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Collaboration Across the Criminal Justice System:

Policing and Prosecution

Remarks prepared for the CNA Executive Session, cosponsored by the National District Attorneys Association

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I. Opening: The Role of the Prosecutor

On behalf of the National District Attorneys Association (NDAA), the largest prosecutor organization with over 5,000 members around the country, thank you for the opportunity to join today's Executive Session on collaboration across the criminal justice system, particularly the intersection of policing and prosecution. Our mission at NDAA is to serve as the voice of America's prosecutors and support our members in their efforts to ensure community safety and do justice for the people they serve. As the discussion surrounding our Nation's criminal justice system continues to evolve, the role of the prosecutor has taken center-stage. Calls from community advocates and politicians for increased transparency and data-driven decision making have echoed throughout the law enforcement and prosecution communities.

Our members are embracing the challenge of evaluating how they can better communicate with our law enforcement partners, analyze new and improved criminal justice data, and ultimately decide the best course of action when the next case hits their desk. As we collaborate with the broader law enforcement community, prosecutors must account for the many unique and varying challenges facing them throughout the country and commit the appropriate attention and resources to improving our criminal justice system. That's what makes days like today so important. The law enforcement and prosecution communities must come together to address these emerging challenges and find solutions that promote community safety and provide justice for the people they serve.

II. Embracing Challenges: Meeting the Needs of the System

Collaboration among police, sheriffs, criminal investigators, and prosecutors at the federal, state and local levels has become more vital in recent years as the criminal justice system comes under increased scrutiny. Often, those advocating for good-intentioned reforms lack the on-the-ground, frontline experience of the burdens facing prosecutors and law enforcement as caseloads grow for both rank and file officers and prosecutors' offices around the country. As updated technology and increased data collection become available for the law enforcement community, these advancements also create new challenges that must be properly resourced. This begs the

question – how have the recent changes to the criminal justice system affected collaboration between prosecutors and their law enforcement partners?

Body-Worn Cameras

The most high-profile example of these recent changes is the increased use of body-worn cameras by police officers and sheriffs' deputies throughout the country. Using these cameras, law enforcement has been able to provide the general public with a look into the challenges and dangers facing officers on a day to day basis. These new tools have also provided increased transparency to strengthen the public's confidence in the criminal justice system. However, as the use of body-worn cameras rises, so does the manpower and resources needed to review and analyze the footage. Prosecutor offices around the country are tasked with handling hours of footage with little to no increase in staff or funding to account for this new burden. Law enforcement must maintain this footage and store it properly, which costs valuable time and resources for agencies that are already short-staffed. For prosecutors, they must also balance the need to ensure privacy concerns are addressed when it comes to innocent bystanders captured on body camera footage. A mom, concerned that the license plate of her car is visible as she and her children are unloading groceries. A call for service to an individual's home where a potential domestic violence situation is unfolding. These are just a couple of examples where prosecutors must balance the digital evidence before them with an individual's right to privacy.

Perhaps this is most evident in the sensitive cases of officer involved shootings. Often, there is a rush by the public to be an expert and know the facts in a given case, even during an ongoing investigation. Prosecutors are tasked with sifting through the evidence and maintaining their independence amid outside political and public pressures that attempt to impact the disposition of the case. When handling these divisive cases, our members must balance the dangers facing law enforcement officers, the concerns of the communities they represent and the erosion of trust among some communities. When multiple agencies are responding to an incident, there are usually multiple cameras across officers. Law enforcement agencies must ensure they turn over all body worn camera footage to the prosecutor's office and the prosecutors should in turn provide guidance to law enforcement agencies on policies and procedures that should be followed to ensure they are complying with their obligations to defense counsel. Body-worn cameras do provide an avenue of transparency, allowing prosecutors and investigators a first-hand account of the incident before any charging decisions are made. Providing prosecutors with the proper funding, resources, and manpower to review body camera footage is essential to maximizing the use of this new tool which can play a vital role in strengthening the community's trust in law enforcement.

Asset Forfeiture

The use of asset forfeiture funds has come under increasing scrutiny within the discussions around resources for prosecutors and our law enforcement partners. Essential to investigating and disrupting networks of criminal activity, both criminal and civil asset forfeiture play a vital role in combatting crime. Despite the benefits of forfeiture, rare cases involving the misuse of forfeited funds has sparked a policy debate that threatens the future use of this important tool.

Once again, the law enforcement community can come together to counter the narrative by increasing transparency in the practice and use of forfeiture funds, while highlighting the practice's ability to disrupt drug trafficking and money laundering operations. Through shining a light on how these funds are used to combat crime, while also holding those who misuse these funds accountable, prosecutors and their law enforcement partners can rewrite the narrative. To that end, prosecutors play a vital role in determining lawful seizures and ensuring that current legal process and best practices are followed. Many state prosecutor associations have issued best practice guidelines for use of forfeiture funds as our members work to hold those who misuse forfeiture funds accountable for their actions. Once again, we have an opportunity today to address this issue head-on and ensure the lawful use of forfeiture funds to combat crime remains available for law enforcement for years to come.

Data-Driven Decision Making

As the criminal justice reform conversation has evolved, prosecutors and law enforcement have been called upon to increase the use of data to inform decision making processes and improve outcomes within the system. Prosecutors are embracing data driven decision making and are taking steps to increase transparency with the communities they serve. However, each jurisdiction is unique, and prosecutors must analyze data to develop solutions that best serve their community. Employing diversion programs, started by prosecutors decades ago, and transparency measures are tools to improving the criminal justice system, yet no two prosecutor's offices are identical in approach. One recent example is the launch of a website by the San Francisco District Attorney's office that provides years of prosecution data to the public. That same office announced it will use artificial intelligence to combat racial bias in sentencing. In North Carolina, the Administrative Office of the Courts has modernized and cleaned up state court information through an integrated system allowing prosecutors to bypass a manual process to cluster cases and dismiss them faster. Earlier this year, NDAA took a group of elected prosecutors out to Microsoft headquarters to hear more about the ways in which technology and data are interacting and improving the criminal justice system and how we can be a part of that solution. I also spoke last month at a Congressional briefing held by Rep. Alma Adams from North Carolina, focusing on the use of data-driven solutions to improve the criminal justice system. During this event, the conversation focused on many of the themes you will discuss today including the work prosecutors are doing to engage in innovative efforts to address the challenges within our criminal justice system, including implementation of diversion programming and other alternatives to incarceration.

While these are positive examples of how data and technology are improving the system, prosecutors often run into barriers while pursuing these changes. As caseloads grow, prosecutors need improved resources and technology to make processes more efficient and allow them to collect better data, which in turn improves transparency and decision-making. We must strike the right balance between the safety needs of the communities that prosecutors and law enforcement serve, while also ensuring justice is done for both victims of crime and offenders of the law. For example, simply relying on data alone will not present a full picture of the range of factors that go into a prosecutor's charging decision. As so many of you know from your past experiences,

there is a human component to decisions made in a prosecutor's office that must be factored in with reliable data to improve the system. Data driven decision making requires law enforcement to balance quantitative data with experience and judgment to ensure decisions are made in the interest of justice for the community. As we move forward, our research efforts must factor each of these components into our analysis of prosecutor decision making. We once again must communicate and rely on the law enforcement community to guarantee this new data is shared effectively across agencies. As data-driven prosecutor decision making evolves, it is imperative that we are transparent with each of our law enforcement partners to ensure the system meets the needs of the public.

III. Next Steps: Collaboration to Improve the Criminal Justice System

The safety of our local communities relies on a strong relationship between prosecutors and their law enforcement partners, along with other criminal justice system stakeholders. There is no better example of this than the federal, state and local law enforcement response to the recent tragedy at the Tree of Life synagogue in Pittsburgh, Pennsylvania. This is just one of many instances in which a coordinated and efficient response is necessary to support communities and prevent further loss of life. When responding to crises, federal, state and local law enforcement must rely on an existing framework of cooperation and communication. Without strong collaboration on the front end, law enforcement and prosecutors risk maximizing their ability to effectively respond to crime. Partnerships between state and federal law enforcement must be fostered through strategic initiatives and grant opportunities aimed at improving coordination. Programs such as Project Safe Neighborhoods (PSN) provide state and local law enforcement with the needed resources to strengthen their partnership with federal agencies and establish innovative programs to combat violent crime.

Project Safe Neighborhoods (PSN)

Following the U.S. Department of Justice's decision to re-establish the PSN program in 2017, state and local prosecutors have created new partnerships alongside their federal law enforcement partners to improve data collection, develop community-based training, and support locally based crime prevention and reentry efforts. With new grants and funding offered through PSN, prosecutors are able to partner with U.S. Attorneys' offices to increase public awareness of violent crime reduction strategies and establish community programs to reduce recidivism rates. With state and local prosecutors handling over 90 percent of criminal cases, our members serve as the drivers of the PSN program, ensuring that collaboration and coordination leads to great justice outcomes. We are grateful to partner with our hosts today, CNA, as well as the Major Cities Chiefs Association (MCCA) on a PSN grant to further the Department of Justice's goal of reducing violent crime and creating prevention and crime-solving strategies that enhance public safety. The revival of this community-based strategy under PSN is yet another example of how well-resourced collaboration can successfully benefit our country's criminal justice system at the state and local level.

Serving as Community & Victim Advocates

Often lost in this conversation surrounding the criminal justice system and effective collaboration are those affected by crime and the work law enforcement does on a daily basis. Prosecutors are frequently called upon to serve as victim advocates and serve as the only voice for victims in the courtroom. As NDAA has engaged on many different reform initiatives with both law enforcement and community advocates, we've become concerned that the victim's voice has been overshadowed. The imperative is on the law enforcement community to elevate those whose lives have been changed by crime and educate the broader community about the need to support victims in their pursuit of justice. While prosecutors continue to embrace reforms to ensure a fairer and more equitable criminal justice system, we must strike the right balance between the safety needs of the communities that prosecutors represent while also ensuring justice is done for both victims of crime and offenders of the law.

IV. Conclusion: Serving our Communities

NDAA is excited to be with you today to continue the dialogue on how we can best serve the communities we are tasked with protecting. Prosecutors throughout the country continue to engage in innovative efforts to address the challenges within our criminal justice system, including diversion programs and alternatives to incarceration, to make sure we aren't criminalizing mental health and substance use disorders, to make sure we identify a victim of human trafficking and get her the services she needs, or to make sure we don't criminalize poverty. We look forward to working with our partners here today to highlight these efforts and explore what prosecutors are already doing to successfully provide justice to the communities they serve and identify new ways in which prosecutors can lead improvements in the broader criminal justice system. I'd like to thank Tim Beres, Chip Coldren and the CNA staff for the opportunity to join this critical discussion on collaboration across the criminal justice system. We look forward to learning from each of our law enforcement partners here today and know that together, we can continue cultivating the longstanding relationships that are critical for ensuring public safety.