



214 Massachusetts Avenue, NE • Washington DC 20002 • (202) 546-4400 • heritage.org

LEGISLATIVE TESTIMONY

“No Quick Fixes: Debunking the Illusion of Easy Answers and Simple Solutions to Recent, Unprecedented Spikes in Gun Violence”

*Testimony before the U.S. Senate Committee on the Judiciary
Hearing: Combating Gun Trafficking And Reducing Gun Violence In Chicago
December 13, 2021*

*Amy E. Swearer
Legal Fellow, Edwin Meese III Center for Legal and Judicial Studies
The Heritage Foundation*

Chairman Durbin, Ranking Member Grassley, and distinguished Senators,

My name is Amy Swearer, and I am a Legal Fellow in the Edwin Meese III Center for Legal and Judicial Studies at the Heritage Foundation.¹ My areas of scholarship and study include, among other things, the Second Amendment, school safety, and the intersection of gun violence and mental health. I was heavily involved in Heritage’s School Safety Initiative, which was developed after the tragic 2018 school shooting in Parkland, Florida, to ensure that conservative voices played a prominent role in national conversations on gun control and student safety. I have testified on firearms policy at both the state and federal level, including before the Virginia State Crime Commission on the heels of the 2019 Virginia Beach mass shooting, the Texas House Committee on Mass Violence and Community Safety following the 2019 El Paso Walmart shooting, the House Judiciary Committee in 2019 with respect to a proposed ban on so-called “assault weapons,” and this Committee several months ago on gun violence prevention strategies.

I repeat now what I said to you this past summer—there are no “sides” to gun violence. We are on the same team.² Every single person in this room today showed up to work with the same goal—preventing needless death and suffering without infringing on the rights of law-abiding Americans. We are all here because we are invested in saving lives. This bears repeating, for while we are not in Washington, D.C., for this hearing, it would be naïve to pretend that the divisive politics inside the Beltway do not have a tendency to follow us outside of it. And this is, indeed, unfortunate.

While we sit today in Chicago for a hearing specifically on Chicago’s recent spikes in gun violence, in reality Chicago is merely a stand-in for an unprecedented national spike in violent crime. Homicide rates soared by almost 30 percent between 2019 and 2020, the sharpest one-year increase in the nation’s history. After three decades of a downward national trend in

¹ The title and affiliation are for identification purposes. Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed here are my own and do not reflect an institutional position for The Heritage Foundation or its board of trustees. The Heritage Foundation is a public policy, research, and educational organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code. It is privately supported and receives no funds from any government at any level, nor does it perform any government or other contract work. The Heritage Foundation is the most broadly supported think tank in the United States. During 2017, it had hundreds of thousands of individual, foundation, and corporate supporters representing every state in the U.S. Its 2017 income came from the following sources: Individuals 71%, Foundations 9%, Corporations 4%, Program revenue and other income 16%. The top five corporate givers provided The Heritage Foundation with 3.0% of its 2017 income. The Heritage Foundation’s books are audited annually by the national accounting firm of RSM US, LLP.

² See Testimony of Amy E. Swearer before the Virginia State Crime Commission, *Same Team, Different Diagnosis: Tackling Gun Violence Without Trampling Liberty* (Aug. 20, 2019), <https://www.heritage.org/testimony/same-team-different-diagnosis-tackling-gun-violence-without-trampling-liberty>; Testimony of Amy E. Swearer before the Senate Judiciary Committee, *Constitutional and Commonsense Steps to Reduce Gun Violence* (March 23, 2021), <https://www.heritage.org/testimony/constitutional-and-commonsense-steps-reduce-gun-violence>.

violence, most major cities are experiencing unparalleled, acute rises in homicides and other forms of gun violence. We could just as well be in Philadelphia or any of the other eleven cities that have already set, or are on pace to set, new records for homicides in a single year.³ There were roughly 4,000 more Americans murdered in 2020 than in 2019. While the rate of increase seems to have slowed slightly in 2021, and while it is difficult to discern a “trend” after only two years, there is no one who fails to understand that this is a very serious problem.

The Chinese philosopher Confucius once said, “Life is simple, but we insist on making it complicated.” With all due respect to the ancient sage, I have to believe he never encountered politicians trying to combat gun violence. You see, violence is very complicated. Its causes, on an individual and a societal level, are varied and complex. And yet we all know that complicated doesn’t make for very good politics. We often insist on taking the intricate, the convoluted, the perplexing, and making it simple—even if the simple solution is really no solution at all. That’s politics. Politicians prefer neat, uncomplicated talking points that can be easily repeated. If you are here hoping that I, or anyone else who is acting in good faith, have some concise and simple policy solution, I am sorry to disappoint you.

I want to accomplish three things today. First, we need to understand why the “easy solutions” that often get spouted off to “combat gun violence” make absolutely no sense in context, either for Chicago specifically, or for the nation as a whole. Second, we need to home in on factors we know, to a meaningful extent, played and continue to play a role in facilitating this unprecedented spike in gun violence. When we do, we find many public policy decisions made in response other problems, like the COVID-19 pandemic and high-profile instances of police brutality, had unintended effects on society that indirectly created a perfect climate for a sudden category 5 storm of violence. And that makes finding a solution messier than we would like, because any solution will implicate these policies and force us to confront whether they were, in the long run, good ideas. Finally, while we have brought many of these problems on ourselves, there are still viable avenues forward to undo much of the damage that has occurred.

Debunking “Easy Solutions” That Are Overly Simplistic And Driven By False Narratives

Americans bought an estimated 22 million firearms in 2020, and another 18 million through the first eleven months of 2021, both far surpassing the previous record of 16 million set in 2016.⁴ Perhaps as many as 11 million of these firearms were purchased by first-time gun owners.⁵ It is

³ Mike Allen, *12 Major U.S. Cities Set Homicide Records This Year*, *AXIOS* (Dec. 8, 2021),

<https://www.axios.com/homicide-cities-crime-police-09d3c523-adb1-4f7d-8d80-5c978c6192b5.html>.

⁴ See Jake Fogelman, *2021 Gun Sales Surpass 2019 Totals With Three Months Left to Go*, *THE RELOAD* (Oct. 4, 2021), <https://thereload.com/2021-gun-sales-surpass-2019-totals-with-three-months-left-to-go/>; Joe Walsh, *Gun Sales Near Record Levels As U.S. Grapples With Another School Shooting*, *FORBES* (Dec. 1, 2021), <https://www.forbes.com/sites/joewalsh/2021/12/01/gun-sales-near-record-levels-as-us-grapples-with-another-school-shooting/?sh=25803a84672e>.

⁵ See Stephen Gutowski, *Millions More Americans Have Become Gun Owners This Year*, *THE RELOAD* (Sept. 17, 2021), <https://thereload.com/newsletter-millions-more-americans-have-become-gun-owners-this-year/>.

certainly easy, without providing context or conducting additional research, to look at this unprecedented spike in gun sales, then look at the unprecedented spike in gun violence, and draw a causal connection. At the same time, it is certainly easy for a state such as Illinois, with its high ratings from gun control groups over its restrictive gun laws, to immediately blame the supposedly “lax” laws of another border state. Neither of these “easy solutions” is grounded in reality.

While these answers may have a simple and superficial appeal, alas, they are not true. Neither lawful gun sales nor Indiana’s lack of a gun purchase waiting period meaningfully factors into the equation of our ongoing national spike in gun violence.

A. Increases In Legal Gun Sales and Lawful Gun Ownership Do Not Drive Violent Crime

Between 1993 and 2013, Americans bought roughly 170 million firearms, for a 56 percent increase in the number of privately owned guns per person.⁶ Despite this, national violent crime rates—including gun violence rates—experienced a sharp decline throughout the 1990s and early 2000s, before leveling out at consistently low rates until 2020’s unprecedented spike.⁷ Homicide and gun homicide rates halved between the early 1990s and the early 2010s, while number of non-fatal firearm crimes committed in 2011 was one-sixth the number committed in 1993.⁸ And while different American cities experienced various levels of “crime waves” throughout this time, the overall trend was the exact opposite of the national bloodbath one would expect if the problem were as simple as “more lawfully purchased guns mean more gun crime.” Similarly, 2020 was not the first example of Americans rushing to legally buy guns in higher-than-average numbers. In 2016, Americans bought a then-record number of firearms without seeing the same immediate, nationwide spike in violence that began in the late spring and early summer of 2020. Annual gun sales have also been steadily increasing for almost two decades, even as many cities hit all-time lows for violent crime.⁹

This all makes sense, given the plethora of evidence that most firearms used to commit gun crimes are illegally possessed by the perpetrator, that most criminal gun offenders do not obtain their firearms through lawful channels, and that most violent gun offenders are already

⁶ See Christopher Ingraham, *There Are Now More Guns Than People In The United States*, WASH. POST (Oct. 5, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/10/05/guns-in-the-united-states-one-for-every-man-woman-and-child-and-then-some/>.

⁷ D’vera Cohn et al., *Gun Homicide Rate Down 49% Since 1993 Peak; Public Unaware*, PEW RESEARCH CENTER (May 7, 2013), <https://www.pewresearch.org/social-trends/2013/05/07/gun-homicide-rate-down-49-since-1993-peak-public-unaware/>.

⁸ *Id.*

⁹ Additionally, as other researchers have noted, prior to 2020’s surge in gun sales, Americans already owned over 400 million firearms, making it difficult to comprehend how an excess sales surge amounting to only 1 to 5 percent of the overall gun stock could so drastically affect violent crime rates. See, e.g., Robert VerBruggen, *Were Gun Sales To Blame For 2020’s Violence?*, CITY-JOURNAL (July 15, 2020), <https://www.city-journal.org/were-strong-gun-sales-to-blame-for-2020-violence>.

prohibited persons by the time they use firearms in furtherance of a crime.¹⁰ It is little wonder that recent, comprehensive analyses have not found any association between state-level increases in lawful gun purchases and increases in overall violent crime.¹¹

B. “Lax” Gun Laws In Other States

Nor does it make sense to cast significant blame on other states for problems experienced by cities in states with restrictive gun control, which is often what happens in Chicago with relation to neighboring Indiana. Because there are no gun stores within the city limits of Chicago, the reality is that all guns possessed in Chicago, whether lawfully or unlawfully, must have been bought outside the city. The top three locations of origin for crime guns recovered in Chicago are actually gun stores in its Illinois suburbs, but it is true that many also originated in Indiana. But this has been true long before 2020, and cannot account for the sudden spike in violence. Illinois has long had stricter gun possession laws than neighboring Indiana. It is not as though, in the beginning of 2020, criminals in Chicago looked around and, for the first time, noticed that Indiana also sells guns.

Moreover, it is unclear why the origin of the firearm matters, as it is no easier for an Illinois resident to legally obtain a firearm in Indiana than in Illinois. Under federal law, the only way for an Illinois resident to legally purchase a gun in Indiana is to first obtain an Illinois Firearm Owner’s Identification Card and go through a background check, as there is no “private sale” exception for interstate sales or transfers. Additionally, if the firearm at issue is a handgun—by far the type of firearm most often used in gun crime—the Illinois resident must first have it shipped to a Federal Firearms Licensee in the Illinois. Regardless, the Indiana federal firearm licensee must ensure that the sale complies with Illinois law.

¹⁰ See Mariel Alper & Lauren Glaze, *Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016*, BUREAU OF JUSTICE STATISTICS NCJ 251776 (Jan. 2019), <https://www.bjs.gov/content/pub/pdf/suficspi16.pdf> (finding, in a study of over 287,000 prisoners who possessed a firearm during their offense, 43 percent obtained it “off the street or from the underground market,” while 25 percent had “obtained it from a family member or friend, or as a gift”); Anthony Fabio et al., *Gaps Continue in Firearm Surveillance: Evidence From A Large U.S. City Bureau of Police*, 10 SOCIAL MEDICINE 13 (2017).

¹¹ Julia P. Schleimer et al., *Firearm Purchasing and Firearm Violence During the Coronavirus Pandemic in the United States: A Cross-Section Study*, 8 INJURY EPIDEMIOLOGY 1 (2021); Paul G. Cassell, *Explaining the Recent Homicide Spikes in U.S. Cities: The ‘Minneapolis Effect’ and the Decline in Proactive Policing*, 33 FED. SENT’G REP. 83 (Dec. 2020) (last revised May 4, 2021, as University of Utah College of Law Research Paper No. 377). An additional study found that while 28 states saw significantly higher risk of gun violence during the pandemic compared to the same time pre-pandemic, 22 states did not experience a statistically significant higher risk—including states like Florida and South Carolina, which at the same time set record numbers for gun sales and traditionally receive poor gun control law ratings from advocacy groups. Compare Paddy Ssentongo et al., *Gun Violence Incidence During The COVID-19 Pandemic Is Higher Than Before The Pandemic In The United States*, SCIENTIFIC REPORTS No. 20654 (Oct. 2021), <https://www.nature.com/articles/s41598-021-98813-z>, with Julius Whigham II, *Gun Background Checks Down In Florida But Still Ahead Of Pre-COVID Years, State Data Shows*, PALM BEACH POST (Updated 11:05 a.m. ET Oct. 18, 2021), <https://www.palmbeachpost.com/story/news/local/2021/10/18/florida-gun-background-checks-concealed-carry-permit-renewal-firearms-supply-problems/5791342001/>.

The most rational explanation for why so many Chicago firearms originate in Indiana is not that Illinois or Indiana residents are exploiting some non-existent loophole in interstate gun sales. Rather, it is that Indiana is a stone's throw away from Chicago. According to Google Maps, from this very building, Whiting, Indiana, is about 20 minutes closer than the Chicago suburb of Wheaton. And, importantly, Indiana does not impose an additional tax on retail gun sales, like the one imposed by Cook County, meaning firearms are likely to be less expensive for law-abiding citizens looking to exercise their Second Amendment rights without breaking the bank.

Factors To Consider In Recent, Widespread Spikes In Gun Violence

Instead of pretending that the longstanding realities that Americans sometimes rush to buy guns or that federal law permits interstate gun sales offers us some easy policy solutions, we should instead ask the question: “What changed in recent years?” In answering this question, there does not appear to be one single factor in play, but a combination of several different factors—some of which arose rather recently and very suddenly—that combined to create a perfect climate for violence.

A. COVID-19 Disruptions To Violence Prevention Infrastructure

The research is clear about the vital role community violence prevention groups and other nonprofit intervention and social service organizations play in reducing gun violence rates. State and local efforts to combat the spread of COVID-19 suddenly and severely disrupted these important social networks and services, to the detriment of countless high-risk community members. Stay-at-home and social distancing policies made it far more difficult—and sometimes, impossible—for these organizations to carry out their vital work. Those that could switched to virtual case management, which often proves a poor substitute. Funding and volunteer rates plummeted. Former outlets for high-risk young men, such as recreational centers, sports leagues, and gymnasiums, were suddenly closed off. Schools went to virtual learning, where many districts saw large drop-offs in the percentage of students actually logging on to “attend” class.¹²

Additionally, the weight of the evidence suggests that people experiencing significant physical, social, or emotional “stressors” are more likely to act in violent ways than people who are not experiencing those same stressors. Obviously, the last two years have brought sudden and significant stressors for violence into the lives of countless Americans. Millions of sudden job losses and the financial worries, disruptions of routine, and lost sense of purpose that can come with long-term unemployment. Isolation. Deep political tensions playing themselves out on national television to a largely captive audience. Fears over health and well-being. General apprehension over the state of a world none of us had ever experienced before. Far too many people, including youths in the highest categories of risk for violence, have had far too much

¹² See, e.g., Will Jones, Ross Weidner & Jonathan Fagg, *Some CPS High Schools Report Nearly Half of Students Absent During Remote Learning*, ABC 7 CHICAGO (Friday, March 5, 2021) <https://abc7chicago.com/chicago-public-schools-cps-high-school-remote-learning/10391713/>.

time on their hands under far too much stress and with far too few of their normal support networks for deterrence. This is a recipe for disaster.

COVID-19 policy decisions—even the most necessary and reasonable ones—had consequences. According to one study, family-related gun homicides in particular have increased by 34 percent since 2019.¹³ Instances of domestic violence, including domestic violence homicides, shot up dramatically in many states.¹⁴ That is, unfortunately, what one might expect when dysfunctional families are effectively forced into long-term quarantine together, without their normal means of finding healthy outlets, accessing help, or having dangerous warning signs noticed by others.

B. Significant Changes To Law Enforcement Resources, Tactics, And Trust

There is substantial evidence that police departments around the nation suddenly and significantly altered the ways in which they deployed resources and interacted with communities as a result of COVID-related necessities, widespread civil unrest, and high-profile anti-police sentiment. These changes very likely played and continue to play a role in the ability of impacted police departments to deter criminal acts, investigate violent crimes, and bring the perpetrators of those crimes to justice before they can reoffend.

Consider the slew of problems faced by officers during the height of the pandemic, when many departments found themselves decimated by the virus itself. At one point in the spring of 2020, nearly 20 percent of NYPD's uniformed workforce was out sick or in quarantine, with many other major police departments facing similar shortages.¹⁵ Almost overnight, police forces around the country began taking steps to minimize interactions with civilians.¹⁶ This not only hampered pro-active policing efforts but also brought community policing tactics and outreach initiatives to build trust to a screeching halt. At the same time, in many cities, officers were diverted to the enforcement of COVID-related social distancing and closure orders.

¹³ James Alan Fox, *COVID Pandemic and Isolation Likely Pushed Spike in 2020 Homicides and Assaults*, USA TODAY (Oct. 4, 2021), <https://www.usatoday.com/story/opinion/policing/2021/10/04/violent-crime-covid-isolation-pushed-spike/5903199001/>.

¹⁴ See Brandt Williams, *Domestic Violence Killings in 2020 Already Surpass Last Year*, MPR NEWS (Oct. 1, 2020), <https://www.mprnews.org/story/2020/10/01/domestic-killings-in-2020-already-surpass-last-year>; Brad Boserup et al., *Alarming Trends in US Domestic Violence During the COVID-19 Pandemic*, 39 AM. J. EMERG. MED. 2753 (Dec. 2020); Craig Cheatham, *"That's Not Normal": Domestic Violence Deaths Increased 62% Over Last Two Years*, ABC 9 CINCINNATI (Oct. 6, 2021), <https://www.wcpo.com/news/local-news/i-team/thats-not-normal-domestic-violence-deaths-increase-62-over-last-two-years>.

¹⁵ Madeline Holcombe, *12 NYPD Members Have Died From Suspected Cases of Coronavirus and Nearly 20% of Its Uniformed Workforce Is Out Sick*, CNN (Updated 10:25 AM ET, Tue April 7, 2020), [New York coronavirus: Nearly 20% of the NYPD's uniformed workforce is out sick - CNN](https://www.cnn.com/2020/04/07/us/nypd-coronavirus/index.html).

¹⁶ See Josiah Bates, *Police Departments, Sheriffs' Offices Across the U.S. Grapple With COVID-19's Impact on Public Safety—And Their Own*, TIME (Apr. 2, 2020), <https://time.com/5812833/coronavirus-police-departments/>; Wesley G. Jennings & Nicholas M. Perez, *The Immediate Impact of COVID-19 on Law Enforcement in the United States*, AM. J. CRIM. JUSTICE E-PUB (June 6, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7275851/>.

There is also ample evidence that widespread social unrest and the high-profile proliferation of anti-police sentiment measurably shifted the deployment of police resources and led to unconscious (or perhaps entirely conscious) changes in policing styles.¹⁷ Because proactive, officer-initiated law enforcement is precisely the type of policing designed to disrupt patterns of violence, its sudden scaling back was bound to have devastating consequences for gun violence. Worse, it coincided in many cities with “defunding” measures, the cutting of vacant job openings, higher rates of retirement or quitting, and lower recruitment rates to fill the emptying ranks.¹⁸

C. Widespread Implementation Of Overly Lenient Approaches To Violent Crime

Let me be clear, while there is room for good faith discussions about criminal justice reform, including bail reform, these reforms must be tempered by reality, especially where violence is involved and the overall safety of the public is at stake. Far too many rogue prosecutors and other local officials, including Kim Foxx, the State’s Attorney for Cook County, have implemented poorly designed bail reforms and lenient prosecutorial tactics. The devastating results of these practices pre-date the 2020 homicide spike, but the problem has certainly been exacerbated during the last two years.

This is not speculation. This is hard data. Defenders of Cook County’s 2017 bail reform measures only succeed if they are permitted to fudge the numbers and mischaracterize reality.¹⁹ A comprehensive February 2020 study took a harder look at the actual numbers and found that the changes “appear to have led to a substantial increase in crimes committed by pretrial releaseses in Cook County.” After the new bail policies were implemented, 45 percent more

¹⁷ See Paul G. Cassell, *Explaining the Recent Homicide Spikes in U.S. Cities: The ‘Minneapolis Effect’ and the Decline in Proactive Policing*, 33 FED. SENT’G REP. 83 (Dec. 2020) (last revised May 4, 2021, as University of Utah College of Law Research Paper No. 377).

¹⁸ See *Survey on Police Workforce Trends*, POLICE EXECUTIVE RESEARCH FORUM (June 11, 2021), <https://www.policeforum.org/workforcesurveyjune2021>; Eric Westerfelt, *Cops Say Low Morale and Department Scrutiny Are Driving Them Away From The Job*, NPR (June 24, 2021), <https://www.npr.org/2021/06/24/1009578809/cops-say-low-morale-and-department-scrutiny-are-driving-them-away-from-the-job>; Adam Andrzejewski, *Democratic Mayors Defunded Their Police, While Spending Millions ON Their Own Police Protection*, FORBES (July 20, 2021), <https://www.forbes.com/sites/adamandrzejewski/2021/07/20/democratic-mayors-defunded-their-police-while-spending-millions-on-their-own-police-protection/?sh=2cbf4cbad86b>; Simon Gutierrez & Briana Kelly, *Portland Mayor To Disband Gun Violence Reduction Team, Transit Units*, KPTV FOX 12 (June 9, 2020), https://www.kptv.com/news/portland-mayor-to-disband-gun-violence-reduction-team-transit-units/article_8f349d9a-aab3-11ea-b3df-9bebe559f374.html;

¹⁹ See David Jackson, Todd Lighty, & Gary Marx, *Bail Reform Analysis By Cook County Chief Judge Based on Flawed Data, Undercounts New Murder Charges*, CHI. TRIBUNE (Feb. 13, 2020), <https://www.chicagotribune.com/investigations/ct-cook-county-bail-bond-reform-tim-evans-20200213-tkodxevlyvcp7k66q2v2ahboi4-story.html>.

released defendants were charged with committing new crimes, and 33 percent more were charged with committing new violent crimes.²⁰

Progressive prosecutors like Kim Foxx insist that there's no proof the individuals facing serious felony charges who are released on low bail or electronic monitoring are the ones committing further acts of violence. But just last month, a Chicago lawful gun owner got into a shootout with a man trying to steal a catalytic converter.²¹ The lawful gun owner won.²² But based on public media reports, the armed thief was the 51st person accused of killing or trying to kill someone in Chicago while out on bail for a felony offense this year.²³ In fact, the man was simultaneously on parole from a felony prison sentence, out on bail for a felony gun offense, and facing charges for a second felony gun offense in another county.²⁴ As of December 10, 2021, the number was up to 56 such instances, involving 83 victims.²⁵

The reality is that violent crime clearance rates in Chicago and other cities are abysmally low.²⁶ We have no idea whether most individuals released on bail are behaving themselves or re-offending without being caught, because we actually have no idea who is committing most crimes. What we do know is that a majority of gun violence tends to be perpetrated by a small subset of repeat offenders, and that recent violent behavior is a good predictor of future violent behavior. It is statistically almost certain that we are dramatically undercounting the rates at which many of these repeat offenders continue to re-offend while on bail. This problem is not unique to Chicago. Rogue prosecutors from Philadelphia to Los Angeles are forcing communities to reap the consequences of their progressive and overly lenient policies.²⁷

²⁰ Paul Cassell & Richard Fowles, *Does Bail Reform Increase Crime? An Empirical Assessment of the Public Safety Implications of Bail Reform in Cook County, Illinois*, S.J. QUINNEY COLLEGE OF LAW RESEARCH PAPER NO. 349 (Feb. 19, 2020), <https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1189&context=scholarship>.

²¹ *Lakeview Shooting: Licensed Carrier Kills Would-Be Catalytic Converter Thief In Shootout*, CPD Says, ABC 7 CHICAGO (Nov. 11, 2021), <https://abc7chicago.com/chicago-shooting-lakeview-catalytic-converter-wolcott/11223327/>.

²² *Id.*

²³ *#51: Concealed Carry Holder Kills Catalytic Converter Thief Who Opened Fire On Him In West Lakeview*, CWB CHICAGO (Nov. 11, 2021), <https://cwbchicago.com/2021/11/concealed-carry-holder-kills-catalytic-converter-thief-who-opened-fire-on-him-in-west-lakeview-source.html>.

²⁴ *Id.*

²⁵ *#56: Man Shot Store Clerk While On Bond For Felony Gun Case, Prosecutors Say*, CWB CHICAGO (Dec. 10, 2021), <https://cwbchicago.com/2021/12/56-man-shot-store-clerk-while-on-bond-for-felony-gun-case-prosecutors-say.html>.

²⁶ See Anthony A. Braga, *Improving Police Clearance Rates of Shootings: A Review of the Evidence*, MANHATTAN INSTITUTE (July 20, 2021), <https://www.manhattan-institute.org/improving-police-clearance-rates-shootings-review-evidence>.

²⁷ See Charles Stimson & Zack Smith, *"Progressive" Prosecutors Sabotage the Rule of Law, Raise Crime Rates, and Ignore Victims*, HERITAGE FOUND. LEGAL MEMORANDUM NO. 275 (Oct. 29, 2020), <https://www.heritage.org/crime-and-justice/report/progressive-prosecutors-sabotage-the-rule-law-raise-crime-rates-and-ignore>; Andrew C. McCarthy, *What's Behind Rising Violent Crime? Progressive Prosecutors' Non-Enforcement of the Law*, THE HILL (Oct. 10, 2021), <https://thehill.com/opinion/criminal-justice/576078-whats-behind-rising-violent-crime-progressive-prosecutors-non>?rl=1.

There is so much more that could be said about these rogue prosecutorial practices, but perhaps nothing could summarize the sheer breadth of absurdity as well as single recent charging decision right here in Chicago. On a Friday morning in early October, during what appears to have been an intra-gang dispute, four people drove up to a house and began indiscriminately shooting into it. Individuals in the house returned fire.²⁸ At least 70 rounds were fired, and in the end, one man was dead and two more were injured. The whole confrontation was caught on video. Police officers quickly tracked down and arrested five suspects, seeking for them to be charged with murder and aggravated battery. Given the reality of Illinois gun laws and the statistical likelihood these suspects were in illegal possession of firearms for which they did not have valid carry permits, several felony gun charges were also likely warranted. By Monday all five suspects had been released without charges. According to the police reports, the state attorney's officer rejected all charges, citing "mutual combatants" as the reason.

This is truly astounding. Putting aside the reality that "mutual combat" neither applies to this situation nor is a complete defense to the charge of murder (it merely enables the defendant to be convicted of the lesser charge of manslaughter), the state of Illinois gun law is such that it is virtually certain at least one of these suspects could have been charged with a felony gun offense. But instead, they were all released. And this, truly, is the heart of the matter. Rogue Chicago prosecutors have reached a point where they will release suspects who fired dozens of rounds into a residential neighborhood being decimated by gun violence during an unprecedented spike in homicide and, with a straight face, tell the community, "It's fine, they only ever shot at each other." Which at the same time tells those who perpetrate violent gun crimes, "It's fine, as long as you shoot at each other." And then we wonder aloud to ourselves in Congressional hearings why Chicago suffers from a gun violence problem.

Viable Avenues For Meaningfully Addressing Gun Violence Spikes

The good news is that, while there are no simple or politically easy solutions, there are nonetheless viable avenues for addressing and combating the major factors driving this recent spike in gun violence. Even so, some of these avenues require us to pay careful attention to the paths taken, to ensure that we do not swerve off course too far in the opposite direction, but stay squarely centered in the lane.

1. Robust Enforcement Of Existing Gun Laws

On the surface, enforcing existing laws may seem like an easy solution. After all, it is already illegal to trafficking in firearms, to sell or lend guns to prohibited persons, or for violent felons to possess firearms. It does not necessitate new laws. But to meaningfully enforce laws, many cities do need to change their policy approaches when it comes to law enforcement. This does not

²⁸ Tom Schuba, *Prosecutors Reject Charges Against 5 Suspects In Deadly Gang-Related Gunfight In Austin: 'It's Just Like The Wild West'*, CHI. SUN TIMES (Oct. 4, 2021), <https://chicago.suntimes.com/crime/2021/10/3/22707555/5-suspects-released-without-charges-deadly-shootout-austin>.

mean that we cannot engage in conversations about also funding important social services to complement law enforcement or make it easier for officers to stay focused on their own jobs instead of being mental health experts or mediators. It certainly does not mean we should refrain from conversations about better training or healthier models for police engagement with certain communities. It does mean that we need to accept the devastating effects of cutting jobs, undermining officer morale, and hamstringing officers' abilities or willingness to engage in proactive policing.

The most recent and comprehensive studies demonstrate that, on the whole, more officers deployed in high-crime areas using “hot spot” policing tactics means fewer lives lost to gun violence.²⁹ If black lives matter—and they do—then why is any city cutting police jobs and funding when statistics demonstrate that larger police forces save black lives from gun violence at a rate roughly twice that of white lives? And, importantly, this does not have to come with the additional problems of excessive force, profiling, or arrests being disproportionately leveled at people of color. The re-funding of departments and rededication to proactive policing can be pursued in tandem with efforts to professionalize law enforcement, implement better de-escalation and use-of-force training, and hold officers accountable for abuses.

Of course, pro-active policing is just one part of a complex picture. Unnecessary collateral sanctions continue to hold back many former offenders from pursuing lives as law-abiding, responsible citizens. Moreover, hiring and training officers (especially training them well and continuing to train them over time) is expensive and time-consuming. It cannot be accomplished overnight. But when it comes to gun violence, it turns out that everyone benefits from well-trained, pro-active police departments. But poor people and people of color have the most to gain in terms of reduced victimization from violent crime. This is particularly true when adequate policing is combined with addressing the other very real factors driving gun violence.

2. Combine Swift, Certain Punishment For Gun Crime Combined With Removal Of Burdensome Gun Laws

Pro-active policing is not the only possible solution that comes as a balancing act. The same is true of what it means to scale back “progressive” prosecutorial tactics. On the one hand, it is clear that violent criminal offenders should be deterred from carrying firearms in public by ensuring that those who illegally possess weapons are caught and that their punishment is both swift and certain. On the other hand, states like Illinois [to say nothing of New York and California] make it very difficult for ordinary, law-abiding citizens to obtain and carry firearms in public. Where the lawful exercise of the right to keep and bear arms in self-defense is turned into an expensive, time-consuming, and logistically challenging bureaucratic nightmare, there is

²⁹ Aaron Chafflin et al., *When Cities Add Cops, Black Residents Could Have The Most To Gain – And The Most To Lose*, Niskanen Center (May 18, 2021), https://www.nber.org/papers/w28202?utm_source=npr_newsletter&utm_medium=email&utm_content=20210419&utm_term=5326149&utm_campaign=money&utm_id=49355949&orgid=&utm_att1=money.

a genuine and well-founded fear that crackdowns on the public carrying of firearms will lead to many otherwise law-abiding gun owners being swept up as “violent felony gun offenders” for carrying a lawfully owned gun without a permit.³⁰

A recent study from Loyola University on arrests for illegal gun possession in Cook County help demonstrate the punitive effect of Illinois’ burdensome process for obtaining a concealed carry permit.³¹ A significant percentage of individuals arrested for illegal firearm possession are not otherwise prohibited from possessing guns and are not accused of using their gun in a violent manner or in furtherance of a crime. Their sole offense was a failure to obtain a concealed carry permit, something that under Illinois law they—as non-prohibited persons—could in theory obtain. The question is why individuals who want to carry in public and would actually qualify for the permit to do so nonetheless fail to obtain one. The answer seems to be, in large part, that obtaining a carry permit Illinois will cost several hundreds of dollars, require a working knowledge of the legal process, and impose serious time and logistical burdens.

So while the unlawful carrying of firearms by otherwise law-abiding and nonviolent people is certainly not something to be condoned, it is a very real phenomena that is exacerbated when states impose heavy burdens on the Second Amendment right. This becomes even more problematic in “may issue” states that effectively deny the right of self-defense in public with a firearm to ordinary citizens, who nonetheless feel compelled to carry because of a genuine fear of criminal harm.³² The goal, therefore, should be to avoid problems of needless criminalization of the right to keep and bear arms while still effectively combatting illegal gun possession by truly violent individuals. States should balance swift, certain punishment with public carry schemes that do not price out poor people or make the process so complicated as to deter ordinary Americans from trying to go through it in the first place.

3. Invest In And Rebuild Community Networks For Violence Prevention

States and local communities must invest in and help rebuild the community networks and services that are vital for violence prevention, while also understanding that these important buffers will not reach their pre-pandemic levels of effectiveness overnight. Many of these programs and networks will have to repair not only the lost bonds of engagement with their communities, but their own operations as well—funding, hiring, training lost support staff and volunteers. This will be much like restarting physical therapy after tweaking a healing knee. It is much easier to destroy previous progress than it is to repair it.

³⁰ See, e.g., Brief of the Black Attorneys of Legal Aid et al., *NYSRPA v. Corlett*, No. 20-843 (2021), https://www.supremecourt.gov/DocketPDF/20/20-843/184718/20210723101034102_20-843%20Amici%20Brief%20revised%20cover.pdf.

³¹ David E. Olson et al., *Arrests in Cook County for Illegal Possession of a Firearm*, RESEARCH BRIEF, LOYOLA UNIVERSITY CENTER FOR CRIMINAL JUSTICE RESEARCH, POLICY, AND PRACTICE (Dec. 2020), <https://www.luc.edu/media/lucedu/ccj/pdfs/CookCountygunpossessionbulletindecember2020.pdf>.

³² See Brief of the Black Attorneys of Legal Aid et al., *NYSRPA v. Corlett*, No. 20-843 (2021), https://www.supremecourt.gov/DocketPDF/20/20-843/184718/20210723101034102_20-843%20Amici%20Brief%20revised%20cover.pdf.

4. Encourage And Support Responsible Gun Ownership

Part of this hearing is to focus on illegal firearm trafficking, which is the driving force behind much of the criminal gun violence in this country. A significant source of black market firearms is the mind-blowing number of guns that are stolen from private citizens every year. The best estimates available suggest that hundreds of thousands of firearms are stolen annually from their lawful owners, often finding their way into the hands of criminals through illegitimate channels.³³ Gun owners, as a general rule, would prefer their guns not to be stolen. But truly safe storage—not just a lock box that can be easily removed from a home and then pried open later—is expensive. Measures like tax credits for first-time purchasers of qualifying gun safes or for those who take certain gun safety training classes on safe storage could go a long way toward reducing the number of firearms stolen from homes every year.

Additionally, a significant percentage of stolen guns are taken from vehicles.³⁴ Far too often, the gun owner keeps the firearm in his or her vehicle because state law prohibits him or her from carrying the gun into the public location where the owner needs to be. Relaxing overly strict prohibitions on public carry could serve to allow gun owners to keep their guns on their person instead of in their cars.

Conclusion: The Right Answers Are Not Always Simple Answers

None of the strategies outlined above provide particularly simple or quick solutions. They are not easily implemented overnight. They may be difficult to boil down into memorable slogans or pithy talking points. They may be far less appealing to constituents than the standard laments about having too many guns and too few gun laws. But the right answers are not always the simple answers. These strategies are the right ones. They pull us back in the right direction, which in this case, means saving lives. And for all of the demagoguery, division, and animosity that so often infiltrate the world of national politics, I continue to believe that in this endeavor to save lives, we are still on the same team.

³³ See Lynn Langton, *Firearms Stolen During Household Burglaries and Other Property Crimes, 2005-2010*, BUREAU OF JUSTICE STATISTICS NCJ NUMBER 239436 (Nov. 2012), <https://bjs.ojp.gov/library/publications/firearms-stolen-during-household-burglaries-and-other-property-crimes-2005>; David Hemenway et al., *Whose Guns Are Stolen? The Epidemiology of Gun Theft Victims*, 4 INJURY EPIDEMIOLOGY 1 (2017);

³⁴ See, e.g., Martin Kaste, *More Guns in Cars Means More Guns Stolen From Cars*, NPR (May 9, 2019), <https://www.npr.org/2019/05/09/717178960/more-guns-in-cars-mean-more-guns-stolen-from-cars>; Catherine Catoura, *Atlanta Police Ask For Public's Help Reducing Number of Guns Stolen From Cars*, CBS 46 (Nov. 27, 2021), https://www.cbs46.com/news/atlanta-police-ask-for-publics-help-reducing-number-of-guns-stolen-from-cars/article_1dc29130-4fcb-11ec-8f74-4f24fd0c082b.html; Julie Moreno, *SAPD Urges People Not To Leave Firearms In Unattended Vehicles After 1,500 Guns Stolen From Cars in 2021*, KSAT 12 (Nov. 30, 2021), <https://www.ksat.com/news/local/2021/11/30/sapd-urges-people-not-to-leave-firearms-in-unattended-vehicles-after-1500-guns-stolen-from-cars-in-2021/>.