

Open Letter from Zachary Fardon, March 13, 2017

Today I submitted my resignation, effective immediately, as United States Attorney in Chicago. As I walk out the door, there are a few things I'd like to say.

I am not a political person. I belong to no political party; never have. I am not a Democrat. I am not a Republican. I am not a liberal. I am not a conservative. I never found a need or interest in associating myself politically. I have no interest in political office.

For the past three and a half years, I've been lucky to be in a position of power as the US Attorney in Chicago. That means I've gotten to lead what I think is the best prosecutors' office and maybe the best public office this country has to offer.

During those three and a half years, by my own choice, I focused my greatest attention on violent crime. I came into office in 2013 not long after Hadiya Pendleton was killed by an errant bullet in a public park. Like most folks, I was horrified and confused by Hadiya's death and the constant drumbeat of seemingly random deaths of so many others, including kids, on the south and west sides of Chicago.

So I put my head down and I went to work, and I studied. I learned data, numbers, statistics. I picked up each and every aspect of law enforcement's efforts, task forces, initiatives combating violence -- I turned those efforts over and looked at them from every angle. I went into the most violence afflicted neighborhoods and met with families, kids, teachers, clergy, and cops. I listened. I learned. And all while I worked, best I could, with my colleagues at the USAO to make sure we were continuing to make good federal cases -- gang cases, gun cases -- that would have an impact on the violence.

At no moment during those three and a half years did the gun violence abate. Every month, every year, innocents died, kids died. In 2014, 2015 and 2016 I showed pictures during speeches I gave -- pictures of children, sweet and innocent, and dead from gun fire.

The world changed, or began to change, on the evening of October 20, 2014, when 17-year-old Laquan McDonald was gunned down by a Chicago cop. I spent hundreds of hours over the next years looking at that case and others, investigating what went wrong and why. I focused on not just the shooting officers but also on the other officers and what happened immediately following those shootings.

A year passed before the City released that video. Then within weeks, in late 2015, then CPD Superintendent Garry McCarthy was fired, and our DOJ pattern and practice investigation was announced. And then on January 1, 2016, a contract began between CPD and the ACLU requiring that officers complete lengthy contact cards for every street encounter. That ACLU deal grew out of a law suit about stop and frisk, but the contract that settled the lawsuit swung the pendulum hard in the other direction by telling cops if you (officer) go talk to those kids on the corner, you're going to have to take 40 minutes to fill out a form, and you're going to have to give them a receipt with your badge number on it.

So by January 2016, the city was on fire. We had no police superintendent. Cops were under scrutiny. Cops had to worry about the ACLU deal. And many of them just no longer wanted to wear the risk of stopping suspects. Many became scared and demoralized. And that demoralization was compounded by the City panel's sweeping tone and language around racism and lack of respect for the sanctity of human life.

So cops stopped making stops. And kids started shooting more -- because they could, and because the rule of law, law enforcement, had been delegitimized. And that created an atmosphere of chaos.

Today's gun violence is driven by social media. And a corollary of that is that gun violence has become like a virus. One taunt through Instagram leads to a shooting, which leads to bragging on snapchat or Facebook, which leads to a retaliation shooting, and then the cycle repeats. The virus spreads.

So our escalating gun attacks beget more gun attacks, and more people started dying. The media raised questions and rendered judgments in 24 hour cycles. What's happening? Why isn't CPD stopping it? Why is the city so inept? Where is federal law enforcement?

And all the while, so many noble public servants -- cops, federal agents, Assistant State's Attorneys and Assistant United States Attorneys -- they all toiled quietly, fighting hard to stem the violence, with episodic success, and then in their quiet moments struggled with their own sense of frustration and despair.

Today I stand unshackled by the diplomatic constraints of being the U.S. Attorney. My hope and goal is to just speak truth. And the truth is that when it comes to our gun violence problem, there are two things going on -- one short term, the other long term.

The long term is that Chicago has an entrenched gang problem in a limited number of neighborhoods on the south and west sides. For decades, those neighborhoods have been neglected. The reasons for that historic run of neglect are rooted in ugly truths about power, politics, race and racism that are a tragic part of our local and national history and heritage. And as a consequence of those ugly truths, and the neglect they brought, these neighborhoods stand wrought with poverty and inadequate schools, businesses, jobs and infrastructure. For many growing up in these neighborhoods, there is a sense of hopelessness, a belief cemented early in life that they're not good enough for higher education and that they'll never get good jobs. Gangs and guns are ubiquitous, and gangs fill the void created by that hopelessness; they teach kids crime and violence, and give kids protection, money, and a sense of belonging. That's the long term reality, and long term challenge.

The short view is the surge in violence since January 2016. That surge started immediately on the heels of those 4 successive events I mentioned in late 2015: the release of the Laquan McDonald video; the initiation of the DOJ pattern and practice investigation; the firing of CPD's Superintendent; and the beginning of that ACLU contract. Those things exploded a powder keg that didn't change fundamentally the landscape of gun violence or law enforcement,

but they poured gasoline on the tragic aspects of those realities and further polarized our officers and our community.

In thinking about where we go from here, we have to talk both of the long view, and of the short term issues. Here are my “Top 5” things that I think need to happen to get us to a better place. This list is not exhaustive or magical; it is an honest short list based on my experience over the past years.

Number 1, get that Consent Decree. You can’t stop our brand of violence without a top-flight police department. And you can’t have a top-flight police department on the cheap. For decades, CPD has been run on the cheap. Officers don’t have the training, the supervision, the equipment, or culture they need and deserve. Our DOJ findings report lays that out.

The media routinely calls that report a scathing indictment of CPD. Not accurate. The report is not a scathing indictment. It may be hard hitting but it is measured and fair. We didn’t say cops are bad. We said CPD has systemic problems that prevent it from supporting good officers, or checking bad officers. And so culture and morale suffer. That’s the truth.

The DOJ findings report is a roadmap to addressing the systemic deficiencies in training, supervision and accountability. And I’m not picking on this Mayor or City Administration, who’ve done many good things, when I say the following: If you leave correcting those deficiencies to the vagaries of city politics, then you likely lose the long term fight. This city’s history is replete with examples of saying the right thing, in some cases starting the right thing, but then losing focus, particularly as the media and public attention pivot toward whatever is the latest crisis.

I started here as an AUSA in 1997, and was a beneficiary of a culture built on integrity, support, resources, infrastructure, supervision, leadership. Why should I and my colleagues have that benefit when CPD officers don’t? They are the ones putting their lives on the line every day. It’s past time to give our police officers what they need to succeed. A Consent Decree with an independent federal monitor is the only way that will happen.

Second, enhance and consolidate federal law enforcement in Chicago. This US Attorney’s Office should have 15-20 more AUSAs immediately assigned to it, full time and permanent. It’s a travesty that the office remains understaffed since sequestration. In the 2000s, the office had 172 federal lawyers. In 2012, sequestration hit and over the next two years we bled down to 127 lawyers. Under the current budget the office can afford about 158 lawyers. That is still a dozen down from where it was in the 2000s. If you want more federal gang and gun prosecutions, we need more full-time, permanent federal prosecutors in Chicago. That’s simple math.

Beyond the US Attorney’s Office, there are three key federal investigative partners relevant to this discussion: FBI, DEA and ATF. Each is noble, talented and passionate about fighting crime. But here’s a hard truth: federal law enforcement can yield an improved impact on gun violence in this city by either folding those key federal agencies together into one agency, or as an alternative, assigning *all* their agents working on violent crime to one special task force

with one mission and one leadership chain. Do that so that DEA isn't limited to working dope cases, and ATF isn't thinking only about gun trafficking, and no one is competing for credit on cases.

Through no fault of all the great agents at those agencies, the way it works now is not as good as it can be. And it seems to me this crisis creates the right opportunity to reinvent that wheel, even if it's just a Chicago specific pilot -- bring those federal agencies together in a way that will create unified purpose, greater efficiency and greater impact for our afflicted neighborhoods.

We need to flood those neighborhoods with local and federal law enforcement officers. Not just to arrest the bad guys but also to be standing on that corner where shots otherwise might get fired, to be breaking up those corner loiterers, and to be meeting and learning and knowing the kids, the people, and the truth of who are the good guys, who are the bad guys, and who isn't yet formed and can be swayed.

Some people recently have said bring in the National Guard. If you care only about the short view, maybe there's some attractiveness to that notion. But if you care about the long view -- if you don't want to be talking about "Chiraq" and "two Chicagos" ten and twenty years from now, then it's an ill-conceived notion. What would a National Guard presence say to folks in those neighborhoods? This is war, and you are the enemy. The Chicago of bike paths and glistening lakefront, and economic opportunity -- that's not your Chicago, it's ours and we will protect it.

This is not war. Wars are fought between enemies. There is only one enemy here, and it is us, all of us in Chicago. Every single one of us. We are the problem, and we are the solution. If we resort to wrongheaded measures, we might set ourselves back years, even decades in the long term fight.

Third, attack social media as the milieu for gun viruses. Our current epidemic is, as I said, viral. And post Laquan McDonald, there has been a shift, in a bad way, in cultural norms among gang members, to where now there is an expectation of gun play at the beginning of any dispute. A gang member taunts another, and instead of escalating taunts, there are shots fired right away, followed by retaliation shots within hours or days, followed by return retaliation shots, and so forth, with the pathway of violence dotted by social media posts.

Biological viruses are transmitted through body fluid or air. The virus of gun play moves through social media. We can stop or stem that. Don't send in the National Guard, send in the tech geeks. If a gang member makes CPD's Strategic Subject List, find a way to curb or real-time monitor that gang member's social media accounts. If kids have convictions or overt gang affiliations, find a way to curb their social media. I recognize that First Amendment issues come into play, but let's test those limits. Lives are at stake. Enlist parents, teachers and clergy. And work with social media service providers for options to limit access and to create safeguards against social media as the conduit for the gun virus.

And at the same time, launch a positive community-based social media exchange both deterring kids from gangs and enticing them with music, sports, jobs or other outlets.

Fourth, create new youth pathway centers, in the handful of most afflicted neighborhoods, that are not subject to the shifting winds of politics and government. The kids in our hardest hit neighborhoods are gang affiliating as young as 10, 11, 12 years old. Once that's happened, it's too late; their fate is sealed.

There are a finite number of kids in a small geographic footprint who face this dilemma. The vast majority of those kids will do the right thing if we help them find and figure out what that right thing looks like. So let's find those kids, and let's intervene, in a positive way, in their lives. Let's engage them, and their parents, teachers, community leaders, and clergy. Let's deter criminal behavior and incentive lawful behavior.

To do that, we should have a brick and mortar place, in each afflicted neighborhood, that is base, the home, the epicenter to that effort. No different than combining our federal law enforcement resources makes sense, combining our social services resources to maximize impact in these neighborhoods makes sense. There are smart and passionate social services workers out there right now, every day, trying to help. But no different than our police, systemic deficiencies are making it impossible for them to succeed.

Brick and mortar. Create a place. Call it anything. Fund it with federal, state, or philanthropic funds, or some combination. But do not continue this madness of annualized state or federal grant funding to where all these not-for-profits have time to do is fight for those peanuts, compete with each other and hope to survive. That serves no one.

There is plenty of money and good will in this town. And there are millions of federal dollars spent across this town every year. So let's find that money and put it to use by creating youth centers, brick and mortar, funding social workers and experts, and intervening to save the lives of kids and young adults.

Fifth, fix the bail bond system in Cook County. There is still, by state law, a monetary bond system. That system keeps non-violent poor defendants in jail awaiting trial, and allows violent gang members to get out because they can post money bonds. That's nuts. There are movements and efforts afoot to address this dilemma. And there's a model to fix it: our federal bond regime. But this needs to be completely overhauled, and right now. There should be no bail in state court for repeat gun offenders. There should be no bail in state court for those charged with acts of violence who have prior gun and violence convictions. Lives are being lost, every month, because of that bail system. It's fixable, now.

Lastly, I want to say to my colleagues at the U.S. Attorney's Office: You are everything that is right and good about public service. You are our hope. Carry on.

Zach Fardon

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