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Milwaukee County

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Rep. Bennie G. Thomson, Chairman
One Hundred Seventeenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington DC 20515

Good morning, Mr. Chairman, and members of the Subcommittee. My name is John Chisholm, and I am the District Attorney of Milwaukee County, Wisconsin, serving since 2007. For the twelve years preceding my election, I was an assistant district attorney in the same jurisdiction, specializing primarily in criminal prosecutions related to illegal firearms and violence.

As District Attorney, I have participated in our jurisdiction's response to acts of domestic violent extremism, and in our preparations to forestall future attacks. I appear before the Subcommittee this morning in the hope that my experience as a local public safety policymaker may prove of use to your deliberations concerning one of the critical issues of our time: the resurgence, in the form of domestic violent extremism, of political violence within American public life.

I will refrain from conducting an unsolicited examination of the causes of domestic violent extremism. What I will state is very simple: in order for our democracy to survive, we must maintain a steadfast commitment to maximizing individual civil liberty while restraining acts that harm the social compact. This means an absolute intolerance of unlawful violence, without qualification, whether interpersonal or political. As a prosecutor, I have devoted my career to preventing and responding to acts of interpersonal violence and holding those perpetrators to account. The same vigor with which we investigate and prosecute interpersonal violence must be applied to our efforts to curb violent extremism in our country, regardless of the political spectrum it arises from.

My experience in responding to acts of domestic violent extremism dates to August 5, 2012, when a white supremacist terrorist attacked the Sikh Temple of Wisconsin in Oak Creek, Wisconsin, killing six members of our Sikh community and severely wounding several others, including an Oak Creek police lieutenant. As recently as last year, a Sikh priest wounded in this attack died of the injuries he sustained that day. I responded in person to the scene that day with my investigative staff and my victim services staff. I knew some of the people in that place of worship because prior to that day the President of the Sikh Temple, Satwant Singh Kaleka, had invited me and other elected officials to share the Sikh faith's commitment to fully participating in the civic life in our County and to address his concerns about the safety of the Sikh community in Milwaukee.

While the memory of the tragic suffering of our Sikh brothers and sisters that day will always remain fresh with me, and I am willing to give more details as needed, what stands out most is the bond forged in the shared sacrifice between the officers who responded that day and the incredible lesson in compassion, dignity and forgiveness displayed by the Sikh community and embraced by the larger Milwaukee community after the shooting. The role of the Department of Justice in facilitating healing was significant. I intentionally refrain from naming the person who walked into a temple of worship and gunned down seven innocent unarmed people of peace. I think instead of the bravery of the people inside and how Lieutenant Murphy, as the first officer on scene, immediately confronted the terrorist in close-combat, was wounded 15 times, but stopped him long enough for a fellow officer to arrive and help bring the rampage to an end.

When domestic violent extremism struck within our jurisdiction, we responded using a toolbox that is often more readily accessible than it may appear: our existing criminal intelligence infrastructure, historically utilized to combat illegal drug commerce and the violence associated with it such as the Milwaukee High Intensity Drug Trafficking Area. In Milwaukee County, we also developed our Intelligence Fusion Center, a collaborative effort anchored at the Milwaukee Police Department but comprising personnel and resources from suburban jurisdictions, Milwaukee County agencies, and our federal and state partners. Over the years, this criminal intelligence infrastructure has supplemented resources dedicated exclusively to counterterrorism, including the Southeastern Wisconsin Threat Analysis Center and the Joint Terrorism Task Force led by our local FBI field office.

This structure, and its corresponding communication platforms, allowed members of law enforcement agencies “on the ground” to communicate in real time to respond to a dynamic threat. Efforts that foster flexibility within criminal investigative and intelligence functions, so that they can easily be reallocated to the fight against domestic violent extremism, will be critical in empowering mid-sized and smaller jurisdictions to assume leadership roles on the front lines of this national effort.

An additional consideration at the local level is that, in the event of violence occasioned by political extremism, members of the public – in jurisdictions of all sizes – must have the reassurance that their local law enforcement agencies can serve as a reliable first line of defense. As we have seen over the past year, domestic violent extremists are willing to use significant firepower and a wide variety of asymmetric tactics, requiring preparedness and flexibility on the part of even small and mid-sized agencies. But we must also be careful so as not to force unprepared or untrained line personnel within our local law enforcement agencies – particularly agencies without much experience in these matters – into dynamic tactical or crowd management situations. An error in law enforcement judgment can result, respectively, in death or injury to personnel in a tactical situation or in the unlawful deprivation of civil liberties in a disturbance mitigation setting. And we must also be mindful that all our public safety preparations, both in spirit and in practice, must align with the expressed direction of the residents we serve.

One potential solution, taking all of these factors into account, is to increase federal financial support for mutual aid compacts at the local and regional levels. These compacts can equip mobile response teams to respond to violent incidents in smaller neighboring communities, with the signed consent of those communities’ elected civilian leaders. Southeastern Wisconsin has experienced success with such a model, in the form of a regional partnership called “SMART” – the Suburban Mutual Aid Response Team.

There have been recent incidents where it is alleged that individuals in Wisconsin planned domestic terror attacks in another state. This highlights a capacity divide between the local intelligence assets in major urban areas with that needed in smaller rural jurisdictions. As shown in Oak Creek or recently in Washington DC, domestic terror does not spare the responding law enforcement officers from harm and any ability to detect and defuse such incidents before they occur must be supported.

In addition, there should be a robust discussion about the appropriate and restrained use of hate crime laws at both the state and federal level. Most state and local jurisdictions operate under state laws designed to address the substantive underlying offense. We rarely address the motive behind a harmful act, we instead focus on issues of intent, recklessness and negligence. Our hate crime laws are often, as here in Wisconsin, “enhancers” to the underlying crime. Why someone does something can be relevant, but proving that they did it is our primary responsibility. Working closely with our partners in the United States Attorney’s Office allows us to address the broader issues of unlawful motive. The time may have come that the respective state’s should create a framework for addressing hate crimes in a more comprehensive way, perhaps by authorizing state Attorney Generals to commence prosecutions related to violations of civil liberties based on the respective rights in each state constitution.

In 1973 the late University of Wisconsin Law School Professors Frank Remington and Herman Goldstein, as part of the Berger Special Committee on Standards for the Administration of Criminal Justice, articulated the general principles that should guide urban policing stating:

“Those in the system must work together through liaison, cooperation, and constructive joint effort. This effort is vital to the effective operation of the police and the entire criminal justice system. To achieve optimum police effectiveness, the police should be recognized as having complex and multiple tasks to perform in addition to identifying and apprehending persons committing serious criminal offenses. Such other police tasks include *protection of certain rights such as to speak and to assemble*, participation either directly or in conjunction with other public and social agencies in the prevention of criminal and delinquent behavior, maintenance of order and control of pedestrian and vehicular traffic, resolution of conflict, and assistance to citizens in need such as the person who is mentally ill, the chronic alcoholic or the drug addict.” (Emphasis added).

This was written at a time of social unrest not wholly dissimilar to our own. Each generation faces its own unique challenges, but must endeavor to respond in a way that learns from both past failure and past success and allows future generations the right to expand upon and enrich this unique experiment in democracy by promoting respectful discourse and rejecting violence as a path for change. Thank you for inviting me to speak and I will provide any assistance requested as you work to address this issue of national importance.

John T. Chisholm
Milwaukee County District Attorney