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United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

VIA Electronic Mail

Chairman Durbin, Ranking Member Grassley, and members of the Senate Committee on the Judiciary:

I serve as president of the Law Enforcement Legal Defense Fund (LELDF). Our organization is a nonprofit dedicated to supporting the law enforcement profession and its officers who devote their lives to serving their fellow citizens while upholding its Constitution and enforcing its laws. We assist law enforcement officers in their legal defense and conduct outreach and policy research to better educate the public on the role of law enforcement and policies that impact policing and criminal justice.

I previously served as a law enforcement officer for more than two decades including as deputy commissioner of the Baltimore Police Department and, before that, retired from the Prince George's County, Maryland Police Department as a commander after serving as a patrol officer, academy instructor and chief of the Office of Legal Affairs and Internal Affairs Division.

We are in the midst of an unprecedented crisis. Crime is skyrocketing while our justice and public safety systems are being pushed to the breaking point – undermined from the outside and eroding from within.

Gun Offenders, Violent Crime, and the Federal Role

Violent crime is a plague sweeping our nation. Murder, in particular, is rising at an unprecedented rate. In 2019, there were 16,600 murders – 74% by gun. Last year, there were 23,000 murders – 87% by firearms.^[1] Over the last two years, there have been nearly 39,000 gun murders.^[2]

This alarming increase in violence is unquestionably the result of firearms – but not for the reasons so many suggest. It is not due to an epidemic of gun trafficking. It is not due to a proliferation of “illegal guns.” Those are serious problems and must be a priority for federal, state, and local law enforcement.

But our violence problem is often reduced to “guns” or more specifically “illegal guns.” The vast majority of firearms used in violent crime are not themselves illegal – it is the person possessing the gun that is doing so illegally. It is the “who” not the “what” that is at the root of our gun violence epidemic.

Serving as a law enforcement officer in two of the most dangerous jurisdictions in America, I have seen firsthand that the illegal possession of these weapons drives violence and policing strategies that target these individuals are the most effective means to stop it.

To arrest this problem, we must arrest, prosecute, and jail those who illegally carry and use firearms. The federal government can and should play an integral role in this effort – designing strategies, coordinating agencies and intelligence sharing, and prosecuting offenders.

And these offenders are known to law enforcement. In Baltimore when I served as deputy commissioner of police from 2016 to 2018, 85% of homicide offenders had been arrested – an average of 8 times. One third were on probation and parole, 50% had been arrested for a violent crime and 43% for a gun crime.^[3]

And there weren’t any more “bad guys” out there, but fewer of them had faced consequences. With our federal partners, we compiled a real-time list of “violent repeat offenders” who were priority targets for apprehension as well as a list of high-priority offenders – a “trigger pullers” list. These offenders had demonstrated histories of carrying firearms, committing violence, and were often unindicted persons of interest in prior shootings and homicides.

And study after study confirms our local experience. Gun offenders are most likely to re-offend and especially more likely to commit violence.^[4]

While the police make it a priority to take gun offenders off the streets, they aren’t seeing the jail time they earned. In Baltimore in 2016, the prosecution dropped the cases in a quarter of charges and released many of the offenders on bail or personal recognizance before trial. And even of those convicted of carrying an illegal gun only saw 15% of their eligible time and felons only received 25% of their time due.^[5] In 43% of the convictions, gun offenders received less than a year in jail and one out of twenty received no jail whatsoever.^[6] It is no wonder that a third of Baltimore’s murder suspects were on parole and probation at the time of the killing.

The story is the same across the country. In Philadelphia last year, police tripled the number of gun arrests than they did in 2017 but under progressive District Attorney Larry Krasner over half of those cases were dropped in 2020 and the odds offenders were convicted and jailed plummeted.^[7] The next year Philadelphia broke its all-time homicide record with 562 killings.

These failures have deadly consequences. On Memorial Day 2016, a repeat violent criminal named David Warren opened fire on a crowded holiday cook-out – injuring five people. But Warren should never have been free – charged with attempted murder in 2010 and again in 2012 but charges were later dropped, convicted of armed robbery – he received 10 months. So, when Warren was caught illegally carrying a gun and dealing drugs in 2015, he should have been sent away for decades but the charges were again dropped and he was free to open fire at that barbeque, forever changing the lives of innocent Baltimoreans.^[8]

In another case from this June, Austin Davidson was convicted in 2019 of armed robbery in Baltimore but received a 3-year suspended sentence with “probation before judgement” and was released. Wanted on new charges across Maryland, Wicomico County Sheriff’s Deputy Glenn Hilliard attempted to apprehend Davidson who allegedly shot and killed Deputy Hilliard.^[9]

These cases highlight the greater need for prosecutorial intervention to stem the tide of violent crime. The weapons crimes alone would have netted each offender decades in prison if federal prosecutors had intervened and taken these criminals off the streets, they would not have been free to kill and maim.

In Maryland, Baltimore Police worked closely with our federal partners in the US Marshal’s, ATF, FBI, and state and local counterparts to execute warrants on Baltimore’s most violent fugitives. In the first operation, Seven Sentinels, 264 individuals with 400 active warrants in Baltimore were apprehended in addition to hundreds of guns. The next year, Operation Seven Sentinels, followed up and arrested over 250 more of Baltimore’s most dangerous and numerous illegally possessed firearms.^[10]

The US Attorney’s office and federal law enforcement were integral to the planning and execution of these operations – bringing resources, intelligence, and personnel to bear.

The federal government should build upon proven and effective crime-fighting strategies that give law enforcement purpose and show real results in tackling violence. One of them is Project Safe Neighborhoods, an initiative launched over two decades ago by the Department of Justice and still in effect. It provides grant funding and collaboration between federal prosecutors and state and local law enforcement agencies to tackle violent crime across US Attorney’s office jurisdictions. While the grant funding and working groups continue to exist, their varying strategies and implementation have not been consistently applied over time. That is why this program needs to be laser focused on high-priority issues in high-impact areas, namely violent gun offenders in regions experiencing the highest crime and public safety challenges.

It requires full cooperation and productive collaboration between these agencies, led by the Department of Justice and the respective US Attorney’s offices to drive this strategy including intelligence sharing, investigations, and prosecutions. Unfortunately, in some jurisdictions the local district attorneys have been unable or unwilling to target the offenders who have or are likely to commit violent crime. In those cases, it is incumbent upon the federal government to step in and protect the civil rights, especially the right to life, of those communities’ residents.

The Department of Justice should be instructed to develop and implement a strategy targeting high-priority offenders in these high-impact regions and pursue firearms or other federal charges where eligible. We know that firearms related offenses are highly correlated with future violence, so by targeting these offenders can prevent killings before they occur. Additional appropriations for the Department of Justice and local partners to conduct investigations, share intelligence, and deploy special prosecutorial teams will yield results that can be measured in lives saved.

Additionally, pending legislation including Senator Grassley’s *Combating Violent and Dangerous Crime Act* offers more tools to federal prosecutors to target dangerous offenders by stiffening and

expanding penalties for serious crimes including carjacking and illegal firearm possession.^[11] The more tools law enforcement has to take on these criminals will make our streets safer.

Solutions to the Policing Crisis

The pressures on law enforcement were already immense. Law officers are given extraordinary powers as armed instruments of government power. They are asked to enforce the law, uphold the Constitution, protect the safety of the public, and help secure equal justice for all.

In that role, law enforcement personnel put their lives on the line every day on our behalf. They make personal and professional sacrifices for their communities and country, forgoing jobs with higher pay, better hours, and greater safety to selflessly “protect and serve” all of us.

Recently, those burdens have grown even heavier. Many public officials express outright hostility toward law enforcement, spread myths and falsehoods about the profession, slash public safety budgets, order police to stand down, and target police with unjust prosecution for political gain.

All of these have contributed to today’s crisis in policing. Together, anti-police sentiment and policies have demoralized, debilitated, and, in some cases, defunded law enforcement on a scale never seen before.

Nearly every survey of law enforcement officers evinces a morale crisis. While police morale has fallen mostly due to the hostile national climate it has suffered greatest in areas where leaders have signaled antagonism toward law enforcement.

And these sentiments have left the public dangerously misinformed about policing, furthering mutual distrust between law enforcement and their communities they serve. According to a 2021 survey of police officers by the law enforcement news outlet Police1, 44% of officers said the current climate had negatively impacted their commitment to serve their community with only 28% saying it has strengthened it.^[12] Meanwhile, the percentage of Americans with “great deal” or “quite a lot” of confidence in the police as an institution has fallen to a historic low of 45%, according to a July 2022 Gallup survey.^[13] Misconceptions, perpetuated by some in the media and public office, contribute to the public’s diminished view of the law enforcement profession.

Persistent myths that the police are biased and brutal have taken hold as “truth.” These are belied by the facts. According to a study by Wake Forest University, 99.9% of police calls are resolved peacefully – without force and even a tiny fraction of those involving force result in any type of injury to the suspect. The Bureau of Justice Statistics data confirms how rare and limited police use of force is. Similarly, numerous studies dispel the notion that police use force, including lethal force, disproportionately against minorities. Yet, 45% of the public now considers “police violence against the public” to be an “extremely or very serious problem,” up from 32% in 2015 according to a February 2022 AP-NORC poll. While Black Americans’ views didn’t change, whites’ belief in growing police violence nearly doubled in that period. But incidents of police shootings and force were unchanged.

Being viewed with such suspicion takes its toll on officers. Police1’s survey found that 63% of officers found that the “presumption that police are wrong” was the least satisfying part of the job.

Many are fleeing the profession as a result. According to the Police Executive Research Forum's June 2021 survey, police resignations jumped 18% since 2020 while retirements spiked 45%. LELDF's own research based on agency-level data from ten major law enforcement agencies found a 14% increase in retirements from June 2020 to April 2021 and a 24% increase in resignations. Compared to the same period in years prior, that amounts to an 18% increase in voluntary departures. Such dramatic attrition rates are the natural consequence of the "defund and defame the police" movement.

Police1's 2022 survey found that while 55% of officers rated their personal job satisfaction highly, the same share (55%) was unlikely to recommend the profession to others. And that is being felt as departments struggle to fill the vacancies created by growing police retirements and resignations.

Those that stay on the job are further demoralized by efforts to defund and, as critically, debilitate them and their work. "Stand down" orders – explicit or implicit – have been given across the country and police have responded. Law enforcement activity – as measured by stops, searches, and arrests – plummeted in the wake of the Floyd unrest and growing anti-police sentiment, just as more policing not less was needed. My organization's study of police activity trends found that across 10 major police agencies including Chicago, New York, and Los Angeles, homicides rose as engaged policing declined. Cities that cut (or threaten to) police budgets often saw greatest declines in active policing and largest increases in murder.

From June 2020 to February 2021, Chicago's police made 31,000 fewer arrests — a 53% decline as murders rose 65% compared with the same period the year prior. As Philadelphia's progressive District Attorney Larry Krasner has dropped 50% of both drug and illegal gun cases, police reduced vehicle and pedestrian stops by 72%. In 2020, overall arrests fell by a third, including a 20% drop for violent crimes. Police Commissioner Danielle Outlaw acknowledged that public officials' attacks demoralized police, encouraging de-policing. Meanwhile, homicides and gun violence have soared.

Those trends have held through 2021 and 2022 as gun violence surges. From Chicago to Los Angeles, Philadelphia to Portland, some elected prosecutors have developed antagonistic relationships with their public safety partners. And their prosecutorial policies further discourage the necessary proactive policing needed to get guns and violent offenders off the streets. If the district attorney won't press charges or see the case through, why make futile arrests, stops, and searches? Worse, police may ask – why am I even here? Many have answered that question by running for the door when we need good, engaged, and committed cops more than ever.

But there's hope – and a way forward. This Congress has the means and opportunity to make that change. This committee and this body can make a difference in the fight against crime.

To do that, we must signal to law enforcement that our leaders have their back both in spirit and in practice. To sustain and grow police ranks will certainly take resources but it also requires leaders to empower and encourage law enforcement in their jobs. Public support for police bolsters their commitment to their noble profession and produces better, more professional, effective, and Constitutional policing. That vote of confidence can be registered in a number of policy steps.

First, legislation like the Protect and Serve Act and Defending Our Defenders Act would help protect law enforcement from growing attacks by expanding penalties for killing and assaulting officers in the line of duty. Officers need to know that their safety is valued and those who would do them harm will be punished severely. Deterrence is the best protection for police.

Next, Congress should enact and fund programs to help police agencies retain, develop, and promote more officers, including homicide detectives. These professionals are not hired, they are made by years of police work and through the tutelage of veteran officers. One of the greatest casualties of the attrition crisis is the loss of institutional knowledge and expertise. As veteran officers with decades of experience walk out the door, less seasoned ones have fewer role models and lack access to the institutional knowledge of those who departed prematurely. We must arrest and reverse this trend.

Policing is a noble profession – as law enforcement officers are tasked with being guardians of the public’s safety, neutral arbiters in disputes, crime fighters, as well as law enforcers. America needs to empower and support its law enforcement if we hope to tackle this wave of violence and restore public safety and trust.

Very truly yours,

Jason C. Johnson
President

Citations:

1. AH Data Analytics (Jeff Asher), 2022 Homicide Estimates, Accessed August 1, 2022, <https://datastudio.google.com/embed/u/0/reporting/133bc335-b4e9-41f4-890d-3adb7de5a141/page/1XcOC>
2. “The staggering scope of U.S. gun deaths goes far beyond mass shootings,” The Washington Post, July 8, 2022, <https://www.washingtonpost.com/nation/interactive/2022/gun-deaths-per-year-usa/>
3. Baltimore Police Department, *Homicide Analysis, Year End Report: 2016, 2017, and 2018*.
4. US Sentencing Commission, “Recidivism Among Federal Firearms Offenders,” June 2019, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2019/20190627_Recidivism_Firearms.pdf; Illinois Criminal Justice Information Authority, “Examining the Recidivism of Firearm Offenders Using State Criminal History and Mortality Data,” July 31, 2017, <https://icjia.illinois.gov/researchhub/articles/examining-the-recidivism-of-firearm-offenders-using-state-criminal-history-and-mortality-data>
5. Luke Broadwater and Ian Duncan, “Baltimore Gun Offenders Vary, Sun Review Shows,” *The Baltimore Sun*, July 24, 2017, <https://www.baltimoresun.com/news/investigations/bs-md-ci-gun-bill-20170720-story.html>;
6. Justin Fenton, “Arrests in Baltimore for Illegal Guns Often Lead to Dropped Charges or Little Jail Time,” *The Baltimore Sun*, October 22, 2016, <https://www.baltimoresun.com/news/crime/bs-md-ci-gun-arrest-prosecutions-20161022-story.html>
7. Chris Palmer, “Philly gun arrests are on a record pace, but convictions drop under DA Krasner, March 30, 2021, <https://www.inquirer.com/news/philadelphia-gun-arrests-2021-convictions-vufa-20210330.html>; Chris Palmer, “As Philly gun-possession convictions decline, DA Larry Krasner cites issues with witnesses appearing in court,” Philadelphia Inquirer, December 30, 2020, <https://www.inquirer.com/news/district-attorney-larry-krasner-gun-possession-cases-vufa-police-20201230.html>
8. Dan Rodricks, “A person who 'should not be on the streets of Baltimore',” Baltimore Sun, June 5, 2016, <https://www.baltimoresun.com/opinion/columnists/dan-rodricks/bs-md-rodricks-0605-20160604-column.html>
9. WBAL-TV, “I-Team: Suspect avoided jail time months before fatal shooting of Wicomico Co. deputy,” June 14, 2022, <https://www.wbal.com/article/austin-davidson-avoided-months-before-encounter-with-glenn-hilliard/40289864#>
10. US Marshals Service, “56-day Operation in Baltimore Yields Hundreds of Arrests,” February 23, 2018, <https://www.usmarshals.gov/news/chron/2018/022318.htm>
11. Senator Chuck Grassley, “Grassley Leads Colleagues In Package To Bolster Violent Crime Statutes,” July 27, 2022; <https://www.grassley.senate.gov/news/news-releases/grassley-leads-colleagues-in-package-to-bolster-violent-crime-statutes>
12. Police1, “What Cops Want in 2021,” January 16, 2021, <https://www.police1.com/police-products/body-cameras/articles/digital-edition-what-cops-want-in-2021-BtmmyGkg84zplSlw/>
13. Gallup, “Confidence in US Institutions Down, Average at New Low,” July 5, 2022, <https://news.gallup.com/poll/394283/confidence-institutions-down-average-new-low.aspx>