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December 8, 2023

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Re: Addressing Gun Crime and Public Safety in New Mexico

Dear Governor Lujan Grisham and Legislative Leadership,

As leaders in New Mexico, we share a strong interest in improving public safety and reducing gun crime. To explore potential solutions, I convened two recent public safety summits with

frontline practitioners from both law enforcement and preventative service sectors, often unheard but vital voices. I am pleased to share with you the ideas gleaned from those public and private stakeholders.

The first summit, held on September 26, 2023, brought together law enforcement leaders and prosecutors and asked them to share their unique perspectives on the challenges they confront and the solutions they would propose to address gun crime in New Mexico. With decades of law enforcement experience in the room, these leaders shared their personal encounters with and firsthand efforts to combat gun crimes. They elaborated on the connections between weak enforcement consequences, inaccessibility of treatment for trauma, behavioral health, and substance use disorders, and rising gun crimes. We also learned how the lack of recognition and respect for law enforcement professionals is negatively impacting morale, retention, and recruiting of personnel.

The second summit, held on November 3, 2023, brought together frontline providers of services and experts related to adverse childhood experiences (ACEs), behavioral health, and substance use disorders and solicited their real-world solutions to reduce gun crimes. As we learned during the law enforcement summit, treatment providers and doctors confirmed the strong connections between criminal activity and untreated trauma, behavioral health, and substance use disorders. Unfortunately, these experts also shared the dire state of New Mexico's treatment landscape. New Mexico is worst in the nation for children with ACEs; worst in the nation for educational outcomes; 47th for youth suicide; 45th for exposure to childhood maltreatment; and nearly two out of every three youth in need of mental health services are unable to access them. It is unmistakable that our fellow New Mexicans are living with the adverse social determinants of health, meaning that the services that determine their safety, health, education and quality of life are too often out of reach.

While our best and brightest frontline people confirmed the depth of the collective challenges before us by describing how New Mexico is not performing well either in public safety or preventative services, the summits generated optimism and hope. Both law enforcement and treatment providers hit upon remarkably similar solutions, revealing the vast common ground to address public safety from both enforcement and preventative service perspectives. The summit participants offered opportunities for decisive actions, which, if taken, have the promise of significantly improving the lives of all New Mexicans.

The summits surfaced the following eight priorities to improve public safety and reduce gun crime in New Mexico.

1. Effective Juvenile Justice Interventions for Youth with Guns

Law enforcement leaders identified problems with juvenile justice interventions. They noted that they are finding younger individuals possessing guns and perpetrating gun crimes. However, the interventions available are not matched to this challenge. For example, there is no coherent strategy for responding to a young person who brings a gun to school. The Children, Youth, and Families Division's (CYFD) risk assessment instrument (RAI), suspended between September 15 through December 1 of this year by

the Department of Health's Public Health Order, determined whether a juvenile was detained. However, the instrument was not calibrated to reflect the gravity of a young person bringing a gun to school and did not automatically recommend detention in this circumstance. It is unclear whether the problematic RAI has been reinstated. Regardless, there is no apparent enforcement response strategy. Equally as troubling, it appears that a young person with a gun at school does not initiate any other preventative services. It is unclear whether a social worker is dispatched to the home to provide support or whether a counselor is assigned to the young person to understand why the young person feels the need to have a firearm. The lack of any response, let alone a coherent response, demonstrates to our young people that there is no consequence for bringing a gun to school.

Currently, there is no consistent enforcement or service response for a minor with a gun. Law enforcement leaders teach us that the lack of response is untenable. We must respond with both an immediate consequence and services to try to change the course of that young person's trajectory. The lives of our young people are literally at stake.

2. Swift, Certain, and Proportional Consequences for Gun Crimes

As with our response to young people with guns, our current response to adults who are prohibited to possess guns, accused of committing gun violence, or convicted of these types of felonies defies logic and common sense. For years, law enforcement leaders and prosecutors have attempted to communicate their deep understanding of the elevated risk to the community when guns and felonies mix. Law enforcement officers and prosecutors have a unique perspective because their service to the community begins at the very moment when other components of our society have failed. Virtually every time officers arrest a person who has picked up a gun and senselessly fired it at a vehicle or a dwelling, they see a person who was themselves traumatized but who did not receive treatment, counseling, or support.

The unique perspective of law enforcement and prosecutors gives them a deep understanding of what is at stake in getting our responses to gun crime right. With this perspective, they highlight the importance of: 1) recalibrating how our pretrial detention weighs the presence and use of guns in felonies, 2) requiring that individuals convicted of gun crimes serve prison time, and 3) ensuring the consequences are delivered with speed and certainty.

Currently, neither our pre-trial detention nor our sentencing place enough weight on the possession or use of a gun during the commission of felonies.

3. Recruiting, Retention, Recognition, and Respect for the Public Service of Law Enforcement and Prosecutors

The unique role and perspective that law enforcement officers and prosecutors have in our community comes at a high physical, emotional, and psychological cost. As noted above, police officers and prosecutors are called in when other societal components and governmental agencies fail to deliver on their missions. The burnout from working on grave issues takes its toll on morale. Consider, for example, the strain on police officers as they are called upon to respond to a wider range of issues – from being asked to deescalate an individual having a psychotic episode in public to confronting and stop a school shooter. If fewer officers and prosecutors are recruited and retained as the demands upon them increase, we risk the collapse of these essential community services.

Law enforcement leaders and prosecutors shared that recruiting and retention for this difficult work is more challenging than ever. While they recognized that competitive compensation is important, they emphasized the vital importance of recognizing and respecting their service to the public. They described how quickly they receive criticism and how rarely they are commended, even for extraordinarily valiant acts of bravery or exceptional service in convicting a dangerous person. The lack of recognition and respect is demoralizing and impedes retention and recruitment regardless of compensation.

Unless recruitment and retention are effectively considered at the highest levels of government, we risk having fewer and fewer police officers and prosecutors being asked to do more in service of a community. Currently, rather than building up our law enforcement agencies, more overtime is being offered as existing officers are asked to serve more of their time. This is not tenable. Recruitment and retention must be a focus and begins with recognition and respect for service from the highest levels of government.

4. Eliminate Illogical Legal and Bureaucratic Frameworks

Treatment providers relayed challenges of working within regulatory frameworks that do not support the needs of people seeking treatment or treatment providers. One provider in a rural New Mexico community attempted to establish a 24-hour Withdrawal Management (Detox) facility. Withdrawal Management facilities use medications in combination with counseling and behavioral therapies to treat opioid use disorders and support recovery. A critical component of the work is to be available when people are motivated to seek help. However, without an available 24-hour pharmacy to provide medications, the only option for this provider within New Mexico's regulatory framework was to be classified as a nursing home. This proved unworkable as the State's oversight of the facility as a nursing home conflicted with the utilization of medication assisted treatment (MAT) as part of the withdrawal management. Without a supportive regulatory framework, needed work is simply impossible to accomplish in New Mexico.

This is not simply an academic or theoretical obstacle. This provider shared a story of a pregnant woman who showed up in the early morning hours the day before the summit. She arrived when she was motivated to receive treatment, but because of the applicable

nursing home regulations, the provider had to turn her away and tell her to come back during regular business hours. It is uncertain if she will return.

New Mexico's legal and regulatory frameworks for providers have been neglected for too long and stand as significant obstacles to directing funds and services where they are needed. These frameworks are out of date and do not enable modern treatment modalities. They need to be updated in a manner that embraces flexibility and adaptability to enable ongoing adjustments as treatment modalities evolve and to unleash the creativity of New Mexicans. Several providers in rural New Mexico and from tribal communities shared that they know how to be creative in developing service providers. They just need the legal and regulatory frameworks to enable their creativity in service of their communities.

Often the illogical legal frameworks arise from siloed conversations within specific sectors which yield siloed solutions. The solutions are always well intentioned but lack input from real-world practitioners, especially in rural New Mexico, to convert the good intentions to good actions. Dialogue across siloed sectors – incorporating real-world voices from public health, public education, and public safety – is needed to generate more comprehensive and coherent frameworks.

5. Establish Coherent and Reliable Funding Mechanisms

Despite the New Mexico's needs for services and unprecedented budgetary surpluses at the State level, the funding mechanisms for vital services that are shown to increase family and community safety are incoherent, insufficient, and unreliable. For example, providers explained how they cobble together incomplete funding from multiples sources, such as from New Mexico's Department of Corrections and Department of Health. The administrative requirements for each funding source are different and the programs do not complement each other easily. Like the outdated regulatory frameworks, the administrative requirements have become unmoored from the purpose of the funds and now represent ossified, bureaucratic obstacles. The administrative overhead is so burdensome that instead of hiring more treatment providers, organizations find themselves having to hire additional administrative staff.

We should take this period of budgetary surpluses to streamline and solidify provider funding mechanisms so that they yield the delivery of needed services without an overwhelming bureaucratic overhead. These services, shown to strengthen the positive social determinants of health, are programs to ensure healthcare, food, housing and transportation. Ensuring accessibility of these services to New Mexico's families, we can address the root causes of why people get involved with law enforcement, the courts and CYFD.

Insufficient and unreliable funding mechanisms create an artificial environment of scarcity which impedes collaboration and cooperation among treatment providers and, thereby, stands in the way of implementing coherent strategies.

6. Build the Missing System – For Behavioral Health and Substance Use Disorders

Largely because of their unique perspective, law enforcement leaders and prosecutors emphasized the need for a system to be built to address mental health, behavioral health, and substance use disorders. They described the importance of diverting individuals who are coming into contact with police and prosecutors because of mental health, behavioral health, and substance use disorders. For these individuals, jail and prison are not the most effective interventions. Yet, they consume an extraordinary amount of limited police and prosecutor time, taking those resources away from addressing the most violent and dangerous individuals and groups. The challenge is that the comprehensive system for these services is not existent. Where services are offered, they are insufficient, inconsistent, and incoherent. Thus, even when law enforcement and prosecutors attempt to divert individuals with mental health, behavioral health, and substance use challenges, the question is, “divert them to what?” Building the missing system for mental health, behavioral health, and substance use disorders is a critical part of improving public safety and reducing gun crime.

7. Build the Missing System with a Coherent Strategy

As called for law enforcement professionals, treatment providers emphasized that the trauma and treatment system needs to be built alongside the enforcement system. The providers confirmed that there is no coherent system to ensure that New Mexicans have access to the necessary services to combat ACEs and move from surviving to thriving. Indeed, one provider shared that they have a 400 person wait list for services. Considering how poorly New Mexico ranks across indicators for social determinants of health. We need to commit to build this missing system, which means designing within each county a seamless system of services to strengthen public safety, health and education.

We have the models to achieve this transformation. For example, the 100% New Mexico Initiative, a program of NMSU currently being implemented in 18 counties, and the Health Extension Regional Office (HERO) program, a program of UNM Health Sciences Centers’ Office for Community Health currently underway in across New Mexico, have real potential to identify and strengthen local service organizations in a county-by-county strategy. Whether by building new county family centers or leveraging existing community gathering places, such as public schools, these programs are designed to ensure that every New Mexican has access to the vital services in: medical/dental care; behavioral healthcare; food security; housing security; transportation; parent supports; early childhood learning programs; community schools; youth mentor programs; and job training. By fostering collaboration and supercharging programs like NMSU’s 100% New Mexico and UNM’s HEROs, which align public health, public education, and public safety goals, there is the real promise of building a New Mexico where everyone can thrive.

8. A Coherent Strategy – The “System” Does Not Function as a System

Law enforcement and prosecutors emphasized repeatedly the need for a coherent strategy on gun crime. They noted that there is no criminal justice system, because a system contains interconnecting parts that work together. What we have is a lot of activity by criminal justice agencies without generating the public safety results expected by the community. They called for a coherent strategy to interconnect laws to procedure designed to result in improved public safety and reduced gun crime. If reducing gun crime is a priority, then our interventions should reflect that priority.

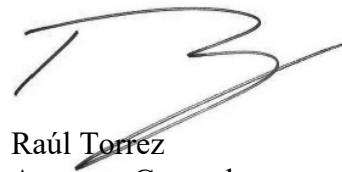
As noted above, in addition to recalibrating current laws and procedures, it also means learning from other states and the federal government to build the legal toolbox for the type of enforcement that will target gun crimes. FBI Special Agent in Charge, Raul Bujanda, noted the limited toolbox available to address organized gun crime in New Mexico. This highlighted the need to improve New Mexico’s Racketeering Act to include gun crimes as predicate offenses to contend with illegal firearm trafficking.

Aligning criminal justice agency interventions so that they function as interconnecting parts would yield better public safety outcomes.

Clear opportunities for leadership and action emerge from these eight priorities. Leaders from both sectors have identified a demand for the articulation of a comprehensive and coherent public safety strategy that aligns laws, regulations, and funding to action. While well-intentioned, piecemeal solutions too often result from siloed conversations and do not match the complexity of the task to address public safety in New Mexico. We must dialogue across sectors to recognize and address how the failures to provide sufficient early preventative services compound the challenges for police and prosecutors later on.

These priorities are submitted for your consideration for the upcoming legislative session. We strongly encourage you to include both the enforcement and preventative services components that contribute to public safety on the call. There is broad consensus that both approaches must be performed at a high level to lift New Mexico up and make it the safe and prosperous place it can be. Standing on this vast common ground and relying on the real-life lessons from our frontline people, we can act decisively and with intention. There is energy to mobilize around the interest in public safety. I am available to meet and work with you and your teams to discuss these ideas further and to facilitate connections with the law enforcement and treatment experts who shared their ideas with us.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Torres', with a long horizontal flourish extending to the right.

Raúl Torres
Attorney General