

Advisory Memorandum

To: The U.S. Commission on Civil Rights

From: The Missouri Advisory Committee to the U.S. Commission on Civil Rights

Date: April 01, 2015

Subject: Civil Rights and Community/Police Interactions in the State of Missouri

On February 23, 2015, the Missouri Advisory Committee (Committee) to the U.S. Commission on Civil Rights convened a public meeting in the City of St. Louis to hear testimony regarding civil rights concerns related to community and police interactions in the State.

Prompted by the shooting death of unarmed teenager Michael Brown by police in the City of Ferguson, MO, on August 9, 2014, and the subsequent, heavily militarized law enforcement response to protests; the Committee is examining the extent to which disparities may persist in law enforcement practices that undermine equal protection under the law on the basis of race or color. The Committee is also seeking testimony regarding underlying factors that may contribute to such disparities, and specific recommendations to address them. The record for this initiative remains open, as the Committee continues to receive written testimony from Missouri residents and to collect related quantitative data in advance of a follow up public meeting scheduled to be held in Kansas City, MO, in August of 2015.

In the interim, the Committee notes that the Commission intends to hold a national briefing on the topic of *Police Use of Deadly Force* to take place on April 20, 2015. As such, and in keeping with their duty to inform the Commission of: (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,¹ the Missouri Advisory Committee met on April 1, 2015 and voted to submit the following advice to the Commission based on the testimony heard during the Committee's initial public meeting in St. Louis. The Committee recommends that the U.S. Commission on Civil Rights consider these areas of inquiry, and raise related questions among presenters at its upcoming national briefing in April on the topic as appropriate.

Assertions and themes from the February 23, 2015 St. Louis Meeting:

1. Insufficient data exists about the characteristics of police shootings in the United States to draw any meaningful conclusions or make any evidence-based recommendations as to how to address this concern. Current FBI Data only captures lethal use of force by police officers; it does not include officer involved shootings and other use of force that do not result in a person's

¹ 45 C.F.R. § 703.2

- death.² In the City of St. Louis over the past decade, only about 16 percent of officer involved shootings have resulted in the death of the victim, suggesting that the vast majority of police shootings are not recorded in federal data.³
2. St. Louis County consists of 90 municipalities, some with fewer than 1,000 residents. Such fragmentation has led to racial segregation and economic deprivation, particularly in communities of color.⁴ Furthermore, a number of recent studies have shown that many of these economically deprived municipalities rely heavily on traffic fines and court fees for revenue; in some cases such fees are the highest source of municipal revenue. This heavy reliance has led to over-policing and exacerbated community/police tensions.⁵
 3. The United States lags behind international standards regarding police accountability and the use of force. For example; as early as 1992 the United Nations adopted standards that call for proportionality in the use of force by law enforcement; in Toronto, Ontario, there are mandatory reporting requirements and hearings that can be instituted whenever an officer uses force against an individual; and in Russia, police are required to adequately warn subjects before using force. In contrast, several recent police related deaths in the United States have been initiated by petty crime violations committed by unarmed suspects that escalated to the use of deadly force, making them particularly troublesome.⁶ The shooting death of Michael Brown in Ferguson, MO, is one such example.
 4. Current research suggests that Black children, and specifically, Black boys, are perceived as older, less innocent, and thus more responsible for their actions than their same-age white peers. This research further suggests that such associations lead to actual racial disparities in police violence toward children.⁷

² Bureau of Justice Statistics, Arrest-Related Deaths. More information available at: <http://www.bjs.gov/index.cfm?ty=tp&tid=82> (last accessed March 10, 2015)

³ Dr. Richard Rosenfeld, testimony before the Missouri Advisory Committee to the U.S. Commission on Civil Rights, St. Louis, MO, February 23, 2015. Transcript p. 22 line 21 through p. 28 line 20 and p. 52 line 15 through p. 53 line 19. [Hereafter cited as *Transcript*]

⁴ Meanes Testimony, *Transcript*, p. 72 line 06 through p. 74 line 09.

⁵ Johnson-Malone Testimony, *Transcript*, p. 79 line 25 through p. 81 line 24; Belmar Testimony p. 197 line 25 through p. 198 line 15. See also: The U.S. Department of Justice Civil Rights Division Report, *Investigation of the Ferguson Police Department*, Section B: Ferguson's Municipal Court Practices. Released on March 04, 2015. Available at: http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf (last accessed March 10, 2015)

⁶ Hansford Testimony, *Transcript*, p. 30 line 14 through p. 32 line 05.

⁷ Goff, Phillip Atiba et. al. *The Essence of Innocence: Consequences of Dehumanizing Black Children*. Journal of Personality and Social Psychology, 2014, Vol. 106 No. 4, 526-545. See also: Robinson Testimony, *Transcript*, p. 41 line 21 through p. 42 line 14 and p. 47 line 24 through p. 49 line 18.

5. Policing in the United States shifted dramatically after the terrorist attacks of September 11, 2001. “Intelligence-led policing” strategies based on data such as “hot spot policing” became priority over the previous community-based policing strategies. Current research suggests a need to balance both community policing and data driven policing strategies in order to reduce crime *and* preserve individual liberties.⁸
6. The Community Oriented Policing Services (COPS) program of the U.S. Department of Justice (DOJ) may, in some communities, be having the inadvertent effect of increasing concerns regarding racial profiling.⁹
7. Federal programs allocating military weapons to municipal police departments have contributed to recent shifts in policing strategies, and exacerbated community tensions. In Missouri, the Committee heard testimony that the heavy military equipment used in response to protests in Ferguson heightened tensions and created additional trauma to the community.¹⁰
8. Cutbacks in mental health services, education, and medical programs has meant that law enforcement and other first responders (such as fire and ambulance) have become the “face of government” and are left to answer many broader problems facing society that they are not equipped to address on their own.¹¹
9. While panelists acknowledged the critical role of law enforcement in maintaining society, widespread concern remains regarding the lack of standardization of police training and accountability in the State of Missouri and across the country. In particular:
 - a. Panelists pointed to concern regarding a “code of silence” or “pack mentality” among some law enforcement officers, in which police misconduct is ignored or excused.¹²
 - b. Without sufficient support, there is also concern that police officers may become apathetic, and hesitate to engage with their communities.¹³
 - c. In regions such as St. Louis County with large numbers of small, fragmented municipal police departments, the public often does not recognize the difference between agencies. Therefore, where

⁸ Scrivner Testimony, *Transcript*, p. 215 line 19 through p. 217 line 14.

⁹ Pruitt Testimony. *Transcript*, p. 89 line 14 – page 90 line 15.

¹⁰ Bradley Testimony, *Transcript*, p. 15 line 17 through p. 16 line 07; Nehrt-Flores Testimony p. 128 line 16 through p. 129 line 15; Blackmon Testimony, p. 110 line 04 through p. 113 line 24; Robinson Testimony, p. 36 line 25 through p. 37 line 12 .

¹¹ Dotson Testimony, *Transcript*, p. 154 line 25 through p. 156 line 21.

¹² Nehrt-Flores Testimony, *Transcript*, p. 118 line 21 through p. 120 line 10; Robinson Testimony, p. 40 line 18 through p. 41 line 20; Pruitt Testimony, p. 65 line 12 through p. 66 line 24.

¹³ James Clark Testimony, *Transcript*, p. 118 lines 02-17; and Blackmon Testimony, p. 120 line 11 through p. 121 line 11.

disparities in practices do exist, negative public sentiments often extend indiscriminately to all law enforcement.¹⁴ Currently, only 20 of 17,000 police departments across the country are accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA).¹⁵

It is important to note that these areas of inquiry are preliminary in nature and may not be inclusive of all testimony received to-date. The Committee intends to submit a comprehensive report to the Commission, including formal findings and recommendations, at the conclusion of this initiative in late 2015.

The transcript of the St. Louis meeting and other relevant Committee documents are available at <http://facadatabase.gov/committee/meetings.aspx?cid=258>. For more information, please contact the Midwestern Regional Office.

¹⁴ Dotson Testimony, *Transcript*, p. 161 lines 06-23; and Belmar Testimony, p. 162 lines 01 through 21 and p. 197 line 25 through p. 198 line 15

¹⁵ Belmar Testimony, *Transcript*, p. 171 line 25 through p. 175 line 20.