



TESTIMONY OF

CHIEF ART ACEVEDO
CHIEF OF POLICE
HOUSTON, TEXAS

PRESIDENT
MAJOR CITIES CHIEFS ASSOCIATION

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

“POLICE USE OF FORCE AND
COMMUNITY RELATIONS”

JUNE 16, 2020

Chairman Graham... Ranking Member Feinstein... and distinguished members of the Committee:

Thank you for the opportunity to participate in today's hearing. I appear before you today as the Chief of Police for Houston, Texas, which will soon be the third largest city in the country and is the most ethnically diverse metropolitan area in the United States. It is also my privilege to testify on behalf of the Major Cities Chiefs Association (MCCA), a professional organization of police executives representing the largest cities in the United States and Canada, of which I currently serve as President.

The death of George Floyd – a child of God raised in Houston – is deeply disturbing and rightfully shocks the conscience. By any measure of professional policing, the actions of those officers that led to Mr. Floyd's death while in their custody were criminal and inconsistent with the training and protocols of the law enforcement profession. We continue to extend our deepest sympathies to the Floyd family and will continue to lift them in prayer during this difficult time.

Mr. Floyd is one of far too many African American men and women who have unjustly lost their lives at the hands of police officers. There is no denying that changes must be made. Out of crisis comes opportunity, and we must capitalize on it to institute meaningful reforms that not only enhance public safety, but more importantly, prevent future needless tragedies involving law enforcement and the people we have sworn to serve and protect.

Many reforms are currently being discussed at the national and state level and all must be vetted to ensure they are sustainable and will be the meaningful impact our communities are calling for. Reaction without thoughtful deliberation and absolutes are irresponsible. As we look towards legislation, we need to take care that the needs of our diverse communities are reflected in the policies put forth. Again, this is a time to listen, learn, and to act.

Criminal Justice System Transparency

The criminal justice system is complex, and it is imperative that we acknowledge the police are just one element. The system is deeply interconnected with the courts, judges, prosecutors, and probation, just to name a few, and while the police are only one component, we are the most visible. If we are serious about enacting sustainable reforms, we must address the issues that exist within every element of the system. The systemic challenges we are here to discuss today are not just a policing issue, it is a criminal justice problem.

Current local government efforts across this nation are putting our communities at risk as felony offenders, including violent felons, are going in one door and out the other. The theory that it is unconstitutional to hold offenders, even murder suspects, pre-conviction comes at the expense of community safety. The MCCA supports individual risk assessments conducted for each person charged with a violent crime being considered for release. Assessments must take into account the crime(s) committed, public safety threat posed, criminal history, and proclivity to reoffend. Common sense has been thrown away as reform efforts have placed the interests of career criminal above the interest of victims.

Injecting transparency into every facet of the criminal justice system is long overdue. Local law enforcement has and will rightfully continue to be under the microscope, and the public has the

right to know what goes on behind closed doors relative to judges and district attorneys. Ensuring fairness and equity in public safety requires transparency that goes well beyond the role of local law enforcement and again, encompass the entire criminal justice system. As a society, we must make better informed decisions that can only come with systemwide transparency.

Defunding Police

It is undeniable that law enforcement plays an important role in our communities. Ensuring public safety is no small undertaking as the law enforcement profession remains extremely complex. No two calls for service are the same and each requires a different set of skills to navigate safely and effectively. The call to defund the police in order to address the social and economic ills of our nation, prior to actually addressing our social disparities, is largely a false equivalence. As illustrated in one MCCA member city, police respond to an average of 1.2 million calls for service annually that disproportionately originate from communities of color who are already grappling with the socio-economic challenges plaguing many American communities. To simply defund the police without a concerted effort to address the root causes behind emergency calls for service is wrought with strategic missteps that could ultimately increase the need for police service in the poorest of communities. Social psychologists have noted calls to defund the police without making strides to improve causal factors would strip away a critical resource. Building healthy communities thereby lessening the need for police presence and intervention must occur prior to any discussion regarding the defunding of American law enforcement¹.

Our communities deserve the highest quality service. History has shown that underfunding police can have disastrous consequences and hurt the communities most in need. Appropriate police funding is more critical now than ever before to ensure that police agencies have the funding for investments in technology that provides accountability (body worn cameras), recruitment (hiring unbiased service minded professionals), and training (cultural competency, implicit bias, de-escalation).

We must balance upholding the law while showing compassion and assisting those in need. We must take actions that are sometimes unpopular while continuing to build and maintain trust with the communities we serve. The overwhelming majority of police are good people and faithful public servants who put their uniform on every day willing to make the ultimate sacrifice. We cannot let the actions of bad cops let us lose sight of that fact. We all must judge each other through the prism and content of our individual hearts, and not through the prism of color or the uniform we wear.

Listen and Learn

Now more than ever is a time for law enforcement to listen and learn from the communities we serve. We must listen to communities of color describe the challenges they face in society every day. We must listen when they tell us their interactions with law enforcement are different than those of white people. We must listen to the officers in our own departments who are part of those

¹Sault, S. "To fix racism we need to start measuring it, says this psychologist." <https://www.weforum.org/agenda/2020/01/this-psychologist-is-using-science-to-beat-racism/> (2020, January 23).

communities when they share their experiences of being stopped off duty and confirm their experience is different, even though they have a badge in their pocket.

We must also learn from what is being shared with us. That includes being honest about and learning from our history. We must acknowledge that law enforcement's past contains institutional racism, injustices, and brutality. We must recognize that policing has had a disparate impact on disenfranchised communities, especially communities of color and poor communities. By listening, learning, and then fostering dialogue, we will take the first steps to help effect needed change.

Use of Force

Any time an officer uses force in the line of duty, it is a serious matter. Above all else, use of force policies must prioritize the sanctity of life; of officers, suspects, and bystanders. Agencies need to have comprehensive, updated, and clear use of force policies that contain lawful responses to resistance and promote accountability. It must be said that absolutes in policing are irresponsible and as we look towards legislation, we need to be thoughtful in our approach.

There is currently no national use of force standard and recent attempts at establishing a national consensus faced disagreement based on the myriad of laws, standards, and community desires and needs. While no national standard exists, several components remain ubiquitous throughout the U.S.; a duty to intervene, and the use of de-escalation tactics and techniques.

As a law enforcement executive, I have personally made it clear to the men and women of the Houston Police Department that unless in a fight for your life, an officer should never use a neck or carotid hold. Officers take an oath to serve and protect, and no matter the situation, if a fellow officer witnesses excessive force, they have a duty to intervene. De-escalation should be employed when safe and feasible, under the totality of the circumstances, in order to gain voluntary compliance. Officers must slow down their decision making in critical moments. It is important to think before acting – analyze all the relevant factors and the tools at their disposal – to ensure the action taken does not unnecessarily endanger members of the community, suspects, and officers. All available efforts should be taken to resolve situations as peacefully and safely, as possible, for all involved parties.

While most MCCA members already have use of force policies with these elements, we encourage law enforcement agencies that do not to adopt them as quickly as possible, and we welcome the opportunity to work with Congress in this arena.

In the wake of the recent civil unrest, there has been a push to prevent law enforcement from using less than lethal tools. Let me be crystal clear – the decision to deploy a less than lethal tool is not taken lightly. It is done for the explicit purpose of preventing chaotic situations from becoming a threat to public safety. These mechanisms ultimately save lives and we must ensure law enforcement has access to these tools, are properly trained, and know when it is appropriate to deploy them.

1033 Military Surplus Program

Calls to eliminate the 1033 military surplus program are misguided. The equipment is not the problem – oversight and accountability are. Communities have the right to know what equipment is being provided, how it is being used, what are the policies and procedures for use, what is the oversight, and what is the command and control.

In areas of our nation that are fiscally stressed, the 1033 program enables departments to obtain support that is otherwise cost prohibitive. There are many lifesaving examples including in San Marcos, Texas, when police used an MRAP to rescue children during the historic floods of 2015 and in 2016 when local law enforcement responded to the Pulse nightclub shooting with armored vehicles to rescue those trapped inside.

Given the current budget environment and increase in use of heavy weaponry by active shooters and violent criminals, the 1033 program will continue to be an important resource for local law enforcement. The MCCA supports enhanced accountability measures to ensure proper use, to keep available the most needed equipment, to ensure transparency, and to maintain public confidence.

Accountability

It will be difficult for law enforcement to address systemic challenges without a sustained commitment to accountability. Law enforcement is entrusted with a solemn responsibility – ensuring public safety – and that must be taken seriously. From academy recruits to the chief, we must hold ourselves to the highest standards and always strive to do better. Being accountable to the public means having zero tolerance for any action that jeopardizes public safety or violates the trust of the communities we serve.

When any officer violates our high standards, it casts a shadow over the hundreds of thousands of police who dutifully serve and are committed to their communities. Law enforcement must do more to purge bad cops from our ranks. Officers must hold each other accountable and speak up when they see something that shouldn't be happening. If misconduct occurs, it must be dealt with decisively.

It's important to note, however, that every chief's viadministrative authorities are different and not everyone may be legally permitted to take immediate action. Labor agreements that many departments operate under make it an extremely lengthy process to terminate an officer, regardless of the seriousness of the misconduct he or she engaged in. Furthermore, arbitrators have the ability to overrule any disciplinary decision. There have been far too many situations where an officer who engaged in misconduct was removed from the force only to be reinstated by an arbitrator.

As law enforcement executives, we must ensure that officers who engage in misconduct are held accountable even when the misconduct comes to light at a later date. In some jurisdictions, the statute of limitations for misconduct is from the date the misconduct occurred, not the date of discovery. Since Chiefs only have a limited timeframe to conduct these investigations, usually between 90-180 days, having the clock start on the date of occurrence presents a challenge, especially when the misconduct is not criminal in nature. The MCCA believes the window for investigating misconduct should start on the date of discovery of the incident, not when the incident occurred, and labor agreements, agency policies, as well as applicable local, state, and federal laws, should be updated accordingly.

Chiefs' inability to remove bad cops hurt department morale and further undermine the public's trust in law enforcement. We need help from Congress and state legislatures to address these challenges. In addition, as future labor agreements are negotiated, we must strike a better balance between providing due process and protections for labor while ensuring chiefs have the administrative authorities needed to hold officers accountable. We look forward to continuing to work with our police labor partners to ensure that, as a profession, we are meeting the high standards the public expects.

We must also address the issue of officers who have been terminated with cause only to get rehired by another department. Many refer to these individuals as gypsy cops – officers who are fired in one jurisdiction only to immediately resurface in another department. Many gypsy cops have exhibited troubling patterns of behavior that clearly do not meet the high standards of our profession, and too often engage in further misconduct at their new department. They undermine efforts to build trust with the public and frequently overshadow the outstanding work of good officers across our nation.

Legislatures must help us address some of the challenges that hamstringing our vetting processes. For example, many states and local jurisdictions have laws that shield disciplinary records and misconduct complaints lodged against an officer. Injecting more transparency into recruitment and hiring processes will benefit each department and is a critical component of community trust and confidence.

Transparency is also an important aspect of accountability. Modern law enforcement agencies need to be data driven. Robust data collection and analysis can help inform decision-making and identify problems. It is important that police departments are transparent with the public about what is being collected and how it is being used. Sharing this information with the public keeps them informed, helps provide a clear rationale as to why a certain course of action was taken, and highlights the progress we are making in ameliorating systemic challenges. At the end of the day, this data belongs to the public because our authority truly is derived from the communities we serve.

While data collection is integral to MCCA member agencies, many departments have had to procure software systems at great expense, and many are still in need of costly technology. Any mandate to collect more data needs to account for associated infrastructure and cost, because unfunded mandates hurt both the police who are tasked with doing more with less, as well as the public who deserves accountability. Transparency breeds trust and trust breeds respect.

Technology like body worn cameras can ensure transparency during law enforcement's interactions with the public. The MCCA strongly encourages all agencies to utilize body worn cameras. The COVID-19 pandemic has strained municipal budgets and as a result, many departments have had to cancel or delay investments in body worn cameras. We call on Congress to assist local governments with obtaining this important piece of equipment that can help foster accountability.

Community/Relational Policing

Mutual trust and respect between law enforcement and the public is crucial to good policing. The civil unrest occurring throughout the country is a sobering reminder of how quickly bad policing can undermine that trust and respect. It is imperative that law enforcement work tirelessly – in both good times and bad – to build strong relationships with the communities they serve. It is much easier to navigate a crisis and effect change when the public trusts law enforcement and knows their concerns will be taken seriously.

Community and relational policing requires law enforcement to adopt an attitude of service. Law enforcement should be a positive influence and force for good. While police must continue to demonstrate strong leadership, it must be in partnership with, not at the expense of, the community. We must always uphold the oath to protect and to serve. There is no place for an “us versus them” attitude in community and relational policing.

Fruitful community engagement is dependent on being present. Executives and officers cannot build community trust sitting behind a desk, and every encounter serves as an opportunity to connect. MCCA member agencies support various initiatives like police athletic leagues and food drives, as well as non-traditional programs that foster community-law enforcement interaction. Police should look to engage with leaders in the community beyond the conventional religious, nonprofit, and business leaders; sit down with activists, rappers, athletes, and other pillars of the community. These individuals wield significant influence and have platforms that can be used for good.

Ensuring our departments look more like the communities we serve helps build trust and confidence. Officer recruitment can be challenging; however, a concerted effort to recruit from within the community is valuable. Their unique perspectives and insights help shape a department and several MCCA member agencies are now minority majority.

I yield the remainder of my time and look forward to any questions the Committee may have. Thank you.