



**Law Office of the
COOK COUNTY PUBLIC DEFENDER**

69 W WASHINGTON • 16TH FLOOR • CHICAGO, IL 60602 • (312) 603-0600

January 13, 2022

Sent via electronic mail

Re: “Victims Justice Ordinance”

To the Members of the Chicago City Council:

I write to you today as the Cook County Public Defender to request that you reject the Victims Justice Ordinance. I am writing on behalf of the hundreds of attorneys in my office and our tens of thousands of clients, who are overwhelmingly Black and Brown. The vast majority of clients we represent each year live in the exact Chicago communities most impacted by gun violence, and many are themselves victims of that violence. I also write you as a son of the South Side who has seen first-hand the impacts of our dual failures to reduce gun violence or offer hurting communities just legal outcomes. From both my professional and personal perspectives, there is no greater challenge our City faces than ending gun violence.

But serious problems deserve serious solutions. The “Victims Justice Ordinance” is not one.

Authorizing the city to bring civil lawsuits against gangs, their alleged members, and the people around them—often unsuspecting family members—is at best a misguided attempt to reduce gun violence. At worst, this ordinance will make intra-community violence worse by making poor communities poorer, making anti-violence workers’ jobs harder, weakening police-community relations, and diverting City resources away from potentially effective solutions.

If passed, this ordinance would:

1. Fail to reduce gun violence. For this reason, it risks being merely a distraction from other solutions that have already been proven effective and that my office’s clients desperately need.
2. Seize money, property, and other assets from vulnerable people not even alleged to have participated in violence, such as parents, grandparents and other family members. Their loss of assets would significantly harm already struggling communities. These impacted people are also clients of the Public Defender’s Office.
3. Misuse the City’s finite legal resources—resources that could be better used to reduce violence if deployed elsewhere, such as pursuing supply-side limits on gun manufacturers.
4. Create new legal and political liabilities for the City in the form of civil rights lawsuits and negative press.

If the proposed ordinance were merely ineffective, I would be less concerned. As currently written, however, dozens of violence prevention specialists, civil rights attorneys, gang violence experts and criminal justice practitioners agree this would make our efforts to keep communities safe harder. For this reason, I urge that you reject the Victims Justice Ordinance. Below are additional explanations of why the ordinance as it is written now will cause harm to our marginalized communities.

Civil asset forfeiture doesn't work and is already handled by other agencies.

Supporters of this ordinance claim that it creates a new tool to go after “kingpins” and other gang leaders. This is false. Illinois state and federal laws already give prosecutors more than ample power and legal mechanisms to seize financial assets associated with criminal activity and organized crime. From the basic and extremely common use of restitution in state criminal cases to complex federal RICO charges, prosecutors already can and do take assets from people and organizations they allege are involved in criminal activity. There is simply no need for a new way to accomplish this goal.

The entry of the City's civil legal department into a new field while under political pressure to produce impossible results is also a recipe for disaster. City Council members shouldn't have to contend with their constituents being victimized by overzealous City attorneys under this or future administrations—which is exactly what the use of civil asset forfeiture has historically incentivized. Civil asset forfeiture is a tool ripe for abuse. In fact, it raised so many civil liberties concerns and offered so little public safety value that Republican Illinois Governor Bruce Rauner supported a 2017 law that reformed the process to make it harder to seize property outside the restrictions of criminal prosecution. This ordinance would be a step backward for Chicago.

Finally, there is no evidence to suggest that financial penalties such as those envisioned by the Victims Justice Ordinance are in any way effective at reducing violence or preventing harm from taking place. That's why neighboring counties such as DuPage have stopped pursuing these cases.

The ordinance unfairly punishes innocent people.

A second primary objection to the ordinance is its breadth: the people subject to costly lawsuits and potential seizure of their property are not required to themselves be gang members, they don't have to have been previously convicted of a crime, and they are not entitled to a court-appointed lawyer if they're indigent. The ordinance includes no limitations to prevent a grandmother from being sued for her car after her grandson is pulled over while driving it. Under the “Victims Justice Ordinance,” an aunt could lose her home because of allegations against her nephew who lives in the basement. As a result, this ordinance threatens to undermine the well-being of Black families and Black women, specifically.

Historically, it is exactly these types of people who have been subject to asset forfeiture. Refusing to expand these sorts of financial penalties through this ordinance won't let people responsible for violence “off the hook,” but it will prevent harm to the very people who provide support and stability in the communities suffering the most from gun violence. Increasing community stability is actually key to reducing violence in neighborhoods, and extracting money from people who don't have any to spare will directly undermine that goal.

The ordinance fundamentally misunderstands contemporary gangs and gun violence.

In imagining formal organizations with strict hierarchies and lines of accountability, the ordinance relies on outdated understandings of gangs. In the 1990s, violence in Chicago was more likely to be driven by a small number of large, organized gangs who engaged in gun violence to protect and expand their territory and profits. In 2021, however, those large gangs with well-defined leadership have long been replaced by more than 800 smaller and loosely affiliated factions.

Violence obviously still occurs in connection to gang membership and interests, but it is much more often based on interpersonal conflicts and driven by social media. Suing people in proximity to gangs does nothing to solve this problem. This disconnect between the ordinance's theory of gangs and the reality on the ground is partially why so many violence prevention organizations think that this proposal is a bad idea and historically

ineffective: it would result in unjust outcomes and blanket targeting of communities, further decreasing trust between residents and police.

The ordinance relies on faulty, dated information about gang membership.

The City of Chicago’s gang database has been subject to litigation and public scrutiny for years. The Office of the Inspector General’s March 2021 report on the gang database, however, concluded that the Chicago Police Department “has fallen critically short of meeting the commitments” it made to create a new database without the legally questionable practices and factually inaccurate information of the old one. In the meantime, the old gang database continues to be used. Setting aside the utility of any gang label collection system, the Chicago Police Department has currently failed to enact reforms all other actors agree are necessary to legitimize such a project. It therefore raises grave concerns as to how the City will accurately identify people potentially subject to suit under the Victims Justice Ordinance.

We should focus on effective violence prevention efforts, not failed “deterrence” strategies.

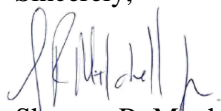
There is no doubt that gun violence causes enormous harm and stress for the most vulnerable communities and individuals in our city and requires action in response. The current proposal to sue gangs, however, is an embarrassing solution to a serious problem. Instead, the City must focus on proven violence prevention strategies, such as those recently invested in by the State of Illinois and Cook County. I applaud Mayor Lightfoot and members of City Council for significantly increasing funding for violence prevention strategies in the recently passed 2022 budget. These sorts of effective, evidence-based strategies can stop harm before it happens.

In addition, policymakers and other civic leaders must reckon with and correct the structural factors that generate violence, including decades of divestment and destabilization through criminalization and incarceration. To generate real community safety and end gun violence, we must work to eliminate economic and racial inequality, improve educational and employment opportunities and access for young people, provide adequate transportation and housing to neighborhoods in need, heal the trauma inflicted by current violence, fulfill the commitments of the Chicago Police Department consent decree, and get creative on limiting access to guns through pathways other than just more criminalization. This Council has moved the needle forward in many of these areas, and I would be pleased to work together to continue this progress.

In contrast to these proven solutions, the Victims Justice Ordinance is a step backward. Extracting money from communities who have none to spare—the central tool this ordinance offers—is the opposite of the investment needed. The Victims Justice Ordinance doubles down on failed strategies of the past, and no lives will be saved by this distraction from real solutions. I urge you to reject the Victims Justice Ordinance and to work with hurting communities to craft effective responses. Our city is hurting.

I am available to answer any questions you have or expand on any of the points raised above.

Sincerely,



Sharone R. Mitchell, Jr.
Cook County Public Defender

Cc: Mayor Lori Lightfoot