



**SOCIAL AND ECONOMIC JUSTICE COMMISSION
REGULAR MEETING**

City Hall Council Chambers – 1000 San Pablo Avenue

March 1, 2016 – 7:30 PM

1. CALL TO ORDER

2. APPROVAL OF ACTION MINUTES: February 2016

3. PUBLIC COMMENT

For persons desiring to address the Commission/Committee/Board on an item that is not on the agenda please note that each speaker is limited to three (3) minutes. The Brown Act limits the Committee's ability to take and/or discuss items that are not on the agenda; therefore, such items are normally referred to staff for comment or to a future agenda.

4. ANNOUNCEMENTS FROM COMMITTEE MEMBERS

5. ANNOUNCEMENTS FROM STAFF

6. PRESENTATION

6-1 Berkeley Food and Housing Project – Sharon Alford, BFHP Manager, will present information on the Albany Project HOPE program and the Berkeley Housing Crisis Resolution Center (HCRC).

7. UNFINISHED BUSINESS

7-1 Soda Tax: The subcommittee will provide an update

Staff Recommendation: Receive information and discuss next steps including a timeline for the creation of a report and presentation to Council.

7-2 Rent Review: The subcommittee will provide an update.

Staff Recommendation: Receive information and discuss next steps including a timeline for the creation of a report and presentation to Council.

7-3 Berkeley Mental Health: Member Grossman will provide an update.

Staff Recommendation: Receive information.

8. NEW BUSINESS

8-1 Responsible Gun Use: Member Diehl will present information on the topic.

Staff Recommendation: Receive information and discuss whether or not to include the issue on the Commission's work plan. If there is consensus to move forward on the issue, a request to amend advisory body work plan form will need to be submitted via the staff liaison to Council for their approval.

8-2 Drop In Resource Center: Member Grossman will share information.

Staff Recommendation: Receive information.

8-3 Alameda County Coordinated Entry System: Staff will report on the first meeting of the committee.

8-4 Election of Officers: The Commission will nominate and elect Chair and Vice-Chair.

Staff recommendation: Elect Chair and Vice-Chair for 2016.

9. FUTURE AGENDA ITEMS

(Commission/Committee/Board Member announcement of requests for future agenda items. No public comment will be taken on announcement of future agenda items). **Next Meeting: Thursday, April 7, 2016, 7:30pm, City Hall Council Chambers, 1000 San Pablo Ave.**

10. ADJOURNMENT

Please note that if you provide your name and address when speaking before the Commission/Committee/Board it will become part of the official public record, which will be posted on the Internet.



SOCIAL AND ECONOMIC JUSTICE COMMISSION MEETING

Tuesday, February 2, 2016, 7:30 PM

Albany City Hall – Council Chambers, 1000 San Pablo Avenue

ACTION MINUTES

1. Call to Order: 7:34pm. Members Present: Chair Marks, Members Beall, Diehl, and Kaludi. Absent: Member Grossman. Staff Present: Isabelle Leduc

2. Approval of Minutes: Motion to approve minutes from December 1, 2015 was made by Member Diehl, seconded by Member Kaludi.

AYES: Members Beall, Diehl, Kaludi, Marks

NOES: None

Abstain: None

Motion carried and so ordered.

3. Public Comments

4. Announcements from Commission Members

5. Announcement from Staff

6. Presentation

6-1 Berkeley Rent Stabilization Program – Jay Kelekian, Executive Director, Berkeley Rent Stabilization Program.

6-2 Housing Element - Update from staff on implementation of 2014-2023 Housing Element.

6-3 General Plan Update - The Draft General Plan and Draft Environmental Impact Report (DEIR) was released in November 2015 for public review. Staff presented the Plan highlights. The Planning and Zoning Commission and the City Council will hold public hearings on the General Plan and EIR before formal adoption in spring 2016. Documents available at: <http://albany2035.org/documents/>.

7. Unfinished Business

7-1 Rent Review: The subcommittee will provide an update. Tabled.

7-2 Soda Tax: The subcommittee provided an update. Tabled.

7-3 Berkeley Mental Health: Member Grossman provided an update. Tabled.

8. New Business

8-1 Responsible Gun Use: Member Diehl will present information on the topic. Tabled.

8-2 Drop In Resource Center: Member Grossman will share information. Tabled.

8-3 Alameda County Coordinated Entry System: Staff will report on the first meeting of the committee. Tabled.

8-4 Election of Officers: The Commission will nominate and elect Chair and Vice-Chair. Tabled.

9. Future Agenda Items

10. Adjournment: 9:45pm

Albany Project HOPE
Homeless Outreach and Engagement Program
Berkeley Food and Housing Project Narrative

Report to City Council
October 2015-December 2015

Activities To-Date

The Albany Homeless Outreach and Engagement Program has continued providing case management and housing aftercare assistance to clients this quarter. The BFHP full time Albany Case Manager resigned during this report period, and the Albany half time case manager took on an expanded role and continued to provide services to 3 Oakland households who were former Bulb residents. These residents required additional aftercare interventions in order to remain stably housed. Those individuals continue to require weekly staff checks to ensure continued stability, on time rent payment, roommate civility and productive daily living. Case management contacts were increased through daily phone calls and weekly site visits.

Outreach interventions for unsheltered individuals in Albany are ongoing. The Albany case manager scheduled daily blocks of time to tour the “target areas” presenting service information, building relationships, and offering housing services. These efforts directly decreased the number of individuals residing in campsites and in the Target Creekside sites. The Albany case manager, assisted by the Albany Police Department, met with 7 individuals that remained in the area. All 7 were referred to City of Berkeley shelter space, showers at the downtown Berkeley BOSS facility and were offered brochures listing free meal locations. All 7 unsheltered individuals were invited to enter the Albany Homeless Outreach and Engagement Program. The individuals accepted the service referrals and moved out of the area.

Upon receiving a call from the Albany Community and Human Service Manager asking for a presence at the Albany Community Center, the Albany case manager proceeded to the “identified” area and provided outreach effort to the 6 unsheltered individuals that were hanging about in the front of the center. Once they were engaged in outreach, referral conversation the Albany case manager offered information about the City of Albany Homeless Outreach and Engagement Program, offered service referrals and other resources. The individuals were receptive, 2 of the 6 accepted referral to the program, and made an appointment for Program Intake. One of the 6 accepted shelter referral and entered the BFHP shelter that evening. Two of the 6 were resistant to information but moved away from the area. One of the 6 individuals stated he was housed and living with family. The last of the 6

individuals stated she wanted to “think about” working with the program, took the offered business card and left the the area.

Note: Two of the 6 entered the Albany Homeless Outreach and Engagement Program in January 2016

Successes in Quarter Four

- The program is interviewing applicants to fill the role of full time case manager. We are in the final process and will fill the position by January 2016.
- This quarter services included 23 client contacts and 23 life skill interventions for 11 residents residing in the Richmond, Oakland locations. Albany case manager had 24 landlord interventions on behalf of the 14th Street residents whose issues included: non-payment of client rent share, excessive hoarding, and roommate disagreements. These deficiencies resulted in further client disengagement from case management interventions. Clients were not keeping scheduled case management meetings and would not respond to calls. After many unsuccessful attempts to meet with the involved clients, the Albany case manager persisted and was able to make contact with the clients and assisted in designing a roommate contract to address the chaotic environment. Contract stipulations included scheduled balance owed payment plan agreements with the Landlord, clearing of debris in front yard and roommate respect.
- Albany case manager made site visits to engage with 2 of the 4 housed individuals at the Oakland location who appeared to be returning to former alcohol and drug addiction history. Referrals were made to Options Recovery Center located in Berkeley, and Cherry Hill Treatment Center located In Oakland. Options Recovery Center responded to the referral and made contact with the clients. One resident accepted services and now maintains his sobriety due to program interventions.
- Albany case manager continued to provide housing case management and after care services to 23 former Bulb related (and now permanently housed) individuals, updating or amending case plans to ensure “continued stability”. Amendments included budget restructuring, employment referrals, self-care, and roommate intervention, balancing landlord-renter relationships, and adhering to Landlord’s standard of occupancy.
- There was 1 family exit in Quarter 4. One family of 3 adults and 1 child exited Albany aftercare and have moved into Independent permanent sustainability status.

Challenges in Quarter Four

- Lack of affordable housing in the current market remains an issue. We will continue to research shared housing opportunities, as well as single room rentals that fit limited budgets.

- Roommates that may have entered the lease as strangers and have very diverse backgrounds and daily living experiences find it difficult to forge friendships and merge lifestyles.
- Roommates that engage in “unhealthy” daily living behaviors affecting others in the unit who lead quiet, productive daily lives remain a challenging area.
- Three of a 4 member household in Oakland faced eviction notices in Quarter 4 due to late rental payments, and hoarding behaviors. Two are working with Albany case manager to decrease number of site visits related to these challenges.



URBANDISPLACEMENT Project

Rent Control Policy Brief

February 2016

Policy Brief by: Mitchell Crispell

This policy brief was funded in part by the Regional Prosperity Plan¹ of the Metropolitan Transportation Commission as part of the “Regional Early Warning System for Displacement” project and from the California Air Resources Board² as part of the project “Developing a New Methodology for Analyzing Potential Displacement.”

Cover Photo Source: <http://www.socialistalternative.org/2015/09/16/bay-area-affordable-housing/>

¹ The work that provided the basis for this publication was supported by funding under an award with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government.

² The statements and conclusions in this report are those of the authors and not necessarily those of the California Air Resources Board. The mention of commercial products, their source, or their use in connection with material reported herein is not to be construed as actual or implied endorsement of such products

Policy Brief: *Rent Control in the Bay Area*

In neighborhoods experiencing gentrification pressures, strategies for preserving non-subsidized affordable rental units are important. Rent control is perhaps the most well-known tool to control the price of un-subsidized (often called “naturally affordable”) housing.

Rent control (or rent stabilization) refers to the type of policy that puts a limit on the amount of rent private landlords may charge tenants, either by fixing it at a certain dollar amount, allowing it to increase by a specific percentage (often tied to the official rate of inflation) annually, or having the allowable increase set by a board each year. Some policies include restrictions on evictions and specific processes for landlords or tenants to petition for higher or lower increases, respectively.

In this policy brief, we discuss rent control and its implementation in the Bay Area, based on a review of the literature as well as primary data from surveys and stakeholder interviews.³

Background on Rent Control

Nationally, rent control was an especially popular policy tool in the late 1960s through the early 1980s.⁴ By the late 1970s, 170 municipalities had put rent control laws in place, “mainly in the Northeast and California where the rent pressures were most severe and tenant organizations were strongest.”⁵ However, in the 1980s, an “emerging conservative onslaught” put tenants “on the defensive” and curtailed additional rent control ordinances, though cities that had passed rent control maintained a strong tenant voice.⁶

Many scholars have explored the subject. Some, writing primarily within an economics framework, conclude that rent control reduces the quality and quantity of rental housing, arguing that⁷ when landlords cannot earn a competitive return on rents, they under-maintain their units and look for more profitable endeavors, exacerbating the rental housing shortage.⁸ Moreover,

the less rental housing and the greater the rent gap between regulated and unregulated units, the less mobility renters have, since a move will likely result in much higher rents.⁹

On the other hand, other scholars have argued that the policy can contribute to population stability and security of tenure in the face of displacement pressures.¹⁰ The limited mobility caused by rent control may be a logical trade-off in gentrifying areas because it allows vulnerable residents to stay in their neighborhoods by moderating their rent burdens.¹¹ For example, rents for unregulated units in gentrifying neighborhoods of New York between 1996 and 1999 increased by an average of 43.2%, while rents for regulated units increased by only 11.4%.¹² In terms of stability, 35.2% of renting households in New York stayed in the same unit from 1990 to 2000, while nationally, 13.6% stayed in the same unit.¹³

In California, due to the 1995 Costa-Hawkins act, all rent control ordinances must allow for vacancy decontrol, meaning any time a tenant vacates a unit, the landlord can increase the rent to market rates.¹⁴ This gives landlords an “incentive to push out tenants, which can lead to unjust, or no-fault evictions” and an overall decline in the affordable housing stock.¹⁵ The law also makes it impossible for jurisdictions to pass rent controls on any units built after 1995, on single-family homes, or on condominium units.¹⁶

Rent Control in the Bay Area

As of 2015, seven Bay Area cities have rent control policies in place. They are summarized in Table 1 and Figure 1. Table 1 also shows the percent of renter households that lived in the same house for at least a year. These rates are on par or higher in cities with rent control than in the state overall, underscoring the finding that rent control can be a contributor to greater residential stability.

Table 1: Cities in the Bay Area with Rent Control Ordinances

City	Year Introduced, Last Modified	Allowable Rent Increases	Type (according to California Tenants' Rights Guide) ¹⁷	Percent of Renters Who Lived in Same House 1 Year Ago (2014 5-year ACS) - 76% in CA overall
Berkeley	1980, 2005	65% of the Consumer Price Index (CPI). Once per year.	Strict	62% (figure is low likely due to large college population)
East Palo Alto	1983, 2010	80% of the CPI but not exceeding 10%. Once a year.	Strict	82%
Hayward	1980, 2003	5% max annual increase.	Weak	78%
Los Gatos	1980, 2004	5% max annual increase or 70% of the increase in the CPI, whichever is greater. Once a year.	Weak	73%
Oakland	1980, 2014	CPI; more if landlords have "banked" their rent increases. Once a year.	Weak	77%
San Francisco	1970	60% of CPI, not exceeding 7%.	Strict	80%
San Jose	1985	8% increase; 21% if the last increase was more than 24 months ago. Once a year.	Weak	78%

Source: UC-Berkeley Internal Analysis; (Portman and Brown 2013).

All the ordinances were passed between 1980 and 1985 except San Francisco's, which passed in 1970. A policy expert mentioned that many rent control laws include a provision that if the vacancy rate is above a certain level (5 or 6%), the law does not apply, "because if you've got a really soft market it's harder to argue that there's a public purpose."

Most policies use the Consumer Price Index, a measure of inflation, as the benchmark for the increase. In East Palo Alto for example, allowable rent increases are 80% of the Consumer Price Index in that year. Other cities have a set increase of 5% or 8%. All policies allow only one increase per year.

Another way these policies vary is in which units they cover. Statewide, no policy may cover all rental housing, and in San Francisco for example, units built after 1979 are exempt. Most of the policies in the Bay Area exempt units built after the policies were passed.

With the exception of Los Gatos and San Jose, all of these cities also have "just cause for eviction" laws in place, which severely restrict a landlord's authority to evict a tenant. Such provisions are essential to make rent control effective because, without them, landlords

can avoid rent control limits by evicting tenants at will, and then using vacancy decontrol to raise rent on the next tenant. In the opposite configuration, as one expert said, "if you have just cause and no rent control, then they'll just double the person's rent...the two have to go hand in hand."

How effective is rent control? The results are mixed and a full accounting is beyond the scope of this brief. One stakeholder from San Jose said, "rent control has been implemented in San Jose and is in force for qualifying units. However, because there is high tenant turnover and no eviction protections, it has not been effective in keeping rents down overall." In Oakland, a stakeholder commented that, though "there are weaknesses...at the end of the day, [it] is working." One weakness, cited by a different stakeholder, is enforcement; the city lacks a registry of rent-controlled units, making it difficult to track them and ensure compliance.

In terms of potential for improving rent control policies, one expert proposes shifting the onus of proving the legality of a rent increase from tenants to landlords. Another key component of a rent control policy, according to the expert, is anti-harassment provisions, disallowing owners from "effectively" evicting tenants.

Cities like San Francisco, which excludes units built after 1979 from being subject to rent control, could shift that cut-off to as late as 1995 (the year after which state law forbids rent control); in the Mission District of San Francisco, such a change would cover nearly 2,000 more units.¹⁸

There have been no new binding rent control ordinances passed in the Bay Area since 1985. However, murmurs of interest have emerged in San Mateo County¹⁹ and in Richmond, where a rent control ordinance passed in August 2015 only to be repealed a few months later in the face of a petition campaign to repeal it.²⁰ Though passing new rent control ordinances appears to be very politically challenging, one policy expert believes the Bay Area may be experiencing another “moment” where such policies could get passed, “because the crisis is so sharp and happened so quickly.”

Conclusion

Though rent control has proven to be a relatively effective tool in limiting displacement, few Bay Area cities have implemented it. Where they are in place, rent control policies suffer from state law limitations, like vacancy decontrol, which mean not all units stay affordable over the long run. Even so, a strong rent control policy, coupled with just cause evictions law and other tenant protections, can help address displacement.

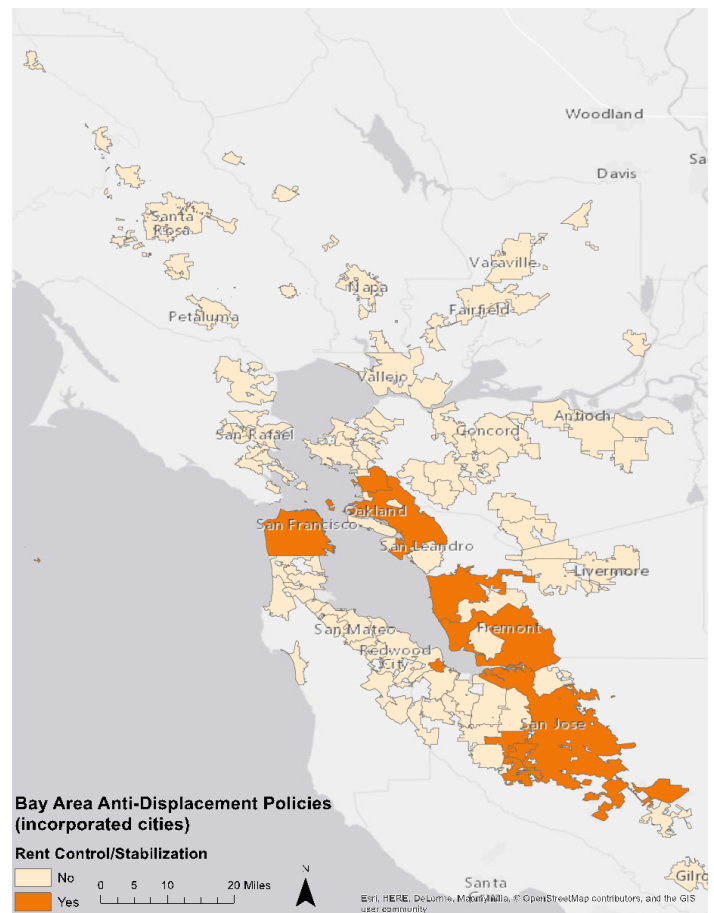


Figure 1: Rent Control Policies in the Bay Area
Source: UC-Berkeley Internal Analysis

³ We reviewed both academic and practitioner literature on anti-displacement strategies. A survey on the effectiveness of anti-displacement strategies was sent to staff at all of the planning departments in the Bay Area as well as housing-related community based organizations; we refer to responses from this survey as “stakeholder” comments. Finally, we conducted interviews with many stakeholders, including community advocates, staff of community organizations, and individuals involved with local, regional, and state policy.

⁴ Levy, Diane K., Jennifer Comey, and Sandra Padilla. 2006. “Keeping the Neighborhood Affordable: A Handbook of Housing Strategies for Gentrifying Areas.” Text. <http://webarchive.urban.org/publications/411295.html>.

⁵ Keating, Dennis, and Mitch Kahn. 2001. “Rent Control In The New Millenium.” NHI Shelterforce Online. June. <http://www.nhi.org/online/issues/117/KeatingKahn.html>.

⁶ Ibid.

⁷ Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. 1998. *Rent Control: Regulation and the Rental Housing Market*. New Brunswick, N.J.: CUPR/Transaction.

Ibid.

⁸ Freeman, Lance, and Frank Braconi. 2004. “Gentrification and Displacement New York City in the 1990s.” *Journal of the American Planning Association* 70 (1): 39–52. doi:10.1080/01944360408976337.

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⁹ Ellen, Ingrid Gould, and Brendan O’Flaherty. 2013. “Chapter 4. How New York and Los Angeles Housing Policies Are Different—and Maybe Why.” In *New York and Los Angeles: The Uncertain Future*. New York: Oxford University Press.

¹⁰ Freeman, Lance, and Frank Braconi. 2004. "Gentrification and Displacement New York City in the 1990s." *Journal of the American Planning Association* 70 (1): 39–52. doi:10.1080/01944360408976337.

¹¹ Ibid.

¹² Ellen, Ingrid Gould, and Brendan O'Flaherty. 2013. "Chapter 4. How New York and Los Angeles Housing Policies Are Different--and Maybe Why." In *New York and Los Angeles: The Uncertain Future*. New York: Oxford University Press.

¹³ Levy, Diane K., Jennifer Comey, and Sandra Padilla. 2006. "Keeping the Neighborhood Affordable: A Handbook of Housing Strategies for Gentrifying Areas." Text. <http://webarchive.urban.org/publications/411295.html>.

¹⁴ Great Communities Collaborative. 2007. "Preventing Displacement Policy Fact Sheet." <http://www.greatcommunities.org/wp-content/uploads/pdf/2007%2011%20Preventing%20Displacement%20Policy%20Fact%20Sheet.pdf>.

¹⁵ Portman, Janet, and David W. Brown. 2013. *California Tenants' Rights*. Nolo.

¹⁶ The California Tenants' Rights guide classifies California cities' rent control policies into groups: "Weak Rent Control" laws allow landlords to raise the rent generously, and even above the fixed amount unless a tenant protests to a rent board. These policies do not require landlords to register their units with the city. "Moderate-to-Strict Rent Control" laws require the landlord to "bear the burden of petitioning the rent board for an above-formula rent increase and of justifying the need for such an increase based on certain cost factors listed in the ordinance," include a just cause evictions ordinance, and require landlords to register units with the city. Portman, Janet, and David W. Brown. 2013. *California Tenants' Rights*. Nolo.

¹⁷ Ibid.

¹⁸ Chapple, Karen, and Mitchell Crispell. "Mission Accomplished? Revisiting the Solutions," November 9, 2015. <http://www.urbandisplacement.org/blog/mission-accomplished-revisiting-solutions>.

¹⁹ Kinney, Aaron. 2015a. "San Mateo County: Affordable Housing Crisis Inspires Talks about Rent Control." March 2. http://www.mercurynews.com/san-mateo-county-times/ci_27620755/san-mateo-county-affordable-housing-crisis-inspires-talks.

Kinney, Aaron. 2015b. "San Mateo County Supervisors Deal Blow to Rent Control Hopes." March 18. http://www.mercurynews.com/san-mateo-county-times/ci_27732158/san-mateo-county-supervisors-deal-blow-rent-control.

²⁰ Ioffe, Karina. 2015. "Richmond Rent Control Ordinance Formally Repealed." *ContraCostaTimes.com*, November 4. http://www.contracostatimes.com/richmond/ci_29069078/richmond-rent-control-ordinance-formally-repealed.

The White House

Office of the Press Secretary

For Immediate Release

January 04, 2016

FACT SHEET: New Executive Actions to Reduce Gun Violence and Make Our Communities Safer

Gun violence has taken a heartbreaking toll on too many communities across the country. Over the past decade in America, more than 100,000 people have been killed as a result of gun violence—and millions more have been the victim of assaults, robberies, and other crimes involving a gun. Many of these crimes were committed by people who never should have been able to purchase a gun in the first place. Over the same period, hundreds of thousands of other people in our communities committed suicide with a gun and nearly half a million people suffered other gun injuries. Hundreds of law enforcement officers have been shot to death protecting their communities. And too many children are killed or injured by firearms every year, often by accident. The vast majority of Americans—including the vast majority of gun owners—believe we must take sensible steps to address these horrible tragedies.

The President and Vice President are committed to using every tool at the Administration's disposal to reduce gun violence. Some of the gaps in our country's gun laws can only be fixed through legislation, which is why the President continues to call on Congress to pass the kind of commonsense gun safety reforms supported by a majority of the American people. And while Congress has repeatedly failed to take action and pass laws that would expand background checks and reduce gun violence, today, building on the significant steps that have already been taken over the past several years, the Administration is announcing a series of commonsense executive actions designed to:

1. Keep guns out of the wrong hands through background checks.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is making clear that it doesn't matter where you conduct your business—from a store, at gun shows, or over the Internet: If you're in the business of selling firearms, you must get a license and conduct background checks.

ATF is finalizing a rule to require background checks for people trying to buy some of the most dangerous weapons and other items through a trust, corporation, or other legal entity.

Attorney General Loretta E. Lynch has sent a letter to States highlighting the importance of receiving complete criminal history.

The Federal Bureau of Investigation (FBI) is overhauling the background check system to make it more effective and efficient. The envisioned improvements include processing background checks 24 hours a day, 7 days a week, and improving notification of local authorities when certain prohibited persons unlawfully attempt to buy a gun. The FBI will hire more than 230 additional examiners and other staff to help process these background checks.

2. Make our communities safer from gun violence.

The Attorney General convened a call with U.S. Attorneys around the country to direct federal prosecutors to continue to focus on smart and effective enforcement of our gun laws.

The President's FY2017 budget will include funding for 200 new ATF agents and investigators to help enforce our gun laws.

ATF has established an Internet Investigation Center to track illegal online firearms trafficking and is dedicating \$4 million and additional personnel to enhance the National Integrated Ballistics Information Network.

ATF is finalizing a rule to ensure that dealers who ship firearms notify law enforcement if their guns are lost or stolen in transit.

The Attorney General issued a memo encouraging every U.S. Attorney's Office to renew domestic violence outreach efforts.

3. Increase mental health treatment and reporting to the background check system.

The Administration is proposing a new \$500 million investment to increase access to mental health care.

The Social Security Administration has indicated that it will begin the rulemaking process to include information in the background check system about beneficiaries who are prohibited from possessing a firearm for mental health reasons.

The Department of Health and Human Services is finalizing a rule to remove unnecessary legal barriers preventing States from reporting relevant information about people prohibited from possessing a gun for specific mental health reasons.

4. Shape the future of gun safety technology.

The President has directed the Departments of Defense, Justice, and Homeland Security to conduct or sponsor research into gun safety technology.

The President has also directed the departments to review the availability of smart gun technology on a regular basis, and to explore potential ways to further its use and development to more broadly improve gun safety.

Congress should support the President's request for resources for 200 new ATF agents and investigators to help enforce our gun laws, as well as a new \$500 million investment to address mental health issues.

Because we all must do our part to keep our communities safe, the Administration is also calling on States and local governments to do all they can to keep guns out of the wrong hands and reduce gun violence. It is also calling on private-sector leaders to follow the lead of other businesses that have taken voluntary steps to make it harder for dangerous individuals to get their hands on a gun. In the coming weeks, the Administration will engage with manufacturers, retailers, and other private-sector leaders to explore what more they can do.

New Actions by the Federal Government

Keeping Guns Out of the Wrong Hands Through Background Checks

The most important thing we can do to prevent gun violence is to make sure those who would commit violent acts cannot get a firearm in the first place. The National Instant Criminal Background Check System (NICS), which was created by Congress to prevent guns from being sold to prohibited individuals, is a critical tool in achieving that goal. According to the Bureau of Justice Statistics, the background check system has prevented more than 2 million guns from getting into the wrong hands. We know that making the system more efficient, and ensuring that it has all appropriate records about prohibited purchasers, will help enhance public safety. Today, the Administration is announcing the following executive actions to ensure that all gun dealers are licensed and run background checks, and to strengthen the background check system itself:

- **Clarify that it doesn't matter where you conduct your business—from a store, at gun shows, or over the Internet: If you're in the business of selling firearms, you must get a license and conduct background checks.** Background checks have been shown to keep guns out of the wrong hands, but too many gun sales—particularly online and at gun shows—occur without basic background checks. Today, the Administration took action to ensure that

anyone who is “engaged in the business” of selling firearms is licensed and conducts background checks on their customers. Consistent with court rulings on this issue, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has clarified the following principles:

- A person can be engaged in the business of dealing in firearms regardless of the location in which firearm transactions are conducted. For example, a person can be engaged in the business of dealing in firearms even if the person only conducts firearm transactions at gun shows or through the Internet. Those engaged in the business of dealing in firearms who utilize the Internet or other technologies must obtain a license, just as a dealer whose business is run out of a traditional brick-and-mortar store.
- Quantity and frequency of sales are relevant indicators. There is no specific threshold number of firearms purchased or sold that triggers the licensure requirement. But it is important to note that even a few transactions, when combined with other evidence, can be sufficient to establish that a person is “engaged in the business.” For example, courts have upheld convictions for dealing without a license when as few as two firearms were sold or when only one or two transactions took place, when other factors also were present.
- There are criminal penalties for failing to comply with these requirements. A person who willfully engages in the business of dealing in firearms without the required license is subject to criminal prosecution and can be sentenced up to five years in prison and fined up to \$250,000. Dealers are also subject to penalties for failing to conduct background checks before completing a sale.
- **Require background checks for people trying to buy some of the most dangerous weapons and other items through a trust or corporation.** The National Firearms Act imposes restrictions on sales of some of the most dangerous weapons, such as machine guns and sawed-off shotguns. But because of outdated regulations, individuals have been able to avoid the background check requirement by applying to acquire these firearms and other items through trusts, corporations, and other legal entities. In fact, the number of these applications has increased significantly over the years—from fewer than 900 applications in the year 2000 to more than 90,000 applications in 2014. ATF is finalizing a rule that makes clear that people will no longer be able to avoid background checks by buying NFA guns and other items through a trust or corporation.
- **Ensure States are providing records to the background check system, and work cooperatively with jurisdictions to improve reporting.** Congress has prohibited specific categories of people from buying guns—from convicted felons to users of illegal drugs to individuals convicted of misdemeanor crimes of domestic violence. In the wake of the shootings at Virginia Tech in 2007, Congress also created incentives for States to make as many relevant records as possible accessible to NICS. Over the past three years, States have increased the number of records they make accessible by nearly 70 percent. To further encourage this

reporting, the Attorney General has written a letter to States highlighting the importance of receiving complete criminal history records and criminal dispositions, information on persons disqualified for mental health reasons, and qualifying crimes of domestic violence. The Administration will begin a new dialogue with States to ensure the background check system is as robust as possible, which is a public safety imperative.

- **Make the background check system more efficient and effective.** In 2015, NICS received more than 22.2 million background check requests, an average of more than 63,000 per day. By law, a gun dealer can complete a sale to a customer if the background check comes back clean or has taken more than three days to complete. But features of the current system, which was built in the 1990s, are outdated. The Federal Bureau of Investigation (FBI) will take the following steps to ensure NICS operates more efficiently and effectively to keep guns out of the wrong hands:
 - FBI will hire more than 230 additional NICS examiners and other staff members to assist with processing mandatory background checks. This new hiring will begin immediately and increase the existing workforce by 50 percent. This will reduce the strain on the NICS system and improve its ability to identify dangerous people who are prohibited from buying a gun before the transfer of a firearm is completed.
 - FBI has partnered with the U.S. Digital Service (USDS) to modernize NICS. Although NICS has been routinely upgraded since its launch in 1998, the FBI is committed to making the system more efficient and effective, so that as many background checks as possible are fully processed within the three-day period before a dealer can legally sell a gun even if a background check is not complete. The improvements envisioned by FBI and USDS include processing background checks 24 hours a day, 7 days a week to improve overall response time and improving notification of local authorities when certain prohibited persons unlawfully attempt to purchase a firearm.

Making Our Communities Safer from Gun Violence

In order to improve public safety, we need to do more to ensure smart and effective enforcement of our gun laws and make sure that criminals and other prohibited persons cannot get their hands on lost or stolen weapons. The Administration is therefore taking the following actions:

- **Ensure smart and effective enforcement of our gun laws.** In a call earlier today, the Attorney General discussed the importance of today's announcements and directed the Nation's 93 U.S. Attorneys across the country to continue to focus their resources—as they have for the past several years under the Department's Smart on Crime initiative—on the most impactful cases,

including those targeting violent offenders, illegal firearms traffickers, and dangerous individuals who bypass the background check system to acquire weapons illegally. During the call, the Attorney General also emphasized ongoing initiatives to assist communities in combating violent crime, including ATF's efforts to target the "worst of the worst" gun crimes. These efforts will also complement the following actions announced today:

- The President's budget for FY2017 will include funding for 200 new ATF agents and investigators who can help enforce our gun laws, including the measures announced today. Strategic and impactful enforcement will help take violent criminals off the street, deter other unlawful activity, and prevent guns from getting into the wrong hands
- ATF is dedicating \$4 million and additional personnel to enhance the National Integrated Ballistics Information Network (NIBIN). The NIBIN database includes ballistic evidence that can be used by analysts and investigators to link violent crimes across jurisdictions and to track down shooters who prey on our communities. In February 2016, ATF is standing up the National NIBIN Correlation and Training Center—which will ultimately provide NIBIN matching services at one national location, rather than requiring local police departments to do that work themselves. The Center will provide consistent and capable correlation services, making connections between ballistic crime scene evidence and crime guns locally, regionally, and nationally. These enhancements will support ATF's crime gun intelligence and enforcement efforts, particularly in communities most affected by violent crime.
- ATF has established an Internet Investigations Center (IIC) staffed with federal agents, legal counsel, and investigators to track illegal online firearms trafficking and to provide actionable intelligence to agents in the field. The IIC has already identified a number of significant traffickers operating over the Internet. This work has led to prosecutions against individuals or groups using the "dark net" to traffic guns to criminals or attempting to buy firearms illegally online.
- **Ensure that dealers notify law enforcement about the theft or loss of their guns.** Under current law, federal firearms dealers and other licensees must report when a gun from their inventory has been lost or stolen. The regulations are ambiguous, however, about who has this responsibility when a gun is lost or stolen in transit. Many lost and stolen guns end up being used in crimes. Over the past five years, an average of 1,333 guns recovered in criminal investigations each year were traced back to a licensee that claimed it never received the gun even though it was never reported lost or stolen either. Today, ATF issued a final rule clarifying that the licensee shipping a gun is responsible for notifying law enforcement upon discovery that it was lost or stolen in transit.
- **Issue a memo directing every U.S. Attorney's Office to renew domestic violence outreach efforts.** In the event of an emergency, victims of domestic violence should call 911 or otherwise

contact state or local law enforcement officials, who have a broader range of options for responding to these crimes. To provide an additional resource for state, local, and tribal law enforcement and community groups focused on domestic violence, the Attorney General is issuing a memo directing U.S. Attorney's Offices around the country to engage in renewed efforts to coordinate with these groups to help combat domestic violence and to prevent prohibited persons from obtaining firearms.

Increase Mental Health Treatment and Reporting to the Background Check System

The Administration is committed to improving care for Americans experiencing mental health issues. In the last seven years, our country has made extraordinary progress in expanding mental health coverage for millions of Americans. This includes the Affordable Care Act's end to insurance company discrimination based on pre-existing conditions, required coverage of mental health and substance use disorder services in the individual and small group markets, and an expansion of mental health and substance use disorder parity policies, all of which are estimated to help more than 60 million Americans. About 13.5 million more Americans have gained Medicaid coverage since October 2013, significantly improving access to mental health care. And thanks to more than \$100 million in funding from the Affordable Care Act, community health centers have expanded behavioral health services for nearly 900,000 people nationwide over the past two years. We must continue to remove the stigma around mental illness and its treatment—and make sure that these individuals and their families know they are not alone. While individuals with mental illness are more likely to be victims of violence than perpetrators, incidents of violence continue to highlight a crisis in America's mental health system. In addition to helping people get the treatment they need, we must make sure we keep guns out of the hands of those who are prohibited by law from having them. Today, the Administration is announcing the following steps to help achieve these goals:

- **Dedicate significant new resources to increase access to mental health care.** Despite our recent significant gains, less than half of children and adults with diagnosable mental health problems receive the treatment they need. To address this, the Administration is proposing a new \$500 million investment to help engage individuals with serious mental illness in care, improve access to care by increasing service capacity and the behavioral health workforce, and ensure that behavioral health care systems work for everyone. This effort would increase access to mental health services to protect the health of children and communities, prevent suicide, and promote mental health as a top priority.
- **Include information from the Social Security Administration in the background check system about beneficiaries who are prohibited from possessing a firearm.** Current law

prohibits individuals from buying a gun if, because of a mental health issue, they are either a danger to themselves or others or are unable to manage their own affairs. The Social Security Administration (SSA) has indicated that it will begin the rulemaking process to ensure that appropriate information in its records is reported to NICS. The reporting that SSA, in consultation with the Department of Justice, is expected to require will cover appropriate records of the approximately 75,000 people each year who have a documented mental health issue, receive disability benefits, and are unable to manage those benefits because of their mental impairment, or who have been found by a state or federal court to be legally incompetent. The rulemaking will also provide a mechanism for people to seek relief from the federal prohibition on possessing a firearm for reasons related to mental health.

- **Remove unnecessary legal barriers preventing States from reporting relevant information to the background check system.** Although States generally report criminal history information to NICS, many continue to report little information about individuals who are prohibited by Federal law from possessing or receiving a gun for specific mental health reasons. Some State officials raised concerns about whether such reporting would be precluded by the Privacy Rule issued under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Today, the Department of Health and Human Services issued a final rule expressly permitting certain HIPAA covered entities to provide to the NICS limited demographic and other necessary information about these individuals.

Shaping the Future of Gun Safety Technology

Tens of thousands of people are injured or killed by firearms every year—in many cases by guns that were sold legally but then stolen, misused, or discharged accidentally. Developing and promoting technology that would help prevent these tragedies is an urgent priority. America has done this in many other areas—from making cars safer to improving the tablets and phones we use every day. We know that researchers and engineers are already exploring ideas for improving gun safety and the tracing of lost or stolen guns. Millions of dollars have already been invested to support research into concepts that range from fingerprint scanners to radio-frequency identification to microstamping technology.

As the single largest purchaser of firearms in the country, the Federal Government has a unique opportunity to advance this research and ensure that smart gun technology becomes a reality—and it is possible to do so in a way that makes the public safer and is consistent with the Second Amendment. Today, the President is taking action to further this work in the following way:

- **Issue a Presidential Memorandum directing the Department of Defense, Department of Justice, and Department of Homeland Security to take two important steps to promote smart gun technology.**
- Increase research and development efforts. The Presidential Memorandum directs the departments to conduct or sponsor research into gun safety technology that would reduce the frequency of accidental discharge or unauthorized use of firearms, and improve the tracing of lost or stolen guns. Within 90 days, these agencies must prepare a report outlining a research-and-development strategy designed to expedite the real-world deployment of such technology for use in practice.
- Promote the use and acquisition of new technology. The Presidential Memorandum also directs the departments to review the availability of smart gun technology on a regular basis, and to explore potential ways to further its use and development to more broadly improve gun safety. In connection with these efforts, the departments will consult with other agencies that acquire firearms and take appropriate steps to consider whether including such technology in specifications for acquisition of firearms would be consistent with operational needs.