

President's Commission on Law Enforcement
Panel on the Rule of Law
July 22, 2020

Statement of Lieutenant Mark Young, President, Detroit Police Lieutenants and Sergeants Association, and Vice President, Associate Members, National Association of Police Organizations

This testimony focuses the mass release of prisoners in response to COVID-19, lax prosecution of criminals, the lack of respect for law enforcement, community education programs such as “comply, then complain”, and the need to protect officers and their rights.

Chairman Keith, Executive Director Kueter, and distinguished members of the Commission, my name is Mark Young and I am the President of the Detroit Police Lieutenants and Sergeants Association (DPLSA) and the Vice President of Associate Members of the National Association of Police Organizations (NAPO). The DPLSA proudly represents 625 members of the Detroit Police Department holding the ranks of detective, investigator, sergeant and lieutenant. NAPO, representing over 241,000 rank-and-file law enforcement officers, is a coalition of police unions and associations from across the nation, which was organized for the purpose of advancing the interests of America's law enforcement officers through legislative advocacy, political action and education.

I would first like to address the unique situation we find ourselves in with the coronavirus pandemic and the new challenges to the rule of law that it has brought. Activist judges and prosecutors, defense attorneys and advocates have managed to begin clearing out our nation's prison and jail populations under the guise of compassionate release. They claim protecting inmates from contracting COVID-19 by granting them early release is protecting public safety, but that is not the case.

The hard-working men and women of America's law enforcement community work day in and day out protecting our communities from becoming victims of crime. If someone does fall victim to crime, it does not matter whether it is a violent attack or a minor property crime, the victim always feels violated. Those effects can be long lasting. While it may come as no shock to you that the police are opposed to releasing criminals who are paying their debt to society, much of the reason for our opposition is due to the recidivism that is going to occur upon their release and the future victims that will result.

The compassionate and early release of inmates as a response to the coronavirus pandemic is negatively impacting public safety, especially at this time when social services and public safety are already stretched thin due to the health and economic crises our country is facing. States are just emerging from lock down orders and essential services across the country are struggling to serve communities due to a lack of sufficient staff and facilities. Police Departments in the areas hit the hardest by the coronavirus – like Detroit – are being decimated as more officers are contracting it or being sent into home isolation. Add on top off all of this the continuing protests and riots in response to the death of George Floyd.

The broad release of inmates as a response to this virus does not take into account the needs of the broader public safety system and our communities. Now is not the time to circumvent the

normal processes for inmate release. This will place an undue burden on resources and put our communities at greater risk of harm.

The Wayne County, Michigan, jail released over 430 inmates between March 10 and April 7. Those are inmates the officers I represent risked their lives to arrest and take in. Is it to be believed that these same individuals are going to follow government guidelines on social distancing and self-quarantine? These same individuals who have issues following statutory law as well as parole and probation restrictions?

In Washington, D.C., 11-year-old Davon McNeal was shot and killed at a July 4 anti-violence picnic. One of the suspects, Christian Wingfield, was released from D.C jail on May 22 in response to the coronavirus pandemic. Wingfield was being held in jail while awaiting trial on two charges, Felon in Possession of a Firearm and Possession of a Large Capacity Ammunition Feeding Device. He is not the only violent felon released in response to the pandemic that resulted in tragic consequences.

This knee-jerk reaction to this temporary health crisis is going to have long-lasting negative impacts on our communities for which the benefit certainly does not outweigh the cost. Just because someone may be categorized as low-risk due to their current charges, that does not mean they are not dangerous individuals and a continuing threat to our communities. “Low risk” appears to be the only standard in most instances of compassionate release but it is not a sufficient bar to protect members of our communities from further victimization.

The classifications for release eligibility are arbitrary and superficial. Just because someone is 50 years old or over does not make them any less of a menace or threat to society. Just because someone possesses one of the comorbidity factors from the CDC guidelines does not make them any less of a menace or threat to our communities. People who have not been able to pay fines or fees, or those who are incarcerated for violations of probation or parole have proven their inability to abide by the rules of society. There has never been a more critical time for our fellow citizens to follow the rules that have been set by the government in order to protect our law-abiding citizens from this virus.

Further, the mass release of inmates – whether in response to a public health emergency or under the guise of criminal justice reform – has not been coupled with the safeguards, support and resources to state and local services that would be necessary for communities to handle the influx of newly released prisoners. While prison reforms have led to lower prison populations and some budget savings, it has resulted in increased stresses on local and county budgets and resources, not to mention the economic cost to victims of property and other crimes.

While NAPO supports true second chances that bring about the productive return of prisoners to their communities, we oppose broad inmate release policies that could harm public safety. Such significant changes should first be thoroughly examined and must include the input of the federal, state and local public safety community, which plays an integral role in the system.

Further, each year, millions of dollars in federal grant monies go towards state and local pre-trial release programs, which allow accused criminals to await their trial at home, rather than in jail. These programs, which in many cases serve repeat, dangerous criminals, often operate with little oversight, putting public safety at risk. Increased oversight of these programs would decrease the

possibility of the accused committing crimes while on pre-trial release or simply disappearing to avoid facing justice.

NAPO recommends that federally-funded pre-trial service agencies should be mandated to publicly report on program participants, including if they have a history of criminal behavior, whether they appear for their trial, and whether they have ever previously failed to appear for trial. As federal dollars are going towards bailing out criminals, we must ensure that the accused face justice and our communities are protected.

In Detroit, we are experiencing the consequences of lax prosecution by the Wayne County District Attorney's Office. In my experience as a law enforcement officer and a labor leader, the office has exhibited distrust in the Detroit Police Department and consequently the work Detroit Police Officers risk their lives for is often shelved and the suspects and defendants are released because of a purported lack of evidence. The suspects are frequently habitual criminals who return to society only to again reoffend. Detroit Police Officers have been tasked to reduce crime only to feel like they have been thrust into a Roadrunner and Wile E. Coyote cartoon.

The criminals are getting multiple bites at the apple to offend and the law enforcement are at additional risk of having to recapture the offender at a time when every use of force action is being scrutinized and misinterpreted.

A recent incident in Detroit perfectly exemplifies what officers are dealing with on the streets. Detroit Police Officers were attempting to arrest a suspect in a July 4 shooting that killed three people and wounded five. While making the arrest, Hakim Littleton decided to intervene and took a handgun out of his pocket and fired point blank at the head of one of the officers. Thankfully, his aim was terrible, and we are not mourning another officer shot and killed in the line of duty. Officers fired back and killed Littleton. Detroit Police Chief James Craig released the body camera footage of the shooting as Littleton was becoming another rallying cry against police brutality. The situation police have found themselves in is untenable. An individual who attempted to kill a cop has greater sympathy than the officers risking their lives to protect the community.

In 2016, the Wayne County District Attorney refused to criminally charge three individuals who posted grave threats against Detroit Police Officers on social media. Officers investigating these threats communicated frequently with prosecutors throughout the investigations and at no point were they told that there were any problems with their investigations. It was only after a press release from the District Attorney's office that the investigators found out there were issues with the cases they had built against the three suspects. There is something seriously wrong when a prosecutor will not work collaboratively with the police department to build the strongest case possible against individuals who violently threaten the lives of police officers.

The recent events in Minneapolis have brought us face to face with the oscillating demands of justice. While we support use of force and awareness training for all of our officers, we must also ensure that competent, conscientious officers do not become convenient targets for those seeking to use the media for a precipitous solution to social injustice. The lack of prosecution of suspects who have threatened officers with harm is too often ignored while prosecutors are otherwise eager to make their mark by rushing to impose criminal charges against officers confronted with the difficult choice to use deadly force.

There have been proposals to require the appointment of a special prosecutor in every case when an officer uses deadly force in the course of carrying out his official duties and that use of force results in the death of a suspect. The sole purpose of that special prosecutor is to determine if criminal charges should be brought against the officer. NAPO fears that an independent prosecutor would be under enormous pressure to issue a warrant. There is a risk that decisions to prosecute will be made based on politics and public pressure, not on the reasoned application of law and admissible evidence. NAPO is concerned that officers will be indicted, even in those cases where the use of force was justified.

There has never been a more challenging time in our nation's history for law enforcement officers. The crimes and physical dangers, assaults and risks have always been with us. The National Law Enforcement Officers Memorial includes the names of officers killed in the line of duty as far back as 1786. The psychic toll on officers and their families as a result of confronting human misery and evil day after day has always been an associated risk for those in law enforcement. But today, many elected officials, including prosecutors and judges, academicians and media personalities vocally and doggedly identify and highlight the police as though law enforcement is the sole source of racial and social injustice. The recent death of George Floyd at the hands of a law enforcement officer has only exacerbated the situation for officers across the country who - - regardless of wrongdoing - - are being disproportionately targeted and violently attacked as part of a frenzy to satisfy an urge for reform despite the ubiquitous presence in all our nation's institutions of a culture of racial bias, inequality and social injustice.

No one of us would condone shielding officers who have committed crimes, yet we must remain vigilant in protecting an officer's due process rights. These rights are crucial and necessary to preserve the integrity of the criminal justice system as a whole, particularly when media and political pressure lead to an irrational rush to judgment aimed at condemning law enforcement before all the facts are known.

We rightfully demand that officers treat others with impartiality, fairness, equity and justice. We expect officers to engage in dialogue and to do their best to consider all sides of a situation before making a judgment. Yet if officers are deprived of this same respect and worth within their own workplaces, we cannot reasonably expect them to exhibit and provide these qualities to the public they serve once they walk out the precinct doors.

There is a serious need for the implementation of national standards and procedures to guide both state and local law enforcement agencies and law enforcement officers during internal investigations, administrative hearings, and evaluation of citizen complaints. Too often law enforcement officers are subjected to the whim of their departments or local politics during internal investigations and administrative hearings. Many individual collective bargaining agreements contain, as does the Detroit Police Lieutenants and Sergeants Association agreement, a Bill of Rights for member officers. But law enforcement officers in less than twenty states have been granted statutory bills of rights granting comprehensive procedural protections to officers in the complaint investigation and disciplinary process. These rights need to be uniform and guaranteed to officers throughout the country.

NAPO strongly recommends enacting a national "Law Enforcement Officer Bill of Rights". Please see the Law Enforcement Officer's Procedural Bill of Rights Act, which establishes

officer due process rights and the attached fact sheet on the bill. I urge the Commission to publicly support the legitimate workplace and procedural rights of officers.

An overarching issue for all of us is respect for law enforcement and the laws they enforce. NAPO sincerely appreciates the opportunity to work with the Commission, the Department's COPS Office, the Attorney General and other appropriate stakeholders to advance the goal of safer encounters, and a conscious, higher public satisfaction with America's officers and agencies. It has become all too common for persons in contact with the police to resist, obstruct, interfere, thwart and even attack officers. Working with the COPS Office, NAPO intends on releasing a public service announcement promoting "comply, then complain." When departments engage the community by utilizing the services of community leaders to educate their constituencies and congregations, confrontation and obstruction will trend downward because citizens will trust that their complaints and concerns will be addressed promptly, treated seriously, and evaluated fairly without bias or discrimination.

In addition to supporting community education programs such as "comply, then complain", we urge the Commission to ensure greater protections for officers. Officers are targets for disgruntled individuals who harbor hatred for the profession and blame them for all of society's ills and for policies that officers they have no control over. We have seen this most recently in the riots that have rocked cities across the country where officers have been injured and several killed in the ensuing violence.

In general, law enforcement officer assaults, injuries, and deaths have increased sharply in recent years. According to a January 2020 report from the Office of Community Oriented Policing Services (COPS), 116 officers were shot in ambushes or premeditated, calculated assaults.

Increased penalties make important differences in the attitudes of criminals towards public safety officers and can ensure protection for the community. NAPO recommends enacting new federal criminal provisions to address: (1) the assault and murder of and federally-funded local law enforcement officers, such as those officers whose agencies receive aid from the federal DOJ or DHS; and (2) the assault and murder of state and local officers engaged in the protection of federally recognized civil rights, such as those officers attacked while safeguarding protests. We believe there should be increased penalties on those who harm, or target for harm, public safety officers by making the murder or attempted murder of a state or local police officer an aggravating factor in sentencing determinations.

To further promote the protection of officers, NAPO supports the LEOSA Reform Act, which will ensure that the Law Enforcement Officers Safety Act (LEOSA) is more fairly and broadly implemented. In a time when law enforcement officers are being targeted for violence simply because of the uniform they wear, allowing officers to carry their firearms off-duty for the protection of themselves, their families and our nation's communities is important to further the protection of officers who serve and protect others. LEOSA is not only a job benefit for officers, but it also reinforces in officers the commitment to protect the well-being of the communities they serve.

I appreciate the opportunity to share these insights with you, and urge you to carefully consider them moving forward, as the Commission's recommendations will greatly impact our officers, their families, and the American public they serve.