

Testimony of
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June 11, 2009

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ON BEHALF OF
MAJOR CITIES CHIEFS ASSOCIATION

BEFORE THE
SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME AND DRUGS

"Exploring the National Criminal Justice Commission Act of 2009"

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Senator Specter and distinguished members of the Subcommittee, in my capacity as President of the Major Cities Chiefs Association and Chief of the Los Angeles Police Department, I am pleased to be able to contribute to the discussion and debate on what I view as some of the most important issues facing our society today. I believe that such a debate is long overdue on the national level and I agree that we need a contemporary, widespread and far-reaching review of our entire criminal justice system in order to better serve and protect the public. In a free society, it is incumbent upon the government and its agents to safeguard the rights of the victims of violence as well as the rights of the accused and the incarcerated. It is not enough to continue to churn people through a broken and ailing system with no forethought and no long-term solution. Ongoing reform is a necessary component of democracy that cannot be taken for granted and which requires constant and ongoing attention, focus and prioritization.

It is widely agreed that there has been no truly in-depth or comprehensive study of the entire criminal justice system since The President's Commission on Law Enforcement and Administration and Justice, impaneled in 1965, and that many of today's criminal justice components operate based on its findings and recommendations as outlined in The Challenge of Crime in a Free Society published in 1967. It is my view that while there are many laudable and long lasting results attributable to The President's Commission on Law Enforcement and Administration and Justice, including the federally funded college education of thousands of young police professionals (myself included), the virtual dismantling of traditional organized

crime and the introduction of automated fingerprint identification systems and other technology, the Commission was not as prescient as it could have been in some areas. I think now is the time to build on what we learned from these past efforts to develop a truly comprehensive and successful criminal justice system for the future. The most important message that I want to leave with you is that we must focus on preventing crime before it occurs rather than respond to it after it does. This has been the focus of my entire career, from a rookie cop in Boston to Chief of the Los Angeles Police Department. One of the great failures of The President's Commission on Law Enforcement and Administration and Justice was the acceptance of the widely held belief that police should focus their professionalization efforts on the response to crime and not the prevention of it. They mistakenly believed that the so called societal causes of crime (racism, poverty, demographics, the economy, to name a few) were beyond the control and influence of the police. They were wrong. Those 'causes' of crime are in fact simply 'influences' that can be significantly impacted by enlightened and progressive policing. The main 'cause' of crime - human behavior - certainly is something that is a principal responsibility and obligation of the police to influence. The challenge in our democratic society is to always police constitutionally, consistently and compassionately.

My goal today is to briefly offer my perspective on what has transpired over the last forty years; to voice my support for the formation of a Criminal Justice Commission and to make recommendations on the composition and the scope of inquiry of such a Commission.

That was then, this is now

Thirty nine years ago, I was entering the police profession as a patrol officer, a profession that in many ways was severely flawed. It has been said that "the price one pays for pursuing any profession or calling is an intimate knowledge of its ugly side." I believe that is true, and I also believe that there is no greater calling than to protect and to serve the public, even through an imperfect and evolving system of justice.

So, what was happening forty years ago that prompted our elected officials to act? It is important to understand the context of the last inquiry in order to better prepare for our next foray into self-discovery and reform. The main criminal justice concerns in 1965 seemed to revolve around the hostile relationship between police and African Americans, organized crime, a dearth of research, problems with a growing juvenile justice system, gun control, drugs, the individual rights of the accused, police discretion, civil unrest, and a broken and isolated corrections system struggling to balance rehabilitation and custody issues. The "supervised" population at the time was quoted as hovering around one million people. That number has now swollen to over seven million. Another finding of The President's Commission on Law Enforcement and Administration and Justice held that in order to be effective, a parole agent's caseload should not exceed 35 cases. Now, parole agents in some parts of the country are struggling with caseloads exceeding 80 cases.

So, that was the scene when I entered the profession. The intervening 20 years of the 70s and 80s saw a historic surge in violence, an epidemic of drug abuse and addiction, the deinstitutionalization and abdication of responsibility for the needs of the mentally ill, an explosion in our prison population, and an ever increasing commitment of uncoordinated

resources to contain the effects of gangs, drugs, and guns on our communities with diminishing positive impact.

What we learned over the past two generations

While we failed to effectively address the tremendous increase in crime and violence in the 1970s and the 1980s, we finally started to get it right in the 1990s. Young police leaders were encouraged and financed in their pursuit of education, and that exposure led to a change in the way we were doing business. We had been focused on a failed reactive philosophy emphasizing random patrol, rapid response, and reactive investigations. In the late 80s we began to move to a community policing model characterized by prevention, problem-solving, and partnership. We turned the system on its head, and we were successful in driving significant crime reduction through accountability, measuring what matters, partnership with the community, and policing strategies that emphasized problem-solving and broken windows-quality of life initiatives. We developed COMPSTAT with its emphasis on accountability and use of timely accurate intelligence to police smarter. The results, as reflected by the dramatic crime declines of that period continue to this day in New York, Los Angeles, and other cities. At the same time, the federal government took action to increase the number of law enforcement officers, to strengthen penalties, to control guns, and to support prevention programs, along with widening their efforts to combat organized crime. They became a true partner.

Since the 90s, crime has leveled off in some cities, has increased in others, and is continuing to decline in some others. This has given us the opportunity to pause, to look up from the task at hand, to analyze what we have done, to look at what has worked, and at what we can do better. The partnerships we have formed and the transparency and cooperation we have experienced has allowed us to more critically examine the form, process, and nature of criminal justice in contemporary American society.

Systemic problems persist

We have an opportunity here to capitalize on the relative success of the enforcement part of the equation to improve on the prevention, intervention, and reform aspects of criminal justice as a whole. Systemic problems persist as we fast forward to today's contemporary concerns.

The main criminal justice concerns for policy makers today revolve around the threat posed by gangs rather than traditional organized crime, continued problems with the corrections system in general and with the seemingly intractable problem of mass incarceration, a fractured and unrealistic national drug policy and a lack of protection of the individual rights and treatment of the mentally ill.

George Kelling has noted that "The jailing and imprisonment of the mentally ill is a national disgrace that, once again, puts police in the position of having to do something about a problem created by bad 1960s ideology, poor legislation, poor social practice and the failure of the mental health community to meet their responsibilities. In some places, Boston and Los Angeles are examples, mental health professionals are stepping up to the plate, but it is on a small scale and only affects a small portion of the mentally ill."

My friend and the Obama Administration's new drug czar, Gil Kerlikowski, has said that he wants to banish the idea that the U.S. is fighting "a war on drugs," and shift to a position favoring

treatment over incarceration in trying to reduce illicit drug use. I agree with Gil and will go a step further by suggesting that strong enforcement and effective prevention and treatment programs are not mutually exclusive. It is possible to promote a responsible enforcement agenda without driving incarceration rates through the roof. I know that it sounds counterintuitive, so let me explain. During my tenure as Police Commissioner in New York, we increased the jail population at Riker's Island to somewhere in the neighborhood of 22,000 inmates. As we drove crime down and focused on prevention, we denied criminals the opportunity to commit crimes. We, the police, controlled and modified the behavior of the criminal element to the degree that open air drug markets were disrupted, criminals were less likely to carry weapons for fear of being stopped, and aggressive beggars and other offenders were forced to abandon their long held practices of intimidating victims and destroying public spaces. The population at Riker's today stands at around 11,000 inmates reflecting a city that has seen in excess of a 70% drop in reported crime and the numbers of people committing these crimes. Los Angeles is another example. In the past eight years, we have achieved historic crime reductions. While it is true that arrests (including those for narcotics) increased during the first few years, the last four years have been marked by declines in both crime and arrests. We recognize the importance of arrests in bringing crimes under control but also appreciate that we cannot use arrests as our only tool to deal with the crime problem.

In the intervening 40 years since the last commission, policing a free society has become significantly more complicated and demanding in order to meet the diverse expectations of citizens and elected leaders. I applaud the Committee for initiating this reexamination of our system of justice through the establishment of a National Criminal Justice Commission. The Commission, as outlined in the bill, will seek to inform policy changes designed to reduce our prison population, establish meaningful reentry programs, reform drug policy, improve the treatment of the mentally ill, and overhaul the way in which we deal with escalating gang violence, among other important issues. Together with an examination of law enforcement and policing, we expect a thorough review of the entire criminal justice system.

We Cannot Arrest our Way out of these Problems, Including the National Gang Crime Explosion
This bill recognizes what cops know and what the experience of the past forty years has shown, that we cannot arrest our way out of our gang crime problem. We recognize that arrest is necessary to put hardened criminals away; however, we will fall far short of our overall goal if this is all that we do. We need to also look for ways of preventing crime before it happens. Effective and long-term crime reduction can only be achieved through a comprehensive, collaborative approach that includes preventing gang involvement and gang violence, identifying the relatively small number of repeat violent offenders, and restoring public order. Experiences in NYC during the 1990s and LA and other cities now in the first decade of the 21st Century demonstrate that violent crime can be prevented in part by police working in partnership with neighborhoods and communities. In addition, a significant portion of any future conversation has to focus on the crime prevention capabilities of criminal justice agencies operating as criminal justice agencies. To be sure, there are long-term needs and opportunities for our justice system, but they should not be considered out of the context of the more proximate preventive measures now available to police and prosecutors, including "broken windows," "pulling levers," and "problem-solving." The focus of this Commission should be on proximate measures to prevent

crime. This was largely ignored during the 1960s President's Commission on Law Enforcement and Administration and Justice, and we should be careful not to make this mistake again.

The Los Angeles Gang Intervention Strategy

In Los Angeles, we are committed to attacking gang violence through prevention. By flooding our neighborhoods with critical prevention, intervention, youth development services, and by getting illegal guns off our streets we are keeping violence down for the long term. Mayor Antonio Villaraigosa and I are determined to continue to crack down on the gang carnage in the City and to provide young people at risk with better alternatives for their future.

We are already seeing some remarkable results. Gang-related homicides are down 26% since 2008 and 63% from 2002. An even more dramatic example is to compare gang homicides at their height in 1992 to last year's total. In 1992, 430 people lost their lives to gang violence in Los Angeles. Last year, the toll was 167. Still far too many, but our efforts meant that 263 fewer people were killed by acts of gang violence.

Mayor Villaraigosa created the Office of Gang Reduction and Youth Development in August 2007 and appointed Reverend Jeff Carr as its Director with the mission to combat the City's gang epidemic. Reverend Carr has challenged the community to do their part as well, stating, "We have to figure out how to not become so desensitized to the violence that is going on in our community that we allow it to numb us to the point where we don't take the kind of action and have the kind of moral outrage that is necessary to eliminate this problem."

A key part of our strategy to combat the City's gang epidemic is to establish Gang Reduction and Youth Development (GRYD) zones in the communities most affected by gangs. Importantly, in addition to an increased deployment of police, the GRYD zones receive additional resources focused on prevention, intervention, and reentry programs for those involved or otherwise affected by gangs. This holistic approach is seen by experts as key to reducing not only the crime rates but also the membership of young people in gangs. In some sense, we are competing with the gangs for our youth and their lives are at stake.

Many of the reforms that were implemented in Los Angeles were proposed by and for the community. The Advancement Project headed up by Civil Rights Attorney Connie Rice, and other stakeholders proposed that the City move from its former approach of small, uncoordinated, low impact programs to a strategy of comprehensive prevention, intervention, and community investment that is linked to strategic community policing and designed to have neighborhood level impact. In response, City public health and healing, child development, job development, and community development models have been implemented to effectively address underlying conditions that spawn gangs and violence. Any comprehensive strategy needs to address precursors to violence that may originate in the home such as domestic violence, negative parenting, and acceptance of gang culture. Its focus on prevention should reduce the need for incarceration significantly as gang related crime and violence continues to be reduced.

Final Thoughts

Our problems are systemic, widespread, and growing and only a singularly focused blue ribbon commission comprised of informed practitioners, scholars, policy makers and civil rights activists can adequately address the calculated formation of intervention and prevention

strategies. Formation of this important commission is a major and essential step in the right direction. In closing let me add that:

"America's system of justice is overcrowded and overworked. It is undermanned, underfinanced, and very often misunderstood. It needs more information and more knowledge. It needs more technical resources. It needs more coordination among its many parts. It needs more public support. It needs the help of community programs and institutions in dealing with offenders and potential offenders. It needs above all, the willingness to reexamine old ways of doing things, to reform itself, to experiment, to run risks. It needs vision."

This was true when it was penned 42 years ago by the President's Commission on Law Enforcement and Administration of Justice, and I think we can all agree that it still holds true even more so today. Nonetheless, I repeat: sustained crime control and improvement of the quality of life of neighborhoods and communities can only be achieved if our focus is on preventing crime; we cannot and should not try to arrest and incarcerate our way out of the crime, gang, and drug problems. There is today in America a better way.

Mr. Chairman, we recommend that any commission impaneled to study criminal justice in the United States examine not just the progress made since the President's Commission on Law Enforcement and Administration of Justice on traditional crime control, but also evaluate and understand the changes to policing since the attacks of September 11, 2001. The addition of the homeland security mission has forever altered the fundamentals of policing, bringing new challenges to the men and women who wear the uniform of state and local law enforcement.

At the end of the Commission's work, it is my hope that we will have carefully studied the role of policing in the United States from all angles and all perspectives. The Commission's report back to Congress and the American people should anticipate future challenges to policing and issue clear and strong recommendations to enhance the safety and security of the people of the United States. In that way, the Commission's work will help the entire criminal justice system become stronger and function better for society.

Speaking for my colleagues in law enforcement, we stand ready to assist the Commission in its efforts to improve public safety and fairness in the implementation of the nation's criminal justice system. We advocate for a Commission that will take a comprehensive look at the entire criminal justice system, assessing the changes in policing and how they have helped to drive changes in other aspects of the field such as prosecution, community courts and prevention, probation, incarceration and parole.

Senator Specter and members of the Subcommittee, thank you for inviting me to speak today.

I am now ready to answer any questions you may have.