

Testimony of
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Mr. Chairman and members of the Committee, I am honored to come before you and represent the law enforcement perspective on traffic safety and law enforcement's role in addressing this important issue. My testimony is offered to underscore the importance of traffic safety in our country and some of the challenges we face in addressing it.

Traffic safety is often defined by the number of crashes that have occurred and by the number the fatalities that have resulted from these crashes. While these are important measures, law enforcement deals with it on a much more personal level. Law enforcement officers respond to crash calls, investigate and deal with individual needs of those involved. This occurs thousands of times a day in our country. The level of law enforcement engagement is shaped by local capacity, community interest and political will. The role of the officers and the service they provide is often lost in national level discussions of traffic safety. My testimony will address major policy level issues it and it is also offered to you through this lens.

Traffic Safety is a Critical Issue for America

The sheer number of crashes in this country illustrates traffic safety is a critical issue that affects millions of people, however, it is frequently under prioritized in the context of other national priorities. Clearly, crashes that involve a fatality or a life changing issue have an impact on individuals and their families. I would also argue that involvement in crashes resulting in minor injuries or mere property damage also complicate the lives of people on a daily basis. Law enforcement officers know this and deal with this every day. Unfortunately, the latter situations are frequently "overlooked" in traffic safety discussions.

Law enforcement is often called upon to deal with traffic safety issues. Each day, we receive many calls or complaints about specific traffic safety which we have to prioritize with our other calls for service. The public call us because they expect law enforcement to enforce traffic laws and mitigate their issue. This is based upon the premise that the real or perception of officers actively or potentially enforcing traffic safety laws will lead to some level of voluntary compliance by individuals in a specific area. Law enforcement acknowledges this expectation and perspective. Law enforcement agencies and their officers respond by prioritizing traffic safety along with the other expectations a community may place upon them, e.g.; crime responses, mental health calls, etc.).

Law enforcement agencies understand the importance of traffic safety in the context of a community's "quality of life". Many agencies have understood this for a long time. Others came to understand that

perspective even better during the 1990's. The 1994 Crime Bill required participating law enforcement agencies to conduct 'town hall' meetings with their communities across the country. One of the quality of life issues repeatedly raised in these meetings was traffic safety and traffic management. It became so prevalent that the U.S. Department of Justice's COPS Office developed publications to help law enforcement agencies in responding to traffic safety issues. Today, law enforcement's conversations with the public still include the traffic safety issue. The challenge remains – law enforcement is constantly balancing traffic safety as a community priority alongside more traditional policing issues. Community expectations for policing and traffic safety issues are local community based and the law enforcement response to these expectations vary by community across the nation. That said, there are some specific challenges for law enforcement that surface so often they deserve national discussion and attention. My following comments will cover some of the specific challenges that are high priority.

Impaired Driving

Driving under the influence is a major issue for the nation and its communities. While there has been a significant reduction in fatalities and a reported change in public acceptance of driving impaired, about 1/3 of all traffic fatalities are directly related to problem. Much of this success on this issue can be attributed to the efforts of MADD, law enforcement, and other community groups. The National Highway Traffic Safety Administration (NHTSA) and others have also developed a robust toolkit to deal with this issue including impairment presumption levels, national enforcement campaigns, ignition interlock programs, DUI courts and others. However, local participation in these efforts varies across the nation. This variation can be attributed to local capacity and local political will. We need to remember that law enforcement's response to impaired driving will be governed by these local conditions

The national approach to this issue should continue and incentivize the use of the current toolkit as these tools have been proven effective in dealing with impaired driving. However, there should be a renewed interest in engaging groups other than law enforcement more effectively in addressing impaired driving. Substance abuse is a major underlying cause of impaired driving and repeat offenders are a prime example of the substance abuse issues that law enforcement confronts in dealing with impaired driving. Law enforcement is not in the substance abuse treatment business and increased access to substance abuse (public health) programs to deal with this issue should be promoted as an intervention measure.

Law enforcement recognizes the importance of enforcing impaired driving laws and accepts its role as evidenced by the number of people they arrest for driving impaired. The evolution of impaired driving law over the years has led to officers completing incredibly long, detailed reports and other protocols which result in a major commitment of the officer's time. I will not say this discourages officers from making DUI arrests nor am I suggesting the development of shortcuts which affect the rights of the arrested individual. The reality for the officer is that, in some cases, a misdemeanor DUI report can be as complicated as a criminal felony homicide case. *There must be a way to develop a standardized national methodology which simplifies these reports which appropriately balances the needs of prosecutors and the rights of the arrestee.*

Finally, I must address the specific concerns of law enforcement over the impact of driving under the influence of drugs. The country has acknowledged that drug abuse is a public health issue and has many programs to deal with it in this framework. Law enforcement and prosecutors have successfully enforced impaired driving statutes for many years and will continue to do so. That said, there is

considerable concern within law enforcement over the potential public safety implications for impaired driving and the interests to increase public access to marijuana. Law enforcement is closely monitoring the experience of states and communities that have increased this legal access but the current debate can be confusing and alarming. For the officer, they recognize the absence of credible technology and informative research to assist them in assessing driver impairment during an impaired driving enforcement contact involving drugs. It is critical that these issues are addressed immediately to help guide officers in their impaired driving enforcement efforts.

Occupant Protection

This issue remains a major issue for our nation. About half of the nation's fatal crash reports indicate that one or more vehicle occupants are not wearing their safety belts. This proportion has also been relatively consistent for decades. The same observation can be found in national injury crashes. Again, NHTSA has developed a toolkit to get people to wear their seatbelts but the engagement of law enforcement varies across the nation due to local conditions and political will.

The discussions of seatbelt enforcement often include concerns over the police overstepping their authority and/or over prioritizing the importance of seatbelt enforcement. Officers frequently still hear the response "don't you have more important things to do" when they enforce seatbelt laws. Officers and their leaders are very aware of these conversations and positions and it can also have a 'chilling' effect on actual seatbelt enforcement. *The nation needs to change the perspective on the importance of seatbelt laws to improve public compliance. Seatbelt enforcement needs to be viewed as a lifesaving effort not as a tactic used by officers to 'pick on' people.*

This is a problem which could also be fixed at some level over time through engineering and design. *The use of seat belt interlocks for example could improve this behavior without the need for law enforcement.*

Speeding

Nobody likes getting a speeding ticket and yet speed continues to be an issue in most crashes in America. In many cases, it is the principle reason behind the crash. It is also a major factor in the severity of the crash and occupant survivability which relates to the principles of physics. Speed enforcement is a traditional enforcement activity in many police agencies and officers do it every day. Unfortunately, there are many more speeders than there are officers and voluntary compliance by motorists is often dependent upon the motorist's perception that they will be caught speeding. Many motorists like the odds of not being caught and choose to speed. *Speed limit compliance could be enhanced by incentivizing law enforcement efforts to speed enforcement at a national level. The increased use of automated speed enforcement technology could also prove useful providing such programs are implemented for traffic safety reasons and not revenue generation. Such programs must be implemented to avoid any challenges to police legitimacy.*

Distraction

Distraction is a very real threat to the safe use of our transportation system. Law enforcement acknowledges that and where possible enforces the laws that are available to them. All transportation system users need to pay attention when using these systems. The emerging data is illustrating that this issue is growing especially with our reliance on some technology. Many of the current laws focus on

drivers and not other users like pedestrians and bicyclists while in the roadway. When this topic is discussed the issues surrounding police harassment and the ability of officers to detect distraction frequently surface. Some of the existing laws also make the law difficult for officers to enforce e.g.; manipulating a device or texting language. Officers will tell you of many instances where they see drivers, pedestrians, bicyclists and other transportation system users not paying attention and jeopardizing their own personal safety and the safety of others. This will continue unless the nation acknowledges this to be a problem. *There should be a national effort to develop hands free laws which are applicable to all system users. There should also be a national priority assigned to this traffic safety threat and a more uniformed enforcement/compliance approach that is acceptable to the states and local authorities.*

Pedestrian and Bicycle Safety

There is a growing concern in many communities over the safety of bicyclists and pedestrians. Law enforcement understands these concerns and responds to local traffic safety complaints on these issues on a daily basis. This is particularly important in urban centers and those communities that encourage these travel options. In many discussions on this issue there are references to pedestrians and bicyclists as 'vulnerable' populations which are understandable especially when they share the road with cars. From the law enforcement perspective, there is plenty of blame to share as to what creates this conflict. At times it is the motor vehicle operator that does not recognize or ignores the laws and protections provided to pedestrians and cyclists. Yet, there are also many occasions where these same pedestrians/cyclists involved in these potential conflicts will position the argument so that they are the victim instead of acknowledging that each contributes to the traffic safety issue. This makes it difficult for officers when they take enforcement action involving pedestrian and cyclists. *Like some of the other traffic safety issues I have discussed, the narrative needs to change on this issue so that traffic safety is a personal responsibility and all the players must follow the rules*

Other Important Law Enforcement Considerations

There are other issues which I must bring up which can impact the role of law enforcement in performing its traffic safety responsibilities. These issues are real for law enforcement and the communities they serve and provide context for traffic safety enforcement. They include:

Calls for Service and Officer Initiated Activity

At one time in my career I was told by a federal official that "law enforcement will do what we tell them to do". Sadly, other federal officials that were present found that comment humorous at the time. Unfortunately, that perspective is a counterproductive to encouraging law enforcement participation and clearly ignores the daily realities of our officers.

Traffic enforcement occurs when officers are on routine patrol and when they are responding to a specific traffic safety complaint from the community. The latter is treated like a call for service (e.g.; a 911 call) and the officer's discretion to engage in enforcement may be affected. The officers still have discretion to give a warning or a citation but there is an expectation that they respond to the problem area and at least look for violations. Officers on routine patrol have greater discretion to engage in traffic enforcement. Patrolling officers may be more interested in other local policing priorities or their own specific policing interests rather than traffic safety.

This has been and will continue to be a challenge for law enforcement leadership. Officers who acknowledge a public safety priority tend to respond to that priority. *As such, it is important to develop a national narrative which elevates traffic enforcement as a community **public safety** threat which deserves the attention of the individual officer. The national narrative needs to be supported with messaging and incentives designed to promote officer engagement in this enforcement effort.*

Law enforcement as an Intervention

Enforcement is often portrayed as the key intervention for improving traffic safety. That is most likely the basis for the number of traffic enforcement call/requests law enforcement agencies receive each day. Research has demonstrated that good enforcement can have an impact on changing some behavior in traffic safety. In some cases, there are more profound foundational issues which dictate the need for other interventions. My coverage of impaired driving included some discussion of other intervention needs when substance abuse behavior is present. There are other disciplines which can be applied. Vehicle design, engineering, and other technologies can be useful in developing interventions which might stop problematic behavior. Interlock systems for impaired driving and seatbelts are examples of design interventions.

While law enforcement plays a critical role in changing traffic safety behavior many issues require a more complex intervention to effectively deal with any poor behavior. *I do believe the role of law enforcement is significant in this effort but we should avoid defaulting to law enforcement as the entity that has sole responsibility for changing behavior that causes crashes.*

Officer Discretion and Legitimacy

It is the individual officer that makes the decision to engage in traffic enforcement. Therefore, we must also acknowledge that officers are very aware of the climate in which they work and the public acceptance of their enforcement efforts. Officer decisions to engage involve the professional discretion they have during the performance of their duties. There is considerable research on officer discretion and it has shaped agencies policies. Law enforcement agencies have many policies to control the use of discretion but the myriad of fact patterns an officer confronts while performing their duties make it difficult to develop policy for every situation. That is one reason why law enforcement agencies commit so much time, energy, and money into selecting and training individuals that can exercise good judgment in the use of officer discretion. I would argue that, in practically every case, the competence and motivation of today's officers is at a much higher level than ever before.

Legitimacy is a foundational factor in policing and the police will not be effective without it. There have been past concerns and debates about law enforcement actions and legitimacy. There have also been some comments that these concerns and debates have resulted in fewer officers engaging in traffic enforcement as a result. While this may be the case in some communities, I have not seen research that conclusively proves that this is occurring on a national level. *That said, it is important for law enforcement and political leadership to create an environment which suggests that officers should engage in traffic law enforcement to respond to community quality of life and public safety issues in a manner which promote police legitimacy within the community the officer serves. This may not be occurring in some*

communities and should be addressed in a manner which supports officers doing traffic enforcement for the right reasons – protecting the public. A development of a national position which encourages this environment would be useful for improved traffic law enforcement.

Incentives for Law Enforcement

I have referenced incentives in my testimony on several occasions. The incentives that are traditionally offered through the federal government relate to providing enforcement capacity. Providing funding is important for law enforcement agencies that lack the capacity to participate in national traffic safety enforcement efforts. Some approaches result in individual officers performing this enforcement on an overtime basis which, for some officers, may be incentive. Recently, there have been repeated reports within the law enforcement community that overtime details do not often sufficiently encourage officers to perform specific activities including traffic safety enforcement. This may be attributed to the many uses of overtime details to address non-traffic related issues. These other details may compete with traffic enforcement details for available officers to participate. Some law enforcement agencies also argue overtime is not a sufficient high priority or driving factor with some officers. Agencies often advise that filling these overtime details can be difficult as a result. Another reason for the difficulty in getting officers to participate in these details may also be the degree of importance officers assign to traffic safety. Many officers may not recognize their role in traffic safety and enforcement of traffic laws as being that important to their community.

National Narrative

My testimony also makes several references to developing a national narrative outlining the importance of traffic safety and committing the resources to change the belief structures in the country relating to safety on and around our roadways. There are examples where this has worked in this area like the changed attitudes on impaired driving which was initiated by MADD. Other individual groups within the traffic safety community have made similar efforts to change attitudes and culture in specific areas with varying degrees of success. To me, this seems to be ‘chipping away’ at the essential need for all of us in this country to change our behavior and improve our quality of life as it relates to all aspects of traffic safety.

A national traffic safety improvement narrative would also be useful in getting law enforcement behind the traffic safety issue. Officers and their agencies have a history of responding to recognized threats to public safety. The drug and gang activity in the 1980’s, the homeland security effort following 9/11 and, more recently, the issues related to mental health and opioid overdoses are prime examples of a motivated law enforcement response. What is missing today for law enforcement is the commitment to making traffic safety a high priority for our nation.

Conclusions

I have offered a number of perspectives and suggestions in my testimony to assist the Committee in its legislative deliberations. The issues surrounding traffic safety are complex and will require leadership to effectively change the behaviors that cause crashes in this country. We currently have individuals that provide that leadership in certain areas of traffic safety but a nationwide comprehensive commitment designed to make this issue a high priority for our country has been missing for some time.

Within our communities are individuals who have personal stories of how they were affected by a crash. Law enforcement officers make personal death or serious injury notifications to families and friends following a traffic crash on a daily basis. Officers who have done this, including me, will tell you the impact these notifications have on these family and friends as well as the officer are significant. The personal loss, the shock, and the feelings encountered by the officers are the same for traffic crashes as they are those notifications made following a major felony not related to traffic. I have said many times – it doesn't matter if the injury or death is caused by a car fender or a bullet to loved ones.

Our communities want a sustainable and safe quality of life. They want to feel safe in their communities and reduce all threats to safety. Law enforcement's experience has shown this includes their expectations on traffic safety. The Committee can play a key leadership role in raising the profile of traffic safety as a public safety issue across our nation. I am confident elevating the issue to a serious, high priority public safety issue will also lead to increased support from law enforcement. This effort may move our nation to a better and safer place than we currently find ourselves.

Thank you for giving me the opportunity to offer my thoughts on this very important policy issue.