

**First Supplement to Memorandum 2024-04  
Crime Prevention, Intervention, and Disruption  
and Related Matters**

Memorandum 2024-04 gave an overview of crime prevention, intervention, and disruption, with an emphasis on gun violence. This supplement presents and summarizes written submissions from panelists scheduled to appear before the Committee on July 12, 2024.

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## **Discussion Panel 1: Crime Prevention**

### **David Muhammad, Executive Director, National Institute for Criminal Justice Reform**

Mr. Muhammad's submission describes the Gun Violence Reduction Strategy (or Ceasefire), which includes identifying groups at the highest risk of being involved in gun violence, communicating directly with them, providing them with services, and focusing law enforcement on those who continue to engage in gun violence. He notes that the city of Oakland saw a 49% decline in both homicides and non-fatal shootings over the 7 years this strategy was implemented there.

### **Reygan Cunningham, Co-Director, California Partnership for Safe Communities**

Ms. Cunningham's submission discusses the evidence for community violence prevention and intervention strategies. Evidence most strongly supports the effectiveness of focused deterrence strategies, at least in short-term violence reduction. Results for other interventions are mixed. While California is a leader in targeting gun violence, Ms. Cunningham recommends that the California Violence Intervention Program (CalVIP) develop a research agenda, find an evaluation partner, and offer effective technical assistance to its grantees.

### **Mike McLively, Policy Director, Giffords Center for Violence Intervention**

Mr. McLively's submission discusses the intersection of community violence and gun enforcement policy. Giffords advocates for non-punitive violence reduction strategies that have improved public safety without contributing to mass incarceration. The submission notes that more than 84% of youth homicide victims are Black or Latino and 40% of California's prison population has a firearm-related enhancement and that more than 80% of the people with these enhancements are Black or Latino. Mr. McLively recommends: (1) incentivizing the adoption of a gun-prosecution diversion program, (2) conducting a comprehensive study on the impact of gun possession laws, (3) incentivizing localities to improve homicide and nonfatal shooting clearance rates, and (4) creating a statewide strategic plan for addressing community violence.

**Discussion Panel 2:  
Firearm Relinquishment**

**Julia Weber, Consultant, Giffords Law Center to Prevent Gun Violence**

Ms. Weber’s submission explains that the implementation of gun safety laws is as important as passing the laws. Since SB 320’s enactment in 2010, which requires courts to provide prohibited parties in domestic violence restraining orders with information about how to comply with firearm relinquishment orders and to report non-compliance to the prosecuting authority, compliance with firearm prohibitions has increased, in large part by providing information and implementing a consistent follow-up process. Ms. Weber recommends specific changes to the relinquishment process in the civil protective order context and increasing training and coordination between all parts of the civil and criminal court systems, among other recommendations.

**Discussion Panel 3:  
Trauma Recovery Centers**

**Dr. Gena Castro Rodriguez, Executive Director, National Alliance for Trauma Recovery Centers**

Dr. Castro Rodriguez’s submission describes trauma recovery centers, including their creation in California, and the research supporting the model. TRCs address violent crime victimization by providing short-term (usually 16 sessions) and cost-effective wrap-around services. A randomized trial at the TRC at UCSF showed improvements to mental health follow-up, decrease in alcohol use, improvements in physical health, and a reduction in PTSD symptoms. Despite these successes, TRCs face challenges with reduced funding and how the contract-based funds are awarded by the state. Dr. Castro Rodriguez recommends dedicated funding for each of the 24 TRCs in California, a 3-year funding cycle instead of the current 2-year cycle, and creating an advisory board to inform funding decisions, among other recommendations.

**Dr. Annette Dekker Assistant Professor, Department of Emergency Medicine, UCLA David Geffen School of Medicine**

**Dr. Breena Taira, Director of Social Medicine, Olive View-UCLA Medical Center**

Drs. Dekker and Taira’s submission is an overview of an evaluation of trauma recovery centers in Los Angeles County. A two-year evaluation of five TRCs in LA County concluded that TRCS reached underserved crime victims and resulted in decreased PTSD symptoms. TRC clients also reported improvements in access to food, housing, transportation, and employment. Drs. Dekker and Taira also note that restrictions on funding and the two-year grant cycle threaten the sustainability of TRCs in LA County.

**Presentation:  
Place-Based Crime Prevention**

**Professor Joel Caplan, Rutgers School of Criminal Justice; Co-Founder, Simsi**

Dr. Caplan's submission explains risk terrain modeling (RTM), a data analysis technique that focuses on how the physical characteristics of a place can increase criminal activity and how those characteristics can be altered to reduce crime. This approach has been evaluated with more than 75 peer-reviewed academic articles that consistently show significant drops in violent and property crime without needing to significantly increase law enforcement activity. For example, the use of RTM in Newark, New Jersey, reduced gun violence by 35% and car theft by 40%. Dr. Caplan recommends focusing on places and not just people to prevent crime, using RTM to have a deeper understanding of crime trends, and using data-informed community engagement to coordinate crime prevention efforts.

**Discussion Panel 4:  
Asset Forfeiture**

**Anita Lee, Principal Fiscal & Policy Analyst, Legislative Analyst's Office**

Ms. Lee's submission gives an overview of the asset forfeiture process along with data on the value of assets seized and distributed. Though cautioning that data is incomplete and limited, Ms. Lee notes that the number of state asset forfeiture cases initiated since 2014 has declined by 60%. The value of assets seized and the amounts distributed after forfeiture follow similar trends, with the values increasing until 2016, and fluctuating since then, with about \$41 million distributed in 2023. The submission also notes that police departments have typically received the greatest share of state asset forfeiture distributions but that these distributions generally make up a very small portion of law enforcement budgets, though they can be a significant source of funding for task forces. The annual amount deposited to the state's General Fund from asset forfeitures averaged about \$10 million over the last three years.

Respectfully submitted,

Thomas M. Nosewicz  
Legal Director

Joy F. Haviland  
Senior Staff Counsel

Exhibit A

David Muhammad

Executive Director, National Institute for Criminal Justice Reform

Submission of David Muhammad, Executive Director, National Institute for Criminal Justice Reform, to Committee on Revision of the Penal Code • July 2024

Current approaches to addressing gun violence often fail to address the systemic nature of the problem. Enhancing and expanding proven strategies is crucial for sustainable reductions. The National Institute for Criminal Justice Reform (NICJR) has documented several successful strategies for reducing gun violence. One particularly effective strategy is the Gun Violence Reduction Strategy (GVRS), also known as Ceasefire, which consists of the following:

1. Data-Driven identification of the groups and individuals at very highest risk of being involved in gun violence.
2. Direct and respectful communication of their risks to individuals using a public health approach.
3. Provide services, supports, & opportunities to those individuals that focus first on relationships, trust, and safety.
4. Focused enforcement on those who continue to engage in gun violence.

The City of Oakland, CA saw a 49% decline in both homicides and non-fatal shootings over the 7 years that GVRS was implemented. Revising the Penal Code and associated policies to incorporate these evidence-based strategies can create a more cohesive and effective framework for reducing gun violence. By addressing the root causes and providing comprehensive support to those at risk, we can move towards safer communities across the nation.

Exhibit B

Reygan Cunningham,  
Co-Director, California Partnership for Safe Communities

Comments on Commonly Known Violence Prevention & Intervention Strategies  
for  
The California Committee on Revision of the Penal Code  
July 12, 2024  
Reygan E.Cuningham  
Co-Director, California Partnership for Safe Communities

The California Partnership for Safe Communities (CPSC) is an organization based in Oakland, California that provides technical assistance to cities in the U.S. and Mexico to:

- Reduce gun violence at the city-level in the near term
- Reduce the recidivism rates for those at highest risk of engaging in gun violence
- Building community police trust

We focus solely on community violence because America's gun violence epidemic takes a disproportionate and devastating toll on communities of color. In many American neighborhoods, the leading cause of death for African-American men age 15-34 is homicide<sup>1</sup>. The communities most impacted by this violence suffer consequences far beyond grief, including poorer health outcomes, lifetime reductions in wages, and even lower voter participation – on top of the constant anxiety of feeling unsafe and fearing for their loved ones.

Historically, cities' response to gun violence has been aggressive law enforcement, which leads to the mass incarceration of men of color, and builds distrust between police and communities – undercutting authorities' ability to solve murders or prevent retaliatory shootings. Furthermore, over-incarceration erodes community connectedness and drains resources, making communities even more vulnerable and dangerous.

Although we work mainly from a focused deterrence framework, we often work in cities with various other community violence reduction strategies and help to implement them. In our almost two decades of work in violence reduction, we have noticed certain key capacities that have allowed cities to realize reductions in shootings and homicides in the near term. We were recently funded by the Pew Charitable Trust to identify and define these key capacities. As part of this project, the CPSC team led by Dr. Lisa Barao of the University of Pennsylvania conducted this literature review of the most often used violence reduction strategies. We share this information with the California Committee on Revision of the Penal Code in hopes that it will provide a very basic review of the literature on these strategies being implemented in California cities and recommendations for the state on how they can better support these and other violence reduction efforts.

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<sup>1</sup> CDC, 2016



## **Overview and Approach**

This focused literature review of research across disciplines including criminology, sociology, public administration, and public health seeks to gather and synthesize research findings relevant to cities' ability to sustainably reduce community violence. These findings inform and anchor our initial hypothesized key capacities with evaluation evidence to the extent possible, while also identifying gaps in the body of relevant scholarship. This inquiry is both formative and iterative— seeking to develop well-informed hypotheses about potential key capacities sufficiently robust to assess in the city-level analysis while remaining open to continued refinement of these capacities throughout the project.

For this purpose, the CPSC team reviewed existing literature on community violence prevention and intervention strategies and programs for indications of the role of key capacities in the effectiveness of violence reduction efforts. CPSC also reviewed process evaluations of violence reduction strategies, violence prevention gray literature, and policy documents in search of useful information. In parallel, CPSC also sought and reviewed relevant scholarship from the management and policy literature in fields including public administration, performance management, political science, and implementation science.

Given the goals and scope of this project, this review was necessarily limited. Within this document we identify further areas for inquiry that may be illustrative for future work in this area.

## **How This Document is Organized**

The next section of this document provides an overview of the existing research on leading violence prevention and intervention approaches and programs. This overview provides a broad but not exhaustive review of the programs, strategies, and policies that are most well known and relevant to the challenge of reducing community violence in the near-term.

## **Violence Prevention and Intervention: An Overview of Leading Approaches**

For the purpose of this review, we concentrate on secondary interventions, or programs that aim to address violence and generate impacts in the near-term. This differs from primary interventions, often described as prevention strategies, that often seek to address “root causes” such as educational, socioeconomic, and cultural/structural issues that may contribute to elevated individual- and community-level risks for violence over the long term. These are long-term approaches that aim to generate impacts several years or more in the future, though research evidence supporting the effectiveness of these strategies is lacking. In contrast, near term violence reduction strategies focus on individuals, places, and crime problems associated with an immediate risk for violence that must be met with immediate interventions.

Existing literature suggests that expansive reductions in near-term violence are most effectively achieved through partnerships among government agencies, social service organizations, and/or community-based organizations. Individual organizations working alone may still generate positive impacts, but they are likely to be limited to individuals or small portions of neighborhoods. Our inquiry focuses on comprehensive efforts to achieve significant reductions in community violence at the city-level and in the near-term. The literature clearly indicates that this goal necessitates collaborative partnerships. Though a comprehensive review of violence interventions is beyond the scope of this paper, we provide a brief overview of some of the most commonly implemented community-based violence reduction approaches.

Multi-system violence reduction strategies often fall along a continuum as to their involvement of criminal justice agencies as strategic partners. For example, some violence interventions may be structured according to a public health model of intervention and/or focus exclusively on community based outreach and service provision, with no identified role for police. Public health models of individual-level violence intervention believe that the risk for involvement in violence spreads throughout a community like a disease (Slutkin et al., 2015). Public health approaches also seek to address underlying environmental characteristics and behaviors while reducing exposure to the criminal justice system (Webster, 2022). The most popular program under this model is Cure Violence, first implemented in Chicago in 1999. Cure Violence programs and replications aim to mitigate gun violence by identifying those at the highest risk for involvement in violence and reducing risks of retaliation, de-escalating conflicts, and changing high-risk thinking patterns. Similarly, Advance Peace programs also take a holistic approach toward improving the lives of those at the greatest risk for involvement in violence. Advance Peace programs engage individuals in a program centered on individual well being and providing components like intensive mentorship, life plans and guidance, social service provisions, and goal achievement incentives (Coburn & Fukutome, A, 2019).

Though both focused deterrence and public health intervention models concentrate on those at the very highest risk for involvement in violence, Cure Violence and Advance Peace programs and replications rely on community-driven interventions that either only minimally involve criminal justice partners or do not partner with criminal justice agencies at all. They concentrate programming and resources on those at the highest risk for involvement in violence. Some of these approaches have not been extensively replicated, and because of that only a few rigorous studies exist to adequately evaluate the effectiveness of these programs, however, some programs like Advance Peace show very promising outcomes (Picard-Fritsche & Cerniglia, 2010; Pugliese et al., 2022; Wilson & Chermak, 2011).

Alongside community-level violence interventions, public health approaches further advocate for policymakers to strengthen firearms policies through measures like universal background checks, more robust regulatory systems, and prohibition policies. Macro-level

studies do tend to find that states with stronger gun laws have lower rates of gun homicides and suicides (Fleegher et al., 2013), but specific effects of gun laws on concentrated urban gun violence remain unclear. Public health approaches may also advocate for individual- and community-level interventions that target other behavioral precursors of violence like alcohol consumption. While most studies find an association between the density of locations for alcohol purchase and consumption and violence, limited research centering mostly on intimate partner violence generally suggests no impact of alcohol restriction on rates of violence (Kearns et al., 2015; Wilson, Graham, & Taft, 2014).

Closely linked to many public health models, several programs emphasize cognitive behavioral therapy (CBT). These programs seek to engage those at high risk for involvement in violence in programming that is structured to change criminal thinking patterns like harmful distortions, justifications, or blame placing. This rehabilitative approach shows promising effects in its ability to reduce recidivism among criminal offenders (Lipsey et al., 2007). Rigorous research investigating the standalone effects of CBT on gun violence offending or victimization is lacking. However, some evaluations of programs that incorporate CBT into their broader strategies show promising effects. READI Chicago delivers CBT, subsidized employment, and professional development classes to those identified at high risk for involvement in violence. Participants in READI were less likely to be arrested for or victimized in shootings or homicides, though there were no significant effects on other forms of serious violence (University of Chicago Urban Crime Lab, 2022).

Still other violence intervention approaches center on trauma-informed responses to violence, often specifically geared toward providing immediate support and services to victims of gun violence through hospital-based violence intervention programs (HVIPs). Evaluations of HVIPs are often limited by a lack of data to track reoffending or reinjury, but qualitative and case studies suggest related benefits like treatment of mental illness and substance use disorders may also result from these programs (Bell et al., 2018).

Despite a lack of consistent supportive evidence for many violence reduction approaches to date, evaluations of focused deterrence strategies—interventions that partner community-based organizations with criminal justice agencies to message, engage, and intervene with those at high risk for involvement in violence—often show the most promising effects (Braga et al., 2018). Extant research has established that crime tends to concentrate among a very small number of high-risk individuals and criminally active groups. Focused deterrence strategies concentrate resources on those high-risk individuals and groups and seek to change offender behavior through a combination of community-based and law enforcement interventions. Importantly, these strategies also include contact and communication with individuals to notify them of services and supports that are available as well as the increased risks associated with continued serious crime and violence. An updated systematic review conducted by Braga et al. (2018) examined the effects of 24 studies conducted from 2001-2015. Overall, 19 of the 24 studies showed moderate crime reductions associated with focused deterrence programs with

stronger effects observed in models that emphasized group violence reduction approaches.

Notably, either as standalone strategies or in tandem with these person-focused strategies, cities may also implement a variety of place-based interventions. Crime not only concentrates among a small number of people but also among a very small number of places. Weisburd's law of crime concentration notes that at least 50% of crime tends to concentrate in fewer than 5% of street segments in many cities (Weisburd, 2015). Place-based violence interventions may include concentrations of police resources via hot spots policing or other geographic predictions. Reviews of existing research generally find moderate crime reductions when police resources are focused on the places in which crime problems tend to cluster, and notably, it does not appear that these strategies results in displacement. Place-based programs may also concentrate community-based resources in places that generate more crime through neighborhood improvement projects or Crime Prevention Through Environmental Design (CPTED) programs that alter physical features of the environment to reduce crime attractors and increase physical deterrence. Such approaches are promising but generating evidence of effectiveness remains difficult due to challenges in isolating the effects of these programs (Branas et al., 2018;Cozens & Love, 2015).

Overall, evidence most strongly supports the effectiveness of focused deterrence strategies, at least in short-term violence reduction. Additional evaluations are needed to examine the sustainability of observed reductions and explore the mechanisms responsible for achieving reductions. Results for other reviewed interventions are mixed, with some evaluations showing violence reduction impacts and others failing to find effects. Though most evaluations aim to determine whether the components of the strategy themselves achieve reductions, the processes and structures underlying these strategies receive less attention.

### Recommendations

**Gaps in California's Approach:** The California Office of Gun Violence Prevention is one of several offices under the attorney general's purview. The office is in its infancy and currently does not coordinate efforts between state agencies, cities, and community organizations. There is a need for a visible champion to celebrate effective work while also holding city leaders accountable for making serious efforts to address violence. The state also lacks a multi-year strategic violence prevention plan to address gaps in its current approach. As of 2023, California does not have a clear research agenda, a dedicated research or evaluation partner for its California Violence Intervention Program (CalVIP) grantees or state violence reduction efforts, permanent effective technical assistance support to cities, or a learning community of practice. Addressing these gaps would enable the state to enhance its role as a facilitator of violence reduction efforts at the local level.

In our examination of statewide approaches, nationally we noticed a smaller number of states provided a more robust programmatic strategy (beyond funding) including training, technical assistance, convenings and evaluation support during implementation of the strategies at the local level<sup>2</sup>. Some also promote active collaboration and coordination between state and local agencies with the objective of sustainably reducing violence. Illinois recently developed a strong community of practice among state and local leaders (Intergovernmental Partnership) and both Massachusetts and New York provide some technical assistance support for grantees through their respective grant programs.

Finally, formal evaluations of existing state programs are very limited; most states could not provide any evaluation evidence of impact at the local or state level. It is essential that states conduct rigorous evaluations that include assessing the fidelity of implementation to ensure that funding is focused on the highest risk individuals and places. As of 2023, only the Safe and Successful Youth Initiative (SSYI) in Massachusetts had been evaluated by a research partner.

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<sup>2</sup>For the purpose of this memo, there isn't enough data (i.e. evaluations) to support a ranking.

Exhibit C

Mike McLively

Policy Director, Giffords Center for Violence Intervention

# GIFFORDS CENTER FOR VIOLENCE INTERVENTION



**TO: California Committee on the Revision of the Penal Code**

**FROM: GIFFORDS Center for Violence Intervention**

**DATE: July 2, 2024**

**RE: The Intersection of Community Violence and Gun Policy in California**

This written submission to the California Committee on the Revision of the Penal Code is made on behalf of GIFFORDS Center for Violence Intervention,<sup>1</sup> which is part of GIFFORDS, the national gun violence prevention organization founded by former Congresswoman Gabby Giffords, who was shot in 2011 while hosting an event for her constituents in Tucson, Arizona. GIFFORDS is a nonprofit, nonpartisan organization dedicated to ending the public health epidemic of gun violence in America through data-driven policy, public education, and impact litigation.<sup>2</sup>

This submission discusses the intersection of community violence and gun enforcement policy, and makes several recommendations for how California can reduce its incarceration footprint while continuing to improve public safety outcomes for all Californians.

Nationally, gun violence claims more than 40,000 lives every single year and gun violence is now the leading cause of death for young people in the United States.<sup>3</sup> Though California's strong gun safety laws now lead the nation and afford the state one of the country's lowest gun death rates,<sup>4</sup> gun violence still remains a serious public health, safety, and equity crisis. In 2021 alone, over 3,500 Californians were killed by gun violence, with thousands more suffering life-altering injuries and trauma.<sup>5</sup>

This violence also imposes significant harms on those who are not direct victims. Many studies document how witnessing a shooting or being chronically exposed to gun violence is correlated with increased risk

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<sup>1</sup> GIFFORDS Center for Violence Intervention, <https://giffords.org/intervention>.

<sup>2</sup> GIFFORDS, <https://giffords.org>.

<sup>3</sup> Deidre McPhillips, As guns rise to leading cause of death among US children, research funding to help prevent and protect victims lags, CNN, Feb. 7, 2024, <https://www.cnn.com/2024/02/07/health/gun-deaths-injury-research-funding/index.html>.

<sup>4</sup> GIFFORDS Law Center, *Gun Law Scorecard*, 2022, [www.gunlawscorecard.org](http://www.gunlawscorecard.org).

<sup>5</sup> Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics System, Mortality 2018-2021 on CDC WONDER Online Database, released in 2021. Data are from the Multiple Cause of Death Files, 2018-2021, as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program, Accessed September 20, 2023, <http://wonder.cdc.gov/ucd-icd10-expanded.html>.

of negative health outcomes, criminal legal system involvement, reduced educational engagement and achievement, and longer-term negative impacts on workforce potential and earnings.<sup>6</sup>

Although California has made significant progress on this issue over the last 30 years—going from the third-highest gun homicide rate in the nation in the 1990s to a rate that is 33% lower than the national average—there is still much work to be done.<sup>7</sup> Gun violence in California continues to have a disproportionate impact on communities of color and once-mandatory firearm sentencing enhancements have contributed significantly to the dual crisis of mass incarceration: **as of 2019, nearly 40,000 inmates in the custody of the California Department of Corrections and Rehabilitation had some form of firearm-related enhancement as part of their sentence.<sup>8</sup> That’s 40% of California’s entire incarcerated population—and more than 80% are Black or Latino.**

The good news is that there are a number of non-punitive violence reduction strategies that have been demonstrated to effectively improve public safety without contributing to mass incarceration. Thanks to record investments in the California Violence Intervention and Prevention (CalVIP) program,<sup>9</sup> including last year’s enactment of the nation’s first state-level tax on the sale of firearms and ammunition, AB 28, California is now one of the national leaders in supporting the kinds of strategies that have helped cities like Richmond, Salinas, and Bakersfield to achieve decades-low levels of gun homicide.<sup>10</sup>

However, there are still a number of policy gaps that need to be addressed in order to maximize California’s response to community gun violence. As will be discussed, below, we recommend the following steps that sit at the intersection of community violence and gun law enforcement:

- 1) **Incentivize the Adoption of Gun Diversion Programs**
- 2) **Conduct a Comprehensive Study on the Impact of Gun Possession Laws**
- 3) **Incentivize Localities to Improve Homicide and Nonfatal Shooting Clearance Rates**
- 4) **Create a Multi-Year, Statewide Strategic Plan for Addressing Community Violence**

The following sections provide more detail on the intersection between the related issues of community violence and mass incarceration in California and then each of the above recommendations. Our staff is available to discuss any of these recommendations or otherwise support the Committee in its work and we thank you for your attention to these important issues.

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<sup>6</sup> See, e.g., Julie Collins and Emily Swoveland, The Impact of Gun Violence on Children, Families, & Communities, Published in Children’s Voice Volume 23, Number 1, <https://www.cwla.org/the-impact-of-gun-violence-on-children-families-communities>.

<sup>7</sup> California Department of Justice, Office of Gun Violence Prevention, Data Report: The Impact of Gun Violence in California, August 2023, <https://oag.ca.gov/system/files/media/OGVP-Data-Report-2022.pdf>.

<sup>8</sup> California Law Revision Commission, Committee on Revision of the Penal Code, “Memorandum 2020-11: Sentencing Enhancements: Overview,” September 10, 2020, <http://www.clrc.ca.gov/CRPC/Pub/Memos/CRPC20-11.pdf>.

<sup>9</sup> California Board of State and Community Corrections, California Violence Intervention & Prevention Grant - CalVIP, [https://www.bscc.ca.gov/s\\_cpgpccalvipgrant](https://www.bscc.ca.gov/s_cpgpccalvipgrant).

<sup>10</sup> See, e.g, Soren Hemmila, Richmond sees lowest number of homicides in decades in 2023, Grandview Independent, Jan. 4, 2024, <https://www.grandviewindependent.com/richmond-sees-the-lowest-homicide-number-on-record>.



## **Community Violence in California**

Community violence, one of the most prevalent drivers of the gun violence epidemic, is defined by the CDC as violence between “unrelated individuals, who may or may not know each other, generally outside the home.”<sup>11</sup> This includes homicides, shootings, stabbings, and physical assaults. In California, this violence disproportionately impacts underserved communities of color. Latinos are two-and-a-half times more likely to become a victim of homicide in this state compared to white Californians, and nearly 30% of all homicide victims in California are Black despite comprising only 6% of the population.<sup>12</sup> Of the homicides in California last year where the race of the victim was known, more than 82% of victims were non-white, 80% were male, and 73% were killed with a firearm.<sup>13</sup>

**In California, violence is the leading cause of death for young Black men and boys, and over 84% of youth homicide victims are Black or Latino.**<sup>14</sup>

Every year, thousands of Californians survive firearm assaults. Many of these survivors are at very high risk of being attacked again or killed. Some seek safety in armed groups or by engaging in acts of retaliatory violence. This is in part because health and victim services systems have so often failed to engage this population and provide effective services to keep these survivors safe and promote their recovery from trauma. This is also in part because the legal system so often fails to deliver justice and accountability for gun violence, with a large majority of shootings across the US, and half of homicides, going unsolved and undeterred.

## **The Nation’s Approach to Illegal Gun Possession**

Strengthening America’s gun laws is one important way to save lives from the ongoing gun violence epidemic, but we must be clear-eyed about how gun laws are being enforced, with an understanding of the pervasive structural racism and implicit biases that are baked into the criminal legal system. The notion that simply increasing the number of convictions for illegal gun possession in high-crime areas will improve public safety has led to local and national policy decisions that have disproportionately impacted the lives of people of color and Black men in particular.

Given the reality that the majority of violent crime in any given city is committed by a very small percentage of high-risk individuals, a more strategic approach to gun-related cases is needed, one that

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<sup>11</sup> “Community Violence Prevention,” Centers for Disease Control and Prevention, <https://www.cdc.gov/community-violence/about/index.html>.

<sup>12</sup> Based on an average of five most recent years of available data: 2017 to 2020. Centers for Disease Control and Prevention, National Center for Health Statistics. National Vital Statistics System, Mortality 1999-2020 on CDC WONDER Online Database, released in 2021. Data are from the Multiple Cause of Death Files, 1999-2020, as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program, accessed on June 30, 2023, <http://wonder.cdc.gov/ucd-icd10.html>.

<sup>13</sup> California Department of Justice, 2023 Homicide in California, <https://data-openjustice.doj.ca.gov/sites/default/files/2024-07/Homicide%20In%20CA%202023f.pdf>.

<sup>14</sup> Wilson Walker, Oakland, San Francisco see disheartening difference in homicide clearance rates, CBS News, June 29, 2022, <https://www.cbsnews.com/sanfrancisco/news/crime-without-punishment-oakland-san-francisco-homicide-clearance-rates>.

includes as many off ramps as possible for individuals who do not actually pose a threat to their communities. This is not to say that law enforcement should stop enforcing gun possession laws. Rather, law enforcement should focus their resources and efforts on actual acts of violence—homicides and shootings—while simultaneously narrowing the circumstances in which incarceration is the default response to illegal gun possession.

Sentences for gun-related offenses are more often for possession than actual acts of violence. According to the US Sentencing Commission, only 6.8% of federal firearms cases involved the use of a firearm in the commission of a violent or drug trafficking crime, while two-thirds (66.3%) involved illegal possession of a firearm, usually by someone who had been convicted of a prior felony.<sup>15</sup>

Moreover, gun-related sentences affect a larger segment of the justice system than one might think. Nationally, more than 150,000 individuals were arrested for weapons-related possession and carrying offenses in 2019,<sup>16</sup> and more than 14,000 individuals were charged with firearm-related offenses in federal fiscal year 2020.<sup>17</sup>

**As of 2019, nearly 40,000 inmates in the custody of the California Department of Corrections and Rehabilitation had some form of firearm-related enhancement as part of their sentence.<sup>18</sup> That’s 40% of California’s entire incarcerated population—and more than 80% are Black or Latino.<sup>27</sup> It’s worth noting that these enhancements can apply even if the firearm in question was unloaded or otherwise inoperable.**

Moreover a 2023 report from this committee, in partnership with the California Policy Lab, shows that firearm enhancements are one of just four enhancements that, taken together, account for 80% of sentence years added since 2015.<sup>19</sup> The report also found “large racial disparities in the percent of prison admissions subject to sentence enhancements,” based on factors like race and gender.

Relying so heavily on incarceration can actually worsen public safety by exacerbating the conditions that drive violence, such as poverty, poor access to education, untreated trauma, and a lack of affordable

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<sup>15</sup> United States Sentencing Commission, Fiscal Year 2020: Overview of Federal Criminal Cases, April 2021, [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2021/FY20\\_Overview\\_Federal\\_Criminal\\_Cases.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2021/FY20_Overview_Federal_Criminal_Cases.pdf).

<sup>16</sup> “Table 29: Estimated Number of Arrests, United States, 2019,” Crime in the United States, Uniform Crime Reporting, FBI, last accessed December 2, 2021, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-29>.

<sup>17</sup> The United States Attorney’s Office, Middle District of Louisiana, “DOJ Charges More Than 14,200 Defendants with Firearms-Related Crimes in Fiscal Year 2020 – Middle District of Louisiana Charged 72 Cases,” news release, October 14, 2020, <https://www.justice.gov/usao-mdla/pr/doj-charges-more-14200-defendants-firearms-related-crimes-fiscal-year-2020-middle>.

<sup>18</sup> California Law Revision Commission, Committee on Revision of the Penal Code, “Memorandum 2020-11: Sentencing Enhancements: Overview,” September 10, 2020, <http://www.clrc.ca.gov/CRPC/Pub/Memos/CRPC20-11.pdf>.

<sup>19</sup> Bird, et al., Sentence Enhancements in California, Committee on the Revision of the Penal Code, California Policy Lab, March 2023, <https://www.capolicylab.org/wp-content/uploads/2023/03/Sentence-Enhancements-in-California.pdf>.

housing.<sup>20</sup> As a report from the Vera Institute of Justice notes, incarceration is “neither the most effective way to change people nor the most effective way to keep people safe.”<sup>21</sup> According to the National Academy of Sciences, “most studies estimate the crime-reducing effect of incarceration to be small and some report that the size of the effect diminishes with the scale of incarceration.”<sup>22</sup>

There is strong evidence that incarceration is criminogenic, meaning that people exiting prison are actually more likely to reoffend because of the effects of prison.<sup>23</sup> Improved public safety is the assumed goal of the criminal legal system, yet mounting evidence shows that blunt “tough on crime” policies are simply not achieving that result.

Recent research from a team of criminologists at Loyola University of Chicago found that almost two-thirds of convictions involving a firearm in the state of Illinois over the past decade were for the nonviolent possession of a gun, with disproportionate convictions of Black men.<sup>24</sup> Yet despite Illinois’s emphasis on prosecuting illegal gun possession and increasingly harsh punishments—prison admissions for gun possession offenses increased 27% between 2014 and 2019, while admissions for all other crimes fell 38%—<sup>25</sup>gun homicides in the state increased nearly 29% from 2014 to 2019.<sup>26</sup>

## **Recommendations**

### **1. Incentivize the Adoption of Gun Diversion Programs**

As described in detail in the GIFFORDS 2021 report, *A Second Chance The Case for Gun Diversion Programs*,<sup>27</sup> a small number of prosecutors around the country have started implementing gun diversion programs for lower-risk individuals charged with gun possession offenses. The report provides a case study of an innovative gun diversion program in Minneapolis, Minnesota, where local prosecutors looked at the data and saw that incarcerating individuals for nonviolent gun possession was not improving public

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<sup>20</sup> Daniel Kim, “Social determinants of health in relation to firearm-related homicides in the United States: A nationwide multilevel cross-sectional study,” *PLOS Medicine* 16, no. 12 (December 17, 2019), <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002978#sec016>.

<sup>21</sup> Vera Institute of Justice, *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration*, 2017, <https://www.vera.org/downloads/publications/accounting-for-violence.pdf>.

<sup>22</sup> Jeremy Travis, et al., *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, National Academies Press, 2014, [https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1026&context=jj\\_pubs](https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1026&context=jj_pubs).

<sup>23</sup> David Roodman, “The Impacts of Incarceration on Crime,” Open Philanthropy Project, September 25, 2017, <http://dx.doi.org/10.2139/ssrn.3635864>; Francis T. Cullen, et al., “Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science,” *The Prison Journal* 91, no. 3 (2011), DOI: 10.1177/0032885511415224, <https://doi.org/10.1177%2F0032885511415224>.

<sup>24</sup> David E. Olson, et al., “Sentences Imposed on Those Convicted of Felony Illegal Possession of a Firearm in Illinois: Examining the Characteristics and Trends in Sentences for Illegal Possession of a Firearm,” Center for Criminal Justice Research, Policy & Practice, Loyola University Chicago, July 2021, <https://www.luc.edu/media/lucedu/ccj/pdfs/firearmpossessionssentencinginillinois.pdf>.

<sup>25</sup> Id.

<sup>26</sup> CDC WISQARS, *Fatal Injury Reports, National, Regional and State*; “Fatal Injury Data,” Web-based Injury Statistics Query and Reporting System (WISQARS), Centers for Disease Control and Prevention, 2001–2018, <https://www.cdc.gov/injury/wisqars>.

<sup>27</sup> McLivley and Nieto, *A Second Chance: The Case for Gun Diversion Programs*, GIFFORDS Law Center, December 7, 2021, <https://giffords.org/lawcenter/report/a-second-chance-the-case-for-gun-diversion-programs>.

safety. They worked with a local community-based organization to create an intensive diversion program, known as Pathways to New Beginnings, as an alternative to incarceration.

For those completing the Pathways program, which includes life skills classes, mentoring, and other supportive services to address the root causes of violence, no conviction goes on their record and they are eligible to apply for a removal of the arrest record a year after graduating.

A recent study of the impact of the Pathways program from the University of Chicago found that “participants as a whole demonstrated lower odds of a conviction in the two-year follow period compared to individuals in the comparison group,” and that “graduates had significantly lower odds of a violent or weapons-related offense compared to those in the comparison group.”<sup>28</sup>

While the implementation of such diversion programs is at the discretion of local prosecutors, state policy can incentivize prosecutors to take this step. California has a number of programs designed to address diversion generally, such as the Youth Reinvestment Grant Program, which was created by AB 1454 in 2019. However, there are no programs we are aware of that are specific to diversion in the context of gun possession cases. The California Legislature should create and fund a pilot program to implement and evaluate a small number of gun diversion programs in jurisdictions with disproportionately high rates of gun violence and convictions related to gun possession.

## **2. Conduct a Comprehensive Study on the Impact of Gun Possession Laws**

In Illinois, private support from the Joyce Foundation allowed researchers from Loyola University to conduct a comprehensive, detailed analysis of the sentencing of those convicted of firearm possession offenses. This gave policymakers a critical snapshot at data that had previously been missing, with study’s tremendous implications for public policy.

One key takeaway for policymakers: firearm *possession* is enforced much more than actual acts of violence. In Illinois, out of all arrests and convictions for firearm-related offenses over the past decade, 72% were for firearm possession, while 28% were for discharging or using a gun while committing a violent crime. Researchers also found that 74% of all individuals convicted of Class 4 Felony firearm possession were Black men.

Yet, despite Illinois’s emphasis on prosecuting illegal gun possession and increasingly harsh punishments—prison admissions for gun possession offenses increased 27% between 2014 and 2019, while admissions for all other crimes fell 38%—gun homicides in the state increased nearly 29% from 2014 to 2019. Another critical finding was that “Incarceration, when compared with probation, was less effective overall at preventing rearrest for allegations of ‘violent felonies.’”<sup>29</sup>

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<sup>28</sup> Epperson, et al., An examination of recidivism outcomes for a novel prosecutor-led gun diversion program, *Journal of Criminal Justice* Volume 92, May–June 2024, 102196, <https://www.sciencedirect.com/science/article/pii/S004723522400045X?dgcid=author>.

<sup>29</sup> Chicago Appleseed Center for Fair Courts, *Loyola Report Reveals Undue Punitive Effect of Gun Possession Convictions on Young Black Men in Cook County*, Aug. 25, 2021, <https://www.chicagoappleseed.org/2021/08/25/loyola-report-reveals-undue-punitive-effect-of-gun-possession-convictions>.

The California Legislature should fund a similarly comprehensive study to help policymakers understand the nuances of enforcement trends and the impact of non-violent gun possession convictions.

### **3. Incentivize Localities to Improve Homicide and Nonfatal Shooting Clearance Rates**

While there is a national emphasis on enforcing gun possession laws, the fact is that actual acts of violence too often go unaddressed by the criminal legal system. While the national homicide clearance rate—the number of cases in which an arrest is made—is around 54%, the homicide clearance rate in Chicago was just 33% for Latino victims, and only 22% for Black victims. Nationally, across 52 of the largest cities, nearly three-quarters of all unsolved murders involved a victim who was Black. The clearance numbers for nonfatal shootings are even lower, a failure that fuels retaliation, erodes public trust in law enforcement, and creates an environment of fear in which the decision to carry a gun, even illegally, seems rational.

A recent report by the Council for State Governments shows that in California, 59 percent of violent crimes were not solved in 2022.<sup>30</sup> While this is slightly better than the national average, the reality is that there are many local variations and clearance rates for nonfatal shootings are even lower, despite their significant impact on victims and communities. To illustrate this, consider that in 2020, the homicide clearance rate in Oakland was 47%, compared to 75% in San Francisco, which has twice the population and less than half the number of homicides suffered annually in Oakland. Data from 2021 showed that Kern County, which had the highest homicide rate that year, also had the lowest homicide clearance rate, at just 18%.<sup>31</sup> Conversely, San Diego, which has one of the lowest homicide rates in the state for a large city, had an 85% homicide clearance rate in 2021.

In too many cities, resource allocations don't reflect a commitment to prioritizing acts of serious violence: in 2017, 40% of felony assault cases were not even assigned to an investigator in Oakland, California, and that same year in Portland, Oregon, 38% of felony assaults went unassigned.<sup>32</sup> Failing to even investigate acts of violence seriously undermines public confidence in law enforcement, particularly in disproportionately impacted communities of color, and fuels cycles of retaliatory violence.

California leaders can help incentivize localities to embrace a necessary change in law enforcement strategy: prioritizing enforcement resources on actual acts of violence. Research from criminologist Anthony Braga found that a handful of police practice reforms put in place through the Boston Homicide Clearance Project led to a 23% increase in the homicide clearance rate.<sup>33</sup> These improvements came both

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<sup>30</sup> California Criminal Justice Data Snapshot December 2023, BJA, Council on State Governments Justice Center, [https://justicereinvestmentinitiative.org/wp-content/uploads/2024/01/California-Criminal-Justice-Data-Snapshot\\_accessible.pdf](https://justicereinvestmentinitiative.org/wp-content/uploads/2024/01/California-Criminal-Justice-Data-Snapshot_accessible.pdf).

<sup>31</sup> Nigel Duara, California crime story: The numbers, explained, CalMatters, Feb. 3, 2022, <https://calmatters.org/explainers/california-crime-numbers>.

<sup>32</sup> Sarah Ryley, et al., “Shoot Someone In a Major U.S. City, and Odds Are You’ll Get Away With It,” The Trace, January 24, 2019, <https://www.thetrace.org/2019/01/murder-solve-rate-gun-violence-baltimore-shootings>.

<sup>33</sup> Anthony A. Braga, et al., “The Influence of Investigative Resources on Homicide Clearances,” *Journal of Quantitative Criminology* 35, no. 2 (June 2019): 337–64.

from increasing resources for the department’s homicide unit and strengthening connections to victim-assistance organizations.

Given the small percentage of individuals who commit acts of violence in any given city,<sup>34</sup> this strategy would reduce the overall incarceration footprint while significantly improving both public safety and public trust in the legitimacy and efficacy of law enforcement.

The state of New York, through its Division of Criminal Justice Services (DCJS) funded a pilot program in 2016 for two cities disproportionately impacted by gun violence.<sup>35</sup> With a modest influx of resources and the provision of technical assistance, DCJS helped these cities develop written protocols for effectively investigating nonfatal shootings. Police departments in both cities committed to conducting thorough investigations, and local prosecutors agreed to support investigation efforts early and often.

Evaluators found that both pilot sites managed to dramatically increase solve rates for nonfatal shootings: during the three-year implementation period, the solve rate for nonfatal shootings in Utica increased from 23% to 36%,<sup>36</sup> while in Newburgh, investigators increased solve rates from just 14% up to 40%.<sup>37</sup> During this same period, Newburgh saw an 80% decrease in the number of shooting victims.<sup>38</sup>

Despite the common view that violent gun crimes are difficult to solve, experiences in Boston and New York show that significant improvement is possible with increased focus and additional resources to improve outcomes.

In California, the passage of AB 28 in 2023 creates the nation’s first statewide tax on the sale of firearms and ammunition to fund gun violence prevention programs, including up to \$15M for “to support evidence-based activities to equitably improve investigations and clearance rates in firearm homicide and firearm assault investigations in communities disproportionately impacted by firearm homicides and firearm assaults, and thereby help reduce gun violence in communities across California.”<sup>39</sup> However, a lawsuit was filed by the National Rifle Association on July 2, 2024, and funding may be delayed pending the outcome. In the meantime, the Legislature should prioritize using resources and policy to improve clearance rates for homicides and nonfatal shootings.

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<sup>34</sup> See, e.g., Thomas P. Abt, “Towards a framework for preventing community violence among youth,” *Psychology, Health & Medicine* 22, no. 1 (2017), <https://www.tandfonline.com/doi/full/10.1080/13548506.2016.1257815>.

<sup>35</sup> New York State, Division of Criminal Justice Services, Non-fatal Shooting Incidents Project: Research Brief, October 2020, [https://knowledgebank.criminaljustice.ny.gov/system/files/documents/2020/10/non-fatal-shooting-incidents-project-research-brief\\_1.pdf](https://knowledgebank.criminaljustice.ny.gov/system/files/documents/2020/10/non-fatal-shooting-incidents-project-research-brief_1.pdf).

<sup>36</sup> Id.

<sup>37</sup> Orange County Government Center, “District Attorney Hoovler and City of Newburgh Police Chief Amthor Announce Analysis of Non-Fatal Shootings Grant,” news release, November 12, 2020, <https://www.orangecountygov.com/CivicAlerts.aspx?AID=1143>.

<sup>38</sup> Lana Bellamy, “Violent crime drops significantly in City of Newburgh,” *Times Herald-Record*, May 9, 2019, <https://www.recordonline.com/news/20190509/violent-crime-drops-significantly-in-city-of-newburgh>.

<sup>39</sup> California Legislative Information, AB 28, [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB28](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB28).

#### **4. Create a Multi-Year, Statewide Strategic Plan for Addressing Community Violence**

In 2022, California Attorney General Rob Bonta created the Office of Gun Violence Prevention, with the mission to reduce gun violence by: 1) Promoting research and data collection; 2) Increasing awareness about effective legal and policy strategies; 3) Collaborating with federal, state, and local partners.<sup>40</sup>

As a state, California still lacks a comprehensive strategic plan for helping various departments and stakeholders understand their role in addressing community violence. Given its mission and role as collaborating across agencies and levels of government, spearheading the creation of such a plan is an appropriate role for the Office of Gun Violence Prevention.

As an example, in 2020 the State of Illinois published its Statewide Violence Prevention Plan: 2020-2024, which included a review of existing strategies, a needs assessment, and recommendations for funding to address gaps.

Given the multiple causes of community violence, this kind of strategic alignment can help bring additional partners and allies to the table. At the federal level, for example, the Biden/Harris administration instructed a number of federal agencies to examine their grant programs and to look for ways to prioritize services for those at high risk of engaging in community violence. As a result, agencies ranging from HUD to the Department of Labor have added languages to their grant solicitations that encourage applicants to work with high-risk populations at the intersection of violence and issues like housing and employment. Finding ways to address these multiple risk factors more effectively will be critical to drive down community violence going forward in California.

Given that exposure to the criminal legal system and prior incarceration is a key risk factor for violence, increased engagement with the California Department of Corrections and Rehabilitation will also be essential, especially in the areas of reentry services, and behind-the-wall services and interventions for those at high risk of engaging in violence.

#### **Conclusion**

GIFFORDS appreciates the opportunity to provide this information to the Committee and we are available to discuss any of these issues in further detail upon request. While we have made great strides in reducing gun violence here in California, we still have much work to do to ensure that we continue to reduce violence while reducing reliance on overly-punitive measures. We applaud your efforts to find ways to make our criminal legal system more effective and more equitable at the same time. The data shows that these goals are not mutually exclusive, but rather, intimately linked.

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<sup>40</sup> State of California Department of Justice, Office of Gun Violence Prevention, <https://oag.ca.gov/ogvp>.

Exhibit D

Julia Weber

Consultant, Giffords Law Center to Prevent Gun Violence



**Julia F. Weber, Esq, MSW, Firearms Violence Prevention Consultant**  
**Former Implementation Director, Giffords Law Center to Prevent Gun Violence**  
**Written submission to the Committee on Revision of the Penal Code for July 12, 2024**

As noted on the [Giffords Implementation website](#), *Passing gun safety laws isn't enough—these laws must be effectively and equitably implemented in order to save lives.* In California, we have a set of tools that research shows can help reduce and prevent firearms-related violence including homicides and injuries in domestic violence cases (Domestic Violence Restraining Orders or “DVROs,” Elder Abuse, and Criminal Protective Orders); workplace/neighbor/school-related (and other types of) harassment and mass shootings (Civil Harassment Orders, Workplace Violence Prevention Orders, School Violence Prevention Orders and Criminal Protective Orders); and suicides or threats of mass shootings where abuse or harassment isn't at issue (Gun Violence Restraining Orders or “GVROs”). The state is unique in the country for having so many firearm-prohibiting legal remedies accessible through both criminal and civil courts. [This chart](#) I developed and use in trainings statewide provides an overview of civil restraining orders; more extensive information can also be found in the recent Attorney General's report [here](#). Because of a combination of good policies like these and strong implementation efforts, we are saving lives and reducing risk in California. However, there is still more that can be done, especially to implement firearm prohibiting orders and associated relinquishment policies.

**Background on Civil and Criminal Relinquishment Policies**

Nineteen years ago this month when then Attorney General Bill Lockyer published [Keeping the Promise](#), California's judicial branch took notice. The report focused on domestic violence and identified many problematic areas including judges not issuing orders with firearm prohibitions; no follow through when there were violations; and ongoing problems with service of prohibiting orders. Then Chief Justice Ronald M. George responded by appointing the [Domestic Violence Practice and Procedure Task Force](#) (“Task Force”) supported by Judicial Council staff. As part of that team, many of us worked for the next several years to change statewide court forms, improve training, and adopt rules of court addressing firearms relinquishment in both civil and criminal matters. These policies and procedures fundamentally changed the legal framework for firearms prohibitions and relinquishment in California. However, over time, implementation has not been as robust or consistent as it needs to be, especially with an increase in firearm access, leading to the need to focus on *statutory* changes to various codes. The number of people who end up or remain in the Armed Prohibited Persons System (APPS) is one indication of failures in this area.

In response, the Judicial Council adopted two significant rules of court per the Task Force's recommendation: [rule 4.700](#) and rule 5.495. Rule 4.700 (adopted in 2010) applies when a court issues a criminal protective order under Penal Code section 136.2 during a criminal case or as a condition of probation under Penal Code section 1203.097(a)(2) against a defendant charged with a crime of domestic violence as defined in Penal Code section 13700 and Family Code section 6211. It requires the criminal court to consider relevant evidence about firearms and

*mandates* review hearings to ensure compliance with the relinquishment requirements. In general, relinquishment requirements include either turning over currently owned firearms upon request from a law enforcement officer at the scene or when serving an order or storing or selling the firearms with a licensed gun dealer or law enforcement within 24 hours after service of a prohibiting order. Within 48 hours of receiving the order, the defendant must file a receipt with the court showing that all firearms and firearm parts have been turned in, sold, or stored (with a dealer or law enforcement). People may also become prohibited under additional Penal Code sections in criminal matters; both a statewide court form ([CR-210](#)) and probation form ([BOF-1022](#)) facilitate addressing non-compliance in these matters.

In 2021, Giffords sponsored SB 320 (Eggman). Those of us working on that bill advocated for turning rule 5.495, the Judicial Council's civil domestic violence restraining order policy on firearms relinquishment adopted in 2014, into Family Code statutory provisions along with some new requirements not contained in rule 5.495. This was designed to draw more attention to what courts were expected to do since the rule was adopted, in part because civil courts, unlike criminal courts, do not have prosecutors or probation officers to present information or address non-compliance. Unlike the mandated review hearing in criminal proceedings, under both the former rule of court and SB 320, family courts have two options for how to ensure compliance: review files or hold review hearings. As of January 1, 2022, under SB 320, in DVRO proceedings, courts must additionally (in part):

- Provide local information to prohibited parties about how to comply (see this [example from San Mateo County Superior Court](#)); and
- Report non-compliance to the prosecuting agency and law enforcement so that they may take appropriate action.

Since SB 320's enactment, we have seen an uptick in compliance with the firearm prohibitions in courts that have reported on their implementation efforts. For example, Orange County Superior Court has indicated that over 400 firearms have been relinquished since July 2023 in DVRO matters because of their implementation efforts. Additionally, some courts (Santa Clara, San Mateo, and Placer, for example) have chosen to apply the SB 320 provisions to all civil restraining orders. As a result, more attention is being paid to the firearm prohibitions and longstanding relinquishment requirements not only in DVRO matters but also in civil harassment, workplace violence prevention, and GVRO cases.

What is particularly rewarding to see is how often compliance is happening without significant intervention and by leveraging limited funding and existing resources. While Penal Code section 1524 allows a search warrant to be requested and issued when a seizure to obtain a firearm under certain circumstances is needed, compliance has occurred almost exclusively by providing information to the prohibited party and implementing a review and follow-up process. Current bill SB 899 (Skinner/Blakespear) would apply these same provisions to all civil restraining orders and criminal protective orders.

One of the current and longstanding challenges, however, is that very few prosecutors have protocols or procedures in place to handle the reports of non-compliance with civil firearm-prohibiting orders. Additionally, significant emphasis has been placed on law enforcement's role in seeking and obtaining GVROs without a simultaneous emphasis on the important role officers play in serving and enforcing all firearm-prohibiting orders.

**What's needed:** Implementation support, technical assistance, training, and follow-up with courts, prosecuting agencies, law enforcement, and communities to address the various (and differing) obstacles and opportunities in each of the 58 counties or regionally around implementing firearm prohibitions fairly and consistently across case types along with coordination between civil and criminal matters. Additionally, the following policy and procedure changes, with an emphasis on relevant Penal Code revisions, could further support reducing risk and increasing safety:

- Statutory changes to require protocols and procedures for implementing firearm prohibitions to ensure relinquishment (compliance) happens as close to the time of prohibition as possible
- Amendments to PC section 18250 or adoption of a separate section addressing additional types of firearm-prohibiting orders and high-risk situations
- Amendments to PC section 1203.097 to require that programs and probation support compliance with firearm prohibitions in domestic violence cases
- Key actors within the criminal legal system must be trained on the significance of firearms violence in the matters they are handling and be expected to implement promising practices including reviewing and providing information to the court from the Automated Firearms System (AFS); inquiring about and reviewing evidence and information regarding unregistered firearms defendants may have access to; and ensuring that firearm prohibiting orders are entered into CLETS and followed up on through the relevant court proceeding or probation procedures
- Increase availability of cross-training and coordination between civil courts, judges, court administrators, self-help centers, and criminal courts, probation officers, prosecutors, and public defenders to support consistent implementation of firearm prohibitions so that no matter which door someone walks through, they get good information and compliance is addressed
- Prosecutors need training and support around implementing SB 320 to address non-compliance with civil prohibitions more effectively
- Law enforcement agencies need to ensure training is provided on serving orders (see AB 818 which requires DVROs to be served upon request) and obtaining firearms at the time of service or at the scene
- [Form BOF 4546](#) should be readily available and familiar to those working on these matters. I've witnessed firsthand the value of providing this form in Orange County Superior Court to facilitate updating APPS and holding accountable those who insist they no longer have firearms that are still listed as being registered to them.

Exhibit E

Dr. Gena Castro Rodriguez,  
Executive Director  
National Alliance for Trauma Recovery Centers

## **The National Alliance of Trauma Recovery Centers and the UCSF TRC Model**

Dr. Gena Castro Rodriguez, Psy.D., Executive Director NATRC

### **Introduction**

The National Alliance of Trauma Recovery Centers (NATRC) is the keeper of the UCSF Trauma Recovery Center (TRC) model. NATRC works with its network of 52 TRCs across the county and 24 TRCs in 13 counties in California. The TRC model was developed in 2001 to serve survivors of violence who have had barriers to accessing services. By combining assertive outreach, trauma-informed and trauma-focused mental health services, help with practical needs, and flexibility to adapt to the specific needs of diverse communities.

### **Barriers and Challenges**

These victimizations can have substantial and long-lasting physical, psychological, social, and financial consequences (Kunst, Winkel and Bogaerts, 2010; Riger, Raja, and Camacho, 2002). They can impact survivors' physical and mental health (Campbell, 2008; Campbell, 2002; Kilpatrick and Acierno, 2003; Kilpatrick et al., 1987); relationships with family and friends (Langton and Truman, 2014); performance at work and school (Langton and Truman, 2014; Lloyd, 1997); likelihood of substance abuse (Logan et al., 2002); and risk of future victimization (Classen, Palesh, & Aggarwal, 2005).

Addressing victims' critical needs for safety, support, information, resources, and justice in the aftermath of violence is essential for mitigating the harm and trauma caused by victimization. Yet only about 1 in 10 victims of violence receive assistance from victim service providers (Morgan and Oudekerk, 2019). The percentage of victims receiving services is even lower among male victims, Latinos, people living in urban areas, younger victims, and those who do not report their victimization to the police (Langton, 2011; Martin, 2005). Unaddressed trauma exacerbates the harms of victimization, leading to chronic and sustained problems.

Even among the small percentage of victims who do receive victim services from criminal justice- or community-based providers, traditional models of service provision are not always effective, particularly for polyvictims who have mental health needs and who require multiple types of services to address their needs. Prior research findings suggest about a quarter of victims who access traditional services have all their needs met and that, on average, providers address about 4% of victims' needs (Brickman et al., 2002; Newmark et al., 2003). Some of the most common and essential needs, such as safety services, compensation, and professional therapy, are the least likely to be addressed (Brickman et al., 2002; Newmark et al., 2003; Newmark, 2006).

Significant barriers hinder the reach of high-need, low-engagement survivors, contributing to the perpetuation of violence and the lack of recovery. The stigma associated with accessing mental health services, particularly in communities of color, often deters individuals from seeking help (APA, 2018). Additionally, the absence of connections to evidence-based, culturally specific, trauma-informed, and language-accessible services can result in premature termination of treatment for survivors in ethnically and racially diverse communities. Historical and ongoing discrimination within healthcare systems fosters distrust in both health services and the criminal justice system. Marginalized communities frequently face limited access to mental health services due to geographic and financial barriers.

The high prevalence of untreated violence in communities underscores the need for robust, evidence-based, culturally relevant trauma recovery services (NRCR, 2020). These services have crucial health, economic, and social impacts. Untreated exposure to violence can lead to long-term psychological trauma, such as PTSD, depression, and anxiety, impeding the ability of individuals, families, and communities to function and thrive. Trauma from violence can affect individuals' ability to work and maintain employment, exacerbating economic disparities. Untreated trauma can strain familial and community relationships, perpetuating cycles of violence and instability. The TRC model uses assertive outreach to those who traditionally do not seek services, do not engage with law enforcement, or do not participate in healing resources so that people, families, and communities engage and get better.

### **UCSF Trauma Recovery Center (TRC) Model**

The TRC model provides short-term (16 sessions, with extensions possible) and cost-effective wrap-around services for vulnerable crime survivors. TRC staff understand the needs of someone who has experienced trauma and meet the client where they are. By utilizing the UCSF TRC model and helping communities take the lead role in designing strength-based solutions that incorporate survivor voices and the needs they identify, we can help address violent crime victimization, overcome barriers to service delivery, and foster trust and engagement to improve individual, family, and community outcomes, working towards a more equitable and just society.

### **Evidence-Based Treatment**

The TRC Model has also demonstrated the significant impact that TRC services have on factors that contribute to perpetuating cycles of violence and trauma and shown improvements in survivors' health and functioning, including the results from a randomized research study by UCSF that found the model to be clinically effective and cost-saving across multiple domains (Boccellari, et.al, 2007).

- Increased the rate of sex assault survivors in mental health follow-up from 6% of the survivors in usual care to 71% of TRC clients
- Increased engagement in mental health services from 38% of the survivors in usual care to 72% of those randomized to TRC clients
- Increase the number of Victimization Compensation applications filed from 23% of the survivors in usual care to 77% of TRC clients.
- 74% of TRC clients showed an improvement in mental health
- 51% showed improvement in physical health
- 52% showed a decrease in alcohol use
- PTSD symptoms decreased by 46%, and depression symptoms decreased by 47%.

### **TRCs and the California Penal Code**

This randomized treatment trial demonstrated that the UC San Francisco TRC model reduced barriers to care for underserved survivors of violent crime. Based on these results, and through the persistent advocacy of California State Senator Mark Leno and the Californians for Safety and Justice, California Senate Bill (SB) 71 was enacted into law in 2013. SB 71 revised Section 13963.1 of the Government Code, directing the California Victim Compensation Board to award and administer grants to develop additional TRCs in California (California Government Code, 2013). This implementation is currently underway. In January 2015, a voter initiative, the SAFE Neighborhoods and Schools Act was enacted into law. This law changes sentencing for low-level, non-violent crimes (such as simple drug possession) from felonies to misdemeanors. It directs savings from reduced prison and jail sentences to fund mental health and drug treatment diversion programs, community violence and support programs in schools, and additional TRCs throughout California.

### **Challenges with Current Funding and Distribution of Funding**

Prop. 47 funding has decreased significantly over the nine years, and the current efforts to roll back Prop.47 will have devastating impacts on violence prevention and intervention services like TRCs. This year, seven TRCs were up for renewal on their two-year contracts and sustained on average, a 46% cut in their budgets for 2024-26. Victim of Crime Act (VOCA) funding for California is also facing a 40% cut, which affects additional or supplemental funding available to TRCs. TRC sustainability in California is in crisis.

In addition to the challenges with funding, the TRCs are managed as contracts by the California Victims Compensation and the legislation is narrowly interpreted and prevents proper utilization of the current funds. TRCs work under contracts, not grants, and they must renew

contracts every two years. These contracts give no priority or consideration for existing TRC services established in communities, so every two years the existing programs compete with new programs for funds. There is also no strategic plan for funding, growth, or sustainability of TRCs in California, and the state is at risk of losing these vital services. The legislation and distribution of funding has no oversight body or advisory board to guide the TRCs and up until a year and a half ago, California TRCs got no technical support or training for implementing the model

## **Recommendations**

- Provide dedicated sustainable funding of \$1.1 million for each of the 24 TRCs in California.
- 3-year funding cycle instead of the current 2-year.
- Move TRC funding to an organization with experience funding victim services and that has other state and federal funding dollars that can supplement the existing funding.
- Grant management of TRCs should be handled by experienced grant managers instead of contracts and contract managers with CalVCB. This would allow for priority to existing services.
- Prioritize maintaining existing TRCs before funding new TRCs and have a plan for ongoing funding.
- Adopt the NATRC strategic plan for new TRCs in underserved areas and funding for development.
- Create an advisory board for TRC funding to help guide and inform funding.
- Fund ongoing Technical Assistance/Training for existing and new TRCs as part of the budget for TRCs after current contract ends in 2026.



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Exhibit F

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## An Evaluation of the Implementation of Trauma Recovery Centers in Los Angeles County

**Overview:** The Trauma Recovery Center (TRC) model has been successfully implemented in Los Angeles County such that underserved victims of crime have access to mental health and case management resulting in improvements in mental health, quality of life, and social needs.

**Background:** The TRC model provides wraparound mental health and case management services to underserved victims of violent crime. First introduced at UCSF, there are now 52 TRCs in 13 states.

TRC Core Principles	
• serving survivors of all types of violent crimes	• comprehensive mental health and support services
• use of trauma-informed, evidence-based practices	• clinical case management
• assertive outreach and engagement with underserved populations	• multidisciplinary team with coordinated care tailored to individual needs

**Research Findings:** We evaluated five Trauma Recovery Centers (TRCs) in Los Angeles County (2021-2023)

1. TRCs reached underserved victims of crime. (N=1,162)		
• 68% identified as Hispanic; 13% as Black	• 31% had a non-English language preference	• 61% had a high school education or less
• 21% were unstably housed	• 80% had Medi-Cal or were uninsured	• 35% experienced assault; 46% domestic violence

2. TRCs successfully provided both mental health and case management services.		
• 49% received psychotherapy	• 41% received case management	• 24% received both
• On average, each TRC completed 99 mental health and 44 case management sessions per site per month.		

3. Victims of crime reported improvements in mental health and quality of life.	
• PTSD symptoms decreased. (Average 15-point reduction on the PCL-5)	• Quality of Life improved. (Average 1.3-point improvement on WHOQOL)
<i>“I was severely depressed due to the domestic violence...I felt genuinely pleased, especially on my first day of therapy when she, [my therapist], helped me. I felt as though something was lifted from my heart, as if I was free.”</i> – Victim of crime, female, Hispanic, age 46	

4. Victims of crime reported reductions in social needs.
• On average, clients report improvements in access to food, transportation, housing, employment, and income.
<i>“Because of the accident, I could only manage one job. I was worried about how to pay my accumulated electricity bill and my December rent...I just didn’t want to be financially strained by everything that was happening. They [the TRC] greatly helped me.”</i> – Victim of crime, female, Hispanic, age 42

5. Ongoing challenges threaten TRCs.
• Limited funding, restrictions on spending, and the two-year grant cycle structure are barriers to TRC sustainability.
<i>“We could really make really huge impact if we were able to treat clients in quality work rather than trying to move them in and out. Especially for serving an underserved community, we’re not just impacting that person... We are making ripple effects.”</i> – TRC clinician

**Policy Recommendations:** Given the positive impact of TRCs on mental health, quality of life, and social needs, sustaining the TRC model is important for healing victims of crime, as well as the broader community. Consistent mechanisms of funding are necessary to sustain service provision.

**Citation:** Dekker AM, Perez Y, Larco Canizalez A, Yen A, Diaz R, Salazar D, Ghafoori B, Saberi D, Lopez Y, Taira BR. “Implementation of the Trauma Recovery Center Model for Underserved Victims of Violent Crime in Los Angeles County.” *Academy Health 2024 Annual Research Meeting*. July 1, 2024.

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Exhibit G

Professor Joel Caplan  
Rutgers School of Criminal Justice  
Co-Founder, Simsi

**Written Comments on Crime Prevention with Risk Terrain Modeling  
for  
The California Committee on Revision of the Penal Code**

July 12, 2024

**Joel M. Caplan, PhD**

*Professor, Rutgers University, School of Criminal Justice  
Director, Rutgers Center on Public Security  
Co-Executive Director, Newark Public Safety Collaborative  
Cofounder & COO, Simsi*

*Disclosure Statement: Risk Terrain Modeling (RTM) is an analytic technique co-developed by me with Dr. Leslie Kennedy at Rutgers University. Over the past 16 years, RTM research and software development has been funded, in part, by U.S. federal grants. Growing demand for RTM software led to the formation of Simsi, a Rutgers University startup company incorporated in 2019. Simsi is independently operated and exclusively partnered with Rutgers. I serve as Chief Operating Officer at Simsi and provide clients and community members with training and professional development on techniques and applications of RTM for public safety programming.*

**Summary:**

Police are under pressure to prevent crime without focusing on people. But they don't have the tools to focus effectively on places instead. The solution is crime analysis that tells you which settings attract criminal behavior in order to disrupt opportunities for crime by focusing on the environmental conditions that attract criminals and opportunities for victimization. Crime analytics that "drive actions" – not merely admire the problems, make connections between crime incident location patterns and features of landscapes in ways that empower multiple local stakeholders to change environments to impact behavior. This delivers better policing and enhanced public safety through place management, and is achieved using Risk Terrain Modeling (RTM).

**Introduction:**

Police actions have an important role to play in affecting crime risks. They can deter offenders, embolden victims, and assist in the hardening of targets. These products can have the overall impact of reducing crime occurrence. But we must separate what we would see as policing and law enforcement from crime prevention and public safety.

Policing and law enforcement affect public safety, but public safety is more than both of those things. Policing encompasses a wide range of activities carried out by police officers, especially with respect to maintenance of order and law, and other matters affecting public welfare. Law enforcement is a key function of policing but refers specifically to enforcing the written rules governing society by deterring, discovering, stopping, and/or seizing people who violate the law. Public safety refers more broadly to the general welfare and protection of the public from various dangers affecting persons, property, and collective well-being.

Public safety programming yields crime prevention and risk reduction benefits when multiple local stakeholders identify and address key parts of the environmental conditions in which crime is likely to appear. Risk Terrain Modeling (RTM) diagnoses crime location patterns to support such multifaceted programs whereby stakeholders maintain their independence, but they operate in a coordinated fashion by being equally data-informed. The combined actions at places throughout the jurisdiction contribute to a comprehensive crime prevention strategy overall. This place-based public safety programming informed by RTM addresses various elements of vulnerable settings and disrupts the situational opportunities that lead to new crime incidents. It's an upstream approach to crime problems that focuses on places, not people.

We should recognize that while person-focused interventions are necessary, we can be more prescriptive with those efforts by focusing on the places where those people operate. We can coordinate multiple existing local resources for place management intended for the purpose of crime prevention and public safety. By using RTM analytics to inform our decisions about what to do to make vulnerable settings safer spaces that are less attractive to criminal behavior, we can also be more transparent about why we are doing what we're doing where we're doing it.

### **Evidence of Crime Prevention with Risk Terrain Modeling:**

RTM represents a culmination of over 40 years of rigorous research, systematic investigation, fieldwork, and professional experience. It's evidence-based and proven to work via practical user experiences and over 75 peer-reviewed journal articles from the U.S. and around the world (see [riskterrainmodeling.com/rtmworks.html](http://riskterrainmodeling.com/rtmworks.html)). In January 2023, the U.S. Department of Justice (DOJ) National Institute of Justice (NIJ) labeled RTM as a "science-based method" for "identifying and measuring crime risk posed by the features of a specific physical location" (see [nij.ojp.gov/terms-month#17-0](https://nij.ojp.gov/terms-month#17-0)). Crime prevention with RTM focuses on places and doesn't target people. This has been independently tested and demonstrated in multiple jurisdictions:

- **Newark, NJ** reduced gun violence by 35% and motor vehicle theft by 40% as part of an NIJ study. Use of RTM in Newark is now an exemplary model for cities and towns across the nation to deliver public safety with DICE through a 'public safety collaborative' model (see [bja.ojp.gov/funding/awards/15pbja-22-gk-04502-jagp](https://bja.ojp.gov/funding/awards/15pbja-22-gk-04502-jagp))
- **Atlantic City, NJ** reduced robberies by 63% (see PDF research brief: [rutgerscps.org/uploads/2/7/3/7/27370595/acpd\\_ppr\\_infographic.pdf](https://rutgerscps.org/uploads/2/7/3/7/27370595/acpd_ppr_infographic.pdf))
- **Fayetteville, NC** reduced motor vehicle break-ins by 35% and violent crimes by 11% citywide, and wrote about it in *Police Chief Magazine* (see [policechiefmagazine.org/why-here-and-why-now](https://policechiefmagazine.org/why-here-and-why-now))
- **Dallas, TX** reduced murders by 16%, and codified RTM into city ordinance
- **Kansas City, MO** reduced gun violence by 22%, and saw an estimated cost savings of \$4.9M to local criminal justice and emergency healthcare systems (see PDF research brief: [rutgerscps.org/uploads/2/7/3/7/27370595/kcpd\\_pq2021\\_infographic.pdf](https://rutgerscps.org/uploads/2/7/3/7/27370595/kcpd_pq2021_infographic.pdf)). The city subsequently codified the use of RTM into local ordinance, creating a multiagency taskforce that uses RTM to identify the group or groups best suited to address key elements of crime problems at particular places.
- **Essex Police (UK)** reduced violent crime by 47%, and realized they saved approximately \$10 for every \$1 spent on RTM according to their cost-benefit analysis (see PDF research brief: [rutgerscps.org/uploads/2/7/3/7/27370595/essexuk\\_rbp2023\\_infographic.pdf](https://rutgerscps.org/uploads/2/7/3/7/27370595/essexuk_rbp2023_infographic.pdf)).

In these recent examples, crime prevention was achieved without an abundance of law enforcement actions against people located at the focus areas. Police-initiated stops, arrests and citations significantly decreased. RTM has a proven track record with successful outcomes reflecting local priorities. It meets community expectations for crime prevention and the operational needs of police at all levels of government (municipal, county, state). The book *Risk Terrain Modeling: Crime Prediction and Risk Reduction* (Caplan & Kennedy, 2016) offers transparency for the analytic methods and original best-practices for public safety programming.

**Within this framework, the following points should be considered regarding any criminal justice reforms, programming, or revisions to the Penal Code or other policies:**

1. Focus on places, not only people, to prevent crime.
  - Rather than continuously labeling the same places as “hot spots”, address the built environments that enable and perpetuate the undesired behaviors in those locations, and other vulnerable areas that you have influence over. Fix the “hot spots” and create safer spaces throughout the jurisdiction through place-based risk governance.
2. Use a place-based analytic like Risk Terrain Modeling (RTM) for crime analysis. RTM breaks down large crime trends into smaller, location-oriented problems that are easier to understand for intervention purposes. Multifaceted and multi-stakeholder prevention strategies can then focus on individual elements of the crime problem at key places.
  - State, County, and Municipal departments with specific domains, purposes, and resources are brought together to address different aspects of larger problems without relying on police to perform actions out of their core duties and training. Similarly, community-based organizations with funding for their own mission-oriented services are invited to bring additional expertise and resources. Each individual stakeholder involved stays within their agency’s mission while providing a necessary piece to a wholistic intervention strategy. Contextual associations from RTM analysis highlights which departments or organizations align with priority problems at spaces they could directly impact, maintain, or influence. This application of RTM is referred to as data-informed community engagement (DICE): [washingtonpost.com/crime-law/2021/12/14/crime-prevention-location-analysis](https://www.washingtonpost.com/crime-law/2021/12/14/crime-prevention-location-analysis/).
  - DICE is a best-practice for place-based public safety programming without being too prescriptive, enabling local control and empowering local vested interests to be part of a process that drives data-informed actions for crime prevention and other public safety outcomes. See, for example, the St. Louis Public Safety Collaborative ([psc-stl.org](https://psc-stl.org)).
3. Adopt data-informed community engagement (DICE)
  - Use DICE to maximize existing local resources while meeting local needs and expectations. Allow multiple stakeholders to coproduce public safety through coordinated actions intended to disrupt situational contexts and opportunities for crime (e.g., see disrupting risk narratives: [riskterrainmodeling.com/situational-context.html](https://riskterrainmodeling.com/situational-context.html)). Enable the stakeholders to communicate and source ideas and plans for crime prevention activities that are informed by data and analytics. Coordinate existing resources at small priority focus areas in ways that can make a big impact on the areas. Bring more perspectives to the table, allowing for clearer expectations and comprehensive problem solving.



Exhibit H

Anita Lee

Principal Fiscal & Policy Analyst, Legislative Analyst's Office

JULY 12, 2024

# Overview of State Asset Forfeiture in California

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PRESENTED TO: Committee on Revision of the Penal Code



LEGISLATIVE ANALYST'S OFFICE

## Overview of Handout

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- Committee staff requested that we present information on state asset forfeiture. The information presented is generally from our January 2020 report—[\*Potential Impacts on Recent State Asset Forfeiture Changes\*](#)—unless otherwise noted.
- That report was required by Chapter 831 of 2016 (SB 443, Mitchell), which directed our office to provide information on the economic impact of the various changes it made to California’s asset forfeiture processes related to drugs. As part of our report, we consulted with various stakeholders and analyzed available federal, state, and local data sources.
- In our 2020 report, we identified a number of challenges with the data—most notably that data reporting was incomplete and limited which impacted the comprehensiveness and accuracy of the information presented in the figures. Similarly, recent data used to update certain figures in the report—which are included in this handout—are incomplete and limited. For example, several large counties did not report asset forfeiture data in 2022 and 2023—which means data in those years may be understated.



# Background

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## What Is Asset Forfeiture?

- Asset forfeiture refers to (1) the seizure of cash, property, or other items that are suspected of being tied to a criminal offense and (2) the transfer of ownership of these items to the government. The proceeds of these seizures are generally used to support various state and local law enforcement activities.
- Federal and state law indicate that one primary purpose of asset forfeiture is to punish, disrupt, and deter criminal activity. However, another primary purpose of asset forfeiture laws is to ensure due process to uphold individuals' rights.

## How Does the Asset Forfeiture Process Work?

- The asset forfeiture process generally involves three steps: (1) seizure, (2) adjudication, and (3) distribution. Federal, state, and local laws and policies dictate the various processes and procedures that must be followed at each step of the process.
- **Seizure**
  - Law enforcement agencies are authorized to conduct seizures for certain types of criminal offenses and under specified circumstances. For example, law enforcement officers must generally have at least probable cause to believe that an eligible drug-related crime has occurred before assets may be seized.
  - Under certain conditions, prosecutorial agencies must also be involved. For example, in California cases, prosecutors are generally required to initiate drug-related asset forfeiture seizures.



# Background

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*(Continued)*

## ■ **Adjudication**

- Federal and state asset forfeiture proceedings are initiated to determine whether assets were seized appropriately and can be kept by the government. Cases pursued federally are typically those that either (1) arise from joint investigations in which federal law enforcement participates or (2) meet federal requirements allowing a state or local case (upon request of the state/local entity) to be “adopted” as a federal case. All other cases are pursued at the state level.
- Proceedings may be conducted administratively or judicially. Administrative proceedings are generally authorized in cases where items fall below a certain value threshold or where no one files a claim contesting seizure. All other cases are heard as judicial proceedings—which can occur through criminal or civil proceedings with different burden of proof requirements. In California, claims contesting forfeiture in both criminal and civil proceedings are generally heard by a jury.

## ■ **Distribution**

- Asset forfeiture proceeds are generally required to be distributed in particular ways and used for particular purposes. Examples of allowable uses include supplementing existing law enforcement equipment and training. State and local laws also often dictate the conditions in which distributions from the federal government may be received.



# **SB 443 Changes to Asset Forfeiture Process**

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Senate Bill 443, which became effective in January 2017, made several changes to the state's asset forfeiture processes related to drugs. These changes impacted California's interaction with federal asset forfeiture processes as well as the state's asset forfeiture processes.

## **Changes to California's Interaction With Federal Asset Forfeiture Processes**

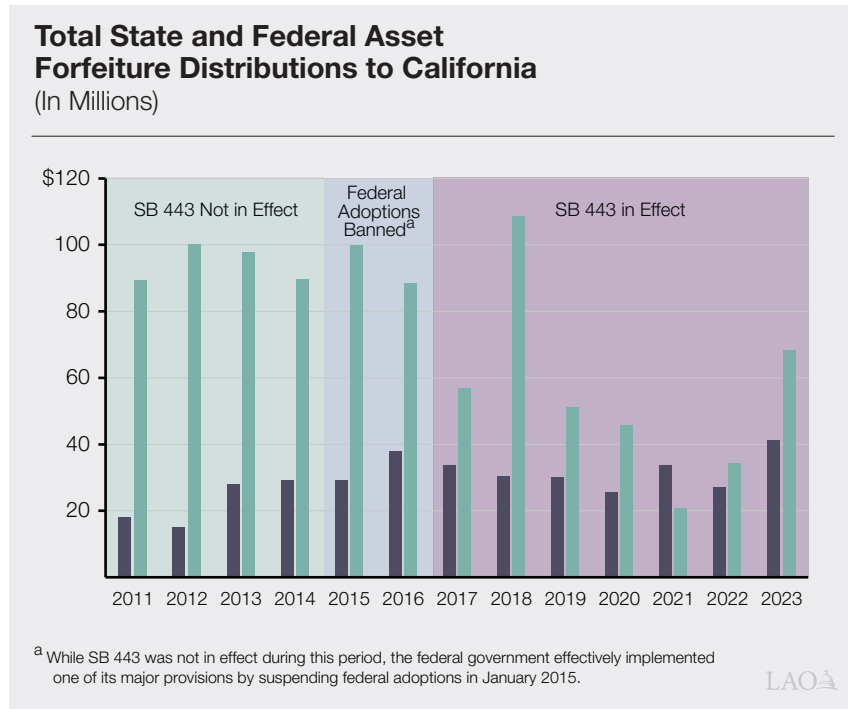
- Prohibited state and local law enforcement agencies from requesting the federal government to adopt cases in which federal law enforcement was not involved (effectively implemented two years before SB 443 due to a temporary federal suspension of adoptions).
- Made no changes to ability to participate in federal joint investigations. However, prohibited state and local law enforcement from receiving forfeiture proceeds from seizures under \$40,000 tied to federal joint investigations unless there is a conviction in federal court for a criminal offense for which the property may be seized under state law.

## **Changes to California's Asset Forfeiture Processes**

- Increased the burden of proof required for the forfeiture of cash and negotiable instruments between \$25,000 to \$40,000 from clear and convincing evidence to beyond a reasonable doubt (this already was required for cash or negotiable instruments up to \$25,000). The lower standard continued to apply to cash and negotiable instruments above \$40,000.
- Required a criminal conviction in civil judicial proceedings for seizures of cash and negotiable instruments between \$25,000 and \$40,000. Conviction must be for an offense for which forfeiture is allowable under state law and generally must have occurred within five years of the initiation of the asset forfeiture process.



# Majority of Asset Forfeiture Distributions Came From Federal Cases

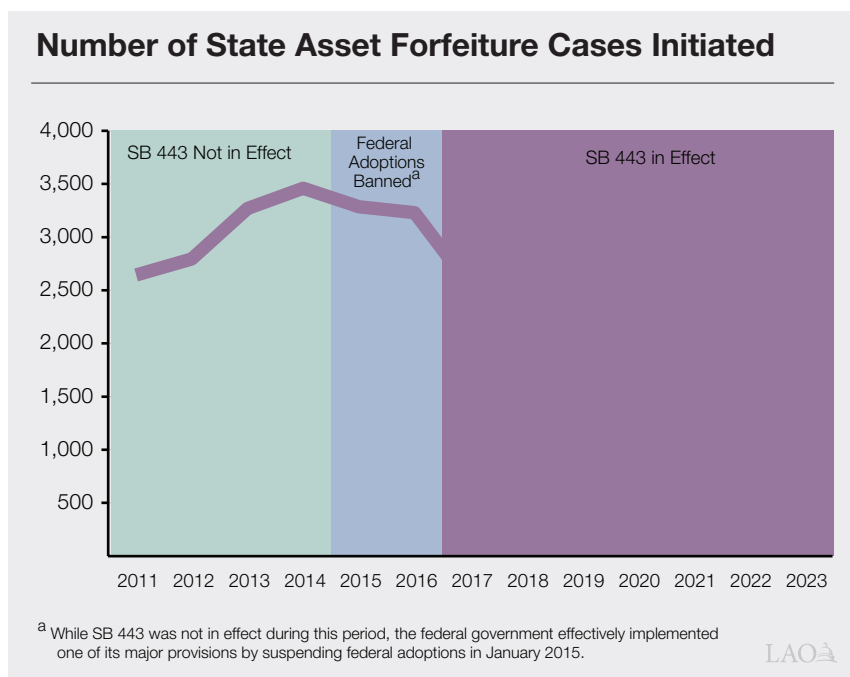


- Between 2011 and 2018, California generally received more than \$100 million annually in total asset forfeiture distributions. This amount decreased between 2019 and 2022 generally to the high tens of millions of dollars—before returning to over \$100 million in 2023.
- As shown in the above figure (updated from our 2020 report), in most years, state asset forfeiture distributions represent less than 40 percent of total asset forfeiture proceeds.
- More than 500 prosecutorial and law enforcement agencies in California have received at least one distribution from state asset forfeiture dollars since 2011.



## Number of State Cases Initiated Since 2014 Appears to Be Declining

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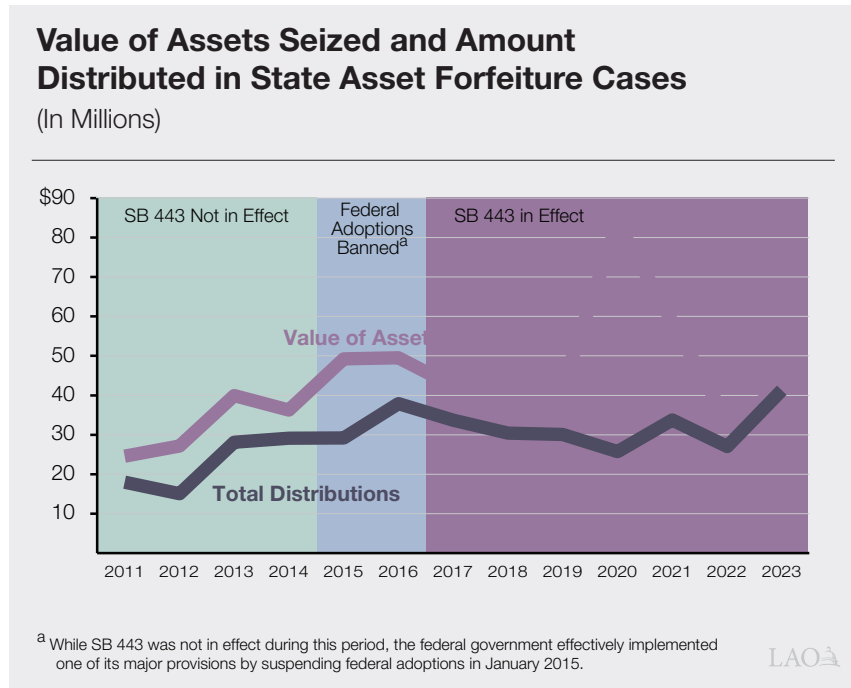


- As shown in the above figure (updated from our 2020 report), the reported number of state asset forfeiture cases initiated has declined from 3,460 cases in 2014 to 1,409 cases in 2023—a decline of 60 percent.





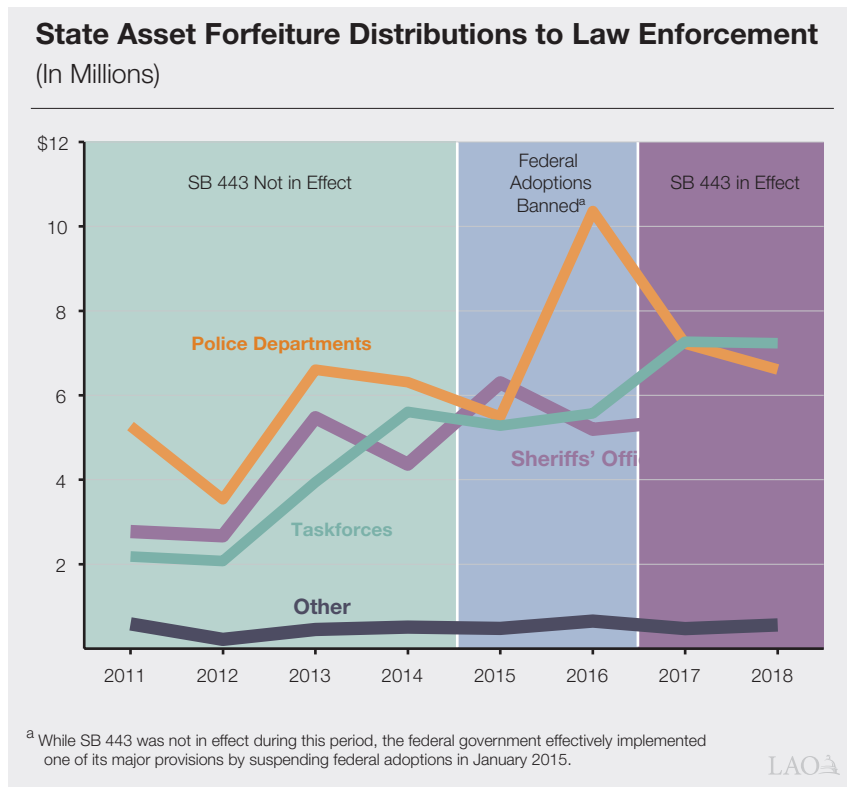
# Value of Assets Seized and Amount Distributed in State Asset Forfeiture Cases Has Fluctuated



- As shown in the above figure (updated from our 2020 report), both the value of assets seized and the amount distributed generally follows similar trends. Both generally increased until 2016.
- The value of assets seized has fluctuated since 2016. The \$83.9 million seized in 2020 is 69 percent higher than the amount seized in 2016. However, the \$41.5 million seized in 2023 is 16 percent lower than the amount seized in 2016.
- The amount distributed generally declined from \$37.9 million in 2016 to \$25.7 million in 2020 (32 percent). The amount fluctuated after 2020 and reached \$41.3 million in 2023—a 9 percent increase from 2016.



# State Asset Forfeiture Distributions to Law Enforcement Declined, Except for Taskforces, After SB 443 Changes Were In Effect



- As shown in the above figure, between 2011 and 2018, police departments have typically received the greatest share of state asset forfeiture distributions.
- While distributions declined to sheriffs' offices (beginning in 2015) and police departments (beginning in 2016), the amount distributed to taskforces steadily increased between 2016 and 2018, with taskforces receiving the most in distributions beginning in 2017.
- In 2018, total asset forfeiture distributions (both federal and state) made up less than 1 percent of the budget for 89 percent of California law enforcement and prosecutorial agencies receiving distributions in the year. (We would note, however, that asset forfeiture dollars can represent a sizeable portion of the budget of taskforces, though data on taskforce budgets are not readily available.)



# General Fund Deposits Pursuant to Health and Safety Code 11489 Less Than \$12 Million Annually

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## Asset Forfeiture Proceeds Deposited Into the State General Fund Pursuant to Health and Safety Code 11489

Fiscal Year	Amount (in Millions)
2011-12	\$6.6
2012-13	6.1
2013-14	8.0
2014-15	6.6
2015-16	8.0
2016-17	9.2
2017-18	8.6
2018-19	7.9
2019-20	7.4
2020-21	8.0
2021-22	10.4
2022-23	11.9

- Health and Safety Code 11489 requires state drug-related asset forfeiture proceeds be distributed as follows:
  - 65 percent to law enforcement entities that participated in the seizure generally based on their proportionate contribution or percentages in signed task force agreements (about \$19.6 million in 2018). 15 percent of this amount is to be set aside for funding programs to combat drug abuse and divert gang activity.
  - 24 percent to the state General Fund (about \$7.3 million in 2018).
  - 10 percent to the prosecutorial agency that processed the forfeiture (about \$3.3 million in 2018).
  - 1 percent of net proceeds to a nonprofit organization of local prosecutors for training on asset forfeiture (\$303,000 in 2018). As of 2021, these monies are now used for environmental enforcement and training activities.
- The amount deposited into the state General Fund annually increased between 2011-12 and 2016-17—before declining through 2019-20. After 2019-20, there has been an increase in the annual deposits. The \$11.9 million deposited in 2022-23 is a 29 percent increase over the amount deposited in 2016-17.

