - a. Once on scene, officers must exit their patrol vehicles and physically check a 100 foot radius from the area indicated by the dot(s) on the map.
 - 1) Notify ECS of the actual address where shots were fired
 - 2) Use caution and render aid to any victims
 - 3) Make any necessary arrests
 - 4) Actively search for and recover any evidence (casings, firearms, etc.)
 - 5) If casings are found, all are to be tagged and entered into property. Be sure to clearly identify them as “casings” on the evidence submission form
 2. Community contacts
 - a. When applicable, officers will attempt to make contact with residents of at least two addresses on each side of an SSPTR alert on both sides of the street (eight residences total). A supervisor must respond to ensure the canvas is completed appropriately. During the contact, officers will:
 - 1) Advise the resident police are investigating an SSPTR alert
 - 2) Inquire about any injuries or damage due to the shots

- 3) Inquire about suspect information
 - 4) Provide the resident with a Form 50 Gunfire Incident Canvas door hanger
- b. For residents who are not home or do not come to the door, leave a Form 50 Gunfire Incident Canvas door hanger at the residence, filling out the date and time sections on the form.
- D. Reporting an SSPTR Alert and Follow Up
1. Officers will complete a brief report on their findings via a blotter entry in Records Management System (RMS).
 - a. If no casings were found during the initial investigation due to nighttime visibility, request follow-up from first shift in the following manner:
 - 1) Select "YES" in the "Follow Up Required" field
 - 2) Direct the entry to "First Shift"
 - b. First shift supervisors will then delegate the entries to officers who will respond to the area of the corresponding SSPTR alert to look for casings and/or other evidence during daylight hours.
 - 1) Upon completion of the follow up investigation, the first shift officer will update the blotter entry and note their findings in the "Follow Up Action" field then workflow the report.

MEMORANDUM OF UNDERSTANDING

Between the Bureau of Alcohol, Tobacco, Firearms and Explosives and the

AGENCY NAME

Regarding the National Integrated Ballistic Information Network

This Memorandum of Understanding (MOU) is entered into by the U.S. Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and the **AGENCY NAME**, hereinafter collectively referred to as “the parties,” and the **AGENCY NAME**, referred to as the “NIBIN Partner.” This MOU establishes and defines a partnership between the parties that will result in an ATF National Integrated Ballistic Information Network (NIBIN) system installation, operation, and administration for the collection, timely analysis, and dissemination of crime gun data to enhance the efforts of law enforcement to integrate resources to reduce firearms violence, identify shooters, and refer them for prosecution.

AUTHORITY

This MOU is established pursuant to the authority of the participants to engage in activities related to the investigation and suppression of violent crimes involving firearms. ATF’s authorities are set forth in Title 28, Code of Federal Regulations, sections 0.130-0.131, and include the power to investigate violations of the Gun Control Act of 1968 (as amended), Title 18, United States Code, Chapter 44.

BACKGROUND

The ATF NIBIN Program uses sophisticated technology to compare images of ballistic evidence. It is part of an integrated investigative approach to reduce firearms violence and improve Crime Gun Intelligence (CGI). Through aggressive targeting, investigation, and prosecution of shooters and their sources of crime guns, Federal, State, tribal, and local law enforcement agencies work in concert to combat firearms-related violence.

SCOPE

Participation in this program is expressly restricted to the sharing of ballistic imaging of firearms data associated with crimes recovered by any law enforcement agency in the United States and international law enforcement partners who have entered into agreements with ATF to share ballistic data. ATF may work with our international law enforcement partners to search their networks to identify a crime gun in their database against a crime gun in ATF’s NIBIN network.

NIBIN systems are to be used to image ballistic evidence and test-fires of firearms illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime. Ballistics information and/or evidence from firearms taken into law enforcement custody through a gun buy-back program, property damage crimes involving firearms, found or abandoned firearms, and domestic disturbances are also permitted to be entered in the NIBIN system.

An ATF-owned NIBIN unit will not be used to capture, share, or store ballistic images acquired at the point of manufacture, importation, or sale of a firearm, or images of law enforcement-issued firearms not associated with crimes. The NIBIN system does not store information related to firearms owners or registration.

APPLICABLE LAWS

The applicable statutes, regulations, directives, and procedures of the United States, DOJ, and ATF shall govern this MOU and all documents and actions pursuant to it. Nothing in this MOU will prevail over any Federal law, regulation, or other Federal rule recognized by ATF. Notwithstanding the foregoing, nothing in this agreement will be construed as a waiver of sovereign immunity in excess of or beyond that which is authorized by the law of the NIBIN Partner's jurisdiction. This MOU is not a funding document. All specific actions agreed to herein shall be subject to funding and administrative or legislative approvals.

MODIFICATIONS AND TERMINATIONS

This MOU shall not affect any pre-existing or independent relationships or obligations between the parties. If any provision of this MOU is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

Except as provided herein, this MOU may be modified or amended only by written mutual agreement of the parties. Either party may terminate this MOU by providing written notice to the other party. The termination shall be effective upon the thirtieth calendar day following provision of notice, unless an alternative date is agreed upon.

If either party terminates this MOU, ATF will retain its interest in the electronically stored information contained in the database and any ATF-deployed NIBIN system. ATF agrees to provide to the NIBIN Partner an electronic copy of the data collected by the NIBIN Partner, subject to Federal law and regulation.

LIABILITY

The NIBIN Partner hereby agrees to assume full and sole liability for any damage, injury, or harm of any sort caused by the operation and use of any NIBIN system or related to the use and interpretation of any information contained in, processed by, or extracted from any database subject to this agreement and the protocols and procedures of the NIBIN Program, to the extent allowed by law.

The rights and obligations set out in this MOU run between the signatories. Nothing in this MOU is intended to create any substantive or procedural rights, privileges, or benefits enforceable in any administrative, civil, or criminal matter by any prospective or actual third-parties.

ATF-DEPLOYED SYSTEM INSTALLATION

The NIBIN Partner hereby agrees and acknowledges that all ATF-deployed NIBIN systems shall remain the property of ATF and the U.S. Government. ATF agrees to provide, install, and maintain all ATF-deployed NIBIN systems for use by the NIBIN Partner and any other law enforcement agencies served

by or in partnership with the NIBIN Partner. Should the installation of the NIBIN system require physical construction at the site, the NIBIN Partner will be responsible for such construction and any associated cost. If a system is to be moved to allow additional access outside of a laboratory/NIBIN site, ATF will work with the NIBIN Partner to ensure the appropriate protocols are put into place to ensure the integrity of crime gun evidence along with maximum use of the equipment.

ATF-DEPLOYED SYSTEM MAINTENANCE

ATF will maintain all ATF-deployed NIBIN systems furnished to the NIBIN Partner and repair or replace inoperable or outdated systems in an expeditious manner, subject to availability and funding. However, maintenance and repairs required as the result of unauthorized movement, alteration, damage, or destruction will not be assumed by ATF. At all times, the NIBIN Partner agrees not to make or cause to be made any repairs, alterations, movements, additions, improvements, or replacements to the NIBIN systems not expressly authorized in writing by ATF in advance, and further agrees to exercise due care in every respect to prevent system movement, damage, destruction, or misuse.

ATF-DEPLOYED SYSTEM USAGE

Because the NIBIN Program focuses on the reduction of firearms-related violent crimes, the NIBIN Partner shall enter all eligible ballistic evidence recovered from crime scenes as soon as possible. In addition, the NIBIN Partner shall enter into NIBIN test-fire cartridge casings from eligible firearms taken into law enforcement custody in a timely manner. All NIBIN Partner-owned NIBIN equipment will be held to same standards as ATF-deployed systems. NIBIN Partners may not charge other law enforcement agencies for the entry of evidence into ATF-owned or ATF-maintained automated ballistics technology used in the NIBIN Program.

ATF-DEPLOYED SYSTEM REMOVAL

ATF retains the right to remove a NIBIN system upon: (1) a determination that the equipment is neglected or misused; (2) a determination that the equipment is not used effectively to combat violent crime; (3) failure to comply with any obligations or requirements set forth in this MOU; (4) receipt of written notification of the termination of the participation of the NIBIN Partner in the NIBIN Program; (5) the cancellation of this MOU by ATF; or (6) termination of the NIBIN Program by ATF.

If ATF intends to remove a NIBIN system from the NIBIN Partner, ATF will provide written notice.

SYSTEM MOVEMENT

If the NIBIN Partner seeks to move its NIBIN system, it must submit a written request to ATF. ATF's decision regarding the proposed move will be provided to the NIBIN Partner in writing. Any movement of the NIBIN system after the initial installation will occur at the expense of the NIBIN Partner and only after receipt of authorization by, and coordination with, FTI. To realize maximum use of the equipment, it should be placed where trained personnel can expeditiously enter evidence. ATF will work with each partner to realize optimal placement of equipment to obtain actionable investigative leads.

In the event of a natural disaster, ATF will work with the NIBIN Partner to safeguard the NIBIN equipment.

Due to communication line installation/move requirements, NIBIN Partners must provide a minimum of 120 calendar days' advance notice to ATF and the NIBIN system manufacturer before the intended move of a NIBIN system.

In the event of unauthorized movement, alteration, damage, or destruction of any NIBIN system caused by its employees, contractors, or any other person under its control, the NIBIN Partner agrees to assume the cost of replacement or repairs of the equipment.

The NIBIN Partner agrees to report to ATF, within 5 calendar days, any incident involving the following: an unauthorized movement, alteration, damage, or destruction of ATF-deployed NIBIN systems, any unauthorized use of NIBIN systems or the unauthorized release of data related to the NIBIN Program.

COMMUNICATION LINES

ATF will provide and support primary communication lines necessary for connecting NIBIN systems to the NIBIN network.

SECURITY

The NIBIN Partner will comply with all ATF, DOJ and/or other Federal security requirements related to the NIBIN program, network, and systems to ensure the integrity of the program. These requirements are set forth under NIBIN security policies. ATF will promptly notify the NIBIN Partner should these requirements change. All NIBIN sites will not knowingly allow a person to access the NIBIN network using another person's user ID and password.

The NIBIN Partner agrees to conduct criminal background checks, including fingerprint checks, of all NIBIN users. Upon successful completion of these background checks, the NIBIN Partner will notify ATF's NIBIN Branch in writing.

SYSTEM USAGE AND MROS

To ensure the consistency, integrity, and success of NIBIN, ATF has enacted MROS. The MROS, listed below, are rooted in ATF's "Four Critical Steps for a Successful NIBIN Program" – comprehensive collection, timeliness, investigative follow-up, and feedback. They identify the practices that best allow NIBIN to provide comprehensive and timely CGI.

1. Enter all fired or test-fired cartridge cases from serviced law enforcement agencies and/or departments through a NIBIN acquisition machine within 2 business days of receipt.
2. Enter accurately all required information during the acquisition process on the NIBIN acquisition machine.
3. Correlate and conduct a secondary review of any potential NIBIN Leads through an approved NIBIN correlation machine within 2 business days.
4. Disseminate NIBIN Leads within 24 hours.
5. Designate and maintain a NIBIN program administrator.

6. No policy shall inhibit or restrict NIBIN submissions by serviced law enforcement agencies and/or departments.
7. Operate with only qualified NIBIN users.

Please note that Standards 3 and 4 are not applicable to NIBIN sites using the NNCTC for correlation reviews of ballistic images.

As a NIBIN partner, the **XXXXX** is striving to meet the MROS by developing and implementing changes in their operations and working toward compliance on or about December 31, 2020. Each NIBIN site must be in compliance with MROS or working towards compliance to the satisfaction of the CGI Governing Board.

AUDITS

ATF and the NIBIN Partner acknowledge their understanding that the operations described in this MOU are subject to audit by ATF, DOJ, the DOJ Office of the Inspector General, the General Accountability Office, and other auditors designated by the U.S. Government regardless of the funding source for the system (NIBIN Partner or ATF). Such audits may include reviews of all records, performance measurements, documents, reports, accounts, invoices, receipts, or other evidence of expenditures related to this MOU and the NIBIN Program.

Notwithstanding, ATF will conduct initial audits of all NIBIN Partners and their sites by December 31, 2020. After this date, the audits will occur once every 2 years for the remainder of the MOU. The purpose of the audits is to review and verify compliance with the required MROS. Each site must be in full compliance with the MROS to maintain access to NIBIN.

Further, the NIBIN Partner agrees to allow auditors to conduct one or more in-person interview(s) of any and all personnel the auditors determine may have knowledge relevant to transactions performed or other matters involving this MOU and the NIBIN Program.

The NIBIN Partner hereby acknowledges its understanding that, for accounting purposes, that the principles and standards for determining costs shall be governed by the policies set forth in the Office of Management and Budget Circular A-87, revised (available via the OMB, the Superintendent of Documents at the U.S. Government Printing Office, or via the Internet at <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>.)

PERSONNEL AND TRAINING

Prior to the execution of this MOU and a NIBIN system installation, the NIBIN Partner must employ, or have access to, a technical person capable of performing forensic microscopic comparison of bullet and cartridge evidence.

The NIBIN Partner agrees to provide and maintain sufficient personnel to operate the NIBIN system and agrees to allow use of the equipment by ATF personnel or our representatives to support the program at the host location. All personnel accessing NIBIN must be a Qualified NIBIN User as required by the

MROS. This MOU should not be construed to require the hiring of any new personnel, except at the discretion of the NIBIN Partner. If the NIBIN Partner determines that additional personnel resources are required, all costs associated with this hiring will be borne by the NIBIN Partner. All users of the equipment must satisfy the same requirements as other NIBIN users and be properly trained, qualified and approved in advance by ATF.

Following basic entry training, ATF will verify trainee competency before authorizing network access. Individuals trained internally by a NIBIN Partner will not be certified as appropriately trained until they successfully pass a competency test administered by ATF.

The NIBIN Partner may provide access to the NIBIN system under its operational control to another law enforcement agency. Any such other law enforcement agency agrees to the same restrictions placed upon the NIBIN Partner by this MOU. However, the NIBIN Partner agrees to assume full liability and responsibility for the administration of such access.

Access to the NIBIN system will be under the management and control of the NIBIN Partner. The NIBIN Partner will ensure that only trained, cleared and qualified personnel have access to the NIBIN system.

Participating agencies will develop the appropriate standard operating procedures to ensure all eligible ballistic evidence will be submitted for NIBIN.

COORDINATION

ATF and the NIBIN Partner agree to adhere to standardized procedures and policies for collecting, handling, documenting, transporting and preserving firearms, bullets, casings and any similar evidence submitted for analysis and input into NIBIN.

ATF and the NIBIN Partner similarly agree to adhere to standardized procedures and policies for the source data collection, input, exchange and protection of information, to include information as to the location where ballistic evidence was collected, the circumstances under which it was collected and all crimes to which the firearm(s) or other ballistic evidence is linked.

ATF and the NIBIN Partner agree to cooperate in the development and implementation of data entry protocols and quality assurance procedures for the NIBIN Program. ATF further agrees to cooperate with all participants in the NIBIN Program to establish model standards, protocols, and procedures for the users of the network. Such protocols will be applicable as they are implemented.

The NIBIN Partner will require all participating law enforcement agencies to adhere to the protocols, procedures, policies and quality assurance standards as established above.

Except as expressly prohibited by law, the NIBIN Partner agrees to provide ATF with access to all information, reports and any other relevant information regarding crimes related to evidence entered into the system and monthly reports outlining historical, statistical and case adjudication information on the use and results of the use of the NIBIN Program and/or system and the related services provided

by ATF and the system manufacturer to ensure the capturing of required performance management information. Such information will be gathered for the purpose of informing the law enforcement community, other Government agencies, Congress and the public on NIBIN results. Additionally, ATF will collect information for results-oriented performance measures.

PUBLICITY

Any NIBIN Partner who becomes aware of, or participates in, publicity related to the NIBIN system and investigations within their jurisdiction should advise ATF of same within 48 hours.

DISCLOSURE OF INFORMATION RELATED TO NIBIN

NIBIN system information may be shared with other law enforcement and prosecutors' offices in furtherance of criminal investigations and prosecutions. The NIBIN Partner shall not share any NIBIN system information for other purposes, including requests under the Freedom of Information Act without express, written authorization from ATF.

INCORPORATION OF APPENDIX

The Appendix to this MOU includes definitions of terms used and is fully incorporated herein. Because requirements may change over time, due to technological advances, security enhancements, or budgetary matters, the Appendix may be updated.

AGREEMENT

ATF and the NIBIN Partner hereby agree to abide by the terms and conditions of this MOU, including any appendices, and all policies of the NIBIN Program. The terms and conditions of this MOU will be considered accepted in their entirety upon the signature by the ATF Special Agent in Charge and the NIBIN Partner signature.

Name of Chief Law Enforcement/Public Safety Official
Name of Agency
Street Address
City, State, Zip Code

Date

Name of SAC
Special Agent in Charge, _____ Field Division
Bureau of Alcohol, Tobacco, Firearms and Explosives

Date

Christopher Amon
Chief, Firearms Operations Division
Bureau of Alcohol, Tobacco, Firearms and Explosives

Date

APPENDIX

TERMS

Acquisition – An entry of a ballistic image.

ATF – Bureau of Alcohol, Tobacco, Firearms and Explosives, a principal law enforcement agency within the U.S. Department of Justice.

Bullets – Designated calibers of projectiles fired from rifles, revolvers, and pistols.

Cartridge Casings – Designated metal casings from cartridges fired from rifles, shotguns, revolvers, and ejected from pistols.

Correlation – Automated data comparison of signature images to a database.

Crime Gun – Any firearm that is illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime or act of terrorism.

Found or Abandoned Firearms – Firearms that come into the custody of law enforcement outside of investigative or judicial process. A found firearm is located by law enforcement or a non-owner and the owner-possessor is not readily identifiable (e.g., a firearm found in an open field). An abandoned firearm may be a found firearm or a firearm where the possessor chooses to permanently relinquish control of the firearm and abandon any rights of ownership. ATF suggests that NIBIN Partners provide written notice to those persons permanently abandoning or temporarily relinquishing custody of a firearm that the firearm will be test-fired and the results entered into the NIBIN System.

NIBIN Network – An ATF-designed and maintained system of interconnected computer systems and terminals used in support of the NIBIN Program.

NIBIN Program – The integration of aggressive targeting, investigation, and prosecution of shooters and their sources of crime guns using automated ballistics technology.

NIBIN Program Administrator – An individual the NIBIN site has designated to communicate with all parties (e.g., submitting law enforcement agencies, ATF CGICs) involved in the NIBIN process. The NIBIN Program Administrator must be a qualified NIBIN user and full-time employee of the NIBIN site. The NIBIN Program Administrator should be responsible for implementing and directing policies and procedures of the NIBIN site.

NIBIN System – Refers to the integrated ballistic imaging, analysis, and information processing system for use with automated ballistics technology.

Performance Measurements – Various management instruments used to evaluate program effectiveness in successfully removing shooters and their crime gun sources. Performance measurements also include the NIBIN MROS and related audits.

Potential Candidate for Confirmation – Two bullets or cartridges cases displaying sufficient similarity during a correlation review such that the items should be compared using traditional comparative microscopy by a trained firearm examiner to determine if they can be associated to the same firearm.

Qualified NIBIN User – technician and/or firearms examiner trained by ATF, Forensic Technology, and/or a NIBIN Authorized Trainer program to perform acquisition and/or correlation reviews of ballistic images on the NIBIN network.

Security Requirements – Types and levels of physical and cyber protection necessary for equipment, data, information, applications, and facilities to meet security policies and standards.

Security Policies – The set of laws, rules, directives, and practices that regulate how an organization manages, protects and distributes controlled information.

Timely – Occurring at a suitable time and without unnecessary delay. Some NIBIN submissions require a response within 48 hours to be considered timely.

Volunteer – An individual who has chosen to perform services without charge or payment and has entered into a written agreement with a NIBIN Partner addressing issues of confidentiality, costs, and waiver of all claims against the Federal government.



Go-By NIBIN Lead Language

Basic Lead Language:

A NIBIN Lead is an unconfirmed (presumptive) potential association between two or more pieces of firearm ballistic evidence based on a correlation review of digital images in the NIBIN database by either a firearms examiner or a trained NIBIN technician. These potential associations are identified by either a firearms examiner or a trained NIBIN Technician. There is a high probability that a microscopic comparison, by a firearms examiner, will confirm the association between the firearm ballistic evidence.

On *<date lead was created (NOTE: multiple dates possible if there were multiple incidents linked over a period of time)>*, trained personnel from the *<enter NIBIN site lead was created>* identified a NIBIN Lead/Leads between the following *<caliber>* cartridge cases:

- *<list the agency, case numbers, and exhibit numbers>*

More Detailed/Scientific Lead Language:

In 1999, ATF established NIBIN to provide local, State, and Federal law enforcement agencies with an automated ballistic imaging network. NIBIN is the only national network that allows for the capture and comparison of ballistic evidence to aid in solving and preventing violent crimes involving firearms. Since the program's inception in 1999, NIBIN partners have processed millions of acquisitions and over 200,000 NIBIN Hits and Leads.

The basis for the identification in Toolmark Identification is founded on the principle of uniqueness, wherein all objects are unique to themselves and thus can be differentiated from one another. The underlying mechanism for the origination of toolmarks is that the harder object will impart its marks of features on the softer object. The ATF NIBIN database currently captures these distinct marks using HD3D imaging technology. These microscopic tool marks include the firing pin impression, breechface marks, and the ejector mark. These irregularities, which are formed randomly, are considered unique and can individualize or distinguish one tool from another. The comparison features of the HD3D technology allows for the rapid elimination of non-matching candidates, and in-depth analysis of markings from potentially matching cartridge cases, giving law enforcement a preliminary determination whether that particular firearm was used previously.

A NIBIN Hit is the result of two or more firearms ballistic evidence acquisitions that have been confirmed as a match by a firearms examiner. NIBIN Hits are based on correlation review of digital images in the NIBIN database and microscopic confirmation by a firearms examiner.

Cartridge cases from each of the previously mentioned shootings were submitted to NIBIN for examination. A NIBIN Technician or Matchpoint user has made the following preliminary conclusions: *(add NIBIN Lead Info, similar to bulleted list above).*

GENERAL CASE INFORMATION

Case Name: _____

Case Number: _____

Case Agent Name and Contact Number: _____

TARGET(S) INFORMATION

Name:		Sex:	
Date of Birth:		Race:	
Alias:		Height:	
FBI Number:		Hair Color:	
State ID Number:		Eye Color:	
Address			

Please check the boxes below if the target has the following and describe it in the box below:

Felony Arrests

Felony Convictions

Domestic Violence History

Name:		Sex:	
Date of Birth:		Race:	
Alias:		Height:	
FBI Number:		Hair Color:	
State ID Number:		Eye Color:	
Address			

Please check the boxes below if the target has the following and describe it in the box below:

Felony Arrests

Felony Convictions

Domestic Violence History

If there are additional targets, please describe them on page 3.

CRIME GUN INTELLIGENCE

Did the investigation any of the following? If so, check the box and describe it below.

- Latent DNA Firearm Recovery Firearms Tracing Firearms Trafficking

Please describe the possible charges from the investigation here:

Please embed any NESS and/or NIBIN lead information here:

Please briefly describe notable uses of CGI other than investigative lead or case initiation.

If firearms were trafficked, please describe them and the method (i.e. straw purchase, secondary market, internet sales, etc.):

TARGET(S) INFORMATION (Continued)

Name:		Sex:	
Date of Birth:		Race:	
Alias:		Height:	
FBI Number:		Hair Color:	
State ID Number:		Eye Color:	
Address			

Please check the boxes below if the target has the following and describe it in the box below:

Felony Arrests Felony Convictions Domestic Violence History

Name:		Sex:	
Date of Birth:		Race:	
Alias:		Height:	
FBI Number:		Hair Color:	
State ID Number:		Eye Color:	
Address			

Please check the boxes below if the target has the following and describe it in the box below:

Felony Arrests Felony Convictions Domestic Violence History

Please include any other information here:



REFERENCE F.S.S. 790 WEAPONS AND FIREARMS

JSO Crime Scene Order 338

Collection and documentation of evidence located on scene is of paramount importance for identifying suspects and linking crimes.

Firearm evidence from these crimes will be further investigated with the implementation of the National Integrated Ballistic Information Network (NIBIN).

KEYS TO BUILDING YOUR CASE

- 1) How do I prove the suspect knew the gun was there?
- 2) Was the gun concealed?
- 3) Did the suspect have access/control of the gun?
- 4) Is the suspect prohibited from having a gun?

STEPS TO TAKE



Document actions and locations of all occupants upon initial encounter and approach of the vehicle both prior to and at time of final stop.



If you are going to question the suspect ensure you Mirandize (BWC)

BWC

If no PC for search ask for consent on body camera. If on body camera you DO NOT need written consent, ensure that consent is documented in reports.



Narrate the incident while using your body camera



Interview all occupants of the vehicle to include all biographic information.

INFO

Firearm Knowledge, Vehicle knowledge
(*who, what, where, when & how*)



Determine and interview the owner/renter of vehicle.



Use your BWC to document location and collection of evidence. Photograph evidence.



Use proper evidence collection techniques to preserve DNA and fingerprints as outlined in Crime Scene Order 338. If you have concerns about processing please contact a CSU detective to discuss.



Document and collect any items of interest based on the totality of the circumstances, such as ski masks, gloves and gang identifiers, etc.



Include a detailed summary of each interview in your narrative, build your case

RECORDS

Establish Felony conviction status, Request ID/Records to conduct a Nation Wide Criminal History Check

For questions or concerns, consult with your immediate supervisor.



OFFICE OF THE STATE ATTORNEY
FOURTH JUDICIAL CIRCUIT
311 W. Monroe Street
Jacksonville, Florida 32202

10-20-LIFE ENHANCEMENT POLICIES AND PROCEDURES

Some confusion has existed with regard to charging 10-20-Life enhancements under Section 775.087, Florida Statutes, who has authority to approve not charging readily-provable enhancements, who has authority to approve deviations from charged enhancements, and the appropriate documentation needed when seeking these approvals. This memorandum outlines the policy of this office with regard to those issues. In the event that you encounter 10-20-Life situations not covered by this memo, please see your Division Chief, Director, or a Chief Assistant for further guidance.

1. **Authority to authorize warrants with section 775.087 enhancements.** The prosecutor assigned to any case has full authority to authorize, or decline, the issuance or denial of any requested arrest warrant that alleges sentencing enhancements under section 775.087, Florida Statutes. Issuing arrest warrants with section 775.087 enhancements are no different than any other warrants and shall be based upon the existence of probable cause. No further supervisory approval is necessary.
2. **Authority to charge section 775.087 enhancements.** As with any other charging decision, the discretion to charge section 775.087 enhancements rests with the prosecutor assigned to the case, with approval from a supervising Division Chief.

3. **Guidance for charging section 775.087 enhancements.**

- a. Section 27.366, Florida Statutes, notes a legislative intent that offenders who meet the criteria of section 775.087, Florida Statutes, shall be sentenced to the applicable minimum-mandatory sentence for possessing, discharging, or causing injury with an *actual firearm*. Section 27.366, Florida Statutes, notes a related legislative intent that prosecutors are to use their discretion when possession of a firearm is merely incidental to the charged offense.
- b. Consistent with this legislative intent, prosecutors in this office shall charge the most serious, readily-provable section 775.087 enhancements when making filing decisions unless permission is obtained, as outlined below, to not file those enhancements.
- c. The standard that governs the decision to charge section 775.087 enhancements shall be whether the available proof establishes a reasonable probability that a jury will make a special finding that an *actual firearm* was possessed, discharged, or caused injuries. When the available proof does not establish a reasonable probability that a jury will find that an *actual firearm* was possessed, discharged, or caused injuries, section 775.087 enhancements are not appropriate.
- d. Assigned prosecutors shall not engage in the practice of charging section 775.087 enhancements for negotiation purposes (either to prompt a plea or as a result of a defendant exercising his or her right to request a trial). Prosecutors also shall not engage in the practice of charging section 775.087 enhancements for tactical reasons when the requisite degree of proof is not present.
- e. Each case must be analyzed on a case-by-case basis to ensure that the requisite degree of proof is present. Assigned prosecutors are encouraged to discuss close cases with their assigned supervisor, and, if necessary, a Deputy Director or Director.

f. When the readily-available proof does not establish a reasonable probability that a jury will find that an *actual firearm* was possessed, discharged, or caused injuries, no permission beyond the approval of a Division Chief is needed, and no deviation memorandum is necessary because the case does not fall within Section 27.366, Florida Statutes.

4. Not filing readily-provable section 775.087 enhancements.

Notwithstanding the legislative outlined above, in rare cases, a decision to not file readily-provable section 775.087 enhancements may be appropriate when considering the ends of justice or other, valid prosecutorial purposes. In those cases, the assigned prosecutor shall follow the procedure outlined below by submitting a deviation memorandum through his or her supervisors. A deviation memorandum is only required to not charge readily-provable section 775.087 enhancements. As noted above, no deviation memorandum is required when the charges or the enhancements are not readily provable. Defendants in those cases do not meet the criteria of Sections 27.366 or 775.087.

5. Deviating from, or dropping, section 775.087 enhancements.

Notwithstanding the legislative intent outlined above, nothing in Florida law prohibits a prosecutor from deviating from, or dropping, charged section 775.087 enhancements when doing so is necessary to accomplish the ends of justice or for other, valid prosecutorial purposes. Assigned prosecutors are expected to exercise their sound judgment and discretion when deviation or dismissing enhancements is appropriate. To ensure, however, that this office is consistent in its approach to these decisions, and to ensure that similarly-situated offenders are treated similarly, only the State Attorney, Chief Assistant State Attorneys, Directors, and Deputy Directors have authority to approve deviating from readily-provable section 775.087 enhancements involving possession. Only the State Attorney, Chief Assistant State Attorneys, and Directors have authority to approve deviating from readily-provable section 775.087 enhancements involving discharge or actual injuries.

6. **Deviation memorandum and procedures.** When an assigned prosecutor seeks to not charge, dismiss, or deviate from readily-provable section 775.087 enhancements, section 27.366, Florida Statutes, requires the assigned prosecutor to “explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.” Accordingly, when the assigned prosecutor seeks to deviate from, or dismiss, readily provable section 775.087 enhancements, the prosecutor shall complete a Section 27.366 Deviation Memorandum (using the attached template). This memorandum shall serve as both the written explanation required by Florida law as well as the internal procedure by which all deviations are approved. The memorandum shall provide in detail the reasons for the requested action, the position of any victim(s) or the documented attempts to make contact with the victim(s) if unavailable, and the position of any investigating law enforcement agency. Once complete, the assigned prosecutor shall submit the deviation memorandum to his or her Division Chief at least ten (10) working days prior to the date when a decision is needed. The Division Chief shall note the date of receipt of the memorandum, shall indicate his or her recommendation, and shall forward the memorandum to the appropriate supervisor at the Deputy Director level or above for approval or denial. If a decision is needed sooner than ten (10) working days from the date of submitting the memorandum, the assigned prosecutor shall explain in writing the reason for the expedited request. Assigned prosecutors are encouraged to discuss deviations that are close calls with their supervisors prior to submitting deviation memoranda. Assigned prosecutors shall not fail to charge, drop, or deviate from readily-provable section 775.087 enhancements without a written Section 27.366 Deviation Memorandum and the approval of an appropriate supervisor.

7. **Defense requests to not charge, dismiss, or deviate from readily-provable section 775.087 enhancements.** In those situations in which the assigned prosecutor is requested to not charge, deviate from, or dismiss readily-provable section 775.087 enhancements, but does not believe doing so is appropriate, the assigned prosecutor shall inform the defense attorney of their right to appeal the decision through the State Attorney’s chain of

command. While documenting the file is always expected, no particular form of documentation is required.

8. **Right to appeal decisions.** As with any other decisions in this office, victims, law enforcement officers, and defense counsel shall have the right to seek review of any decisions made by this office through the State Attorney's chain of command. Appeals of any prosecutor's decision (whether the assigned prosecutor or a supervisor) shall always be to the next higher level of supervision.

9. **Failure to comply with policy.** This policy is for the internal use and guidance of the State Attorney's Office, Fourth Judicial Circuit, Florida. Failure to abide by this policy, although grounds for appropriate adverse employment consequences for the assigned prosecutor, creates no additional rights, claims, or defenses for individuals charged with crimes.

FIREARM PROSECUTION CHECKLIST

Defendant: _____

S. A. NO.: _____

Firearm Offense:

- Possession of a Firearm by a Convicted Felon
- Possession of a Firearm by a Delinquent Felon
- Carrying a Concealed Firearm

Investigation Checklist:

- Fingerprint Analysis of Firearm (including related magazine and ammunition if possible)
- ATF eTrace of Firearms Recovered
- NIBIN Associations: Related Reports _____
- Jail Phone Calls, Jail Visitation, or Jail Tablet Records.
- Witness Statements / Sworn Statements
- Review Defendant's Prior Law Enforcement Contacts Related to Firearms
- Social Media Investigations

Defendant's Criminal History:

Enumerate Charges and Conviction Dates

Proposed Circuit Court Filing Decision:

- TCC
- DN
- Division Chief has been consulted and approves the proposed filing decision.

Filing ASA
Assistant State Attorney

Date

Division Chief

Date

Risk Assessment of PFCF Offenders & Associated State Offer Ranges

Category 1: High-Risk PFCF Offenders

A PFCF offender qualifies as a **Category 1 PFCF Offender** if s/he has been convicted one of the enumerated underlying felonies, and s/he was released from incarceration within three years of the PFCF offense date.

Such qualifying prior felonies are:

Murder; Manslaughter; Sexual battery; Carjacking; Home-invasion Robbery; Robbery; Arson; Kidnapping; Aggravated Assault with a Firearm; Aggravated Battery; Aggravated Stalking; Shooting or Throwing Deadly Missiles; Armed Burglary; Battery on a Law Enforcement Officer; Resisting with Violence; Burglary to a Dwelling.

Likewise, a PFCF offender qualifies as a **Category 1 PFCF Offender** if s/he has been convicted one of the above-enumerated underlying felonies and another prior felony, and s/he was convicted of or released from incarceration pertaining to either prior felony within five years of the commission of the PFCF offense.

Category 1 PFCF Offender State Offer Range: 10 years + incarceration

Category 2: Moderate-Risk PFCF Offenders

A PFCF offender qualifies as a **Category 2 PFCF Offender** if s/he would have qualified as a Category 1 PFCF Offender but for the conviction or release date was outside five years.

A PFCF offender qualifies as a **Category 2 PFCF Offender** if s/he has been convicted of a PFCF within the past five years.

A PFCF offender qualifies as a **Category 2 PFCF Offender** if s/he has been convicted of at least two prior felony convictions, and the last prior felony conviction or release from incarceration was within five years of the PFCF offense.

Category 2 PFCF Offender State offer range: 5 to 10 years of incarceration

Category 3: All Other PFCF Offenders

All PFCF offenders who do not qualify under Categories 1 or 2 are **Category 3 PFCF Offenders**.

Category 3 PFCF Offender State offer range: Guidelines minimum or three years minimum mandatory to five years of incarceration.

PROFFER AGREEMENT

The State Attorney's Office, Fourth Judicial Circuit ("SAO"), is investigating or prosecuting allegations of criminal wrongdoing involving [*offense description]. [*Name of Suspect or Defendant] has been advised that [*he/she] is a suspect or has been criminally charged as a result of the investigation. We have agreed to meet to discuss resolving this matter by agreement. We have also agreed that the meeting will include a proffer of testimony by [*Name of Suspect of Defendant]. We have agreed that the proffer will take place on **Date of Proffer** at [*time of proffer], and will be conducted at [*location of proffer] by investigators with the [*Name of Agency] ("the proffer"). Assistant State Attorneys may also attend all or part of the proffer.

With respect to the proffer, it is agreed between us, as reflected by the signatures below, that the following will apply:

1. This proffer is being made in the course of plea discussions; accordingly, the provisions of § 90.410, Florida Statutes, are applicable to statements made and/or information provided during the proffer, except as otherwise agreed below.
2. [*Name of Suspect or Defendant] is required to provide a completely truthful and forthright statement and to disclose all relevant information, including producing any and all books, papers, documents, and other objects in [*Name of Suspect or Defendant]'s possession or control.
3. In the event [*Name of Suspect or Defendant] is prosecuted, the SAO will not offer in evidence during its case-in-chief, or in aggravation of [*Name of Suspect or Defendant]'s sentence, any statements made and/or information provided by [*Name of Suspect or Defendant] at the proffer, except as noted below.
4. The SAO may use any statements made and/or information provided by [*Name of Suspect or Defendant] at the proffer in a prosecution for false statement, obstruction of justice, or perjury arising from statements made by [*Name of Subject/Target] during or after the proffer.
5. In the event [*Name of Suspect or Defendant] offers testimony in any legal proceeding, or otherwise presents a position, which is materially different from, or contrary to, statements made, and/or information provided during the proffer, the SAO may use the statements made and/or information provided during cross-examination of [*Name of Suspect or Defendant], and to otherwise impeach, rebut, and contradict that testimony or position.
6. The SAO may use any information or evidence (other than the statements of [*Name of Suspect or Defendant]) derived directly or indirectly from the proffer during any prosecution of [*Name of Suspect or Defendant], including during bail/detention proceedings, during its case-in-chief, or in aggravation of [*Name of Suspect or Defendant]'s sentence. The SAO is completely free to pursue any and all investigative leads derived in any way from the proffer, and this could lead to the acquisition of evidence admissible against [*Name of Suspect or Defendant].

The paragraph below must be included where cooperation/substantial assistance is contemplated. In other circumstances, it may be omitted.

7. [*Name of Suspect or Defendant] understands that one purpose for the proffer is for the SAO to evaluate whether [*Name of Suspect or Defendant] intends to fully cooperate with the SAO by truthfully, fully, and completely disclosing all involvement of [*Name of Suspect or Defendant] and of others in criminal activities, including matters currently under investigation and all other matters known to [*Name of Suspect or Defendant]. If [*Name of Suspect or Defendant] enters into an agreement to plead guilty to criminal charges, the SAO agrees to consider whether such full and complete cooperation qualifies for a mitigated sentence as provided by Section 921.0026(2)(i), Florida Statutes, or, if [*Name of Suspect or Defendant] has already been sentenced, whether such full and complete cooperation qualifies for a sentence-reduction motion for substantial assistance as provided by Section 921.186, Florida Statutes, in the sole discretion of the SAO. The determination whether any cooperation rises to the level of warranting a mitigated sentence or a sentence-reduction motion, and the amount of any recommended mitigation credit or sentence reduction, shall be in the sole discretion of the SAO.
8. This agreement is limited to the statements made and information provided by [*Name of Suspect or Defendant] at the proffer, and does not apply to any oral, written, or recorded statements made by [*Name of Suspect or Defendant] at any other time.
9. If requested by the SAO, [*Name of Suspect or Defendant] shall submit to a polygraph examination by a qualified professional selected by the SAO with respect to any matter addressed during the proffer.
10. No statement made during the proffer by any attorney for the SAO or by any agent of the SAO may be used by [*Name of Suspect or Defendant] in any legal proceeding, including in support of any motion, petition, pleading, or during any trial proceeding.
11. [*Name of Suspect or Defendant] will not seek disqualification of any SAO attorney from any court proceeding or trial because of their participation in the proffer.
12. The only immunity granted by this proffer agreement is the use immunity provided by the express terms of this agreement. [*Name of Suspect or Defendant] agrees that [his/her] decision to engage in a proffer with investigators and SAO attorneys is knowingly, freely and voluntarily made, is not the product of any force or coercion, and that [*Name of Suspect or Defendant] has decided to enter into this proffer agreement after consulting with counsel. [*Name of Suspect or Defendant] further agrees that no immunity provided by Section 914.04, Florida Statutes, or any other provisions of State or Federal law shall apply to the statements provided by [*Name of Suspect or Defendant] during the proffer.
13. This agreement embodies the entirety of the agreement related to the proffer. No other promises or understandings exist between [*Name of Subject/Target] and the SAO concerning the proffer.

BY EXECUTING THIS PROFFER AGREEMENT, THE UNDERSIGNED SUSPECT OR DEFENDANT AFFIRMS THAT HE OR SHE HAS READ THIS AGREEMENT IN ITS ENTIRETY, HAS HAD SUFFICIENT TIME TO REVIEW THIS AGREEMENT WITH HIS OR HER COUNSEL, HAS ACTUALLY CONSULTED WITH HIS OR HER

COUNSEL, AND UNDERSTANDS THE CONTENTS AND MEANING OF ALL TERMS USED IN THIS AGREEMENT.

Dated this ____ day of _____, 2020.

[*Name of Suspect or Defendant]

[*Name of Suspect or Defendant's attorney]

Attorney for Defendant

[*Name of Assistant State Attorney]

Assistant State Attorney

CONTENT ATTRIBUTIONS

Chief Christopher Amon

Bureau of Alcohol, Tobacco, Firearms and Explosives, FOD

AUSA Liz Privatera

USAO for the Eastern District of Louisiana

Chief Robert Tracy

Wilmington, Delaware Police Department

Director Gregory LaBerge

Denver Police Department, Forensics and Evidence Division

United States Attorney Zachary Terwilliger

USAO for the Eastern District of Virginia

State Attorney Melissa Nelson

State Attorney's Office for the Fourth Judicial Circuit of Florida

Assistant State Attorney Matt O'Keefe

State Attorney's Office for the Fourth Judicial Circuit of Florida

Assistant State Attorney Mark Caliel

State Attorney's Office for the Fourth Judicial Circuit of Florida

AUSA Frank Talbot

USAO for the Middle District of Florida

