



April 24, 2017

U.S. Commission on Civil Rights Urges Department of Justice to Use All Available Tools to Work with Police Departments To Ensure Constitutional Policing

The U.S. Commission on Civil Rights is deeply concerned by signals from the U.S. Department of Justice indicating that it does not intend to continue holding local police departments accountable for violating the rights of individuals, as defined by the Constitution and other federal laws. We call on the Attorney General to reexamine this course, and continue to fulfill the Justice Department's mandate to protect the civil rights of all persons.

On March 31, 2017, the Attorney General issued a memorandum directing the Deputy Attorney General and the Associate Attorney General to "immediately review all Department activities" to ensure they appropriately supported state, local, and tribal law enforcement.¹ The Commission is troubled that this action sends a message to communities across the country that reform agreements, urgently needed and in some instances already agreed to by the respective police departments and municipalities involved, may be in jeopardy. We commend Judge Bredar of the U.S. District Court for the District of Maryland for approving the Justice Department's consent decree with the Baltimore Police Department and recognizing that "the time for expressing 'grave concerns' has passed and instead the parties must now exercise the agreement as they promised they would."²

The Commission is also concerned that the Attorney General's memorandum points to a deeper misunderstanding of the federal government's role with respect to state and local law enforcement; the memorandum included a list of principles by which the Department is expected to operate, including a declaration that, "It is not the responsibility of the federal government to manage non-federal law enforcement agencies." In 1994, Congress provided the Department of Justice with authority to bring pattern and practice investigations for systematic violations of constitutional rights within police departments.³ Since that time, the Department of Justice has opened a

¹ Memorandum for Heads of Department Components and United States Attorneys, Office of the Attorney General, dated March 31, 2017, available at <https://www.documentcloud.org/documents/3535148-Consentdecreebaltimore.html>.

² *U.S. v. Baltimore Police Dep't*, Case No. 1:17-cv-00099-JKB, Dkt. 39, Memorandum and Order (D. Md. Apr. 7, 2017) at p. 6 n. 2, available at <https://www.documentcloud.org/documents/3540090-Judge-Bredar-ruling-on-Baltimore-consent-decree.html#document/p1>.

³ 42 U.S.C. § 14141.

total of 69 formal investigations of police departments, averaging fewer than three per year; each investigation, negotiated agreement, and subsequent reforms were done with input from the local law enforcement agency and the surrounding community they affect.⁴ These investigations addressed serious, systemic, deeply-rooted, abusive practices that violated the Constitution and other federal laws. They have made for better policing in communities served by law enforcement.

The Commission has recognized the value of the work done by the Civil Rights Division with its pattern and practice investigations, most recently with the Division's report on the law enforcement and municipal courts of Ferguson, Missouri in 2015.⁵ In response to the investigation and findings made by the Division's report, the Commission is undertaking its own investigation to evaluate the problematic use of fines and fees in different jurisdictions around the country, as well as to examine the efficacy of the Justice Department's efforts to curb constitutional violations in this realm. Advocates and experts from around the country attested to the relevance and necessity of the Justice Department's work under the express authority granted by Congress. The Division's report has spurred positive change in municipal jurisdictions around the country. The Commission also received positive reports on the Justice Department's policing work from experts at the Commission's briefing on police use of force in April 2015.

Reports indicate that DOJ is considering drastic cutbacks in the office of Community Oriented Policing Services (COPS), an office that has received praise from police departments around the country.⁶ COPS assists police departments when the departments themselves invite the Department of Justice to collaborate with them in reviewing their policies and procedures and assist them in better policing practices.⁷ Failing to appropriately fund any resource to ensure constitutional policing is a setback.

Chair Catherine E. Lhamon stated: "The Department of Justice should and must continue to work with local law enforcement and communities to remedy constitutional violations and repair damaged community relationships. Fair treatment and effective policing depend on the Department fulfilling its obligations in this continuous effort, using any and all tools at its disposal to achieve the fulfillment of civil rights."

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⁴ The Civil Rights Division's Pattern and Practice Police Reform Work: 1994 – Present, issued by the Civil Rights Division of the U.S. Department of Justice, January 2017, available at <https://www.justice.gov/crt/file/922421/download>.

⁵ U.S. Commission on Civil Rights announces investigations into racially-biased police imposition of fees and fines for revenue and public education funding inequality, Press Release, August 17, 2015, http://www.usccr.gov/press/2015/PR_Policeabuseoffines.pdf; see Investigation of the Ferguson Police Department, U.S. Department of Justice, March 4, 2015, available at https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report_1.pdf.

⁶ The Marshall Project, Trump Budget Draft Targets Cops, Crime Victims, January 19, 2017, <https://www.themarshallproject.org/2017/01/19/trump-budget-draft-targets-cops-crime-victims#.kBn4McB4K>.

⁷ About, Community Oriented Policing Services, U.S. Department of Justice, <https://cops.usdoj.gov/about> (last visited April 18, 2017).

The U.S. Commission on Civil Rights is an independent, bipartisan agency charged with advising the President and Congress on civil rights matters and issuing an annual federal civil rights enforcement report. For information about the Commission, please visit <http://www.usccr.gov> and follow us on [Twitter](#) and [Facebook](#).