



NATIONAL SHERIFFS' ASSOCIATION

WRITTEN TESTIMONY BY THE NATIONAL SHERIFFS' ASSOCIATION TO THE WHITE HOUSE TASK FORCE ON 21ST CENTURY POLICING

INTRODUCTION

The National Sheriffs' Association (NSA) submits that the Sheriffs of America are essential partners in any effort to increase the trust and confidence of the American people in our criminal justice system, and to improve policing in the 21st Century. The NSA represents 3,080 Sheriffs in the United States, almost all democratically elected by the people, and each one serves as the chief law enforcement officer of their respective county or parish. As a result, the Office of Sheriff is the law enforcement agency most directly accountable to the people we serve. Sheriffs also are the only law enforcement officers in the nation providing the full line of services, including Jail operations; this broad range of responsibilities allows us to provide a unique set of observations on the challenges of building trust and legitimacy with the people we serve.

Today I offer this testimony on behalf of the NSA, a non-partisan, non-profit organization dedicated to raising the level of professionalism in the areas of criminal justice and public safety.

THE CHALLENGES FACED BY OUR SYSTEM OF CRIMINAL JUSTICE TODAY

The problems facing our Criminal Justice system today are complex and have been decades in the making. To identify needed reforms or innovation first requires an honest assessment of where we are today. The following issues deserve your attention, to set the context for the discussion of Building Trust and Legitimacy:

1. Direct, stable, and sustainable sources of funding.

Every year, Chief Law Enforcement Officers across the nation struggle to develop and adopt a budget that meets the demands on their Agency. Grants come and go, formulas change, and the commitment to properly fund public safety is subject to trends. For example, the Crime Bill of 1994 added 100,000 police officers; funded school resource officers; violence against women programs; and crime victim initiatives which had a tremendous impact on community relations. After 9/11, much of this funding was redirected to Homeland Security, national security, intelligence gathering and information sharing, and fighting terrorism. The unintended consequence of this reprioritization was a growing distrust trust in the community, which had come to rely on the community policing programs.

Each year we make do with a mix of property tax funding, fines and fee revenue, and state and federal grants that often fail to include the cost of regular equipment upgrades and maintenance, and sufficient training and salary costs to properly develop and maintain our workforce. As a Task Force, your recommendations will not be complete without identifying the need for direct, stable, and sustainable sources of funding law enforcement.

Hiring a more diverse workforce is a goal in every Sheriff's Office in the nation. We are committed to better reflecting the communities we serve. However, a big challenge for us is retaining the folks we already have and providing for leadership development. This is a national trend. As a profession we are losing officers due to salary and pension issues; we are no longer as competitive in the marketplace as we once were.

Every year, State Legislatures, Congress, and Administrative Agencies pass additional mandates and new expectations for the performance of our duties, often without the funding to fully implement the additional officer training, supervision, and equipment requirements. The public has come to expect an extremely high level of training and professionalism from all of us in law enforcement, and we are committed to providing it, but often come up short without the funding to deliver on such high expectations.

2. Advancing technology.

Unmanned aerial vehicles (UAVs), body cameras, and license plate readers are all new and controversial, but not all agencies across the country can keep up with the equipment advancements and regular replacement, training, and upgrade costs for the advancements of the past ten years: 800 MHz radios, Mobile Data Computers, Records Management Systems, Next Generation 911, etc. Training to protect the privacy and civil rights of residents must be a necessary part of the funding and training for the rollout of all new technology. This issue alone has created a huge gap in trust between law enforcement and residents—who assume there are no limits to surveillance by police and inadequate protections for their privacy.

Violence and drugs in movies, television, easily accessible on the internet and in video games contribute to a more violent culture, and we have become numb to it. Young people are growing up isolated and captivated by violence, and we see more and more young people turning to extremism. This is clearly a problem well beyond what law enforcement alone can address but should be acknowledged by this Task Force.

The news cycle is no longer 24 hours or even 24 minutes. Livestream and social media have transformed the timing and the methods for communicating “news.” This can lead to the escalation of an otherwise minor incident and turn the routine into the very volatile. This is a huge new burden for every law enforcement agency and officer in the nation. We have no choice but to accept this new level of scrutiny and to prepare and train accordingly.

3. Systemic problems in the criminal justice system.

The law enforcement community is not above reproach, but public defenders, prosecutors, courts, and corrections professionals all contribute to mediocrity in a criminal justice system plagued by over-processing, a lack of accountability, lethargy, and delays. Victim's advocates have been a great addition to the system when they have the funding to rock the boat in cases that deserve heightened attention.

From over-criminalization to recidivism, we need to work swiftly to distinguish and implement a system that better distinguishes between what is addiction or bad behavior versus what is criminal conduct that warrants incarceration. We should entertain a full discussion on sentencing, sentencing alternatives, and providing the means and resources necessary for successful reintegration and transition.

According to the Center for Disease Control, more than one-quarter of all adults will suffer at some point in their lives from mental illness and half of them will go untreated. We see these folks on the streets, in homeless shelters, barricaded in homes, and in our jails. Without medication they are more likely to become unpredictable in their behavior or even violent. Since closing the nation's mental institutions, untreated mental illness has become a national crisis and more of these folks are cycling through our Jails and Prisons because there are so few alternatives. As a nation, and in each of our communities, we lack the capacity and capability to provide the resources needed. Law enforcement needs additional community resources, mental health beds, and alternatives to criminalizing mental illness.

Drug courts, DWI courts, mental health courts, veteran's courts, and juvenile and family courts have all grown out of the systemic need to deal with these underlying problems.

4. A fundamental misunderstanding regarding the role of local law enforcement.

Among all the law enforcement agencies across the country, local law enforcement is battling on the front lines in dealing with the consequences of immigration, combating human trafficking and illegal drugs, in preventing violent crime, in countering violent extremism and identifying threats to homeland security. Federal and state agencies may be our partners, and may provide some level of funding or even coordination, but it's the Sheriff's deputy that responds to the call about a shooting, it's the Sheriff's SWAT Team that responds to a barricaded suspect, it's the Sheriff's deputy that serves the high risk warrant, and it's the community engagement team officer that attends the vigils for victims of gun violence. It's the suspicious behavior that we document and report that leads to the federal terrorism investigation. Without local law enforcement on the front lines every day 24 hours a day, our families, schools, businesses, places of worship, and our entire nation would constantly be in danger.

Without 911 or first responders, without an operational Jail or court security, crime lab and investigators in our communities, there could be no criminal justice. It seems so obvious, but seems to be missing in our current national dialog. Perhaps it's a reflection of public sentiment, but our local, state, and federally elected leaders fundamentally misunderstand the role of local law enforcement and the challenges we face in meeting the demands and expectations of our residents. It has become *de rigueur* to attack law enforcement—especially to attack management and funding for law enforcement.

The American people have come to expect well-trained professional and well-equipped law enforcement in any crisis or emergency, but often misunderstand the real cost and challenge in continually being that prepared.

The federal government's inability to set clear direction often disrupts our work at the local level. Whether or not we agree with the President's policies on Border Security and Immigration, or Marijuana, the inconsistent enforcement of federal law has made our job more difficult because our residents have adopted different expectations regarding what is lawful and what is not. Confusion contributes to distrust when the "locals" are tasked with enforcing current state laws that are believed to be in conflict.

All that said, there are simple and straightforward answers for law enforcement in working to build trust and legitimacy: proper hiring practices, enhanced training, accountability, community policing, and education.

The role of law enforcement in this country is and has been defined by the Constitution and Laws of the United States as well as the constitution and laws of the individual states. Moreover, court decisions have further set forth the rules by which policing (including crime prevention) and the apprehension/adjudication of criminal defendants occur. Allegations of excessive use of force, racism, and prosecutorial bias are not new in our profession, but recent cases in Missouri and New York gave rise to a whole new precedent of "street justice." Months of national news interest stories and coverage combined with intense social media and angry residents created an extremely volatile environment all across the Country. While the Grand Jury process "worked," people were dissatisfied with the results. A national conversation about police community relations and this dissatisfaction is necessary and inevitable.

The best answer to this kind of dissatisfaction will include some combination of police-community education, improved transparency, additional diversity training, and community policing. Some agencies have more experience and need for this than others. The highly lauded COPS Program, initiated via grants and policy by the federal government, can point to many years and instances of success in reducing crime in communities during both Republican and Democratic Administrations and Congresses. The simplicity of this effort basically focused upon the idea of more police in communities hard hit by poverty and crime. It is ironic that more police officers were placed in the cities and communities that needed them the most and that funding for this highly successful program has all but been eliminated by the federal government in recent years.

The National Sheriffs' Association submits that law enforcement agencies in general, and in particular, Sheriffs' Offices are more transparent than ever and are almost certainly more transparent than most governmental agencies. Almost every law enforcement agency's website provides daily accounts of reported crimes and arrests. Also readily available are lists including photos and details of every inmate housed in local jails. These sites usually contain the date of arrest, charge, and amount of bail.

Operational transparency, such as the use of dashboard cameras and body cameras, is increasing rapidly. In addition, the universal availability of cell phones with video capability has resulted in many police encounters with citizens being photographically documented and even posted on social media sites for the world to see.

The NSA cautions that the current zeal for operational transparency and videography needs to take into account the privacy concerns of our residents as well. For example, officers respond to investigate many incidents which require a presence inside the homes of those both victimized by and those perpetrating domestic violence incidents. We also enter homes to investigate crimes, such as burglary and theft, as well as incidents involving welfare concerns of citizens. Concern for the privacy of victims, the inside of whose homes are being photographed, needs to be considered as well as the chilling effect the dissemination of such videography would cause on the reporting of such crimes. We simply should not victimize these citizens a second time as a result of their coming forward and reporting such incidents.

Transparency should mean more than determining whether or not our activities are properly documented and available to the public for purposes of accountability. We should strive to help residents in our communities understand that we work every day in service to them. We not only respect their Constitutional rights, and work to protect them and operate within the legal and process limitations set for us by our courts and policymakers. Community advisory boards and advisory groups should be included in agencies' policy development and they should be encouraged to learn about the agencies' operational protocols as liaisons to the broader community. Similarly, our Courts operate under the Rule of Law. To build trust, we should focus on educating residents about the role and responsibilities of courts and juries, and the constitutional rights and protections to which we are all entitled.

The Sheriffs of America strive to build and maintain a diverse workforce to ensure the community that policing will be fair and just. This Task Force needs to recognize and understand that the pre-employment testing of law enforcement recruits is possibly the most rigorous of all professions. Extensive testing and criminal background examination are the "rule" in the law enforcement hiring processes today. Current stringent federal laws preventing discrimination in the hiring, retention and termination of employees already constitute a constant and effective check and balance on the employment practices of law enforcement agencies.

Whether our residents trust their Sheriff and his/her deputies is determined long BEFORE the 911 call is made. Trusting relationships must be cultivated and nurtured. In order to do this, Community Policing programs and objectives have proven to be the most successful mechanism in achieving racial harmony between law enforcement officers and the community. The Nation's Sheriffs submit that the very programs that we have operated for decades, such as DARE and our own TRIAD (senior citizen's crime prevention) program should be models for achieving community confidence. The COPS Program has been perhaps the most successful community policing initiative in history.

Most of the Sheriffs of America maintain very successful youth initiatives. The wheel does not have to be re-invented. The wheel only has to be appropriately funded. DARE (Drug Abuse Resistance Education) is perhaps the best example of a successful program which most Sheriffs provide, usually out of their own budgets. This program introduces elementary students to possibly their first face-to-face relationship with a police officer. Today's program includes a science/study based process and goes far beyond the theory-based process of the past. These relationships can be very meaningful for a youngster and his DARE officer. We have seen it over and over. The sad truth is that many law

enforcement agencies across this country have had to cut discretionary programs such as DARE due to dwindling budgets.

Sheriffs also administer very successful programs, such as Explorer Posts—in conjunction with the Boy Scouts—as well as the Young Marine programs.

CONCLUSION

The 3080 Sheriffs of the United States are invested in the counties and parishes we protect. The National Sheriffs' Association appreciates the opportunity to provide input to this honorable task force. We would prefer to have a seat at the table through the appointment of an active sheriff to serve on this as well as other task forces and commissions so that we can provide continuous input on important policy decisions affecting and involving law enforcement and the American people.