



## MAJOR CITIES CHIEFS ASSOCIATION

May 22, 2020

The Honorable Jerold Nadler  
Chairman  
House Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Karen Bass  
Subcommittee Chairman  
House Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Nadler and Chairman Bass,

In light of today's virtual roundtable on COVID-19 in prisons and jails, I'm writing to provide the Committee with a local law enforcement perspective as you consider the release of incarcerated individuals during the COVID-19 pandemic. In addition to being Chief of the Houston Police Department, I also serve as the President of the Major Cities Chiefs Association (MCCA). The MCCA's membership is comprised of Chiefs and Sheriffs of the sixty-nine largest law enforcement agencies in the United States and nine largest in Canada. Collectively, the MCCA represents over 79.9 million people and a workforce of 251,082 officers and non-sworn personnel.

As the MCCA is well positioned to weigh in on this issue, the data provided within this letter paints an honest picture and is intended to illustrate the real-world public safety impact of ill-informed criminal justice policies during COVID-19. MCCA members are responsible for providing law enforcement services and several members also are responsible for corrections. The Association is not opposed to compassionate release however, in the time of unprecedented challenges, we must ensure these individuals are not threats to public safety and public health.

The MCCA is greatly concerned Chairman Nadler's bill, *H.R. 6414—The COVID-19 Correctional Facility Emergency Response Act*, does little to ensure non-violent offenders are the only individuals who will be released. While local law enforcement resources are currently stretched and the funds provided in H.R. 6414 would be welcomed, jeopardizing public safety should not be a prerequisite for receiving federal assistance.

### **Release of Violent Offenders**

Under the bill as currently drafted, a violent offender would be eligible to be released as long as he or she is age 50 or older, has a chronic medical condition, is immunocompromised, or meets any of the other broad criteria in the bill. These factors have

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little to no influence on whether or not an individual is a threat to public safety and how likely they are to reoffend. Several MCCA members have reported rises in violent and other serious crime throughout the COVID-19 crisis. The early release of inmates, lack of pretrial detention, and cite and release policies have all been identified as drivers of these trends. MCCA members have reported that these practices have contributed to an increase in recidivism, reignited street conflicts, and resulted in victim and witness intimidation.

**Case Example 1:** The Harris County District Attorney sought to release all inmates over 55. This group contained hundreds of violent offenders charged with the following crimes:

- Murder (16)
- Aggravated assault with a deadly weapon (96)
- Aggravated assault of a family member (44)
- Assaults of a family member with previous conviction (27)
- Aggravated assaults of a peace officer (16)
- 3<sup>rd</sup> time DWI (37)
- Felon in possession of a firearm (16)
- Aggravated sexual assault of a child under 14 (24)
- Failure to comply sex offender (21)
- Indecent sexual contact with a child (17)

**Case Example 2:** During the first few weeks of the pandemic, the New York City Police Department (NYPD) was given a list of 1760 inmates and asked to recommend individuals for early release. Based on its analysis, the NYPD determined that only 5% of these inmates did not represent threats to public safety. Despite NYPD's recommendation, approximately 1400 of the 1760 inmates were released. 135 (roughly 10%) of these individuals have been rearrested a total of 236 times within a month of being released. In early May, the NYPD was given another list of an additional 1125 individuals who had been granted early release. Within a month of being released, more than 200 (approximately 18%) have been arrested again.

The follow anecdotes provide additional information on some of the individuals who have been granted early release in New York.

**Case Example 3:** Darryl Naser was rearrested six times in April after being released due to COVID on March 27<sup>th</sup>. He was originally jailed on grand larceny and criminal possession of stolen property (credit cards) before being granted early release. He was rearrested for burglarizing a newsstand, 4 separate drug offenses, and a grand larceny where he snatched the purse of a 70-year old elderly female.

**Case Example 4:** Deashawn Sharperson admitted to setting fire to his girlfriend's door and pled guilty to criminal mischief, avoiding the felony charge of arson. He was granted an early release on March 26<sup>th</sup>, despite being imprisoned on a domestic violence offense. Days after his release, Sharperson returned to his girlfriend's apartment and threatened to kill the family. He later attacked a subway rider and is now being held on \$10,000 bail.

**Case Example 5:** A multiple convicted felon, Robert Pondexter, was arrested in December for rape. While the case did not move forward due to an uncooperative complainant, he was held on a parole violation until being granted early release on April 15<sup>th</sup>. Six days after his release, Pondexter robbed a nurse coming home from working at a local city hospital. Within 10 days of his release, Pondexter dragged a 58-year old woman to a secluded area and raped her.

### **Pretrial Detention and Cite and Release**

The MCCA believes it is vitally important we prevent the spread of COVID-19 in our nation's jails and prisons. The Association also understands the potential risk of transmission from new bookings and how quickly COVID-19 can be transmitted. While cite and release and limited pretrial detention policies, such as those alluded to in H.R. 6414, are designed to mitigate COVID exposure, this is not always the most appropriate course of action.

Local law enforcement has already taken significant steps to limit bookings. For example, many MCCA members have limited traffic enforcement operations and encouraged officers to issue citations in lieu of arrest. There are obviously exceptions, however.

**Case Example 6:** Washington D.C. does not have a bond system and arrestees are only held if they are dangerous and/or a flight risk. The bar to hold arrestees is very high and oftentimes the decision on whether or not an individual should be released is based on the underlying charge without considering the individual's criminal history. There are currently 23 people accused of gun related homicides on pretrial release in the District. Data on shootings in the District supports the notion that not enough gun/violent offenders are being held. Compared to last year, there has been a 17% increase in number of shootings and a 31% increase in gun related homicides.

**Case Example 7:** The Houston Police Department is currently implementing a cite and release program for the eight Class A or B misdemeanor offenses eligible under Texas state law. These offenses, however, only account for approximately 5,500 arrests per year in Harris County. As such, any reduction to the size of the jail population due to the cite and release program will be minimal, especially considering the size of Harris County (third largest in the nation). Furthermore, carve outs in the program (i.e. habitual offenders), will further limit the impact of the cite and release program.

### **Impact on Law Enforcement Resources**

The MCCA's members have been on the front lines throughout this crisis. These brave men and women have taken on an immense amount of personal risk to ensure the safety of our communities. The COVID-19 pandemic has placed a significant strain on local law enforcement resources. Many MCCA members have been forced to make drastic changes to operations while continuing to respond to calls for service despite have segments of the workforce quarantined.

The continued or increased release of inmates, especially violent and repeat offenders, will only further stretch local law enforcement's resources. As noted in the case examples, it is highly probable that some of the individuals who are released will commit additional crimes and

responding to these incidents may force law enforcement to divert resources from COVID-19 response.

### **MCCA Recommendations**

As stated earlier, the MCCA is not opposed to compassionate release when appropriate and after a thorough assessment. While this can be a tactic to free up resources and prevent the spread of COVID-19, the individuals being released must not be threats to public safety and/or public health. As such, prior to any inmate being released, the MCCA recommends conducting an individual risk assessment for each that takes into account the crime(s) committed, criminal history, and proclivity to reoffend. These individuals must also be tested for COVID-19 to ensure they are not infected and do not represent a public health risk.

Thank you for the support you have shown for local law enforcement throughout this pandemic. This pandemic must not be exploited to advance a criminal justice reform agenda at the expense of the safety and security of our communities. The MCCA stands ready to work with you to find a solution that will protect incarcerated populations from COVID-19 without undermining public safety.

Sincerely,



Art Acevedo  
Chief, Houston Police Department  
President, Major Cities Chiefs Association