

A D D E N D U M
to
THE WAR ON POLICE: HOW THE
FEDERAL GOVERNMENT UNDERMINES
STATE AND LOCAL LAW ENFORCEMENT

This Addendum is available at:

<https://www.govinfo.gov/content/pkg/CHRG-114shrg52542/pdf/CHRG-114shrg52542-add1.pdf>

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FOR IMMEDIATE RELEASE

From: Gene Ryan

President, Baltimore City Fraternal Order of Police, Lodge #3

May 8, 2015

Our response to today's announcement of the Civil Rights investigation into the pattern and practices of the Baltimore Police Department is the same as it has always been; we welcome the involvement of the Department of Justice and look forward to working with their representatives to heal the wounds of our city, and to improve the relationship between the community and our Department.

Additionally we suggest that, as a part of this comprehensive examination, the Department of Justice also consider expanding the scope of their review to include the practices and policies of the Mayor of Baltimore, Stephanie Rawlings Blake. In her sixth year in office, Mayor Rawlings Blake is the leader of all city agencies, including the Baltimore Police Department, and we believe that her leadership of, and involvement in, the Police Department also deserves evaluation. In their examination of the Ferguson Police Department, the DOJ included a review of the city's government, from the top down, and we agree that the same is required in Baltimore.

We appreciate the support of Attorney General Lynch and trust that the intervention of her department will only lead to a successful outcome for all involved.

TITLE VI

INVESTING IN AMERICAN SECURITY, GROWTH, AND OPPORTUNITY

This title contains the additional resources necessary to promote safety and security in our communities through law enforcement, community development, and weather prediction, and to promote innovation, creating new ideas and leading to new products in order to secure American growth and opportunity. The post-sequester level resources provided in the Congressional Budget Resolution, which set the allocations provided to the Committee and its Subcommittees, are insufficient to meet the needs of the Nation. Congress and the President should negotiate a bipartisan budget agreement as soon as possible in order to meet national security needs while supporting infrastructure, creating opportunity, and spurring innovation.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The International Trade Administration [ITA] is responsible for promoting the sale of American goods and services overseas, and for protecting American businesses by ensuring that foreign imports and markets comply with international trade laws and agreements. Ninety-five percent of the world's consumers live outside the United States, and the men and women of the U.S. and Foreign Commercial Service serve as diplomats, helping American businesses reach foreign buyers and helping to create and retain the 11.7 million U.S. jobs that are supported by exports. From sailboat hulls made in Maryland to lightning rods invented in Colorado to medical equipment manufactured in California, ITA has supported thousands of American companies. This title provides an additional \$33,750,000 to the International Trade Administration, bringing the funding level up to the President's request.

BUREAU OF THE CENSUS

PERIODIC CENSUS AND PROGRAMS

The 2010 Census cost nearly \$13,000,000,000, and the Bureau projects that repeating the same paper-and-pencil Census could cost more than \$17,000,000,000 in 2020. However, new technologies such as Internet response could save more than \$5,000,000,000. Those savings will be seriously jeopardized if the Census Bureau's primary account for research and development is not adequately funded in fiscal year 2016. The Bureau cannot conduct a cheaper, 21st-century 2020 Census unless testing, evaluation, and implementation are completed well in advance of the decennial. "Saving" millions of dollars in 2016 will cost taxpayers billions in 2020. This title provides an additional \$360,101,000, bringing Periodic Censuses and Programs up to the request level.

June 10, 2015 (11:40 a.m.)

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

National Institute of Standards and Technology [NIST] scientists have won four Nobel prizes to date, and continue to lead the private sector in exploring new scientific fields and helping businesses to efficiently and safely commercialize new technologies. NIST researchers advance technology and set standards in areas like efficient lithium battery applications, 5G wireless networks, and quantum cryptography. While most of NIST's work is behind the scenes, without this agency, Americans would not be driving electric cars, securely shopping online, or living in earthquake-resistant buildings. This title adds an additional \$62,161,000 for NIST laboratories.

INDUSTRIAL TECHNOLOGY SERVICES

Manufacturing Extension Partnership.—The Hollings Manufacturing Extension Partnership [MEP] program funds non-profit programs in all 50 states that help manufacturers adopt new technologies, achieve efficiency and profitability, and support an advanced manufacturing workforce. The \$11,000,000 increase provided under this title could generate \$209,000,000 in sales of American-manufactured products and create 5,500 American manufacturing jobs.

National Network for Manufacturing Innovation.—The President's request included \$150,000,000 to fund two openly competed National Network for Manufacturing Innovation [NNMI] institutes at NIST, and to coordinate existing NNMI institutes government-wide. NNMI programs at the Departments of Defense and Energy are already helping groundbreaking progress in fields like digital manufacturing, 3D printing, and lightweight metals to generate innovative and American-made products. These discoveries could revolutionize manufacturing processes, enhance American competitiveness, and bring jobs back home. This title provides the full requested amount for the National Network for Manufacturing Innovation.

CONSTRUCTION OF RESEARCH FACILITIES

Building 245.—The underlying bill provides \$13,000,000 to begin the renovation of Building 245, a 53-year-old radiation physics research facility that does not meet NIST's research or safety needs. This title provides an additional \$46,000,000 to construct the building's new wing, which will also serve as swing space during the building's renovation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
OPERATIONS, RESEARCH, AND FACILITIES

National Sea Grant College Program.—The National Sea Grant College Program provides funding for marine conservation research, education, and outreach to universities and other institutions in all 33 coastal and Great Lakes States. These grantees support coastal resilience research, develop coastal resources, provide

hands-on opportunities for STEM education experiences, and work with communities to promote awareness of coastal resources, helping them better respond to natural disasters and understand ecosystem changes that can affect local economies. This title provides an additional \$10,578,000 for the National Sea Grant Program.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

Ocean Survey Vessel.—NOAA currently has 16 ships in its aging fleet, but that number will dwindle to 8 vessels by 2028. In order to maintain its current oceanographic capacity, NOAA's fleet needs not one but eight additional vessels funded in the next 2–4 years, as each one takes 8–10 years to build. This title fully funds construction of one vessel at \$147,000,000. This ship is critical to NOAA's ability to map the ocean floor, support National Weather Service activities, conduct oceanographic and climate research, and support ecosystem and fisheries management.

Satellites.—The underlying bill provides \$135,000,000 to begin building new polar weather satellites, \$245,000,000 below the request level. These satellites provide 85 percent of the data used to forecast the weather, and are a vital component of Americans' personal, property, and economic security. One-third of U.S. GDP is affected by climate and weather, including farmers trying to protect livestock and crops, cities relying on energy from wind turbines and solar panels, and air travelers trying to get home safely and on time. In 2014 alone, the United States suffered eight major weather and climate events estimated to have cost more than \$1,000,000,000 each. These disasters would have cost even more without sufficient warning. Inadequate funding for weather satellites means gambling with American lives and livelihoods. This title provides \$245,000,000 to bring the Polar Follow-On account up to the request level, and provides an additional \$3,000,000 to begin designing and procuring a Space Weather Follow-On satellite.

FISHERIES FINANCE PROGRAM ACCOUNT

West Coast Buyback Loan Program.—In the early 2000s, Congress appropriated funding for a “buyback” loan program to support fisheries on the West Coast, which found themselves with too many boats and not enough fish. This program helped fishermen to buy boats and permits from those looking to get out of the fishing industry. Unfortunately, NOAA's delay in implementing rules and regulations for this program caused interest to accrue for nearly 18 months before fishermen were allowed to start paying back their loans. As a result, after 10 years of payments, fishing families have only managed to pay 22 percent of the amount owed to the Federal Government.

The National Defense Authorization Act of 2015 included the bipartisan REFI Pacific Act, intended to allow fishermen to refinance those loans. However, despite having approved the text of the REFI bill, the Administration came back to Congress a month after the bill was signed and said that REFI couldn't be implemented without an additional appropriated amount of \$10,300,000.

The Committee is frustrated by the Administration's carelessness, both in causing the problem by charging an unnecessary 18 months of interest on the loans and in its mistaken assessment of

the legislation to fix it. While not in the business of cleaning up after the Administration, the Committee does not feel that fishing families should have to, either. This title amends the original REFI Pacific Act and provides \$10,300,000 for refinancing of West Coast Buyback loans.

DEPARTMENT OF JUSTICE

ADMINISTRATIVE REVIEW AND APPEALS

The recommendation includes an additional \$77,309,000 for Administrative Review and Appeals, of which \$75,000,000 is designated for the Executive Office of Immigration Review [EOIR] and \$2,309,000 is designated for the Office of the Pardon Attorney [OPA].

Direct Legal Representation for Children.—The Committee provides an additional \$50,000,000 for direct legal representation for children going through the immigration court system. This level of funding will enable EOIR to expand its program for legal representation to unaccompanied children, which improves the efficiency of immigration courts by providing legal counsel to children going through immigration proceedings. Without representation, it is nearly impossible for unaccompanied children to navigate our exceedingly complex immigration laws and system. When unaccompanied children are effectively represented, immigration courts will be able to reduce the number of continuances granted for the purpose of obtaining counsel and/or evidence.

Legal Orientation Program [LOP].—The Committee provides an additional \$25,000,000 to expand the successful LOP and continue to improve efficiencies in immigration court proceedings for detained aliens by increasing their awareness of their rights and the overall immigration proceeding process. Reports have shown that LOP participants complete their immigration court cases in detention an average of 12 days faster than detainees who do not participate in an LOP. The requested funding level will enable LOP to add at least 40 additional sites.

Clemency Initiative.—The additional level of funding provides support necessary to help OPA address the substantial growth in commutation applications received as a result of the Department's Clemency Initiative. As of January 2015, OPA had received more than 33,000 requests from Federal inmates for legal assistance to file clemency petitions. OPA expects to add 16 new attorneys to review these applications, which will also help to reduce overcrowding and lessen the expensive burden on our Federal prison system.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

The recommendation includes an additional \$45,000,000 for General Legal Activities Salaries and Expenses. The appropriation will augment the funding of the Civil Rights Division and Environmental and Natural Resources Division.

Civil Rights Division [CRT].—The Committee includes an additional \$28,000,000 for the CRT for priority areas identified in the

President's budget request. This funding will add 18 attorneys to the CRT's Human Trafficking Prosecution Unit, which will increase the number of investigations opened, the number of cases brought, and the number of defendants charged. The Committee supports expanding CRT's efforts to ensure that all communities have effective and democratically accountable policing. The increased funding level will permit CRT to take a multi-faceted approach to ensure police officers, and police departments as a whole, are carrying out their missions lawfully. As part of the Department's Vulnerable People Priority Goal, the increase would enable CRT to increase its efforts protecting the rights of service members, enforcing the Civil Rights of Institutionalized Persons Act, and expanding opportunities and protections for equal education, equal housing, equal employment, and people with disabilities. To address the increase in workload associated with enforcement of Section 2 of the Voting Rights Act and other voting matters, the additional resources for CRT's Voting Section will expand CRT's capacity to identify and investigate voting changes that may violate Federal law, and assist with litigation challenging such practices.

Environment & Natural Resources Division [ENRD].—The Committee includes an additional \$17,000,000 for ENRD to continue to work closely with an array of Federal agencies and with Gulf States to secure civil penalties under the Clean Water Act and natural resource damages under the Oil Pollution Act. The rapid expansion of oil and gas extraction on Indian lands in the last decade has decreased the civil and criminal enforcement capacity necessary for protecting human health and the environment in Indian Country. In response to this, this level of funding will allow ENRD to work closely with Federal and tribal agencies to litigate cases addressing environmental violations in Indian Country. The Committee also supports ENRD's implementation of the National Strategy for Combating Wildlife Trafficking. The additional resources provided will address the increase in wildlife trafficking referrals and caseload, strengthen ENRD's enforcement and capacity building efforts, and increase the number of wildlife offenders prosecuted.

UNITED STATES ATTORNEYS

SALARIES AND EXPENSES

The recommendation includes an additional \$59,216,000 for the Executive Office for United States Attorneys and the 94 U.S. Attorneys' offices. This level of funding will allow for the hiring of additional Assistant U.S. Attorneys as well as the hiring of a dedicated Prevention and Reentry Coordinator in all 94 districts. These coordinators will develop programs specifically tailored to their districts to ensure that reentry and prevention programs are robust and address pressing needs within the community.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

The recommendation includes an additional \$35,581,000 for United States Marshals Service salaries and expenses. These addi-

tional resources will allow the Marshals Service to continue to hire new deputy U.S. marshals and support training opportunities in both Adam Walsh Act enforcement and high risk fugitive apprehension.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

The recommendation includes an additional \$58,289,000 for the Drug Enforcement Administration [DEA]. The Committee expects the DEA to use these resources to hire additional DEA agents, create a new financial investigation unit as part of DEA's Bilateral Investigation Unit within the Special Operations Division, and add vetting, program coordination and IT improvements for existing Sensitive Investigative Units.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

The recommendation includes an additional \$60,158,000 for the Bureau of Alcohol, Tobacco, Firearms and Explosives [ATF]. These additional resources will not only allow the ATF to hire additional agents, but will help to enhance the National Firearms Center in Martinsburg, West Virginia. The Center will be able to increase capacity, efficiency, and production of firearms tracing, National Firearms Act [NFA] application processing and services, and firearms and explosives licensing services.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

The recommendation includes an additional \$186,000,000 for Bureau of Prisons [BOP] salaries and expenses. The Committee expects \$141,000,000 of this funding increase to be used to continue to expand programs for prisoner reentry and that reduce recidivism. This will include adding the number of vocational training and education programs and helping inmates connect with families, which eases the transition when they are released. Resources of \$5,000,000 are provided to convert FCI Fort Worth to a Medical Referral Center that provides inpatient management and/or intensive monitoring to severely ill inmates with medical and mental health needs. By adding 36 medical beds, BOP will avoid costly treatment of inmates in community hospitals. Finally, resources of \$40,000,000 are provided to ensure the continued hiring of staff, including correctional officers, at USP Thomson. With an overcrowding rate of 52 percent at high-security facilities, the Committee supports all efforts to get the high-security prison in Thomson, Illinois, open in a safe and expedient manner.

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION
PROGRAMS

The recommendation includes an additional \$19,000,000 for the implementation of the Violence Against Women Act's 20/20 Initiative, a new program for fiscal year 2016. The initiative will focus on using evidence-based interventions and documenting and evaluating results. Of this amount, \$13,000,000 will be used to improve law enforcement and prosecutorial response to sexual assault and \$6,000,000 will be used to implement a domestic violence firearms lethality initiative.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

The recommendation includes an additional \$153,332,000 for two grant programs within the Office of Justice Programs [OJP].

State Criminal Alien Assistance Program [SCAAP].—The Committee provides an additional \$121,332,000 to SCAAP. SCAAP provides Federal payments to States and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of State or local law, and incarcerated for at least 4 consecutive days during the reporting period.

Second Chance Act [SCA].—The Committee provides an additional \$32,000,000 for SCA programs, and urges OJP to use this funding to continue to administer SCA programs that benefit juveniles in the justice system. This program provides employment assistance, substance abuse treatment, housing, family programming, mentoring, victims support, and other services that help reduce rates of reoffense and violations of probation and parole.

COMMUNITY ORIENTED POLICING SERVICES

COMMUNITY ORIENTED POLICING SERVICES PROGRAM

The recommendation includes an additional \$95,000,000 for the COPS Hiring Program. This additional level of funding will add approximately 500 new police officers on the streets of our communities.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

This recommendation includes an additional \$96,000,000 for National Aeronautics and Space Administration [NASA] Science. Of this amount, \$46,000,000 is for the Wide-Field Infrared Survey Telescope [WFIRST] dedicated to the study of dark energy and, secondarily, exoplanets. Along with the resources included in the base bill, this will allow NASA to maximize WFIRST's science return by

ensuring a launch in 2022, which will allow overlapping observations with the James Webb Space Telescope.

The recommendation also includes an additional \$50,000,000 for Mars Exploration to ensure NASA can take full advantage of the Mars 2020 opportunity. NASA's suite of Mars rovers and observation satellites increase our knowledge about our nearest neighbor, including whether Mars has or could support life.

SPACE TECHNOLOGY

NASA missions may fly in space, but they have real benefits here on Earth. NASA technologies are being used in drought-ridden places to locate underground water, build quieter and more fuel-efficient airplanes, and create shock absorbers that brace buildings in earthquakes. The recommendation includes \$54,000,000 for Space Technology to allow NASA to develop new, game changing technologies that will not only make NASA's missions more robust and cost-effective, but will also create new American products and new American jobs.

EXPLORATION

The Committee provides \$50,000,000 for the Orion Multi-Purpose Crew Vehicle (Orion). This spacecraft, along with the Space Launch System, is built to take humans beyond low-Earth orbit. Funding in this title is needed to accelerate technologies that will support astronauts, including displays and controls, environmental management, and life support.

SPACE OPERATIONS

Today, no human can leave this planet and return safely without paying millions of dollars to the Russian Government. The United States depends on Russia for access to, and operation of, our orbiting National Laboratory, the International Space Station [ISS]. U.S. companies Boeing and SpaceX have signed fixed-price contracts with NASA, promising to fly astronauts to the ISS on U.S. vehicles by 2017. The base bill jeopardizes that schedule by providing less than the amount needed to pay contracted milestones in fiscal year 2016. That is why this title includes \$300,000,000 for Commercial Crew to ensure NASA can stop paying Russia to meet its ISS transportation commitments as soon as possible.

If successful, Boeing and SpaceX will have created a whole new industry where private companies can transport humans into space. That industry will produce real manufacturing jobs in the United States.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED AGENCIES

The National Science Foundation [NSF] supports research and education programs that promote the progress of science and engineering in the United States. The Foundation supports programs in all major scientific and engineering disciplines through grants, cooperative agreements, contracts, and other forms of assistance in

every part of the country. The Foundation also supports unique, large-scale research facilities.

This title supports an increase of \$252,655,000 to fully fund the request for NSF's Research and Related Activities account. Unfettered basic research selected in a merit-based, peer-reviewed, competitive process generates new ideas that become new products and new companies. The unexpected consequences of a good idea can be transformational. For example, two graduate students' NSF grant to optimize search engines has become a powerhouse of search, email, cloud computing, and online connectivity—Google. Not every grant becomes a company worth hundreds of billions of dollars, but basic research is a major catalyst for high growth, high value companies and industries in the 21st century.

EDUCATION AND HUMAN RESOURCES

In addition to supporting the best and brightest scientists and researchers in our nation, NSF also plays a crucial role in the innovation pipeline by teaching and inspiring aspiring scientists, technicians, engineers, and mathematicians. NSF programs funded under NSF's Education and Human Resources [EHR] teach basic science and math concepts to preschoolers, encourage talented science, technology, engineering, and mathematics [STEM] undergraduates to become K–12 teachers, and support outstanding graduate students doing cutting-edge resources in their fields. Some programs target underserved institutions, like Historically Black Colleges and Universities and tribal colleges, and others address skills shortages in the workforce, focusing on students in engineering and cybersecurity. This title provides an additional \$96,570,000 to fully fund the request for Education and Human Resources.

RELATED AGENCIES

LEGAL SERVICES CORPORATION

In more than two-thirds of civil cases, at least one party appears in court without a lawyer. The stakes are often high—securing needed legal help for a disabled child, remaining in a family home in one's twilight years, getting wages earned and deserved, and helping victims of domestic abuse leave their abusers. Yet litigants without counsel often end up losing. Having a lawyer can make the difference between eviction and having a home. That is why the Legal Services Corporation [LSC] represents the poor and indigent in cases that make the difference between getting by and getting ahead. The \$67,000,000 included in this title for the LSC meets the President's budget request and will allow LSC to serve 1,000 more clients.

ADMINISTRATIVE PROVISION

SEC. 601. Bill language is included to limit the availability of funds in this title until enactment of the Bipartisan Budget Act of 2015, an act increasing the post-sequester discretionary caps contained in the Budget Control Act of 2011.

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard C. Shelby
Chairman
Subcommittee on Commerce, Justice,
Science, and Related Agencies
Senate Committee on Appropriations
142 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Barbara A. Mikulski
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
Senate Committee on Appropriations
125 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski:

We write to thank you for your strong and consistent support of the Byrne Justice Assistance Grant (Byrne JAG) program, and for the funding in the Consolidated and Further Continuing Appropriations Act, 2015. We write to ask that you maintain funding for the program in the fiscal year 2016 Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill.

As thoughtful stewards of taxpayer money, we must continually assess where federal support is necessary and appropriate. It is clear to us that the strong foundation of federal, state, and local partnerships built from the Byrne JAG program remains as vital as ever.

One of the highest responsibilities of government is to protect its citizens and ensure public safety. We are concerned that regional, national and international gangs and drug trafficking organizations are increasingly driving the crime on our streets, embedding criminal activity deeper into our rural communities, and driving a dangerous new wave of heroin addiction across the country. Byrne JAG-funded programs facilitate cross-governmental intelligence and information sharing on terror and criminal threats, drug and human trafficking organizations and sexual predators. This collaboration is essential to address today's criminal networks that cross city, state and even international boundaries.

Nationwide, the overall crime rate is at its lowest level since the 1960s due in part to advances in policing, information technology, offender management, and cross-jurisdictional coordination support by the Byrne JAG program. Crime in some communities, however, is on the rise again, reminding us that we must never become complacent when it comes to the safety of our citizens. Federal support for Byrne JAG and state and local law enforcement is our first line of defense against criminals and the Byrne JAG program is vital in combating crimes of all types.

Through Byrne JAG, the Department of Justice (DOJ) plays a crucial role in spurring innovation and testing cost-effective, evidence-based approaches to fighting crime. With over 18,000 law enforcement agencies in the U.S., cross-jurisdictional learning and coordination cannot happen effectively without federal support.

Furthermore, crime prevention and control can be truly successful only when the criminal justice system is in balance, with all of the parts functioning effectively. Byrne JAG's flexibility allows state and local governments to target their most pressing needs in law enforcement, prevention, pretrial services and treatment, courts, corrections, crime victims' services, prosecution and defense, and post-incarceration reentry services. Byrne JAG also leverages the massive investment that already occurs regularly in these programs at the state and local level.

We know of your steadfast commitment to the Byrne JAG program in years past, and we ask for your continued support in the fiscal year 2016 Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill.


Sincerely,


CHARLES E. GRASSLEY
United States Senator


MARIA CANTWELL
United States Senator


DAVID VITTER
United States Senator


PATRICK LEAHY
United States Senator


DAVID PERDUE
United States Senator


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United States Senator



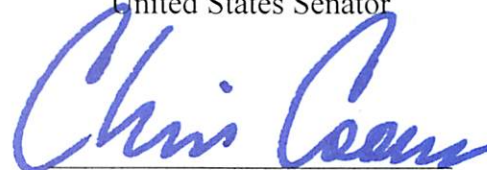
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M. MICHAEL ROUNDS
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United States Senator



ROBERT MENENDEZ
United States Senator



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MAZIE K. HIRONO
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United States Senator



BARBARA BOXER
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BERNARD SANDERS
United States Senator



TOM UDALL
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RON WYDEN
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MARK R. WARNER
United States Senator



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United States Senator



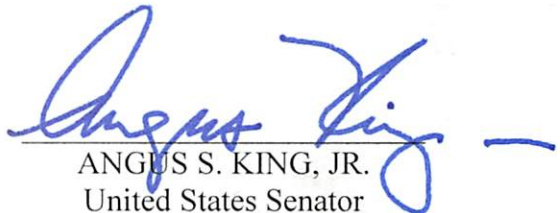
JOE DONNELLY
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United States Senator

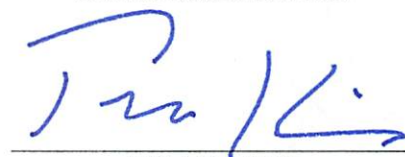

JEFFREY A. MERKLEY
United States Senator

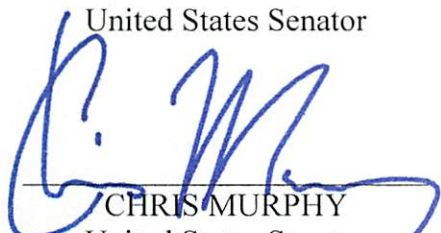

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JOE MANCHIN III
United States Senator


AMY KLOBUCHAR
United States Senator


JOHN HOEVEN
United States Senator

CRITICAL ISSUES IN POLICING SERIES

Civil Rights Investigations of Local Police: Lessons Learned



POLICE EXECUTIVE
RESEARCH FORUM

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CRITICAL ISSUES IN POLICING SERIES

Civil Rights Investigations of Local Police: Lessons Learned

July 2013



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Acknowledgments

FOR NEARLY 20 YEARS, THE U.S. JUSTICE DEPARTMENT has had special authority to investigate local police agencies if there is reason to believe they have policies or practices that violate the Constitution. At various PERF meetings and conferences, we have heard police executives offer mixed views about these DOJ investigations. Some have said that DOJ investigations helped them to achieve reforms in their departments, because the existence of a federal investigation tends to focus the attention of local elected officials. Others have expressed negative views, saying the process is costly and can take too many years to reach a conclusion.

So PERF has been aware for some time that DOJ's role in monitoring local police is a complex, controversial issue. Last year, we decided to give this issue a comprehensive review, and the Motorola Solutions Foundation agreed to support this project as part of the Critical Issues in Policing series.

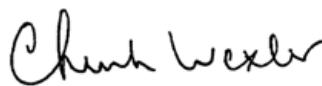
PERF is grateful to the Motorola Solutions team for their steadfast support on all of the Critical Issues projects we have undertaken. PERF's association with Motorola Solutions is one of the best partnerships we have ever had with any organization, and we are very grateful for it. Special thanks go to Greg Brown, Chairman and CEO of Motorola Solutions; Mark Moon, Executive Vice President and President, Sales and Product Operations; Karen Tandy, Senior Vice President, International Government Affairs; Jim Welch, Senior Vice President, Americas Region; and Matt Blakely, Director of the Motorola Solutions Foundation. I'd also like to thank recently retired Motorola Solutions Vice President Rick Neal for his close work with PERF and his good friendship for many years. Rick's inspiration resulted in the identification of some of the most cutting-edge issues in the Critical Issues in Policing series.

And I'd like to thank all of the PERF members and other leaders in policing who participated in our Summit at the Newseum in Washington, DC on October 25, 2012. (See the appendix to this report for a complete list of participants.) Most of what

you will read in this report consists of direct quotations from the experts who joined us to share their experiences regarding DOJ investigations and consent decrees. In particular, I'd like to acknowledge the important role of the team from the DOJ Civil Rights Division who provided us with information and participated in the Summit, especially Jonathan Smith, Chief of the Special Litigation Section (which is the DOJ unit in charge of police investigations), and Deputy Chief Christy Lopez. The Summit was far more informative and interesting because Jonathan and Christy provided us with their candid and well-informed views.

Finally, I'd like to acknowledge the PERF staff members who worked on this project. Our Director of Program Development, Sheryl Goldstein, did much of the groundwork to prepare for the Summit, gathering detailed information about the DOJ investigations of state and local police departments to date. Sheryl also performed a key analysis of the types of issues that most often crop up in these investigations. My Chief of Staff, Andrea Luna, and Deputy Chief of Staff Shannon Branly also were indispensable in getting this project off the ground and arranging one of the most interesting Summits we have had. Sunny Schnitzer, Rachel Freeland, James McGinty, Steve Yanda, and Jacob Berman provided additional support, and Communications Director Craig Fischer once again worked tirelessly to pull this report together and make sense of what is a complicated subject. Finally, our graphic designer, Dave Williams, produced another sharp-looking Critical Issues document.

I hope you will find this report provocative and informative.



Executive Director
Police Executive Research Forum
Washington, D.C.



LEFT: Motorola Solutions Vice President Rick Neal and Milwaukee Police Chief Ed Flynn



RIGHT: Prof. Samuel Walker and Commissioner Chuck Ramsey

Summary

U.S. Justice Department Oversight of Local Police

ON JULY 24, 2012, U.S. ATTORNEY GENERAL Eric Holder announced a plan to overhaul the New Orleans Police Department that was broader in scope and more detailed than any other consent decree the DOJ had issued since it was given the authority 18 years earlier to investigate local police departments.

The 2012 New Orleans consent decree is expected to last at least five years and cost more than \$11 million, though the agreement likely will take longer and cost more to carry out, if recent patterns of DOJ involvement with local law enforcement agencies are any indication.

The shape and substance of recently issued consent decrees, in Seattle as well as New Orleans, share little resemblance to the first one the DOJ obtained involving a major metropolitan police force.

These consent decrees were made possible by the 1994 Violent Crime Control and Law Enforcement Act, which gives DOJ's Civil Rights Division authority to investigate state and local law enforcement agencies that it believes have unconstitutional policies or engage in unconstitutional patterns or practices of conduct.

The law is intended to address systemic issues, rather than individual complaints. The alleged misconduct cannot be an isolated incident. And there is no private right of action under the 1994 law; only the Justice Department is given authority to launch investigations and litigation under this statute. The law arms DOJ with the authority to file civil lawsuits against local governments in order to force them to adopt reforms. However, cities typically settle these

cases before they go to trial or before a lawsuit is filed.

More than 25 police departments have experienced some form of DOJ involvement in the past two decades.

When Pittsburgh—the first major case—came under a consent decree in 1997, the mandate focused on two particular areas of policing, produced generalized requirements, and lasted a relatively tidy five years. Some later investigations and reform processes have taken 10 years or more.

But one constant in the DOJ's oversight of police departments accused of discriminatory and unconstitutional activity is the primary types of wrongdoing that have triggered federal involvement: improper use of force by police, unlawful stops and searches, and biased policing.

That's what recently brought DOJ attention to police departments in New Orleans and Seattle. That's what initiated DOJ involvement in Washington, D.C., Los Angeles, Detroit and Cincinnati in the early 2000s. And that's what brought Pittsburgh under DOJ's watch in 1997.

The Early Investigations

Two years after the 1994 law was enacted giving DOJ authority to investigate local police departments, the Civil Rights Division was building its first major case, in Pittsburgh. The Pittsburgh chapters of the ACLU and the NAACP had invited the DOJ to examine the class-action lawsuit they had filed on behalf of 66 people who claimed that Pittsburgh police officers had violated their civil rights.

A year-long investigation by the DOJ Civil Rights Division's Special Litigation Section, which conducts the federal probes of law enforcement agencies, concluded with allegations that the Pittsburgh Bureau of Police was inundated with excessive uses of force, false arrests, improper searches and seizures, failures to discipline officers sufficiently, and failure to supervise officers. Then-Police Chief Bob McNeilly saw the DOJ investigation as a way of forcing reforms that he supported and that otherwise could be stymied by the police labor union. The city elected to settle the matter, entering into a consent decree in April 1997.

The first five consent decree objectives that Pittsburgh had to meet revolved around implementing a system that would identify officers with potentially problematic behavior, while creating a pathway for correction. The decree established 14 categories in which Pittsburgh's new system would be required to collect data on officers' behavior, although it did not specify what degree of unacceptable behavior would trigger supervisor involvement or what the department's response would be.

Pittsburgh created the Performance Assessment Review System (PARS), and it became known as a model early intervention system throughout the country. PARS compares officers' behavior to a peer group within their unit and shift, and it identifies positive behaviors as well as negative behaviors. The system became fully operational in 1999.

Los Angeles: A 12-Year Process

That same year, the Los Angeles Police Department was in the midst of uncovering the depth of the Rampart scandal, which involved more than 70 officers associated with the department's anti-gang unit. Those officers were found guilty of an array of crimes that included unprovoked shootings and beatings, planting false evidence, framing suspects, stealing and dealing in narcotics, and bank robbery. It cost the city of Los Angeles roughly \$125 million to settle more than 140 civil lawsuits filed in light of the scandal.

The DOJ commenced its own investigation of the LAPD's procedures and practices soon thereafter

and entered into a consent decree with Los Angeles in 2001. This marked the beginning of a new era in consent decrees, in which the duration expanded far beyond what initially was planned. The Los Angeles consent decree originally was planned to last five years, but in 2006, displeased with the department's lack of efficient progress in making reforms, a federal judge extended the decree an additional five years.

It wasn't until May 2013 that the judge completely released the LAPD from federal oversight.

The police department in Washington, D.C. also had an extensive experience with the DOJ. Charles Ramsey, newly sworn in as chief in Washington's Metropolitan Police Department after a 30-year career in the Chicago Police Department, asked the Justice Department to intervene after a series of articles in the *Washington Post* alleged that MPD officers shot and killed more people per capita in the 1990s than any other large U.S. city police force. The resulting memorandum of agreement—a term used interchangeably with “consent decree”—took effect in 2001 and took seven years to reach a conclusion.

Detroit and Oakland entered into consent decrees in 2003, and both remain ongoing. (The Oakland case was not brought by the Justice Department, but rather by a group of more than 100 plaintiffs who said their rights had been violated by the police.)

The Key Role of the Monitor

There are many reasons that a consent decree may linger—insufficient resources, unclear or unfocused mandates, or police resistance to federal oversight. Some even say there is an inherent conflict of interest on the part of the monitors who are designated in each case to oversee the reforms, because they believe the monitors have a financial interest in keeping the cases going. Others say that monitors are people of integrity who do not delay completion of consent decrees for personal gain.

But leaving aside the question of whether there is such a conflict of interest, a number of police chiefs, speaking at PERF's October 2012 Summit

on DOJ Investigations, said that a city's relationship with the monitor is a critical factor in how swiftly reforms can be made and a consent decree ended.

In Cincinnati, riots were sparked in 2001 by the police killing of Timothy Thomas, a 19-year-old African American with 14 open warrants for minor, mostly traffic-related violations. The shooting came on the heels of a lawsuit claiming decades of racial discrimination by the police. A memorandum of agreement with the DOJ was signed.

A federal judge appointed Saul Green, a Detroit lawyer and former U.S. Attorney in Michigan, to serve as Cincinnati's monitor, and the initial relationship between Green and the Police Department was rocky. Green complained that the police were often uncooperative; the police retorted that Green and his team were unrealistic and overly intrusive. At several points the judge had to intercede to try to keep the process moving forward. Serious delays in reforming the department ensued. The memorandum of agreement was signed in 2002 and lasted seven years, at the end of which Green hailed Cincinnati's makeover in his final report as "one of the most successful police reform efforts ever undertaken in this country."

In other cities, police chiefs have said that they had reasonable, productive relationships with monitors that led to a more efficient and timely process of implementing reforms.

Wider-Ranging Decrees, and More of Them

The volume of DOJ involvement in local police departments appears to have increased in recent years. During the first decade in which the DOJ possessed legal authority to monitor local police departments, 15 city governments entered into consent decrees or memorandums of agreement to address systemic policing issues. Since 2010, the DOJ has opened investigations into more than 15 police departments.

Today's agreements also are more exhaustive in nature than earlier agreements. Cincinnati's agreement was one of the first to address a wider range of issues, including mandating training of officers

to recognize and interact properly with suspects with mental health issues. In recent years, the DOJ has further expanded the areas of biased policing governed by consent decrees to include gender bias as it pertains to the manner in which sexual assault complaints are handled.

New Orleans' new consent decree is a 122-page document that mandates hundreds of police department policy changes dealing with use of force, searches and seizures, arrests, interrogations, performance evaluations, misconduct complaints, off-duty work assignments, and more.

These issues are far more wide-ranging than the ones dealt with by the consent decrees in Pittsburgh and other early consent decree sites. The New Orleans agreement includes specific requirements no previous department under a consent decree had to apply, such as respecting that bystanders to public-police interaction have a Constitutional right to observe and record officer conduct, and creating a policy to guide officers' interactions with gay, lesbian, bisexual and transgender citizens.

Seattle, which entered into a consent decree in July 2012, is now under an agreement that also includes detailed requirements on use of force, crisis intervention, policies and training about stops and detentions, supervision of officers, and bias-free policing.

The COPS Office Offers An Alternative Approach

In November 2012, a different branch of the DOJ, the Office of Community Oriented Policing Services (COPS Office), concluded an investigation into the Las Vegas Metropolitan Police Department with a collaborative agreement with the city to work toward systemic reform on the police use of deadly force and related issues. The investigative process took only 10 months, beginning with a January 2012 phone call from COPS Office Director Bernard Melekian to Las Vegas Sheriff Doug Gillespie, offering the assistance of his office.

Six months after the Las Vegas study was completed, in May 2013, Philadelphia Police

Commissioner Charles Ramsey asked the COPS Office to review and analyze his department's use of force in light of a spike in police shootings. Newspaper articles noted that for Ramsey, "there was a bit of déjà vu in his request for help," as the Philadelphia *Inquirer* put it, noting that in 1999 as Chief of Police in Washington, D.C. he had invited the Civil Rights Division to investigate police use of force in that city. However, in Philadelphia in 2013, Ramsey asked the COPS Office to take on that role, citing the successful investigation in Las Vegas.¹

Because the COPS Office—unlike the DOJ's Civil Rights Division—has no authority to file civil lawsuits if its recommendations are not implemented, its role depends more on a collaborative relationship between the DOJ and local police departments.

It should be noted that the relationship between the DOJ Civil Rights Division and local police

departments is not always antagonistic. Police agencies in Austin and Portland cooperated with DOJ investigations from the outset and immediately began instituting suggested departmental changes. Portland's eventual settlement with the DOJ in October 2012 was extremely limited in reach. And no formal agreement was needed in Austin by the time DOJ investigators wrapped up their work there in May 2011.

Lessons Learned from Civil Rights Division Investigations

At PERF's Summit, DOJ Civil Rights Division Chief Jonathan Smith said that for local police chiefs, the appropriate question is *not* "How do you keep the Civil Rights Division from investigating my police department?" That question is inappropriate because local police chiefs are every bit as interested

DOJ Consent Decree and MOA Start Dates

| 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|------|------|---|------|----------------------------------|--|--|--|--|
| Violent Crime Control and Law Enforcement Act of 1994 | | | Pittsburgh Police Dept. Steubenville OH Police Dept. | | New Jersey State Police | Montgomery County MD Police Dept. Highland Park IL Police Dept. | Los Angeles Police Dept. Metropolitan Police Dept. (D.C.) | Detroit Police Dept. Cincinnati Police Dept. Buffalo NY Police Dept. | Mt. Prospect IL Police Dept. Villa Rica GA Police Dept. |
| 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
| Prince George's County MD Police Dept. | | | | | U.S. Virgin Islands Police Dept. | Beacon NY Police Dept. Orange County FL Sheriff's Office | | New Orleans Police Dept. Warren OH Police Dept. Seattle Police Dept. East Haven CT Police Dept. Puerto Rico Police Dept. | Univ. Of Montana Office of Public Safety and Missoula Police Dept. |

1. "Added scrutiny as Philadelphia police shootings mount." June 2, 2013. Philadelphia *Inquirer*. http://www.philly.com/philly/news/20130602_Added_scrutiny_as_Philadelphia_police_shootings_mount.html

as DOJ officials in providing policing that meets the standards of the Constitution, Mr. Smith said.

“I think everyone in this room can agree that the proper question really is, ‘How do we deliver police services in an effective manner that complies with the Constitution and builds public confidence?’” Smith added.

Furthermore, Professor Sam Walker of the University of Nebraska noted that the DOJ has a nearly 20-year track record of investigating local police, and each case has produced publicly available information, in the form of consent decrees, investigative findings letters, and other documents that spell out the reforms that were undertaken.

Thus, “No police department should be in a position where it can be sued by the Justice Department, because the past cases make clear what is expected of them,” Professor Walker said.

PERF’s goal in this project has been to document these lessons that can be learned from past DOJ investigations. Following are some of the key points about DOJ civil rights investigations and the types of reforms that have been mandated since the DOJ was given legal standing to investigate police agencies in 1994. These points summarize what the experts at PERF’s Summit said were the most important issues to keep in mind:

- **DOJ’s role is limited:** The Special Litigation Section does not investigate individual incidents. Its mission is to investigate police agency policies that violate the Constitution, or multiple incidents that amount to a “pattern or practice” of conduct that deprives people of their Constitutional rights.

Duration of the Process

| Agency with Consent Decree | 1997 | 1999 | 2000 | 2001 | 2002 | 2004 | 2005 | 2008 | 2009 | 2012 |
|---|-----------------------|-----------------|------------|-----------------------|-----------|-------------------------------|------------|-------------------------------|----------------------------|-----------|
| Pittsburgh 5 years | Consent Decree Opened | | | Consent Decree Closed | | | | | | |
| Cincinnati 9 years | | Complaint filed | | | MOA | | | Final monitor report Dec ‘08 | | |
| Los Angeles 9 years | | | TA letter | Settlement | | | | | Transition order agreement | |
| Metropolitan DC PD 7 years | | | | MOA Signed | | | | MOA Closed | | |
| Montgomery County 5 years | | | Signed MOA | | | | MOA Closed | | | |
| Prince George’s County 10 years | | Investigation | | | | Consent Decree and MOA opened | | Consent Decree closed in 2007 | MOA closed | |
| Detroit 10+ years | | | | | TA Letter | | | | | Ongoing → |
| Oakland* 9+ years | | | | | | Opened in 2003 | | | | Ongoing → |

*The Oakland litigation was not brought or handled by the Justice Department but rather by a group of plaintiffs.

- **Key Issues:** Many of the DOJ investigations to date have focused on certain key issues, including: police use of force; Early Intervention Systems; management and supervision of officers; unlawful stops and searches; and racial or ethnic bias in policing. In recent years, DOJ also has focused on gender bias in the investigation of sexual assaults, and on police interactions with persons with mental illness.
- **Use of force:** A review of consent decree documents shows that DOJ typically requires use-of-force policies to include certain elements, including the following:
 - Clearly identified types and levels of force;
 - Clearly described consequences for unreasonable uses of force;
 - Policies, procedures, and training specific to certain weapons or types of force, such as firearms, Electronic Control Weapons, and vehicle pursuits;
 - Requirements for certification of officers in use of certain types of force; de-escalation techniques; reporting, documentation, and investigation of force incidents; supervisor response; and auditing and review of incidents.
- **Early Intervention Systems (EIS):** Consent decrees in Los Angeles, Cincinnati, Pittsburgh, Washington, D.C. and other cities have required police to implement Early Intervention Systems, which automatically flag officers who may be engaging in inappropriate behavior, or may be at risk of engaging in such behavior. An EIS can be expensive to implement, especially if a department does not have computerized record-keeping systems for the data points that go into the EIS.
- **Management and supervision of officers:** Consent decrees typically include requirements designed to ensure that officers receive adequate supervision by their superior officers. Often the ratio of the number of officers per supervisor is an issue, but there is no simple formula for setting that ratio. In a number of cities, consent decrees have specified certain conditions in which supervisors should take actions, such as responding to and investigating use-of-force incidents, and reviewing arrest reports and misconduct complaints.
- **Preventing biased policing:** Racial or ethnic bias has long been a focus of the Civil Rights Division. Recent consent decrees require departments to have policies and training to prevent biased policing. For example, the Seattle decree calls for policies stating that officers may not use race, ethnicity, or national origin in determining reasonable suspicion or probable cause, unless race, ethnicity, or national origin is used as part of a suspect's description. In addition, these policies must require officers to report incidents in which they observe other officers who have engaged in biased policing.

In recent years, DOJ has expanded this focus area to include discussion of “implicit” or “unconscious” bias, by officers who are not aware of biases in their actions. For example, the Seattle findings letter states that “biased policing is not primarily about the ill-intentioned officer, but rather the officer who engages in discriminatory practices subconsciously.”²
- **Gender bias in the handling of sexual assaults:** In recent years there has been increasing attention to complaints of sexual bias in the police response to sexual assault victims and the handling of sex crime investigations—for example, high rates at which cases are “unfounded” (an indication that the police do not believe that a crime occurred). The recent consent decree in New Orleans requires clear and detailed policies for each stage in the response to a sex offense call; protocols for forensic examinations of victims

2. “Investigation of the Seattle Police Department,” December 16, 2011, (Findings Letter), page 34. http://www.justice.gov/crt/about/spl/documents/spd_findletter_12-16-11.pdf

and suspects; specialized training for detectives; and development of a system for external review of cases.

- **Police interactions with persons with mental illness:** Consent decrees in Seattle, New Orleans, Cincinnati, Los Angeles, and, most recently, Portland, OR include provisions on the police response to persons with mental illness. These provisions are designed to prevent unnecessary use of force against these persons.
- **Accepting the DOJ role may speed the process:** When DOJ completes an investigation and finds Constitutional violations, it typically enters into negotiations with the jurisdiction to discuss strategies for achieving reforms. Agencies that have been through this process say that embracing the need for reforms from the start can help speed the process.
- **Be careful to define the terms clearly:** Police chiefs also emphasize that defining the terms of any agreement with DOJ is extremely important, because a lack of specificity, or agreeing to an impractical reform plan, may result in years of delay in achieving compliance.
- **Hire someone with experience in such investigations:** A city entering into negotiations with DOJ may wish to bring in an official who has been through the entire process of writing and implementing a consent decree in another city.
- **The choice of a monitor is extremely important:** The choice of a court-appointed monitor is very important. Some departments have had good experiences with monitors, and others have not. A good monitor has the substantive knowledge of these issues and is also an effective mediator and problem-solver. These officials do more than simply “monitor” the progress being made; they work to achieve practical and effective outcomes expeditiously.
- **Choose experts carefully:** DOJ subject matter experts have sometimes been criticized for lacking experience in running police agencies of the

type or size that they are advising, or for not keeping up with current police policies and research.

- **Defining “compliance” is difficult:** DOJ consent decrees are not terminated until the agency achieves compliance with the terms of the agreement. Defining “compliance” has proved difficult, in part because certain issues, such as investigations of police use of force, do not lend themselves to evaluation on a numerical scale. However, a number of consent decrees have defined substantial compliance as showing that a given requirement is met 95 percent of the time over a period of two years.

Definitions of compliance in DOJ consent decrees are evolving, according to DOJ officials.

- **The costs of a consent decree are often high—but failing to implement reforms can also be expensive:** The costs of achieving compliance, and the legal costs paid to monitors, are sometimes contentious. Some police chiefs believe that consent decrees that continue for many years have been too costly, and that rules about achieving 95-percent compliance for a two-year period are overly strict. On the other hand, several chiefs said that the costs, while high, are worth it, in terms of improving police departments as well as reducing lawsuits that can also be costly.
- **Some chiefs say that a DOJ investigation can help to overcome political opposition to reforms:** Some police chiefs have welcomed or requested DOJ investigations, because a federal investigation can force otherwise-reluctant local elected officials to provide funding that is needed to implement reforms. In addition, requirements of a court-approved consent decree can overrule labor union opposition to certain changes in policies or practices.
- **The 3 Key Reforms: Policies, Training, and a System for Detecting Problems:** DOJ officials say that the keys to avoiding a federal investigation and consent decree include the following: (1) Adopting strong policies on key issues such as use of force; (2) Ensuring that officers are trained

and managed so the policies will be followed; and (3) Developing strong management and supervision measures, such as an Early Intervention System, to help ensure that police managers are aware of and can quickly respond to problems as they develop.

The following sections of this report provide more detailed discussion of these issues, in the words of the police chiefs, Justice Department officials, and other leaders who participated in PERF's Summit on Civil Rights Investigations of Local Police.

DOJ's Role in Ensuring Constitutional Policing

**Sam Walker, Professor Emeritus of
Criminal Justice, University of Nebraska:**

Police Chiefs and Communities Want the Same Things

Law enforcement and community expectations should be the exactly the same. Communities want effective, professional, respectful, accountable, bias-free policing. Law enforcement executives want the same things.

Law enforcement agencies can achieve these goals without a consent decree, because the Justice Department has conducted enough of these investigations to demonstrate what they are about. By now, every police chief should know what these DOJ goals are and how to achieve them. **No police department should be in a position where it can be sued by the Justice Department, because the past cases make clear what is expected of them to**

achieve professional, bias-free and accountable policing.

For example, every department should have state of the art use-of-force policies, an early intervention system, and an open and accessible citizen complaint process.

Elizabeth Township Police Chief Bob McNeilly:

We Have to Fix Things Ourselves, Or Someone Will Come Fix Them for Us

I have been a police supervisor since 1984. Once I became a supervisor, a lot of officers came to me to tell me things that other officers were doing that were not right. They came to me because they had faith that I would do something about it.

I tell officers that we have to fix things ourselves, and if we don't, somebody else like the Justice Department is going to come along and fix them for

RIGHT:
Prof. Samuel Walker

FAR RIGHT: Elizabeth
Township, PA Chief
Robert McNeilly





us. I had just been named as the chief in Pittsburgh in 1996 when a DOJ investigation began. The DOJ consent decree was filed in 1997 and it set a pattern for future cases.

Jonathan Smith, Chief, DOJ Civil Rights Division, Special Litigation Section:

This Is the Process DOJ Uses To Investigate Complaints

As Professor Walker said, our goals are the same as those of police chiefs across the country: to protect the civil rights of all people, while ensuring that communities have confidence in their police departments.

In other words, the question is not, “How do you keep the Civil Rights Division from investigating my police department?” I think everyone in this room can agree that the proper question really is, “How do we deliver police services in an effective manner that complies with the Constitution and builds public confidence?”

There is no matrix that will tell you whether or not the Department of Justice is going to investigate a particular jurisdiction. There is no checklist that says, “If I do these things, I am going to fall into the investigation bucket, and if I do these other things, I am going to fall outside the investigation bucket.”

We receive hundreds of complaints every year from people across the nation. They come from advocacy groups, community members, and city councils. Sometimes mayors and police chiefs ask us to conduct investigations. We have limited resources, and so we engage in an assessment to determine where we can make the most impact.

The work that we do falls into three categories. First, there are departments where there are significant, widespread problems that reach deep into every corner of the department. Second, there are departments that have a solid structure in place, but have a particular area of concern that has a

Constitutional dimension, like use-of-force cases. The third area is a set of emerging issues, including gender discrimination, the failure to investigate sex crimes, and the interaction between police officers and persons in mental health crisis.

The first step in the process is to open a preliminary investigation, which means nothing more than an entry in a computer. This is how we keep track of the various jurisdictions that come to our attention. This information is not made public. When we open a preliminary investigation, we assign an attorney or an investigator to collect information. In a small subset of these cases, there will be indicators that there is something very serious going on, and we may engage the local U.S. Attorney’s Office to obtain input. Federal prosecutors are a very important resource for us.

If we believe that a formal investigation is warranted based on the preliminary investigation, we request approval from the Assistant Attorney General for Civil Rights to move forward. He signs off on all decisions to open formal investigations.

Once we open a formal investigation, we provide a small amount of advance notice to the jurisdiction and then make a public announcement of the investigation. We then conduct a thorough investigation that is based both on document review and on information gained through interviews. We may interview people throughout the police chain of command, community members, people who assert that their rights have been violated, political leaders, and others.



Prince George's County, MD Deputy Chief
Hank Stawinski

**Prince George's County, MD
Deputy Chief Hank Stawinski:**

*The Key Is to Negotiate an Outcome
That Will Work in Your Department*

We encourage departments to work with us during the investigative process. In Austin and Portland, OR, the departments immediately began taking steps during the investigation to address issues that we raised. This resulted in a dramatically different result than waiting for the investigation to conclude.

We have also been working very hard to shorten the duration from the announcement of an investigation to reaching a conclusion. In Seattle, we were able to complete the process in less than a year. In New Orleans we were able to complete the process in about fourteen months.

At the conclusion of our investigations, we make a public announcement of our findings. If we conclude that there is a pattern or practice of violating the Constitution, we attempt to negotiate a resolution, such as an injunction or a consent decree.

Our memorandums of understanding and settlement agreements are very useful tools for people in other jurisdictions to review, because everyone can see the kinds of practices and mechanisms for good police services that have been agreed to between a jurisdiction and the Department of Justice. They are a helpful guide, but not a cookbook for what every department needs to do. There are unique circumstances facing each jurisdiction, and the delivery of police services is not the same everywhere.

Our Department was placed under a memorandum of understanding and consent decree in 2004, and after coming out on the other end, it was a very positive experience for us. I think the key is understanding, going into the process, that there are no cut-and-dried answers. As we negotiated with the Justice Department, DOJ didn't say, "You have to do A, B, and C." Rather, they said, "You have to live up to certain Constitutional standards," and we had to find a way to tailor those standards to policing in Prince George's County while remaining effective.

So that's how we approached it. Every policy was custom-made and then approved by the independent monitors. The outcome was a greater degree of policy and practice clarity for our personnel, which we think is contributing to crime reduction. We fundamentally explain to our officers where the boundaries are on a variety of issues so they are able to aggressively fight crime while policing Constitutionally.

The Issues that Most Often Result in Justice Department Investigations

MANY DOJ CIVIL RIGHTS DIVISION INVESTIGATIONS have focused on certain key issues, including the following:

- Police use of force,
- Early Intervention Systems (EIS) that are designed to automatically detect potential problems or issues involving certain police employees or units,
- Management and supervision of officers, and
- Bias in policing, including “implicit” bias, and unlawful stops, searches, and arrests.

In recent years, DOJ also has been investigating two other issues in a number of cases:

- Gender bias, especially in connection with the investigation of sexual assaults, and
- Police interactions with persons with mental illness.

Each of these issues is discussed below:

POLICE USE OF FORCE

Police use of force is one of the primary issues that the Civil Rights Division investigates. Use of force has been a component in almost all of DOJ’s civil rights investigations to date, including consent decrees/settlement agreements in Los Angeles;

Washington, DC; Pittsburgh; New Orleans; Seattle; and East Haven, CT.

There are three main areas of DOJ review:

- Substantive policy on when officers may or may not use force;
- Requirements detailing when and how officers must report use-of-force incidents to their superiors; and
- Procedures for police departments’ investigations of use-of-force incidents.

Philadelphia Commissioner Charles Ramsey:

When I Was Chief in Washington, I Realized the Department Needed Outside Help

In 1998, the *Washington Post* ran a weeklong series of articles about use of force by the Metropolitan Police Department in D.C. The department was labeled the deadliest police force in the nation. We started to implement reforms, and during the process had a police-involved shooting that, while justified, generated a tremendous amount of outrage in the community. That told me that the department lacked credibility in the community. So it didn’t matter what we might do on our own to implement reforms; the community did not have confidence that we could fix the problems on our own.

My thinking was that the Justice Department had an obligation not just to come and tell us what was wrong, but also to help fix it. So I requested a

review of the Metropolitan Police Department, and they agreed to come take a look. Ultimately we entered into a Memorandum of Agreement.

One of the things we did, and [then-MPD Captain] Josh Ederheimer had a big part in this, was create a Force Investigation Team, comprised of people who were specially trained to investigate uses of force. It takes a certain level of expertise in this area to make a good judgment regarding whether a use of force was appropriate and in compliance with policy. You cannot rely on just any investigator or detective, or even on Internal Affairs, and expect to get consistent, high-quality reports.

In addition to rendering a decision on the case at hand, the team also has to identify training issues and look for trends.

One important element of training is to teach



Philadelphia Police Commissioner and
PERF President Charles Ramsey

What Consent Decrees Typically Require In Police Use-of-Force Policies

A review of consent decree documents in several large cases shows that the Justice Department typically requires the following elements to be included in local police agencies' use-of-force policies:

- Clearly identified categorical types and levels of force.
- Clearly described consequences for unreasonable use of force.
- Policies, procedures, and training that are specific to certain weapons or types of force (such as firearms, Electronic Control Weapons, OC spray, canine use, and vehicle pursuits).
- Requirements for:
 - **Certification:** Officers should be certified before they are allowed to use each type of weapon or force.
 - **De-Escalation:** Officers should use de-escalation techniques when feasible and should de-escalate their use of force as resistance decreases.
 - **Reporting, documentation and investigation:** The types of incidents that must be reported, and how these incidents should be documented and investigated, should be specified.
- **Supervisor response:** Investigation and reporting on the use of force incident.
- **Auditing and review** of use of force incidents.
- Force generally should not be used against restrained persons or individuals who are using only verbal resistance against an officer.
- Officers must immediately report force incidents to direct supervisors.
- Supervisors must respond to the scene when serious force is used.
- Departments must have a uniform reporting system for use-of-force incidents.
- Use-of-force data must be analyzed and audited regularly.
- Departments must have some type of force review board.
- Annual training on use of force should be required.



TOP: COPS Office Principal Deputy Director
Joshua Ederheimer



BOTTOM: Chief Terry Gainer, U.S. Senate Sergeant
at Arms

your officers that just because you can legally use deadly force in a certain situation, that doesn't necessarily mean you should use it.

Another idea you need to get across is that incidents take place over a span of time, and the conditions often change in that time. There may be a two-second window when use of deadly force might be the appropriate reaction, but that does not mean that deadly force remains appropriate throughout the entire encounter. The whole situation can change, and we have to train and help officers better understand when deadly force is appropriate and when it is not.

Principal Deputy Director Joshua Ederheimer, COPS Office:

Use-of-Force Policy Is Key, And It Must Fit the Particular Agency

I would emphasize that the written policies are central to everything; they're the seminal point of reform. I'll never forget the day when Chief Ramsey designated me to implement the reforms in Washington. He called me into his office, and he had all of the general orders on use of force in front of him. He literally pushed them aside, and said, "Everything is off the table. Start fresh." And so we built the main use-of-force policy from scratch. And everything else came out of that policy. Firearms, less-lethal weapons, canine deployment, and so on—they all were built from the main policy.

Another thing that Chief Ramsey told me was, "Don't pick what seems like a good policy from somewhere else, and just cookie-cutter it and put it in MPD." He wanted something that would actually work within the culture of the agency. So we did a lot of research and looked at everything that DOJ had done, and all of that influenced what we built, which was unique to our agency.

Chief Terrance Gainer, Senate Sergeant at Arms:

De-Escalation Is a Central Issue In Use of Force

De-escalation needs to be a central issue. In my 44 years of service in four different departments, I have seen that there are still a lot of people who think there must be an arrest at any cost and that it is cowardly to retreat and to de-escalate.

Sometimes the bad guys get away, and under some circumstances retreating is the right thing to do. That is part of de-escalation.

Houston Chief Charles McClelland:

A Chief's Response to an Incident Can Send a Message To Officers and the Public

About nine days after I was sworn in as chief, we had an egregious use-of-force incident that was

captured on video. I viewed this as an opportunity to send a message to the entire organization that this type of conduct will not be tolerated. I was proactive and took immediate action. I relieved the officers of duty, advocated for criminal charges to be filed against them, and was open in discussing the incident publicly.

We also held a series of community meetings to listen and learn about community expectations and concerns regarding the police department. The community wanted a transparent complaint process, one in which they did not have to confront police personnel. And they wanted more accountability.

Prof. Geoff Alpert, University of South Carolina:

***Use of Force Reports
Should Not Consist of Boilerplate Language***

One issue I want to raise has to do with the forms that officers must complete following a use of force incident. Often we find that the officer's statement uses boilerplate language that just reiterates the department's policy or training. And this language in the reports, which sheds little light on the reality of the particular incident, gets rubber-stamped all the way up to the chiefs. So when researchers or DOJ investigators come in and analyze the reports and try to figure out what's going on in a department, it doesn't help to see the same language over and over again. I think this is a function of making sure that the supervisors do their job and require the reports to provide accurate information about what happened and the justification for the level of force based on what the suspect did—not the policy.

Los Angeles Police Commander Scott Kroeber:

A Viable Complaint Process Is Imperative

It's impossible to overstate the importance of a viable complaint process and interactive participation with the community. There are nine general areas of emphasis in Los Angeles' civil rights consent decrees, but two of the most important are use of force and the complaint process.



TOP: Houston Chief Charles McClelland

MIDDLE: University of South Carolina
Prof. Geoff Alpert

BOTTOM: Los Angeles Police Commander
Scott Kroeber

EARLY INTERVENTION SYSTEMS

Research has long suggested that a small percent of police officers account for a high percentage of use-of-force incidents.³ There are a number of possible explanations for this, some of them benign. For example, officers in high-activity assignments may be exposed to considerably more high-risk encounters. However, frequent uses of force may also be an indication that an officer needs additional monitoring, supervision, training, or discipline.

Many police departments have developed Early Intervention Systems (EIS) to flag officers for closer review.⁴ These systems collect a variety of data and analyze patterns of activity to identify at-risk officers or groups of officers. The goal is to identify opportunities to reduce risky behaviors, department liability, and citizen complaints.

An EIS can serve one or more functions, including reducing inappropriate conduct by officers; improving officers' performance levels; and flagging possible personal or professional problems that may impede an officer from performing well. Some departments have limited systems that focus on certain performance problems. Other departments have broader systems designed to improve officers' performance overall, not merely to flag officers who may be causing significant problems. Some systems gather positive information, such as commendations, as well as negative information.

Thus, depending on the purposes of an EIS, the system may gather information on as few as a half-dozen indicators, or on more than 20 data points. The data elements may include: the number and type of uses of force by the officer; the number and types of complaints against an officer from the community; any lawsuits in which the officer is named; the number and nature of arrests and citations made by an officer; the officer's performance evaluations; management and supervisory actions

involving the officer; the officer's use of sick leave; and other factors.

Early Intervention Systems have been required by consent decrees in the following departments: Los Angeles Police Department (where the system was named Training, Evaluation and Management System II); Cincinnati Police Department (Records Management System); Pittsburgh Police Department (Performance Assessment and Review System); Washington, D.C. Metropolitan Police Department (Police Performance Management System); the New Jersey State Police (Management Awareness Program); and the New Orleans Police Department.⁵

PERF's analysis of settlement agreements in a number of cities indicates that the following components of Early Intervention Systems are becoming standard features:

- *The system must be maintained and used by supervisors and managers.*
- An EIS should have *policies and protocols* for data collection, inputting of historical and current data, maintenance, retrieval, analysis, data security, and access.
- Personnel establishing or using the system must receive *proper training*.
- *Threshold criteria* for flagging risk patterns must be developed.
- *Follow-up actions for supervisors* using EIS data analysis must be specified.
- *Interventions* by supervisors must be *implemented in a timely manner*.
- *Implementation* of interventions must be *tracked*.
- *Intervention progress* must be reviewed by a supervisor.

3. See, for example, *Use of Force by Police: Overview of National and Local Data*, NIJ and BJS, 1999, p. 8. <http://www.nij.gov/pubs-sum/176330.htm>

4. For additional information, see PERF's 70-page report, *Supervision and Intervention within Early Intervention Systems: A Guide for Law Enforcement Chief Executives*. <http://www.policeforum.org/library/early-intervention-systems/Chief%27s%20Guide%20EIS.pdf>

5. The New Orleans consent decree is a recent agreement with provisions on an Early Intervention System. It is available at http://www.justice.gov/crt/about/spl/documents/nopd_agreement_1-11-13.pdf, pp. 80–83.



DOJ Special Litigation Section Deputy Chief
Christy Lopez

**Deputy Chief Christy Lopez,
DOJ Special Litigation Section:**

*Some Departments Collect EIS Data
But Never Look at It*

There are many different types of warning signs in EIS systems. Some departments collect EIS data but never look at it. If an officer repeatedly gets transferred from one sergeant to another and no one looks at the EIS data, the supervisors may be unaware of the warning signs or performance issues.

Some departments look at the data but provide a one-size-fits-all response to officers displaying warning signs. Interventions should be tailored to the specific issues. There should be a team that assesses these officers, identifies particular issues, and develops a supervision plan for each officer. The supervisor should be a part of the feedback loop and should participate in deciding how the department is going to help the officer to succeed.

Elizabeth Township, PA Chief Bob McNeilly:

*Pittsburgh's EIS Actually Identified
Our Star Performers*

When I was chief in Pittsburgh, it took two and half years to develop a computer system that was able to track all of the information required for our EIS. We

went through several different companies and spent a half-million dollars.

I learned early on that it is a mistake to call the system an “early warning system,” because police officers think they are being accused of wrongdoing, and newspapers think they have a right to know the names of the “troubled” officers in the department. The system was designed to identify officers who had high *activity* levels, which does not necessarily mean they are wrongdoers. In fact, most of the time, it identified our star performers. So we decided to call it the Performance Assessment and Review System, because that is what it did. It helped us assess the performance of our officers.

**John Farmer, Executive VP and General Counsel,
Rutgers University:**

EIS Was Expensive to Develop, But Worth It

When I was Attorney General in New Jersey and the State Police were under a consent decree, the EIS was the most difficult part of the reform to accomplish. The consent decree required us to develop an EIS that provided real-time auditing of trooper performance by supervisors. Due to the complexity of developing the EIS, which we called the Management Awareness Program, it took almost 10 years



Rutgers Law School Dean
John Farmer



Los Angeles County Sheriff's Cmdr.
Todd Rogers

before the consent decree was resolved.

The Management Awareness Program has really increased accountability within the organization. It was very expensive and difficult to develop, but it was the critical component.

Los Angeles Police Commander Scott Kroeber:

EIS Development Must Be Carefully Managed

It was very expensive and time-consuming for the Los Angeles Police Department to build an Early Intervention System. And just because you go through an RFP process and build an EIS, don't assume that it will meet the quality standards of the monitor, the court, or DOJ. Someone within the agency really has to closely manage these projects.

Los Angeles County Sheriff's Commander Todd Rogers:

Automatic Triggers Alert Supervisors To Performance Issues

Our EIS is called the Personnel Performance Index. We have operated it since 1997 and are hoping to upgrade it once funding becomes available. We use automatic triggers that prompt us to conduct an administrative review of personnel who have high levels of activity that may qualify them for what is called a Performance Mentoring program.

Unit commanders evaluate their personnel and determine if there are red flags for any of their personnel in the various categories. As a result of these reviews, command staff make the decision as to whether or not an employee would benefit from Performance Mentoring.

MANAGEMENT AND SUPERVISION OF OFFICERS

Inadequate management and supervision of officers have been issues in a number of consent decrees. Some consent decrees have included language requiring police departments to bolster the level of front-line supervision of officers and to investigate uses of force promptly. The ratio of the number of officers to the number of supervisors is often an issue.

For example, the Seattle and New Orleans consent decrees state that there must be an adequate number of first line supervisors deployed to provide close and effective supervision.⁶ A DOJ "technical assistance letter" in the Austin, TX case states that "sergeants need to go to the field to: (1) supervise first hand; and (2) investigate uses of force on their own... [F]ront-line supervisors must take ownership of their supervisory role, and this ownership should likewise flow up the chain of command."

Following is a summary of recommendations based on DOJ investigations and agreements in East Haven, New Orleans, Seattle, Cincinnati, and Los Angeles:

Supervisors should:

- Respond to the scene of use-of-force incidents when directed by policy,
- Investigate and document use-of-force incidents,

6. New Orleans Consent Decree, p. 77: http://www.justice.gov/crt/about/spl/documents/nopd_agreement_1-11-13.pdf.
Seattle Settlement Agreement, p. 44: http://www.justice.gov/crt/about/spl/documents/spd_consentdecree_7-27-12.pdf

- Provide direction as needed to officers,
- Review arrest reports and officer activity reports,
- Respond to misconduct complaints,
- Provide counseling and support to officers,
- Help to increase public trust/safety,
- Be assigned the same shifts as the officers they are supervising,
- Be provided with specialized supervisory training prior to taking the position, and
- Participate in ongoing annual supervisor training.

**Jonathan Smith, Chief,
Special Litigation Section:**

*There Is No Simple Formula to Determine
A Proper Number of Officers per Supervisor*

There is no magic formula for span of control and number of supervisors to officers. It will depend quite a bit on what you are trying to address. We try to calibrate when we look at the question of supervision. We look at the needs related to the specific function that is being performed. Some departments may need a greater span of control for a period of time in order to change the culture and to implement new policies, practices and procedures.

One interesting challenge that Seattle presented was that the supervisors' shifts did not align with

the officers they were supervising, so some officers might not see their supervisors on a regular basis.

**Carl Marquardt, City Attorney,
Seattle Mayor's Office:**

*Setting the Number of Officers
Per Supervisor Can Be a Difficult Issue*

Frontline supervision was certainly an issue we recognized and accepted. Our current ratio is about eight officers to one supervisor, and it varies across different functions. The Department of Justice wanted a six-to-one ratio within one year, but that was simply not achievable under our existing service rules. It's also not desirable, because in order to increase our number of supervisors that much and so quickly, we would have to lower our promotional standards.

Atlanta Chief George Turner:

*We Shifted Supervisors to Officers
Who Were Out Working the Streets*

Over the last 18 months, we adjusted our staffing and supervisors. We need to have an appropriate number of supervisors engaged and on the streets. We added 12 additional beats to the City of Atlanta and needed additional supervisors.

Fortunately, we were able to move some supervisors from investigative units to perform this function, so we did not need to promote additional



FAR LEFT: Carl Marquardt, Counsel to Seattle Mayor

LEFT: Atlanta Chief George Turner

sergeants. By increasing the ratio of officers to supervisors in some units that were not on the street, we were able to decrease the ratio of officers to supervisors who were on the street.

Philadelphia Commissioner Charles Ramsey:

Don't Burden Sergeants with Excess Paperwork if You Want Them To Supervise Officers on the Streets

If you want sergeants to spend time out on the street supervising officers, you cannot overly burden them with a lot of other tasks. As a police executive, you have to constantly assess how much paperwork and other responsibilities you are assigning these supervisors, because you may find that they need to spend half a tour trying to keep pace with some of these responsibilities that we are giving them.

We have to constantly prioritize and re-prioritize. The discussion should not be focused on whether 8:1 or 6:1 is the “right” ratio. Chiefs have to look carefully at workloads, and it can vary district by district, and unit by unit.

Detroit Commander James White:

Detroit Has Ten Officers to One Supervisor

Our consent judgment requires that we have an adequate number of supervisors for officers deployed to the field, and what works for us is a 10-to-1 ratio. We have a primary and secondary span of control supervisor, so every day an officer has a supervisor

to report to, even if his primary supervisor is not on duty that day.

**Christy Lopez, Deputy Chief,
Special Litigation Section:**

New Orleans Agreement Requires Supervisors to Respond to Certain Arrest Scenes

The New Orleans agreement requires supervisors to respond to certain types of arrests and to approve the arrest, particularly the ones where de-escalation is so important. The agreement also requires supervisors to respond to the scene when consent searches are being performed, in order to prevent misuse.

Houston Chief Charles McClelland:

Supervisors Must Go to the Scene For a Charge of “Interfering with an Officer”

In Texas there is a criminal code section for the offense of “interfering with a police officer.” The community was concerned that an officer could file charges against a person under this law without some higher level of scrutiny. In response, I mandated that a supervisor come to the scene and approve that type of arrest prior to the officer seeking charges from the District Attorney.

BIASED POLICING AND UNLAWFUL STOPS, SEARCHES AND ARRESTS

Racial or ethnic bias in state and local police departments has long been an important focus of the Justice Department’s Civil Rights Division. “Communities across the country are concerned about bias in policing with respect to race, gender, sexual orientation and other issues,” Special Litigation Section Chief Jonathan Smith said at PERF’s Executive



Detroit Commander
James White

Session. “Certain communities feel that police services are not delivered in a fair and equitable fashion, and there is a lot of evidence that suggests that this may well be true in many communities.”

As a result, many DOJ consent decrees include language requiring police agencies to develop policies to prevent biased policing. The Seattle and New Orleans consent decrees state that police services should be delivered in ways that are “equitable, respectful, and free of unlawful bias, in a manner that promotes broad community engagement and confidence.” The Seattle decree adds that “officers should treat all members of the ... community with courtesy, professionalism, and respect, and should not use harassing, intimidating, or derogatory language.”

More specifically, the Seattle decree calls for *policies* with the following elements:

- Officers may not use race, ethnicity, or national origin in determining reasonable suspicion or probable cause, unless race, ethnicity, or national origin is used as part of a suspect’s description.
- Officers will not engage in, ignore, or condone biased policing; officers are responsible for knowing and complying with the policy; and officers shall report incidents where they observe or are aware of other officers who have engaged in biased policing.
- The policy against biased policing in making law enforcement decisions should extend to all protected classes under state, federal, and local laws, including race, ethnicity, national origin, gender, age, religion, sexual orientation, gender identity, or disability.⁷

And the Seattle and New Orleans decrees call for *training* on bias-free policing that includes the following topics:

- Constitutional and other legal requirements related to equal protection and unlawful discrimination;

- The protection of civil rights as a central part of the police mission and as essential to effective policing;
- Cultural competency training regarding the histories and cultures of local immigrant and ethnic communities;
- What constitutes discriminatory policing under state, federal, and constitutional law;
- How to identify discriminatory practices when reviewing investigatory stop data, arrest data, and use of force data;
- How to evaluate complaints of improper pedestrian stops for potential discriminatory police practices; and
- Engaging the community and developing positive relationships with diverse community groups.⁸

Recently, the Department of Justice has added a new focus on “implicit” or “unconscious” bias. The New Orleans Consent Decree, Seattle Consent Decree, and East Haven Agreement indicate that training for bias-free policing will include coverage of implicit bias. The Seattle findings letter states the issue as follows:

“[The Seattle Police Department’s] current training fails to adequately address some of the underlying causes of racially biased policing, namely, that biased policing is not primarily about the ill-intentioned officer, but rather the officer who engages in discriminatory practices subconsciously.

“A well-meaning officer can violate the Equal Protection Clause of the United States Constitution by engaging in racially biased policing based on implicit biases that impact that officer’s behavior or perceptions. Gonzalez-Rivera, 22 F.3d at 1450. Understanding this phenomenon is the first step toward safe and effective policing.”⁹

7. See Seattle Settlement Agreement: http://www.justice.gov/crt/about/spl/documents/spd_consentdecree_7-27-12.pdf

8. New Orleans Consent Decree: http://www.justice.gov/crt/about/spl/documents/nopd_agreement_1-11-13.pdf and Seattle Settlement Agreement: http://www.justice.gov/crt/about/spl/documents/spd_consentdecree_7-27-12.pdf

9. See p. 34 of Findings Letter, available at http://www.justice.gov/crt/about/spl/documents/spd_findletter_12-16-11.pdf.



Special Litigation Section Chief Jonathan Smith:

*Implicit Bias Can Be
A Violation of the Constitution*

We all have biases. There are a lot of people who have done very good work to train people to behave fairly and equitably *despite* their biases. This is critical for everyone, but especially for the delivery of police services. If a department fails to recognize implicit bias as an issue, and yet it manifests itself in disparate treatment of different communities, it may rise to the level of a Constitutional violation.

Fayetteville Police Attorney Patricia Bradley:

*We Had an Unfortunate Experience
Despite Our Efforts
To Ensure Constitutional Policing*

In October of 2010, there were allegations made that the Fayetteville Police Department had engaged in biased policing with regards to consent searches. I advised the department and the city manager to contact the Civil Rights Division and seek a review of policies and practices to ensure that we were engaging in Constitutional policing. While we waited for Civil Rights to respond, we changed our policies and implemented training. About a year later, we received a response letter from the Civil Rights Division that confirmed that our department was performing in line with the Constitution.

However, the last paragraph of the letter articulated concerns that some actions of the department might be perceived as unconstitutional. Despite all of our efforts to improve our department and obtain assistance from the Department of Justice, the community interpreted this letter to mean that the department was engaging in unconstitutional policing. Almost three years later, the controversy continues.

**Jonathan Smith, Chief,
Special Litigation Section:**

We Can't Give a Seal of Approval

We cannot provide a “Good Housekeeping Seal of Approval” to a police department. We can conclude whether to investigate or not to investigate. But even if we choose not to investigate, we need to be clear that that decision does not mean that we determined that there is no problem. It may simply be a resource allocation issue.

GENDER BIAS IN THE HANDLING OF SEXUAL ASSAULTS

The Civil Rights Division has investigated the manner in which sexual assault complaints are handled in New Orleans, Puerto Rico, and Missoula, Montana.

The New Orleans consent decree provides an indication of policies and practices that the Civil Rights Division believes are needed to prevent gender bias in the investigation and prosecution of these crimes. The consent decree requires the following:¹⁰

- There must be clear and detailed policies and procedures for *each response stage* (dispatch, initial officer response, on-scene investigation, and follow-up investigations);

10. Text of the New Orleans consent decree available at http://www.justice.gov/crt/about/spl/documents/nopd_agreement_1-11-13.pdf. The Memorandum of Understanding between DOJ and the City of Missoula, which focuses exclusively on the issue of sexual assault, is available at http://www.justice.gov/crt/about/spl/documents/missoulapdsettle_5-15-13.pdf.



FAR LEFT:
Women's Law Project
Executive Director
Carol Tracy

LEFT:
Missoula, MT Chief
Mark Muir

- Patrol officers must be required to write reports for *all sex offense calls*;
- There must be protocols for *forensic examinations* of victims and suspects;
- *Specialized training* must be provided to detectives;
- *There must be supervisory review* and approval of unfounded cases and complaints that are coded “non-criminal”;
- The department must create and participate in a *Sexual Assault Response Team (SART)*; and
- The department must develop and implement an *audit mechanism* for sex offense cases, with representation from outside agencies.

**Carol Tracy, Executive Director,
Women's Law Center:**

We See Implicit Bias In the Investigation of Sex Crimes

There are ways of measuring subconscious bias, and it has been quite evident in investigations of sex crimes. Implicit gender bias is evident when you see a department that has a very high rate of “unfounding” cases (essentially stating that the department does not believe that a crime occurred), that is persistently disbelieving victims’ complaints, and that

is putting cases in noncriminal categories and not investigating them.

Missoula, Montana Chief Mark Muir:

DOJ Did Not Give Us Much Warning Of Its Investigation Of Our Sex Offense Response

Missoula had significant publicity over sexual assaults and allegations that complaints were being mishandled. There were allegations that the criminal justice system was engaged in biased practices towards women and cover-up of sexual assaults by college athletes. We started taking steps to analyze our practices before DOJ announced its investigation, and we determined that our investigators were not communicating well with victims. We made some policy changes and implemented some additional training.

So it was a little alarming to me to receive word from the Department of Justice, with not much notice, telling me that they were coming out to Missoula to announce they were opening an investigation into my department and the prosecutor’s office. That can have a significant impact on an agency’s reputation and its credibility with the community, to have a federal agency come in and open an investigation. But that’s the only criticism I’ll offer, because I believe we have worked very well and collaboratively with DOJ from our end. DOJ’s investigation is focused on four distinct groups: the university, the

RIGHT:
Former Baltimore
Police Commissioner
Fred Bealefeld

FAR RIGHT:
Acting Director
Bea Hanson, Office
on Violence Against
Women



university police, the police department, and the county attorney's office.¹¹

**Former Baltimore Commissioner
Frederick Bealefeld:**

*We Dedicated Ourselves
To Fixing the Problem
Of Sexual Assaults Being "Unfounded"*

As soon as I discovered that Baltimore had a clear pattern and practice of unfounding sexual assaults, we jumped on it. We completely dedicated ourselves to fixing the problem. We instituted reforms, looked at national best practices, met with the sexual assault response team in Philadelphia, went to the Office on Violence Against Women for assistance, and brought in experts to help us address the issues.

**Carol Tracy, Executive Director,
Women's Law Center:**

*Audits and Case Reviews
Improve Police Accountability*

In Philadelphia, we developed a case review process in which attorneys from the Women's Law Project, staff from our rape crisis center, and two child advocacy groups conduct an audit of Philadelphia's

sex crimes cases, including all unfounded complaints and a cross-section of open cases. This has improved community participation and agency accountability.

**Bea Hanson, Acting Director,
Office on Violence Against Women:**

*There Are Red Flags
That Signal Problems
With an Agency's Sex Assault Response*

Our role is to provide support to communities to address violence against women, and we have been very involved in efforts to eliminate gender bias. We recently awarded a \$300,000 grant to the University of Montana in Missoula to address gender bias. Similarly, in New Orleans we have provided \$5 million in direct support and technical assistance to address some of the specific issues in the consent decree. We were in New Orleans just last week to help develop a sexual assault response team.

One indicator that suggests gender bias is when a department's number of reported rapes is similar to the number of homicides. If it is, that is a red flag, because we know that sexual assaults are committed far more often than homicides.

11. The City of Missoula and The University of Montana Office of Public Safety signed settlement agreements in May 2013, available at http://www.justice.gov/crt/about/spl/documents/missoulapdsettle_5-15-13.pdf and http://www.justice.gov/crt/about/spl/documents/missoulasettle_5-9-13.pdf.

With respect to domestic violence, another warning sign is when we see high numbers of dual arrests. If officers are arresting both the offender and the victim, it is an indication that there may be issues with how officers are trained.

POLICE INTERACTIONS WITH PERSONS WITH MENTAL ILLNESS

The police response to incidents involving persons with mental illness is an issue of growing concern, both for local police agencies and the Department of Justice.¹² DOJ's first investigation to focus exclusively on police treatment of persons in mental health crisis was in Portland, OR. Consent decrees in Seattle, New Orleans, Cincinnati, and Los Angeles also have addressed this issue.

Police use of force against persons with mental illness is a major element of the issue. These incidents can be very difficult for police to handle. Police have a duty to protect the public if a person with mental illness is brandishing a weapon or otherwise posing a possible threat to public safety. At the same time, police officers should be trained to recognize symptoms of mental illness, and to understand that mental illness can impair a person's ability to understand a police officer's orders. As the findings letter in DOJ's Portland investigation stated, policies should "take into account the effect the individual's mental illness may have on their ability to understand commands or the consequences of their actions."¹³

The Department of Justice looks for two systemic deficiencies contributing to unconstitutional uses of force against people in mental health crisis: (1) the absence of officers specially trained in and proficient at responding to persons in mental health crisis; and (2) the lack of strategic disengagement protocols involving mental health providers.

Policies should specify how to de-escalate situations involving individuals in mental health crisis.

Following are DOJ requirements included in the Seattle settlement agreement:¹⁴

- Create a multidisciplinary *Crisis Intervention Committee*.
- Develop *specialized training, policies and protocols*.
- Develop a *cadre of "crisis-intervention trained" officers*.
- Ensure that *CI-trained officers are available on all shifts*.
- *Train dispatchers* to identify calls for service that involve individuals in crisis.
- *CI-trained officers should take the lead*, when appropriate, in interacting with individuals in crisis.
- *Basic training should be provided for all officers on crisis intervention*.¹⁵

Missoula, Montana Chief Mark Muir:

Failing Mental Health Systems Increase Burden on Police Departments

In the Portland findings report, the Department of Justice acknowledges that the mental health system in the state of Oregon is in shambles.¹⁶ The Department of Justice seems to be taking the position that if a state's mental health system is broken, law enforcement officers are going to have to assume this burden.

Chief Michael Reese implemented a standard that every officer on the street would receive 40 hours of CIT training, which he was told at that time was the right step to take, rather than having

12. See the PERF Critical Issues in Policing report, *An Integrated Approach to De-Escalation and Minimizing Use of Force*. http://www.policeforum.org/library/critical-issues-in-policing-series/De-Escalation_v6.pdf

13. Portland Findings Letter, p. 14: http://www.justice.gov/crt/about/spl/documents/ppb_findings_9-12-12.pdf

14. The Seattle agreement and other cities' agreements containing provisions on mental health crisis are available at: <http://www.justice.gov/crt/about/spl/findsettle.php>

15. Settlement Agreement available at http://www.justice.gov/crt/about/spl/documents/spd_consentdecree_7-27-12.pdf

16. The DOJ "findings letter" is available at http://www.justice.gov/crt/about/spl/documents/ppb_findings_9-12-12.pdf

a centralized unit. But then DOJ came back three and one-half years later and said, “That’s not good enough, that isn’t going to work.” And now Portland has a settlement agreement on this issue.¹⁷

**Jonathan Smith, Chief,
DOJ Special Litigation Section:**

*Yes, Mental Health Systems Are Collapsing,
But That’s All the More Reason Police
Must Respond in a Constitutional Manner*

Across the country, mental health systems are failing and getting worse. The systems that keep people from going into crisis are collapsing. The burden of delivering mental health services has fallen on law enforcement. Law enforcement is held accountable to respond to people in mental health crisis in a way that is Constitutional, and that is what the Portland letter stands for. It says we know that Oregon has a broken mental health system, and as a police officer in Portland, you need to be able to deal with people in crisis.

Carl Marquardt, Counsel, Seattle Mayor’s Office:

*There Are Alternative Strategies
For Responding to Mental Health Crises*

Seattle Police Chief John Diaz has made Crisis Intervention training a high priority. Our goal is to give all of our front-line officers 40 hours of CI training, so that every responding officer has the tools to deal with crisis situations. DOJ advocated moving to the Memphis Model, in which crisis intervention teams are deployed to a CI event and there are specialists within the department who have that function. We went back and forth as to whether that was really a better model, and ended up with an agreement to continue to look at that and other ways of providing these services.

**Deputy Chief Christy Lopez,
DOJ Special Litigation Section:**

*Many Officer-Involved Shootings Involve
Persons with Mental Illness*

This is not a new problem. It is an issue that has been with law enforcement agencies for a long time. We see this issue when we look at use of force and arrest reports. Many officer-involved shootings involve persons who are in mental health crisis.

17. The “Statement of Intent” agreed to by Portland and DOJ is available at http://www.justice.gov/crt/about/spl/documents/ppb_statementofintent_9-12-12.pdf

The Process of Responding to a DOJ Investigation

THIS SECTION OF THE REPORT DISCUSSES what happens after DOJ completes its investigation of a local or state law enforcement agency and announces its findings. The process includes negotiations between DOJ and the police agency or local government, settling on the terms of an agreement, the use of monitors and experts, defining compliance and bringing the process to a conclusion, and assessing the costs and benefits of a consent decree.

NEGOTIATIONS

After DOJ concludes an investigation and issues a Findings Letter, it will begin negotiations with the city and the law enforcement agency in an effort to reach a negotiated settlement and enter into a settlement agreement or consent decree.

If the parties cannot reach an agreement, DOJ may file a lawsuit and begin civil litigation against the city and the law enforcement agency for civil rights violations.

Settlement negotiations can be very complicated, even when they begin amicably. In New Orleans, newly elected Mayor Mitch Landrieu wrote

a letter to the Justice Department in 2010 asking for assistance in reforming the Police Department. Two years later, the Justice Department and the city of New Orleans jointly announced their agreement on a consent decree detailing a complicated set of reform measures. However, as of February 2013, that agreement was being disputed in court, as the city sought to disengage from the process, over the objections of DOJ.¹⁸ City officials argued that they were misled about the costs of the agreement, particular with regard to reforming the city's jail. DOJ officials said that there are Constitutional violations that must be remedied. Both sides continued to move forward, however, and by May the Mayor was seeking a tax increase in order to help pay for the consent decree reform measures.¹⁹

In Seattle, DOJ announced an investigation of the Police Department in March 2011 and reached a settlement agreement regarding use of force and other issues in July 2012.²⁰ Discussions later turned contentious, but in March 2013 city officials agreed to a comprehensive plan to implement the agreement, which was approved by a federal judge.²¹

18. "New Orleans-Washington Handshake Turns to Fists." New York Times, February 13, 2013. <http://www.nytimes.com/2013/02/14/us/new-orleans-and-washington-fight-over-police-decree.html?ref=us&pagewanted=all>

19. "Landrieu seeking property tax increase; money could be used for consent decrees." May 3, 2013. The Lens. <http://thelensnola.org/2013/05/03/landrieu-seeking-property-tax-increase-for-police-and-fire-uses/>

20. "Justice Department Announces Agreement with City of Seattle to Implement Reforms of Seattle Police Department." DOJ news release, July 27, 2012. <http://www.justice.gov/opa/pr/2012/July/12-crt-940.html>

21. "U.S. judge approves plan to reform the Seattle Police Department." Seattle PI, March 12, 2013. <http://blog.seattlepi.com/seattlepolitics/2013/03/12/u-s-judge-approves-plan-to-reform-the-seattle-police-dept/>

Carl Marquardt, Counsel, Seattle Mayor's Office:
Negotiations Should Be More Collaborative

I think it was important to be able to negotiate certain issues, such as staffing ratios and training related to encounters with the mentally ill.

When DOJ comes and announces that a police department has a problem, it can create a very difficult environment in which to negotiate, because the involvement of DOJ and the investigation itself creates a great deal of political and media pressure. In Seattle, DOJ's initial approach to negotiations was very inflexible; it was difficult to get them to acknowledge our local concerns about costs, potential impacts on police responsiveness, and the need for community input. While we eventually reached a workable resolution, the process could be much more collaborative in jurisdictions where there is no internal resistance to adopting best practices.

**New Orleans PD Deputy Chief of Staff
Daniel Cazenave:**

*Make Sure the Agreement
Is Clearly Written,
Because It May Endure After Your Tenure*

After the Justice Department has released the findings of its investigation and you enter into negotiations about what will be done in the police department, those negotiations are critically important. You need to understand that these things may live much longer than any mayor's administration or any police chief's tenure. People come and go, but the consent decree will live on. So you need to agree to something that is workable. And you need to write everything as clearly as you can, so that the people who come later will be able to understand the meaning of what you agreed to.

In New Orleans we had various people who wanted to be involved in the negotiations—the

police unions, some outside advocacy groups—but we felt the best way to get it done was to just bring the people to the table who were directly involved.

Chuck Wexler: *In those negotiations, is there one person who chairs the meeting or moderates it?*

Each side has its chairperson. We had an attorney named Ralph Capitelli representing the city and Christy Lopez handled it for DOJ. We also brought in Gerry Chaleff from the LAPD, who had handled one of these negotiations before.

Chuck Wexler: *Gerry Chaleff is former president of the Los Angeles Board of Police Commissioners.*

Yes, and I would recommend that anybody who goes into a negotiation with DOJ have someone who has lived through it before and has actually been through the entire process until it's been closed. Gerry was the voice of reason through a lot of our negotiations. We found it was very important that we had him.

**Christy Lopez, Deputy Chief,
Special Litigation Section:**

*Being Specific and Defining Terms
Can Prevent Endless Arguments Later*

You have to get an agreement that has buy-in from the political leaders, the community, and the union, and it has to make sense. Historically, we have seen a lot of terms that are not detailed in consent decrees that get argued about endlessly afterwards. Recognizing that, we are trying to build more specificity into the agreements up front. You don't want a situation where, years later, you have people trying to



Daniel Cazenave, New Orleans
Police Deputy Chief of Staff



Attorney Scott Greenwood

perform an analysis of whether it will be feasible to implement the proposed reforms.

Scott Greenwood, Attorney, ACLU, Cincinnati:

*Community Involvement
Is Critical to Sustaining Reform*

There has to be very strong community buy-in in the process. Reforms cannot be sustainable without community involvement.

And you need to realize at the beginning that DOJ is not going to be in the city forever. So part of the negotiations should be to have an exit strategy for the department and the monitor.

MONITORS AND EXPERTS

There are various ways that monitoring can be accomplished. Formal monitors may be selected through a joint process, in which the city and DOJ jointly select the monitor, or the city and DOJ may jointly issue a solicitation for bid proposals for appointment of a monitor.

If the city and DOJ are unable to agree on a monitor, the court will appoint a monitor from among the names of qualified persons submitted by both parties.

implement an agreement who had no role in negotiating it, and they're saying, "I don't know what this means; I don't know what they meant to achieve by this."

So we were really focused on trying to get it right in New Orleans. I think I agree with Danny that one of the most significant participants was Gerry Chaleff. Because the New Orleans officials brought him in, he was able to tell them things that we would have told them in any case. But they would listen to him, and that was enormously helpful to us. Gerry also told them some things that we didn't agree with, but overall he was enormously helpful because he had lived through it.

Additionally, from my perspective, it is very helpful to have the police chief at negotiations. It is not always possible for the chief to be there every minute, but the chief knows his department and it is important to have him there at critical points.

Oakland, CA Interim Chief Sean Whent:

"Reality Test" Terms of Agreement

It is important to "reality-test" the potential terms of the agreement. In Oakland, the original agreement included provisions that were very difficult, if not impossible, to implement. It is important to



Oakland, CA Deputy Chief
Sean Whent

Philadelphia Commissioner Charles Ramsey:
*A Monitor Can Serve as Referee,
But Both Sides Must Share the Same Goals*

We had a monitor [in Washington, DC] who was tough, but fair. He saw his role as bringing the Police Department and the Justice Department together to work through issues of conflict, like a referee. He brought us together and made us work it out, no matter how long it took.

When I hear about the problems some departments have, I think that some of that can be personality-driven if you have the wrong monitor. You have to have the right mix of people with the same goals: to end up with a better department, to have professional and bias-free policing, and to build community support and confidence. It is possible to achieve these goals, but you need to have people who are willing to work together toward the goals.

Los Angeles Police Commander Scott Kroeber:
*Auditing Police Operations
Was an Important Result
From LAPD's Consent Decree*

Following the discovery and disclosure of the Rampart Area Corruption Incident by the Los Angeles Police Department, DOJ notified the City of Los Angeles that it intended to file a civil suit alleging that the Department was engaging in a pattern or practice of excessive force, false arrests and unreasonable searches and seizures.

On November 2, 2000, the City Council and the Mayor approved the consent decree negotiated between the city and DOJ. The court formally entered the consent decree into law on June 15, 2001.

Eight years later, the decree essentially was lifted by a federal judge who said that the LAPD had established sufficient reforms to no longer require the oversight of a court-appointed monitor. In 2012 the New

York Times published an article stating that the LAPD had transformed itself from a department known for "heavy-handed policing, hostile relations with minorities, and corruption" to "a model police agency for the United States."²² The final vestiges of the consent decree were formally ended in May 2013.²³

Commander Scott Kroeber, who spoke at PERF's Summit, served with LAPD's Civil Rights Integrity Division from 2000 to 2005:

We went through three mayors and three chiefs of police over the course of the decree. So it obviously transcended political administrations and the administrations of chiefs of police. I think it's fair to say that there was a perception that Bernard Parks, who was Chief of Police when the consent decree was negotiated, was not completely behind it. And I think that played into the fact that Chief Parks' tenure was not extended by the police commission. But Chief Parks did start to move on it and take some degree of ownership of it.

Later, when Chief Bill Bratton took over in 2002, he had a much different leadership style. I think he clearly understood what had to be done; he provided a strong sense of leadership; and I think ultimately that was one of the main things that helped us move the consent decree along.

When you look at the legacies of the LAPD decree, I think one of the better ones is the audit function, which requires that random samples of warrant applications, arrest reports, use-of-force investigations, and so on be reviewed for completeness and authenticity. We now teach this to other departments across the country. Much of that was influenced by the audit specialist from the monitoring group. The monitor was very hands-on. We didn't always agree, but that is the nature of the beast. There is a certain friction involved with monitoring.

22. "In Los Angeles, a Police Force Transformed." Nagourney, Adam. The New York Times. August 12, 2011. <http://www.nytimes.com/2011/08/13/us/13lapd.html?pagewanted=all>

23. "Federal Judge Lifts LAPD Consent Decree." Los Angeles Times, May 16, 2013. <http://www.latimes.com/news/local/la-me-lapd-consent-decree-20130517,0,1746570.story>

THE ROLE OF SUBJECT MATTER EXPERTS

The Department of Justice relies on subject matter experts to assist the Civil Rights Division in its investigations and to work as members of monitoring teams.

**Jonathan Smith, Chief,
Special Litigation Section:**

DOJ Uses Police Executives As Experts in Civil Rights Investigations

We have used between 40 and 50 experts over the last several years who have the experience necessary to assess the operations of the departments we

are investigating. Typically, these experts are police executives or senior staff.

Philadelphia Commissioner Charles Ramsey:

DOJ Experts Should Be From Similar Sized Jurisdictions

These so-called experts are often former chiefs from very small jurisdictions who come into very large departments and don't really understand how large departments operate, or vice versa—a police executive who comes from a very large department to investigate a small department may think the small department has resources that it simply does not have.

Who Monitors the Monitors?

ACLU Attorney Scott Greenwood: In Cincinnati, the first monitor that we had billed us for every breath he drew. After a month and a half, the ACLU went to the court and requested that the monitor be removed. The court granted our request, and then we ended up with a great monitor. I do not think there is a way to design a consent decree that is monitored where there is not that inherent conflict in which the monitor has a financial interest in continuing the process. But there are checks and balances.

PERF Executive Director Chuck Wexler: Yes, that raises the question: Who monitors the monitor?

DOJ Deputy Section Chief Christy Lopez: The monitor is accountable to three parties. There is the judge, whom the monitor reports to. There is the defendant, who is paying the bills and has the responsibility to review the bills to ensure that they are proper. And there are the plaintiffs, who are responsible for making sure that the agreement is structured and that the monitor is doing what the agreement requires him to do.

Some of the monitoring bids that come across our desks seem high, but we attempt

to select monitors that have high integrity and are trying to do their job right. Also, most monitoring agreements have caps that prevent the monitor from charging more than a certain amount. The monitors are like the chiefs in this room—people who want to fix a problem and help improve the practices of officers on the street.

Milwaukee Police Chief Ed Flynn: But what makes a monitor worth ten times as much as the police chief whose department he or she is monitoring?

Special Litigation Section Chief Jonathan Smith: A monitor is not one person, it is a monitoring team. There is a lead monitor and various subject matter experts. The teams may be larger or smaller, and they may contain different people, depending on the issues.

The role of the monitor is to measure whether the purposes of the agreement are being achieved. The monitor should not define the reforms. They can provide guidance and assistance, but they should not be creating the systems and policies. They should judge whether changes are being implemented.



Austin, TX Assistant Chief
Sean Mannix

Austin Assistant Chief Sean Mannix:

*Learning Curve for DOJ Experts
Slowed Down the Process*

We worked very well with DOJ when they came to town and resolved the investigation with a technical assistance letter. But yes, one of the things that did concern us was that the subject matter experts were not from like-sized organizations, or from organizations that shared some of the same complexities that our organization did. We felt that it really slowed down the process, because we had to try to educate the experts on how to be subject matter experts in an agency our size.

DEFINING COMPLIANCE

At some point, after implementing reforms for a period of time, a city or local police agency begins to plan for seeking an end to the involvement of the Justice Department and the courts in its operations. To obtain the court's approval, the agency must show that it has achieved compliance with the requirements of the consent decree. At this point, the key question becomes, "How do you define the necessary level of compliance?"

In most cases, the Justice Department has required that the local police agency demonstrate that it has achieved either "substantial compliance" or "full and effective compliance" for a period of two years. In Pittsburgh, the monitor interpreted "substantial compliance" to require 95 percent compliance with all terms in the consent decree. Monitors in other cities that entered consent decrees after Pittsburgh, including Los Angeles, Cincinnati, and Washington, DC, adopted the 95-percent compliance standard. Detroit adopted a 94-percent compliance standard.

The Legal Language of Achieving Compliance

The New Orleans consent decree defines substantial compliance as *"sustained compliance with all material requirements of this Agreement or sustained and continuing improvement in constitutional policing, as demonstrated pursuant to Agreement's outcome measures."*

Agreements in Cincinnati, Pittsburgh, Detroit, Los Angeles, and Washington, D.C. all stated that *"Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, shall not constitute failure to*

maintain substantial compliance. At the same time, temporary compliance during a period of otherwise sustained noncompliance shall not constitute substantial compliance."

In Seattle, "full and effective compliance" with a given requirement is defined as requiring *"that the City and [the Seattle Police Department] have: (a) incorporated the requirement into policy; (b) trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement; and (c) ensured that the requirement is being carried out in practice."*

Retired Cincinnati Chief Thomas Streicher:

You Can't Put a Percentage on Success

If an agency has to be in compliance 94 percent of the time, plus or minus 5 percent, does that mean it is okay to have a bad officer-involved shooting one out of ten times?

Obviously, the answer to that has to be no. You cannot put a partial percentage on success. You have to strive for a 100-percent success rate. The key to success should be to have an effective system that has been implemented, and properly trained officers. There should be a redundant review process in place that captures and identifies mistakes.

And there should be some type of remedial process to correct errors or discipline the person who made the mistake.

Oakland Deputy Chief Sean Whent:

***Failing to Achieve Compliance
Can Be a Matter of Missing on One Case***

One of the tasks in the Oakland consent decree requires the department to make correct findings in 90 percent of internal affairs cases. Each time the monitoring team comes out, they review 25 cases. This means that if two cases are out of compliance, the department has achieved substantial compliance; but if three cases are out of compliance, the department will be out of compliance.

For the last four consecutive quarters, the monitors have found three cases out of compliance during each review, which translates into an 88-percent compliance rate, two percentage points short of the mark.

**Christy Lopez, Deputy Chief,
Special Litigation Section:**

***95-Percent Compliance
Is Not an Appropriate Measure
In Every Context***

Substantial compliance requires a department to have to have a policy in place, to train people, and to make sure that the policy is implemented and practiced. A very widely accepted auditing practice to ensure that something is done is to demonstrate compliance 95 percent of the time, plus or minus 5 percent. That is how I believe the 95-percent requirement started. It is not a perfect application in every context. It works very well for some things, but not well for others.

So yes, I agree with Chief Streicher that it would not make sense to say it's good enough if 95 percent of your officer-involved shootings are properly investigated and 5 percent are not.

DOJ's more recent decrees focus on outcome measurements, rather than process measurements. And we are making efforts to be more qualitative than quantitative.

Philadelphia Commissioner Charles Ramsey:

***Our Challenge Was to Determine
When We Could Finish
One Aspect and Move on to the Next***

The biggest challenge we had in the MPD in Washington was the issue of substantial compliance and what it means, in terms of when you can move on



Former Cincinnati Chief
Thomas Streicher

to a new area of the agreement. The roughest part of the process was determining when you are in substantial compliance and when you can move on.

Detroit Commander James White:

It Gets Complicated When the Agreement Has 110 Paragraphs

Yes, we've had the same issue Commissioner Ramsey mentioned. It can be difficult to sustain substantial compliance every quarter for two years for every provision in the agreement, when the agreement contains 110 paragraphs. I suggest that once the agency has sustained compliance with certain paragraphs for two years, those paragraphs should be taken off the books, instead of continuously evaluating them every quarter until the end of the judgment.

THE COSTS AND BENEFITS OF CONSENT DECREES

The PERF Summit included a discussion of the benefits and the costs of having a consent decree. In addition to the costs of implementing the agreed-upon reforms (such as the costs of training officers in a new policy, or purchasing new equipment), there are the legal costs incurred by the city and the fees paid by the city to the court-appointed monitor.

Most cities estimate the costs of monitoring at approximately \$1 million per year.²⁴ Detroit's monitoring costs were \$2.3 million per year for the first six years, and currently are nearly \$1.2 million per year. Oakland has a two-year contract with its monitor for \$1.68 million. Los Angeles initially entered into a five-year monitoring contract for \$11 million. Prince George's County, MD was paying between \$800,000 and \$1 million annually to be monitored. Washington, D.C.'s Metropolitan Police Department estimated its monitoring costs at \$1 million per year, but paid more during the first two years. New Orleans has estimated that it will pay approximately \$2 million per year in monitoring costs.

Carl Marquardt, Counsel, Seattle Mayor's Office:

***Seattle Consent Decree
Could Cost \$40 Million***

In Seattle, we calculated an overall cost of \$40 million dollars for implementation of DOJ's original proposal, and estimated between \$6 million and \$7 million to comply with DOJ's proposed sergeant-to-officer ratio.

Los Angeles Police Commander Scott Kroeber:

***The LA Consent Decree Cost \$15 Million
For Monitoring, But It Was Worth It***

It cost us a total of \$15 million for monitoring. It would have been only \$11 million if we had finished in five years. But I think the money was well spent in terms of preventing future litigation and gaining credibility with the community. So yes it was a lot of money, but I think we got our money's worth.

Philadelphia Commissioner Charles Ramsey:

***You Can Leverage a Consent Decree
To Get Resources Your Department Needs***

The process of having a consent decree can actually be a benefit to your department. You can leverage the Justice Department to get some things that you desperately need. When I was chief at the Metropolitan Police Department in Washington, we would not have been able to make the changes we made without the consent decree. We would have encountered pushback from the union, and we would not have obtained the funding needed to develop an early intervention system and underlying technology infrastructure to support it.

The end result was very positive. Shootings dropped by 80 percent and have remained low. And it gave us credibility with the public.

24. Cost estimates provided by city officials to PERF staff members during interviews.

Elizabeth Township Police Chief Bob McNeilly:
*DOJ Opened a Door for Me in Pittsburgh
That My Labor Union Had Closed*

A couple of months after I became chief in Pittsburgh, the Department of Justice showed up and took a lot of boxes of paperwork back to Washington, D.C. When they announced their desire to enter into a consent decree, it seemed intimidating at first. But I could see that they opened a door for me that my labor union had closed. And the door they opened included funding and political support for all my initiatives for the department.

Retired Cincinnati Chief Thomas Streicher:
*The Consent Decree Saved Us
Millions in the Long Run*

Prior to the consent decree in Cincinnati, we paid out \$10 to \$11 million to settle a number of lawsuits. But since the consent decree, the ACLU has not sued the Police Department. That is a tremendous savings.

**John Farmer, Executive VP and General Counsel,
Rutgers University:**

*Our Consent Decree
Gave the Reform Process Momentum*

Without the force of a court order behind us, I doubt we would have obtained the funding that we needed from the state, over a sustained period of time, to develop the systems that the New Jersey State Police put in place to ensure internal transparency. I think the process was a help to us. We did not put anything in place that we were not going to do eventually in any case. But putting the force of a court order behind it created a momentum that would not have otherwise existed.

Detroit Commander James White:

*Detroit Is a Better Department
As a Result of the Consent Decree*

The Detroit Police Department is a better police department as a result of the consent decree. Today we have a very specific way of taking a citizen's complaint, and we have a management awareness system through which we are able to manage our employees. We used the consent decree to get some of the tools we needed. I am not saying that a consent judgment is the greatest thing that ever happened, but in reality, we are a better department for it.

What Should Every Police Department Know To Avoid Problems That Could Result in a DOJ Investigation?

We asked Summit participants if they had recommendations for police department actions that could help avoid the need for DOJ investigations, or could help an investigation process to move smoothly and rapidly:

**Jonathan Smith, Chief,
Special Litigation Section:**

*You Need Policies, Supervision,
And a System that Will Detect Problems*

You need to have the right policies, you need to have the right supervision, and you must have a self-correcting system so you will know what's going on in your department and whether any problems are developing. You have to collect the right data, look at the data, and make decisions about individual discipline, corrective actions, policy changes, supervision changes, and training changes that may be necessary.

Prof. Sam Walker, University of Nebraska:

*Police Can Respond on Their Own
When They Detect a Problem*

I think the major takeaway is that you can do it yourself. The most recent example, from last summer, is Dallas. Dallas experienced an increase in officer-involved shootings; and in response, the chief issued an eight-point plan for improving the department. The plan included tightening up their training on Electronic Control Weapons, reexamining their foot pursuit policy, and looking at national best practices.

If every police department responds to a problem the way Dallas did, these folks at DOJ Civil Rights won't have any work to do.

**Christy Lopez, Deputy Chief,
Special Litigation Section:**

*We Look at How Well a Department Responds
When a Problem Crops Up*

When considering whether an investigation is appropriate, the threshold question is whether the problem we are seeing seems to

be widespread, so that it's a pattern or practice of violations, not a few isolated incidents. And we evaluate whether that pattern or practice is severe enough that it constitutes Constitutional harm.

In deciding where to spend our scarce resources, we take other things into consideration as well, such as whether the department seems to have a handle on the problem we are seeing: when a bad thing happens in the police department, how does the department respond to it? Do they respond immediately, or do they fail to do anything until the news media approaches them? In other words, we look to see if the department is able to handle problems that come up on its own.

**Principal Deputy Director Joshua Ederheimer,
COPS Office:**

*Embracing the Reform Process
Will Get It Done Faster*

(Mr. Ederheimer served in the Metropolitan Police Department of Washington, D.C. for 22 years, including during the time it was working with DOJ on use-of-force reforms.)

To make the process more efficient, the department should get behind the reform effort right away. Leadership from the top and embracing the need for reform are going to get you through this a lot faster.

**Jonathan Smith, Chief,
Special Litigation Section:**

Three Tips for Achieving Compliance Expeditiously

- (1) Move on the fundamentals as quickly as possible. Get your policies and systems in place.
- (2) One of the most critical things is to change the dynamics and the culture of the agency, and often that means making sure that the new officers are not habituated to the old ways.
- (3) It is also important to develop a method to measure whether change is occurring and to self-correct throughout the process.

The COPS Office Launches A Promising New Approach to Reforms

PERF'S RESEARCH ON DOJ CIVIL RIGHTS DIVISION investigations and the discussions at PERF's Summit produced mixed views.

On one hand, many police chiefs who have been through the process of a DOJ investigation said that the end result was a better police department—with improved policies on critical issues such as use of force, better training of officers, and more advanced information systems that help police executives to know what is going on in the department and manage their employees.

In fact, some chiefs said that without the pressure of a consent decree, their cities would not have allocated funding for things like new training and equipment that were needed to make reforms. In some cases, consent decrees have been instrumental in giving chiefs the authority and the resources to act.

On the other hand, many police chiefs said that the process of entering into a consent decree can be cumbersome, expensive, overly adversarial, and time-consuming.

The quick pace of Civil Rights Division investigations of local police agencies has continued since PERF's Summit in October 2012. Since that time, DOJ has announced formal investigations related to use of force of the Albuquerque Police Department, the Cleveland Division of Police, and the Miami Police Department. The Civil Rights Division has also commenced investigations at several universities,

including the University of Missouri, related to the handling and reporting of sex offense cases.

Many of the police executives at the Summit suggested that the Civil Rights Division should develop more collaborative alternatives to the consent decree process, in order to achieve change in a more efficient manner.

One promising approach is the recent partnerships between the Justice Department's Office of Community Oriented Policing Services (COPS Office) and local police departments.

This new approach was first tested in 2012 in Las Vegas. The *Las Vegas Review Journal* had published a series of articles on officer-involved shootings by the Las Vegas Metropolitan Police Department (LVMPD) over the previous 20 years, and had raised questions about the department's accountability. In response to those articles, COPS Office Director Bernard Melekian contacted LVMPD Sheriff Doug Gillespie and offered the assistance of the COPS Office in developing reforms in the areas of policy and procedures, training and tactics, investigation and documentation of use-of-force incidents, and external review.

Sheriff Gillespie immediately sent a team of his executive command leaders to Washington to meet with COPS officials and discuss this proposal.

They reached an agreement, and 10 months later, in November 2012, the COPS Office released a 154-page report detailing its findings and recommendations.²⁵

25. The report, *Collaborative Reform Process, A Review of Officer Involved Shootings in Las Vegas*, is available at http://www.cops.usdoj.gov/pdf/e10129513-Collaborative-Reform-Process_FINAL.pdf

More recently, in May 2013, Philadelphia Police Commissioner Charles Ramsey asked the COPS Office to review and analyze his department's use of force in light of a spike in police shootings.

Newspaper articles noted that for Ramsey, "there was a bit of déjà vu in his request for help," as the Philadelphia *Inquirer* put it, noting that in 1999, when Ramsey was Chief of Police in Washington, D.C., he had invited the Civil Rights Division to investigate police use of force in that city. However, in Philadelphia in 2013, Ramsey asked the COPS Office to take on the investigative role, citing its successful process in Las Vegas.²⁶

Because the COPS Office—unlike the DOJ's Civil Rights Division—has no authority to file civil lawsuits if its recommendations are not implemented, its role depends more on a collaborative relationship between the DOJ and local police departments.

At PERF's Summit, the DOJ Civil Rights Division expressed support for the COPS Office approach as an alternative means of producing reforms in cases where a Civil Rights Division investigation may not be necessary.

Following are several comments made at the PERF Summit regarding this new approach:

Bernard Melekian, Director of the COPS Office:

The COPS Model Is Less Expensive and More Collaborative

The COPS Office worked in partnership with the Civil Rights Division in a non-adversarial, collaborative model to address use-of-force issues in Las Vegas. Las Vegas was facing a great deal of local concern about the number of officer-involved shootings. The Las Vegas Police Department, the Civil Rights Division and the COPS Office all agreed

that this was an issue that needed to be studied and addressed. Therefore, the COPS Office agreed to do a technical assistance project and review the department's policies and procedures. We produced an extensive and far ranging report with a series of recommendations and action steps that will benefit the department and the community. If this model is successful, it will be a far less expensive and much more collaborative alternative to the consent decree process.

Las Vegas Captain Kirk Primas:

Seven Months into the Process, We Are Already Making Major Changes On Use of Force

Sheriff Gillespie wanted to make positive changes and was interested in this technical assistance program. He met with Director Melekian in the COPS Office about the new Collaborative Reform Process and agreed to participate. We started the collaboration with the COPS Office to do an assessment and now, seven months into it, we have made a substantial change in our use-of-force policy and our culture. The report is an excellent template that will give you some great insight as to things we have done over the last two years and what we will do next. I hope this program goes forward and that agencies can take advantage of it.



COPS Office Director
Bernard Melekian

26. "Added scrutiny as Philadelphia police shootings mount." June 2, 2013. Philadelphia *Inquirer*. http://www.philly.com/philly/news/20130602_Added_scrutiny_as_Philadelphia_police_shootings_mount.html



**Jonathan Smith, Chief,
Special Litigation Section:**

*We Are Pleased to Be Working
With the COPS Office*

We are thrilled to work with the COPS Office. We have spent some time working together to try to figure out how to develop a model so that there are more tools in the toolkit. We want to figure out what is the appropriate role for the Civil Rights Division, what is the appropriate role for the COPS Office, and whether there are appropriate roles for other people. So we don't have a one-size-fits-all approach.

Las Vegas Police Capt.
Kirk Primas

Missoula Chief Mark Muir:

*A More Collaborative Model
Would Produce Better Outcomes*

COPS has been able to provide assistance through a more collaborative model, and I am going to recommend to the Special Litigation Section that you utilize that model more often, especially with respect to emerging issues. The first thing that I said to Jonathan Smith when he came to my office was, "Why didn't you talk to me about this issue before you announced an investigation?" When the Department of Justice announces an investigation into an agency, there is a significant impact on the agency's reputation and credibility with the community. I believe that we could have quickly achieved a mutually desired outcome if the process were more collaborative.

Conclusion:

Key Lessons Learned

THIS REPORT CONTAINS DOZENS OF QUOTATIONS from police chiefs, Justice Department officials, and others with expertise and experience regarding DOJ investigations of local police departments.

Perhaps the most fundamental points were made by two participants. First, DOJ Civil Rights Division Chief Jonathan Smith said that for local police chiefs, the appropriate question is *not* “How do you keep the Civil Rights Division from investigating my police department?” That question is inappropriate because local police chiefs are every bit as interested as DOJ officials in providing policing that meets the standards of the Constitution, Mr. Smith said.

“I think everyone in this room can agree that the proper question really is, ‘How do we deliver police services in an effective manner that complies with the Constitution and builds public confidence?’” Smith added.

The second basic point was made by Professor Sam Walker, who noted that the DOJ has a nearly 20-year track record of investigating local police, and each case has produced publicly available information, in the form of consent decrees, investigative findings letters, and other documents that spell out the reforms that were undertaken.

Thus, “No police department should be in a position where it can be sued by the Justice Department, because the past cases make clear what is expected of them,” Professor Walker said.

PERF’s goal in this project has been to document these lessons that can be learned from past DOJ investigations. Following are some of the key points about DOJ civil rights investigations and the types of

reforms that have been mandated since the DOJ was given legal standing to investigate police agencies in 1994. These points summarize what the experts at PERF’s Summit said were the most important issues to keep in mind:

- **DOJ’s role is limited to investigating patterns of misconduct:** The Special Litigation Section does not investigate individual incidents. Its mission is to investigate police agency policies that violate the Constitution, or multiple incidents that amount to a “pattern or practice” of conduct that deprives people of their Constitutional rights.
- **Key Issues:** Many of the DOJ investigations to date have focused on certain key issues, including: police use of force; Early Intervention Systems; management and supervision of officers; unlawful stops, searches, and arrests; and racial or ethnic bias in policing. In recent years, DOJ also has focused on the investigation of sexual assaults, and on police interactions with persons with mental illness.
- **Use of force:** A review of consent decree documents shows that DOJ typically requires use-of-force policies to include certain elements, including the following:
 - Clearly identified types and levels of force;
 - Clearly described consequences for unreasonable uses of force;
 - Policies, procedures, and training specific to certain weapons or types of force, such as

firearms, Electronic Control Weapons, and vehicle pursuits;

- Requirements for certification of officers in use of certain types of force; de-escalation techniques; reporting, documentation, and investigation of force incidents; supervisor response; and auditing and review of incidents.
- **Early Intervention Systems:** Consent decrees in Los Angeles, Cincinnati, Pittsburgh, Washington, D.C. and other cities have required police to implement Early Intervention Systems, which automatically flag officers who may be engaging in inappropriate behavior, or may be at risk of engaging in such behavior in the future. An EIS may also flag officers who are in high-activity assignments, so each case must be reviewed individually. An EIS can be expensive to implement, especially if a department does not have computerized record-keeping systems for the data points that go into the EIS—such as uses of force, citizen complaints, officers’ arrest statistics and performance evaluations, etc. Consent decree documents list certain elements that must be included in an EIS program, including requirements that supervisors periodically review and act on EIS findings.
- **Management and supervision of officers:** Consent decrees typically include requirements designed to ensure that officers receive adequate supervision by their superior officers. Often the ratio of the number of officers per supervisor is an issue, but there is no simple formula for setting that ratio. In a number of cities, consent decrees have specified certain conditions in which supervisors should take actions, such as responding to and investigating use-of-force incidents, and reviewing arrest reports and misconduct complaints.
- **Preventing biased policing:** Racial or ethnic bias has long been a focus of the Civil Rights Division and its investigations of local police departments. Recent consent decrees require departments to have policies and training to prevent biased

policing. For example, the Seattle decree calls for policies stating that officers may not use race, ethnicity, or national origin in determining reasonable suspicion or probable cause, unless race, ethnicity, or national origin is used as part of a suspect’s description. In addition, these policies must prohibit officers from ignoring or condoning biased policing, and must require officers to report incidents in which they observe or are aware of other officers who have engaged in biased policing.

Recent decrees also call for training that includes the following topics: Constitutional and other legal requirements related to equal protection and unlawful discrimination; the protection of civil rights as a central part of the police mission; cultural competency training; how to identify discriminatory practices when reviewing investigatory stop data, arrest data, and use of force data; and developing positive relationships with diverse community groups.

In recent years, DOJ has expanded this focus area to include discussion of “implicit” or “unconscious” bias, by officers who are not aware of biases in their actions. For example, the Seattle findings letter states that “biased policing is not primarily about the ill-intentioned officer, but rather the officer who engages in discriminatory practices subconsciously.”

- **Gender bias in the handling of sexual assaults:** In recent years there has been increasing attention to complaints of sexual bias in the police response to sexual assault victims and the handling of sex crime investigations—for example, high rates of “unfounding” cases (essentially, a statement that the police do not believe that a crime occurred). The recent consent decree in New Orleans requires clear and detailed policies for each stage in the response to a sex offense call; protocols for forensic examinations of victims and suspects; specialized training for detectives; supervisory review of unfounded or other complaints that are coded as non-criminal; creation of a Sexual Assault Response Team; and development of a system for external review of cases.

- **Police interactions with persons with mental illness:** Consent decrees in Seattle, New Orleans, Cincinnati, Los Angeles, and Portland, OR include provisions on the police response to persons with mental illness. These provisions are designed to prevent unnecessary use of force against these persons. In Seattle, for example, the consent decree calls for specialized training, policies and protocols; training of officers in “Crisis Intervention”; and training of dispatchers to recognize calls that may involve persons in crisis with mental illness.
- **Accepting the DOJ role may speed the process:** When DOJ completes an investigation and finds Constitutional violations, it typically enters into negotiations with the jurisdiction to discuss strategies for achieving reforms. Agencies that have been through this process say that embracing the need for reforms from the start can help speed the process.
- **Be careful to define the terms clearly:** Police chiefs also emphasize that defining the terms of any agreement with DOJ is extremely important, because a lack of specificity, or agreeing at the start to an impractical reform plan, may result in years of delay in achieving compliance.
- **Hire someone with experience in such investigations:** A city entering into negotiations with DOJ may wish to bring in an official who has been through the entire process of writing and implementing a consent decree in another city.
- **The choice of a monitor is extremely important:** The choice of a court-appointed monitor is very important. Some departments have had good experiences with monitors, and others have not.
- **Choose experts carefully:** DOJ subject matter experts have sometimes been criticized for lacking experience in running police agencies of the type or size that they are advising, or for not keeping up with current advances in policing.
- **Defining “compliance” is difficult:** DOJ consent decrees are not terminated until the agency

achieves compliance with the terms of the agreement. Defining “compliance” has proved difficult, in part because certain issues, such as investigations of police use of force, do not lend themselves to evaluation on a numerical scale.

However, a number of consent decrees have defined compliance as showing that a given requirement is met 95 percent of the time over a period of two years. Definitions of compliance in DOJ consent decrees are evolving, according to DOJ officials.

- **The costs are often high—but the costs of failing to implement reforms can also be high:** The costs of achieving compliance, and the legal costs paid to monitors, are sometimes contentious. Some chiefs believe that consent decrees that continue for many years have been too costly, and that rules about achieving 95-percent compliance for a two-year period are overly strict. On the other hand, some chiefs say that the costs, while high, are worth it, in terms of improving police departments as well as reducing lawsuits that can also be costly.
- **Some chiefs say that a DOJ investigation can help to overcome political opposition to reforms:** Some police chiefs have welcomed or requested DOJ investigations, because a federal investigation can force otherwise-reluctant local elected officials to provide funding that is needed to implement reforms. In addition, requirements of a court-approved consent decree can overrule labor union opposition to certain changes in policies or practices.
- **The 3 Key Reforms: Policies, Training, and a System for Detecting Problems:** DOJ officials say that the keys to avoiding a federal investigation and consent decree include the following: (1) Adopting strong policies on key issues such as use of force; (2) Ensuring that officers are trained and managed so the policies will be followed; and (3) Developing management and supervision measures, such as an Early Intervention System, to help managers detect and respond to problems as they develop.

Resources

Special Litigation Section Documents

The Justice Department's Civil Rights Division, Special Litigation Section has a website that provides links to scores of documents that detail the results of past investigations.

The Special Litigation Section's homepage:
<http://www.justice.gov/crt/about/spl/>

The "Cases and Matters" tab provides information about investigations of state and local law enforcement agencies as well as other Special Litigation Section investigations, such as those in the areas of juvenile offenders and disability rights:
<http://www.justice.gov/crt/about/spl/findsettle.php>

The "Law Enforcement Agencies" sub-tab provides links to Case Summaries, Findings Letters, Technical Assistance Letters, Complaints, Memoranda of Understanding, Consent Decrees, and other documents in the following cases: Alamance County, NC Sheriff's Office; Beacon, NY Police Department; Detroit Police Department; East Haven, CT Police Department; Easton, PA Police Department; Escambia County, FL Sheriff's Office; Harvey, IL Police Department; Inglewood, CA Police Department; Lorain, OH Police Department; Los Angeles Police Department; Maricopa County, AZ Sheriff's Office; District of Columbia Metropolitan Police Department; University of Montana Office of Public Safety and Missoula Police Department; New Orleans Police Department; Orange County, FL Sheriff's Office; Portland, OR Police Bureau; Puerto Rico Police Department; Schenectady, NY

Police Department; Seattle Police Department; Suffolk County, NY Police Department; Virgin Islands Police Department; Warren, OH Police Department; Yonkers, NY Police Department; Los Angeles County Sheriff's Department; and other matters.
<http://www.justice.gov/crt/about/spl/findsettle.php#police>

The Special Litigation Section's "Archives" sub-tab includes documents about closed cases involving: Austin, TX Police Department; New Jersey State Police; Prince George's County, MD Police Department; Buffalo, NY Police Department; Bakersfield, CA Police Department; Cincinnati Police Department; Mt. Prospect, IL Police Department; Villa Rica, GA Police Department; Cleveland Division of Police; Alabaster, AL Police Department; Portland, ME Police Department; Miami Police Department; Steubenville, OH Police Department; Columbus, OH Division of Police; Highland Park, IL Police Department; and Pittsburgh Bureau of Police.
http://www.justice.gov/crt/about/spl/split_archive_findsettle_2004.php

The City of Oakland, CA reached a settlement agreement in the so-called "Riders" case, in a case that was not brought by the U.S. Justice Department, but rather by a group of more than 100 plaintiffs who said their rights had been violated. The text of the Negotiated Settlement Agreement and related information is available on the website of the City of Oakland at
<http://www2.oaklandnet.com/Government/o/OPD/o/BureauofInvestigation/DOWD004998>.

COPS Office Report

Collaborative Reform Process, A Review of Officer Involved Shootings in Las Vegas, is available at http://www.cops.usdoj.gov/pdf/e10129513-Collaborative-Reform-Process_FINAL.pdf.

This report details the findings and recommendations from the first review of a police department in the Justice Department's new technical assistance program by the Office of Community Oriented Policing Services.

PERF Reports

Throughout its history, PERF has made police use of force a core issue and a priority for research and policy development. Preventing biased policing has also been a key issue for PERF. Following are a number of PERF reports on these subjects, which have figured in many DOJ consent decrees:

An Integrated Approach to De-Escalation and Minimizing Use of Force (2012)

This report provides information about policies, practices and programs to reduce and prevent police use of force against persons with mental illness or other conditions that can cause them to behave erratically and in a threatening manner.

http://policeforum.org/library/critical-issues-in-policing-series/De-Escalation_v6.pdf

Improving the Police Response to Sexual Assault (2012)

This report covers many of the issues that are being investigated by the DOJ Civil Rights Division regarding the police response to sexual assault victims and the investigation of sex offenses, including strategies for preventing the unwarranted “unfounding” of cases, and Philadelphia’s model program for external auditing of sex crime investigations.

http://policeforum.org/library/critical-issues-in-policing-series/SexualAssaulttext_web.pdf

2011 Electronic Control Weapon Guidelines

<http://www.policeforum.org/library/use-of-force/ECWguidelines2011.pdf>

Strategies for Resolving Conflict and Minimizing Use of Force (2007)

http://www.policeforum.org/library/critical-issues-in-policing-series/ResolvingConflict_v8.pdf

Supervision and Intervention Within Early Intervention Systems: A Guide for Law Enforcement Chief Executives (2005)

<http://www.policeforum.org/library/early-intervention-systems/Chief%27s%20Guide%20EIS.pdf>

Deadly Force: What We Know—A Practitioner’s Desk Reference on Police-Involved Shootings (1992).

Police Executive Research Forum.

<http://www.policeforum.org/bookstore/>

Understanding Race Data from Vehicle Stops: A Stakeholder’s Guide (2005).

http://www.policeforum.org/library/racially-biased-policing/stakeholders-guide/Stakeholders_v3_links%5B1%5D.pdf

By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops (2004) by Lorie Fridell.

<http://www.policeforum.org/library/racially-biased-policing/by-the-numbers/BytheNumbers%5B1%5D.pdf>

Racially Biased Policing: A Principled Response (2001)

<http://www.policeforum.org/library/racially-biased-policing/a-principled-response/RaciallyBiasedPolicingfull%5B1%5D.pdf>

Additional materials on preventing biased policing available at:

<http://www.policeforum.org/library/?folderPath=/library/racially-biased-policing/a-principled-response/#documents>

and

<http://www.policeforum.org/library/?folderPath=/library/racially-biased-policing/supplemental-resources/#documents>

About the Police Executive Research Forum

THE POLICE EXECUTIVE RESEARCH FORUM (PERF) is a professional organization of progressive chief executives of city, county and state law enforcement agencies. In addition, PERF has established formal relationships with international police executives and law enforcement organizations from around the globe. PERF's membership includes police chiefs, superintendents, sheriffs, state police directors, university police chiefs, public safety directors, and other law enforcement professionals.

Established in 1976 as a nonprofit organization, PERF is unique in its commitment to the application of research in policing and the importance of higher education for police executives. PERF has developed and published some of the leading literature in the law enforcement field. The "Critical Issues in Policing" series provides up-to-date information about the most important issues in policing, including several recent reports on the impact of the economic downturn on police agencies.

Other Critical Issues reports have explored the role of local police in immigration enforcement, the police response to gun and gang violence, "hot spots" policing strategies, and use-of-force issues. In its 2009 book *Leadership Matters: Police Chiefs*

Talk About Their Careers, PERF interviewed 25 experienced police chiefs about their strategies for succeeding as chiefs and working well with their mayors, their officers, and their communities. PERF also explored police management issues in "Good to Great" Policing: *Application of Business Management Principles in the Public Sector*.

Other publications include:

Managing a Multijurisdictional Case: Identifying Lessons Learned from the Sniper Investigation (2004);

Community Policing: The Past, Present and Future (2004);

Racial Profiling: A Principled Response (2001);

Recognizing Value in Policing (2002);

Managing Innovation in Policing (1995);

Crime Analysis Through Computer Mapping (1995);

And Justice For All: Understanding and Controlling Police Use of Deadly Force (1995); and

Why Police Organizations Change: A Study of Community-Oriented Policing (1996).

To learn more about PERF, visit www.policeforum.org.

We provide progress in policing.



About Motorola Solutions and the Motorola Solutions Foundation

MOTOROLA SOLUTIONS IS A LEADING PROVIDER of mission-critical communication products and services for enterprise and government customers. Through leading-edge innovation and communications technology, it is a global leader that enables its customers to be their best in the moments that matter.

Motorola Solutions serves both enterprise and government customers with core markets in public safety government agencies and commercial enterprises. Our leadership in these areas includes public safety communications from infrastructure to applications and devices such as radios as well as task specific mobile computing devices for enterprises. We produce advanced data capture devices such as barcode scanners and RFID (radio-frequency identification) products for business. We make professional and commercial two-way radios for a variety of markets, and we also bring unlicensed wireless broadband capabilities and wireless local area networks—or WLAN—to retail enterprises.

The Motorola Solutions Foundation is the charitable and philanthropic arm of Motorola Solutions. With employees located around the globe, Motorola Solutions seeks to benefit the communities where it operates. We achieve this by making strategic grants, forging strong community partnerships, and fostering innovation. The Motorola Solutions Foundation focuses its funding on public safety, disaster relief, employee programs and education, especially science, technology, engineering and math programming.

Motorola Solutions is a company of engineers and scientists, with employees who are eager to encourage the next generation of inventors. Hundreds of employees volunteer as robotics club mentors, science fair judges and math tutors. Our “Innovators” employee volunteer program pairs a Motorola Solutions employee with each of the nonprofits receiving Innovation Generation grants, providing ongoing support for grantees beyond simply funding their projects.

For more information on Motorola Solutions Corporate and Foundation giving, visit www.motorolasolutions.com/giving.

For more information on Motorola Solutions, visit www.motorolasolutions.com.

APPENDIX

Participants at the PERF Summit

“Civil Rights Investigations of Local Police: Lessons Learned”

October 25, 2012, Washington, D.C.

Inspector General Carlos Acosta
PRINCE GEORGE'S COUNTY, MD
POLICE DEPARTMENT

Professor Geoff Alpert
UNIVERSITY OF SOUTH CAROLINA

Director Michael Alston
OFFICE FOR CIVIL RIGHTS,
OFFICE OF JUSTICE PROGRAMS (USDOJ)

Chief Steve Anderson
METROPOLITAN NASHVILLE
POLICE DEPARTMENT

Deputy Chief Dean Andrews
CHICAGO POLICE DEPARTMENT

Assistant Chief Jose Banales
SAN ANTONIO POLICE DEPARTMENT

**Program Specialist
Ginger Baran Lyons**
OFFICE ON VIOLENCE AGAINST WOMEN
(USDOJ)

**Supervisory Special Agent
Jacques Battiste**
FBI

Commissioner Tony Batts
BALTIMORE POLICE DEPARTMENT

**Former Commissioner
Frederick Bealefeld**
BALTIMORE POLICE DEPARTMENT

**Chief Operating Officer
Kenneth Bouche**
HILLARD HEINTZE

Police Attorney Patricia Bradley
FAYETTEVILLE, NC POLICE DEPARTMENT

Colonel Joseph Burris
BALTIMORE COUNTY POLICE DEPARTMENT

**Associate Deputy Director
Pamela Cammarata**
BUREAU OF JUSTICE ASSISTANCE (USDOJ)

Captain Frank Cariello
YONKERS POLICE DEPARTMENT

**Deputy Chief of Staff
Daniel Cazenave**
NEW ORLEANS POLICE DEPARTMENT

**Social Science Analyst
Brett Chapman**
NATIONAL INSTITUTE OF JUSTICE (USDOJ)

Chief James Craig
CINCINNATI POLICE DEPARTMENT

Former Chief Charlie Deane
PRINCE WILLIAM COUNTY, VA
POLICE DEPARTMENT

**Principal Deputy Director
Joshua Ederheimer**
COPS OFFICE (USDOJ)

**Senior Policy Advisor
Steven Edwards**
BUREAU OF JUSTICE ASSISTANCE (USDOJ)

Director Phil Eure
OFFICE OF POLICE COMPLAINTS,
WASHINGTON, DC

**John Farmer, Executive VP and
General Counsel**
RUTGERS UNIVERSITY

**Deputy Commissioner
Mike Farrell**
NEW YORK POLICE DEPARTMENT

Chief Ed Flynn
MILWAUKEE POLICE DEPARTMENT

Chief Darryl Forté
KANSAS CITY, MO POLICE DEPARTMENT

Attorney Terry Fromson
WOMEN'S LAW PROJECT

Acting Director Joye Frost
OFFICE FOR VICTIMS OF CRIMES (USDOJ)

Chief Terrance Gainer
U.S. SENATE SERGEANT AT ARMS

Commissioner Chuck Gardner
YONKERS POLICE DEPARTMENT

Colonel Yvette Gentry
LOUISVILLE METRO POLICE DEPARTMENT

Lieutenant Travis Glampe
MINNEAPOLIS POLICE DEPARTMENT

Scott Greenwood
CIVIL RIGHTS & CIVIL LIBERTIES LAWYER

Acting Director Bea Hanson
OFFICE ON VIOLENCE AGAINST WOMEN
(USDOJ)

Professor Rachel Harmon
UNIVERSITY OF VIRGINIA LAW SCHOOL

Former Chief Jack Harris
PHOENIX POLICE DEPARTMENT

Director Domingo Herraiz
MOTOROLA SOLUTIONS

**Former Superintendent
Terry Hillard**
CHICAGO POLICE DEPARTMENT

Unit Chief Shirley Hinton
FBI

Captain James G. Jones
HOUSTON POLICE DEPARTMENT

Titles reflect participants' positions at the time of the meeting in October 2012.

Deputy Commissioner Nola Joyce
PHILADELPHIA POLICE DEPARTMENT

Commander Scott Kroeber
LOS ANGELES POLICE DEPARTMENT

Chief Cathy Lanier
METROPOLITAN POLICE DEPARTMENT,
WASHINGTON, DC

Lieutenant James LaRochelle
LAS VEGAS METROPOLITAN
POLICE DEPARTMENT

Director John Laub
NATIONAL INSTITUTE OF JUSTICE (USDOJ)

**Acting Assistant Attorney General
Mary Lou Leary**
OFFICE OF JUSTICE PROGRAMS (USDOJ)

Deputy Chief Christy Lopez
CIVIL RIGHTS DIVISION (USDOJ)

Director James Lynch
BUREAU OF JUSTICE STATISTICS (USDOJ)

Captain Lachlan MacNeish
NEW HANOVER COUNTY, NC
SHERIFF'S OFFICE/FBI FELLOW

Chief Mark Magaw
PRINCE GEORGE'S COUNTY
POLICE DEPARTMENT

Superintendent Frank Mancini
BOSTON POLICE DEPARTMENT

Chief Tom Manger
MONTGOMERY COUNTY, MD
POLICE DEPARTMENT

Assistant Chief Sean Mannix
AUSTIN POLICE DEPARTMENT

Linda Mansour
OFFICE OF JUSTICE PROGRAMS (USDOJ)

**Counsel to the Mayor
Carl Marquardt**
SEATTLE MAYOR'S OFFICE

Chief Charles McClelland
HOUSTON POLICE DEPARTMENT

Chief Robert McNeilly
ELIZABETH TOWNSHIP, PA
POLICE DEPARTMENT

Commander Catherine McNeilly
PITTSBURGH POLICE DEPARTMENT

Director Bernard Melekian
COPS OFFICE (USDOJ)

Chief Mark Muir
MISSOULA, MT POLICE DEPARTMENT

Vice President Rick Neal
MOTOROLA SOLUTIONS

Captain Kirk Primas
LAS VEGAS METROPOLITAN
POLICE DEPARTMENT

Commissioner Charles Ramsey
PHILADELPHIA POLICE DEPARTMENT

Deputy Director Greg Ridgeway
NATIONAL INSTITUTE OF JUSTICE (USDOJ)

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LOS ANGELES COUNTY
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**Assistant Director of Police
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RUTGERS SCHOOL OF CRIMINAL
JUSTICE—NEWARK

Executive Director Carol Tracy
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Chief George Turner
ATLANTA POLICE DEPARTMENT

**Professor Emeritus
Samuel Walker**
UNIVERSITY OF NEBRASKA AT OMAHA

President Susan Weinstein
GRAND STRATEGIES, INC.

Professor Charles Wellford
UNIVERSITY OF MARYLAND

**Grant Program Specialist
John Wells**
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Deputy Chief Sean Whent
OAKLAND, CA POLICE DEPARTMENT

Commander James White
DETROIT POLICE DEPARTMENT

Trial Attorney Zazy Lopez
U.S. DEPARTMENT OF JUSTICE

Trial Attorney Michael Songer
U.S. DEPARTMENT OF JUSTICE

Chief Brent Larrabee
EAST HAVEN, CT POLICE DEPARTMENT

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Policing Project

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and Finding
Common Ground

“How Are Innovations
in Technology
Transforming Policing?”

Improving the
Police Response
To Sexual Assault

An Integrated Approach
to De-Escalation and
Minimizing Use of Force

Policing and the
Economic Downturn:
Striving for Efficiency
Is the New Normal

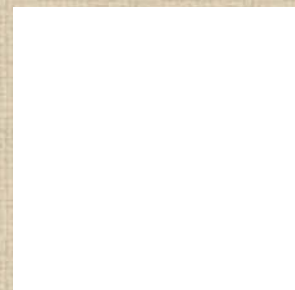


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We provide progress in policing.

**We are grateful to the
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United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard C. Shelby
Chairman
Subcommittee on Commerce, Justice, Science,
and Related Agencies
Russell 304
Washington, D.C. 20510

The Honorable Barbara Mikulski
Ranking Member
Subcommittee on Commerce, Justice, Science,
and Related Agencies
Hart 503
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski:

We respectfully urge you to fully fund the Court Appointed Special Advocates (CASA) program in fiscal year (FY) 2016. This program is critical to the 238,000 children in the child welfare system who have CASA volunteers appointed on their behalf. Over sixty percent of children in foster care still need CASA advocates, and this funding will help bring CASA programs closer to the national goal of serving every abused and neglected child.

CASA programs assure that a specially trained volunteer is able to represent the rights and needs of an abused or neglected child as his or her case is being considered in the court system. The volunteers are appointed by judges to their most difficult and complex cases, because the volunteer dedicates sustained, long-term attention to the child's needs, with demonstrated improved outcomes for the children for whom they advocate.

The CASA program is a modest federal investment which leverages the time, energy, and compassion of over 75,000 volunteers across the country to bring about real results for abused and neglected children. Children who languish in the foster care system without a safe and permanent home face long odds for success. They have more difficulty in school, are more likely to have substance abuse and mental health problems, and are more likely to be involved in the juvenile and criminal justice system than their peers. CASA volunteers help to ensure that children find safe and permanent homes and have access to the services they need to succeed.

CASA advocacy also demonstrates good stewardship of taxpayer dollars. A child with a CASA volunteer is far less likely to re-enter the child welfare system. Every child with a CASA volunteer saves the taxpayer significant dollars, compared to the cost of keeping a child in care, because they are working to move these children safely out of the foster care system.

These are difficult times that require difficult choices. Funding the CASA program, however, is fiscally responsible. We urge you to fully fund CASA in FY 2016.



GARY C. PETERS
United States Senator

Sincerely,



KELLY A. AYOTTE
United States Senator



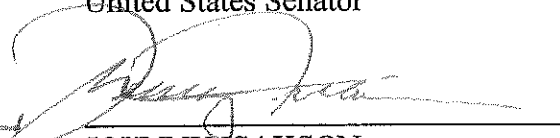
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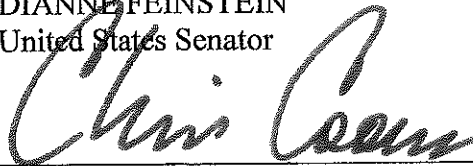
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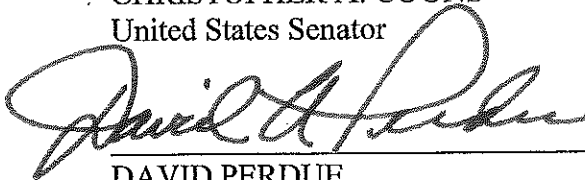
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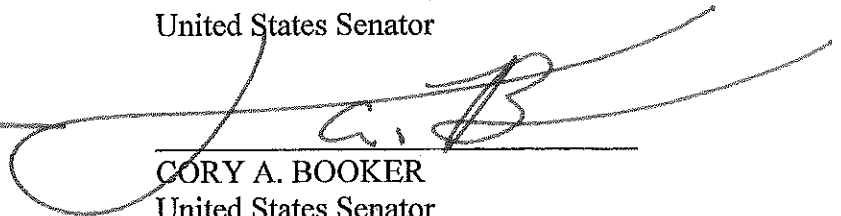
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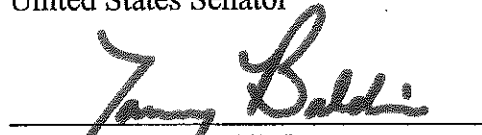
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Why FBI Director Comey is wrong

Recently, FBI Director James Comey, who by the way has never served as a law enforcement officer at any point in his career, again made statements that I feel just do not accurately portray why crime may be on the rise.

In February of this year, Director Comey made a comment that police officers needed to acknowledge the widespread existence of unconscious bias” in the law enforcement community. His comments were a veiled way of saying that the men and women in blue across the United States have racist tendencies.

Comey, made these comments in the wake of the events in Ferguson, Missouri, in 2014. He was basically asserting that it is this unconscious bias that is causing distrust between communities and their law enforcement officers.

I reject this claim, and again reiterate that, when law enforcement is the only part of government that citizens see on a regular basis, we become the focus of community distrust of the government. When politicians use their police to deal with years of inequities and urban blight and do nothing to try to build a better life for their citizens, then it is these politicians, and not the police, who have failed their citizens. Law enforcement are generally left to deal with all of the issues that other parts of government tend to avoid.

We know that daily law enforcement is called on to reduce crime “for the quality of life,” but when the underlying causes of crime are not addressed in communities, and important social issues are not addressed, these communities cannot improve. When law enforcement is the only government representative that a community sees, it becomes the face of the enemy. Many of us in law enforcement have been saying and will continue to say that the distrust of government starts at a much higher level, and that the major issue and common denominator in communities that have trust issues is poverty.

Director Comey, **we do know what’s going on in neighborhoods that mistrust law enforcement**, because we are the only ones doing anything to help these communities.


In Chicago earlier this week, Comey again addressed a forum at the University of Chicago and amazingly blamed law enforcement for the uptick in violent crime in many parts of the United States. Comey basically repeated the notion that the rise in violent crime in certain cities may be a result of less aggressive policing due to increased scrutiny officers in the wake of recent high-profile police killings of black men.

As a reminder to America’s top cop, people who break the law, and only those people, cause crime. Are police officers dealing with anxiety and stress over the lack of public support? Absolutely. But to blame the rise in crime on officers’ behavior is just not grounded in fact and is wrong.

Police officers have not been “chilled,” and have not stopped responding to calls, especially high priority calls that involve violence. This is evidenced by the fact that 32 police officers have been killed by firearms already this year. Officers who are killed or injured in the line of duty does not show a lack of engagement; it shows engagement. Reductions in public contacts are more the result of less police on the street than it is on officers being reluctant to act.

Put bluntly, the federal, state, and local governments have shifted the burden of leadership to the men and women of law enforcement, and we are seeing the results. They have stopped preventive patrols, they have reduced the number of officers on the street, and they have given orders, as was evident in Baltimore, for officers to disengage when they see people committing criminal acts. These are the reasons we are seeing a spike in violent crime nationwide. We will see crime go down again when so-called political leaders begin to address root causes of crime and again support law enforcement. It is my assertion that, until the governments of our jurisdictions acknowledge that law enforcement cannot fix failed neighborhoods by themselves, we will continue to see the crime and related problems that we see today.

Is the Criminal-Justice System Racist?

 city-journal.org/html/criminal-justice-system-racist-13078.html

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The race industry and its elite enablers take it as self-evident that high black incarceration rates result from discrimination. At a presidential primary debate this Martin Luther King Day, for instance, Senator Barack Obama charged that blacks and whites “are arrested at very different rates, are convicted at very different rates, [and] receive very different sentences . . . for the same crime.” Not to be outdone, Senator Hillary Clinton promptly denounced the “disgrace of a criminal-justice system that incarcerates so many more African-Americans proportionately than whites.”

If a listener didn’t know anything about crime, such charges of disparate treatment might seem plausible. After all, in 2006, blacks were 37.5 percent of all state and federal prisoners, though they’re under 13 percent of the national population. About one in 33 black men was in prison in 2006, compared with one in 205 white men and one in 79 Hispanic men. Eleven percent of all black males between the ages of 20 and 34 are in prison or jail. The dramatic rise in the prison and jail population over the last three decades—to 2.3 million people at the end of 2007 (see box)—has only amplified the racial accusations against the criminal-justice system.

The favorite culprits for high black prison rates include a biased legal system, draconian drug enforcement, and even prison itself. None of these explanations stands up to scrutiny. The black incarceration rate is overwhelmingly a function of black crime. Insisting otherwise only worsens black alienation and further defers a real solution to the black crime problem.

Racial activists usually remain assiduously silent about that problem. But in 2005, the black homicide rate was over seven times higher than that of whites and Hispanics combined, according to the federal Bureau of Justice Statistics. From 1976 to 2005, blacks committed over 52 percent of all murders in America. In 2006, the black arrest rate for most crimes was two to nearly three times blacks’ representation in the population. Blacks constituted 39.3 percent of all violent-crime arrests, including 56.3 percent of all robbery and 34.5 percent of all aggravated-assault arrests, and 29.4 percent of all property-crime arrests.

The advocates acknowledge such crime data only indirectly: by charging bias on the part of the system’s decision makers. As Obama suggested in the Martin Luther King debate, police, prosecutors, and judges treat blacks and whites differently “for the same crime.”

Let’s start with the idea that cops over-arrest blacks and ignore white criminals. In fact, the race of criminals reported by crime victims matches arrest data. As long ago as 1978, a study of robbery and aggravated assault in eight cities found parity between the race of assailants in victim identifications and in arrests—a finding replicated many times since, across a range of crimes. No one has ever come up with a plausible argument as to why crime victims would be biased in their reports.

Moving up the enforcement chain, the campaign against the criminal-justice system next claims that prosecutors overcharge and judges oversentence blacks. Obama describes this alleged postarrest treatment as “Scooter Libby justice for some and Jena justice for others.” Jena, Louisiana, of course, was where a D.A. initially lodged attempted second-degree murder charges against black students who, in December 2006, slammed a white student’s head against a concrete beam, knocking him unconscious, and then stomped and kicked him in the head while he was down. As Charlotte Allen has brilliantly chronicled in *The Weekly Standard*, a local civil rights activist crafted a narrative linking the attack to an unrelated incident months earlier, in which three white students hung two nooses from a schoolyard tree—a display that may or may not have been intended as a racial provocation. This entrepreneur then embellished the tale with other alleged instances of redneck racism—above all, the initial attempted-murder charges. An enthusiastic national press responded to the bait exactly as intended, transforming the “Jena Six” into victims rather than perpetrators. In the seven months of ensuing headlines and protests, Jena became a symbol of systemic racial unfairness in America’s court system. If blacks were disproportionately in prison, the refrain went, it was because they faced biased prosecutors—like the one in Jena—as well as biased juries and judges.

Backing up this bias claim has been the holy grail of criminology for decades—and the prize remains as elusive as ever. In 1997, criminologists Robert Sampson and Janet Lauritsen reviewed the massive literature on charging and sentencing. They concluded that “large racial differences in criminal offending,” not racism, explained why more blacks were in prison proportionately than whites and for longer terms. A 1987 analysis of Georgia felony convictions, for example, found that blacks frequently received disproportionately lenient punishment. A 1990 study of 11,000 California cases found that slight racial disparities in sentence length resulted from blacks’ prior records and other legally relevant variables. A 1994 Justice Department survey of felony cases from the country’s 75 largest urban areas discovered that blacks actually had a lower chance of prosecution following a felony than whites did and that they were less likely to be found guilty at trial. Following conviction, blacks were more likely to receive prison sentences, however—an outcome that reflected the gravity of their offenses as well as their criminal records.

Another criminologist—easily as liberal as Sampson—reached the same conclusion in 1995: “Racial differences in patterns of offending, not racial bias by police and other officials, are the principal reason that such greater proportions of blacks than whites are arrested, prosecuted, convicted and imprisoned,” Michael Tonry wrote in *Malign Neglect*. (Tonry did go on to impute malign racial motives to drug enforcement, however.) The media’s favorite criminologist, Alfred Blumstein, found in 1993 that blacks were significantly underrepresented in prison for homicide compared with their presence in arrest.

This consensus hasn’t made the slightest dent in the ongoing search for systemic racism. An entire industry in the law schools now dedicates itself to flushing out prosecutorial and judicial bias, using ever more complicated statistical artillery. The net result? A few new studies show tiny, unexplained racial disparities in sentencing, while other analyses continue to find none.

Any differences that do show up are trivially small compared with the exponentially greater rates of criminal offending among blacks. No criminologist would claim, moreover, to have controlled for every legal factor that affects criminal-justice outcomes, says Patrick Langan, former senior statistician for the Bureau of Justice Statistics. Prosecutors and judges observe the heinousness of a defendant's conduct, for example, but a number-crunching researcher has no easy way to discover and quantify that variable.

Some criminologists replace statistics with High Theory in their search for racism. The criminal-justice system does treat individual suspects and criminals equally, they concede. But the problem is how society *defines* crime and criminals. Crime is a social construction designed to marginalize minorities, these theorists argue. A liberal use of scare quotes is virtually mandatory in such discussions, to signal one's distance from primitive notions like "law-abiding" and "dangerous." Arguably, vice crimes are partly definitional (though even there, the law enforcement system focuses on them to the extent that they harm communities). But the social constructivists are talking about all crime, and it's hard to see how one could "socially reconstruct" assault or robbery so as to convince victims that they haven't been injured.

Unfair drug policies are an equally popular explanation for black incarceration rates. Legions of pundits, activists, and academics charge that the war on drugs is a war on minorities—a de facto war at best, an intentional one at worst.

Playing a starring role in this conceit are federal crack penalties, the source of the greatest amount of misinformation in the race and incarceration debate. Crack is a smokeable and highly addictive cocaine concentrate, created by cooking powder cocaine until it hardens into pellets called "rocks." Crack produces a faster—and more potent—high than powder cocaine, and it's easier to use, since smoking avoids the unpleasantness of needles and is more efficient than snorting. Under the 1986 federal Anti-Drug Abuse Act, getting caught with five grams of crack carries a mandatory minimum five-year sentence in federal court; to trigger the same five-year minimum, powder-cocaine traffickers would have to get caught with 500 grams. On average, federal crack sentences are three to six times longer than powder sentences for equivalent amounts.

The media love to target the federal crack penalties because crack defendants are likely to be black. In 2006, 81 percent of federal crack defendants were black, while only 27 percent of federal powder-cocaine defendants were. Since federal crack rules are more severe than those for powder, and crack offenders are disproportionately black, those rules must explain why so many blacks are in prison, the conventional wisdom holds.

But consider the actual number of crack sellers sentenced in federal court each year. In 2006, 5,619 were tried federally, 4,495 of them black. From 1996 to 2000, the federal courts sentenced more powder traffickers (23,743) than crack traffickers (23,121). It's going to take a lot more than 5,000 or so crack defendants a year to account for the 562,000 black prisoners in state and federal facilities at the end of 2006—or the 858,000 black prisoners in custody

overall, if one includes the population of county and city jails. Nor do crack/powder disparities at the state level explain black incarceration rates: only 13 states distinguish between crack and powder sentences, and they employ much smaller sentence differentials.

The press almost never mentions the federal methamphetamine-trafficking penalties, which are identical to those for crack: five grams of meth net you a mandatory minimum five-year sentence. In 2006, the 5,391 sentenced federal meth defendants (nearly as many as the crack defendants) were 54 percent white, 39 percent Hispanic, and 2 percent black. But no one calls the federal meth laws anti-Hispanic or anti-white.

Nevertheless, the federal crack penalties dominate discussions on race and incarceration because they seem to provide a concrete example of egregious racial disparity. This leads to a commonly expressed syllogism: crack penalties have a disparate impact on blacks; disparate impact is racist; therefore, crack penalties are racist. This syllogism has been particularly prominent recently, thanks to the U.S. Sentencing Commission's 2007 decision to lighten federal crack penalties retroactively in the name of racial equity.

The press has covered this development voraciously, serving up a massive dose of crack revisionism aimed at proving the racist origins of the war on crack. Crack was never a big deal, the revisionist story line goes. But when Boston Celtics draft pick Len Bias died of a crack overdose in 1986, the media went into overdrive covering the crack phenomenon. "Images—or perhaps anecdotes—about the evils of crack, and the street crime it was presumed to stoke" circulated, as the *New York Times* archly put it in a December 2007 article. A "moral panic" (Michael Tonry's term) ensued about an imaginary threat from a powerless minority group. Whites feared that addicted blacks would invade their neighborhoods. Sensational stories about "crack babies" surfaced. All this hysteria resulted in the unnecessary federal crack penalties.

Since the 1980s, the revisionist narrative continues, experts have determined that powder and crack show more pharmacological "similarities than differences," in the *Times's* words, and that crack is no more damaging to fetuses than alcohol. The belief that crack was an inner-city scourge was thus a racist illusion, and the sentencing structure to quell it a racist assault. Or, as U.S. District Judge Clyde Cahill put it, in what one hopes is not a representative sample of the federal judicial temperament: "Legislators' unconscious racial aversion towards blacks, sparked by unsubstantiated reports of the effects of crack, reactionary media prodding, and an agitated constituency, motivated the legislators . . . to produce a dual system of punishment."

Leave aside the irony of the press's now declaring smugly that the press exaggerated the ravages of crack. (The same *New York Times* that now sneers at "images—or perhaps anecdotes—about the evils of crack" ran searing photos of crack addicts in 1993 that included a woman kneeling before a crack dealer, unzipping his fly, a baby clinging to her back; such degraded prostitutes, known as "strawberries," were pervasive casualties of the epidemic.) The biggest problem with the revisionist narrative is its unreality. The assertion that concern about crack resulted from "unconscious racial aversion towards blacks" ignores a key fact: black leaders were the first to sound the alarm about the drug, as Harvard law professor Randall

Kennedy documents in *Race, Crime, and the Law*. Harlem congressman Charles Rangel initiated the federal response to the epidemic, warning the House of Representatives in March 1986 that crack had made cocaine “frightening[ly]” accessible to youth. A few months later, Brooklyn congressman Major Owens explicitly rejected what is now received wisdom about media hype. “None of the press accounts really have exaggerated what is actually going on,” Owens said; the crack epidemic was “as bad as any articles have stated.” Queens congressman Alton Waldon then called on his colleagues to act: “For those of us who are black this self-inflicted pain is the worst oppression we have known since slavery. . . . Let us . . . pledge to crack down on crack.” The bill that eventually passed, containing the crack/powder distinction, won majority support among black congressmen, none of whom, as Kennedy points out, objected to it as racist.

These politicians were reacting to a devastating outbreak of inner-city violence and addiction unleashed by the new form of cocaine. Because crack came in small, easily digestible amounts, it democratized what had been a rarefied drug, making an intense high available to people with very little money. The crack market differed radically from the discreet phone transactions and private deliveries that characterized powder-cocaine distribution: volatile young dealers sold crack on street corners, using guns to establish their turf. Crack, homicides, and assaults went hand in hand; certain areas of New York became “like a war zone,” retired DEA special agent Robert Stutman told PBS’s *Frontline* in 2000. The large national spike in violence in the mid-1980s was largely due to the crack trade, and its victims were overwhelmingly black inner-city residents.

Though the elites are furiously rewriting crack history, many people who lived through it are not. In April 2007, Los Angeles prosecutor Robert Grace won the conviction of a crack dealer who had raped and strangled to death ten strawberries between 1987 and 1998. The “crack epidemic was one of the worst things that happened to the black and brown community,” Grace asserts. Matthew Kennedy managed an infamous public housing project in Watts during the crack epidemic. “Some of us remember how bad it was,” he says. When children avoid school for fear of getting shot by drug gangs, “you’ve just lost that generation.” Lawrence Tolliver has witnessed his share of shootings outside his South Central barbershop. “Sometimes it was so bad you had to scout the horizon like a gazelle at a watering hole in Africa,” he recalls.

It takes shameless sleight of hand to turn an effort to protect blacks into a conspiracy against them. If Congress had ignored black legislators’ calls to increase cocaine-trafficking penalties, the outcry among the groups now crying racism would have been deafening. Yes, a legislative bidding war drove federal crack penalties ultimately to an arbitrary and excessive point; the reduction of those penalties is appropriate. But what led to the crack-sentencing scheme wasn’t racism but legal logic. Prosecutors rely on heavy statutory penalties to induce defendants to spill the beans on their criminal colleagues. “An amazing public spirit is engendered when you tell someone he is facing 150 years to life but has the possibility of

getting out after eight if he tells you who committed a string of homicides,” says Walter Arsenault, who headed the Manhattan district attorney’s homicide-investigation unit in the 1980s and 1990s.

Race activists endlessly promote the claim that the draconian federal crack laws are sweeping up mere sad sacks with a little extra crack to spare. But anyone who fits that description is exempt from the federal sentencing scheme. Traffickers with only a modest criminal history who didn’t injure others or have a gun when arrested can escape the mandatory federal sentences if they don’t lie to the government about their offense (there is no requirement to rat out others). In 2006, only 15.4 percent of crack-cocaine defendants qualified for this safety-valve provision, compared with 48.4 percent of powder-cocaine offenders; in 2000, even fewer crack defendants qualified—12.6 percent. Crack sellers seldom merit the escape clause because their criminal histories tend to be much more severe than powder sellers’ and because they’re more likely to have or use weapons. The congressional distinction between crack and powder sellers, it turns out, had a firm grounding.

Equally misleading is the criticism that few crack “kingpins” can be found in federal prison. This is not surprising, because “kingpins” in the traditional sense—heads of major drug-importing rings—don’t exist in the crack world. Crack is not imported but cooked up locally. Its supply and distribution scheme is more horizontal than vertical, unlike that of powder cocaine and heroin. Federal crack enforcement wasn’t about stopping the flow of illegal drugs into the country; it was about stopping urban violence. And that violence was coming from street dealers.

Critics follow up their charges about crack with several empirical claims about drugs and imprisonment. None is true. The first is that drug enforcement has been the most important cause of the overall rising incarceration rate since the 1980s. Yet even during the most rapid period of population growth in prisons—from 1980 to 1990—36 percent of the growth in state prisons (where 88 percent of the nation’s prisoners are housed) came from violent crimes, compared with 33 percent from drug crimes. Since then, drug offenders have played an even smaller role in state prison expansion. From 1990 to 2000, violent offenders accounted for 53 percent of the census increase—and all of the increase from 1999 to 2004.

Next, critics blame drug enforcement for rising racial disparities in prison. Again, the facts say otherwise. In 2006, blacks were 37.5 percent of the 1,274,600 state prisoners. If you remove drug prisoners from that population, the percentage of black prisoners drops to 37 percent—half of a percentage point, hardly a significant difference. (No criminologist, to the best of my knowledge, has ever performed this exercise.)

The rise of drug cases in the criminal-justice system has been dramatic, it’s important to acknowledge. In 1979, drug offenders were 6.4 percent of the state prison population; in 2004, they were 20 percent. Even so, violent and property offenders continue to dominate the ranks: in 2004, 52 percent of state prisoners were serving time for violence and 21 percent for property crimes, for a combined total over three and a half times that of state drug offenders. In federal prisons, drug offenders went from 25 percent of all federal inmates in 1980 to 47.6

percent of all federal inmates in 2006. Drug-war opponents focus almost exclusively on federal, as opposed to state, prisons because the proportion of drug offenders is highest there. But the federal system held just 12.3 percent of the nation's prisoners in 2006.

So much for the claim that blacks are disproportionately imprisoned because of the war on drugs. But a final, even more audacious, argument maintains that incarceration itself, not criminals, causes crime in black neighborhoods. Because blacks have the highest prison rate, this argument holds, incarceration constitutes an unjust and disproportionate burden on them. This idea has gained wide currency in the academic world and in anti-incarceration think tanks. Columbia University law professor Jeffrey Fagan offered a representative version of the theory in a 2003 law review article coauthored with two public health researchers. Sending black males to prison “weakens the general social control of children and especially adolescents,” Fagan writes. Incarceration increases the number of single-parent households. With adult males missing from their neighborhoods, boys will be more likely to get involved in crime, since they lack proper supervision. The net result: “Incarceration begets more incarceration [in] a vicious cycle.”

A few questions present themselves. How many convicts were living in a stable relationship with the mother (or one of the mothers) of their children before being sent upstate? (Forget even asking about their marriage rate.) What kind of positive guidance do men who are committing enough crimes to end up in prison, rather than on probation (an exceedingly high threshold), provide to young people? Further, if Fagan is right that keeping criminals out of prison and on the streets preserves a community's social capital, inner cities should have thrived during the 1960s and early 1970s, when prison resources contracted sharply. In fact, New York's poorest neighborhoods—the subject of Fagan's analysis—turned around only in the 1990s, when the prison population reached its zenith.

Fagan, like many other criminologists, conflates the effects of prison and crime. Neighborhoods with high incarceration rates suffer disproportionate burdens, he claims. Firms are reluctant to locate in such areas, decreasing job opportunities. Police pay closer attention to these high-incarceration zones, increasing the chance that any given criminal within them will wind up arrested. Thus, incarceration “provides a steady supply of offenders for more incarceration.” But if business owners think twice about certain communities, it's because they fear crime, not a high concentration of ex-convicts per se. It's unlikely that prospective employers even know the population of ex-cons in a neighborhood; what they are aware of is its crime rates. And an employer who hesitates to hire an ex-con is almost certainly reacting to his criminal record, even if he has been given community probation instead of prison. Likewise, if the police give extra scrutiny to neighborhoods with many ex-convicts, it's because those convicts commit a lot of crime. Finally, putting more criminals on probation, rather than sending them to prison—as Fagan and others advocate—would only increase law enforcement surveillance of high-crime neighborhoods.

This popular “social ecological” analysis of incarceration, as Fagan and other criminologists call it, treats prison like an outbreak of infectious disease that takes over certain communities, felling people on a seemingly random basis. “As the risks of going to jail or prison grow over

time for persons living in those areas, their prospects for marriage or earning a living and family-sustaining wage diminish as the incarceration rates around them rise,” Fagan says. This analysis elides the role of individual will. Fagan and others assume that once one lives in a high-incarceration—that is, high-crime—area, one can do little to avoid prison. But even in the most frayed urban communities, plenty of people choose to avoid the “Life.” Far from facing diminished marriage prospects, an upstanding, reliable young man in the inner city would be regarded as a valuable catch.

No one doubts that having a criminal record—whether it results in community probation or prison—is a serious handicap. People convicted of crimes compete for jobs at a clear disadvantage with those who have stayed crime-free. But for all the popularity of the view that the system is to blame, it’s not hard to find dissenters who believe that individuals are responsible for the decision to break the law. “My position is not hard,” says public housing manager Matthew Kennedy. “You don’t have to do that crime.” Kennedy supported President Bill Clinton’s controversial 1996 “one-strike” rule for public housing, which allowed housing authorities to evict drug dealers and other lawbreaking tenants on their first offense. “I’m trying to protect the good people in my community,” Kennedy explains. “A criminal record is preventable. It’s all on you.” Kennedy has no truck with the argument that it is unfair to send ex-offenders back to prison for violations of their parole conditions, such as staying away from their gang associates and hangouts. “Where do they take responsibility for their own actions?” he wonders. “You’ve been told, ‘Don’t come back to this community.’ Why would you come back here? You’ve got to change your ways, change the habits that got you in there in the first place.”

Though you’d never know it from reading the academic literature, some people in minority communities even see prison as potentially positive for individuals as well as for communities. “I don’t buy the idea that there’s no sense to prison,” says Clyde Fulford, a 54-year-old lifelong resident of the William Mead Homes, a downtown Los Angeles housing project. Having raised his children to be hardworking, law-abiding citizens, Fulford is a real role model for his neighborhood, not the specious drug-dealing kind posited by the “social ecological” theory of incarceration. “I know a lot of people who went to prison,” Fulford says. “A lot changed they life for the better. Prison was they wake-up call.” Is prison unavoidable and thus unfair? “They knew they was going to pay. It’s up to that person.” What if the prisoners hadn’t been locked up? “Many would be six feet under.”

Robert Grace, the Los Angeles prosecutor, is acutely aware of the fragility and preciousness of the rule of law. “As a civilized society, we can’t allow what’s happening in Latin America to take over here,” he says. “Venezuela and Mexico are awash in appalling violence because they don’t respect the law.” Thus, when prominent figures like Barack Obama make sweeping claims about racial unfairness in the criminal-justice system, they play with fire. “For any political candidate to make such claims out of expediency is wrong,” Grace says. “If they have statistics that back up the claim, I’d like to see them. But to create phony perceptions of injustice is as wrong as not doing anything about the real thing.”

The evidence is clear: black prison rates result from crime, not racism. America’s

comparatively high rates of incarceration are nothing to celebrate, of course, but the alternative is far worse. The dramatic drop in crime in the 1990s, to which stricter sentencing policies unquestionably contributed, has freed thousands of law-abiding inner-city residents from the bondage of fear. Commerce and street life have revived in those urban neighborhoods where crime has fallen most.

The pressure to divert even more offenders from prison, however, will undoubtedly grow. If a probation system can finally be crafted that provides as much public safety as prison, we should welcome it. But the continuing search for the chimera of criminal-justice bigotry is a useless distraction that diverts energy and attention from the crucial imperative of helping more inner-city boys stay in school—and out of trouble.

Punishment and Crime

Those who tar the criminal-justice system as racist often make a broader claim: incarceration doesn't even lower crime, making the nation's skyrocketing prison rolls a particularly senseless injustice.

Incarceration foes are right about one thing: the U.S. prison population has swollen dramatically over the last three decades. The per-capita rate of imprisonment increased three times from 1973 to 2000; the number of state and federal prisoners grew fivefold between 1977 and 2007, from 300,000 to 1.59 million. When inmates in jails are included, the total number in correctional facilities at the end of 2007 was 2.3 million, according to the Pew Center on the States. One in 100 adults is in custody.

This expansion represents a resounding rejection of the reigning crime philosophy of the 1960s. The 1967 report of the President's Commission on Law Enforcement and Administration of Justice, a classic Great Society document, argued that society could reduce crime only by eliminating poverty and racism, ideally through government-funded social programs. Consistent with this theory, prison capacity began dropping during the sixties and only stopped falling during the late 1970s, when crime reached intolerable levels. Thereafter, the states started adding prison beds and passing laws to keep offenders locked up longer and to reduce judicial discretion to issue very lenient sentences.

Few subjects have proved more contested in criminology than whether this prison buildup lowered crime—and, if so, by how much. Anyone entering the thickets of incarceration studies should abandon all commonsense assumptions, such as that locking away, say, a burglar, would reduce burglary rates. Not so, say the criminologists, and at first glance, the crime data from the late-twentieth-century prison expansion seem to support them. Only after 1991 was the rise in incarceration consistently accompanied by decreasing crime rates; in the 1980s, crime went up and down, even as the prison population steadily grew. And now that crime is falling, the criminology world finds itself even more puzzled by why the prison population keeps increasing.

Two of the most common theories as to why prison doesn't lower crime are logically weak and empirically ungrounded. The first is that locking a criminal up won't decrease crime, since

another criminal will replace him. Yet while crimes meeting an illicit consumer demand may operate within a supply-and-demand framework, opportunities for violence and property crimes hit no natural ceiling. There are plenty of potential victims of violence and theft to go around; a potential robber need not wait for a competitor to go to jail before he can begin his own crime spree.

The second theory to explain why prison doesn't work applies the law of diminishing returns to incarceration. As we lock up ever more people, we start scraping the bottom of the criminal barrel, the critics say. The prisoners we incarcerate become more innocuous than those picked up initially, so we get a diminishing bang for the buck for every new prisoner sent away.

However impeccable the economic reasoning behind this claim, there is no empirical evidence for it. The diminishing-returns argument assumes that the universe of unapprehended and unincarcerated criminals is shrinking. It is not. The chances of getting caught and sent to prison remain extraordinarily low. The JFA Institute, an anti-incarceration advocacy group, estimated in 2007 that in only 3 percent of violent victimizations and property crimes does the offender end up in prison. In 2004, only 1.6 percent of burglars were in prison, according to the Bureau of Justice Statistics. The people in prison today, says statistician Patrick Langan, are "not very different from prisoners in the past, in terms of their prior records."

In the overwhelming majority of cases, whatever the race of the convicted, prison remains what it has always been: a lifetime achievement award for persistence in criminal offending. Absent recidivism or a violent crime, the criminal-justice system will do everything it can to keep you out of the state or federal slammer. It can be disconcerting for the average law-abiding citizen to hear a prosecutor's typology of the crime universe: most thefts, for example, are considered "nonserious crimes" that do not merit prison sentences, unless they concern a huge amount of money or took place in the victim's presence. Steal an unoccupied car or burgle an unoccupied home and you'll probably get probation; hijack a car from a driver or stick up a pedestrian, however, and you'll probably go to prison.

Columbia University law professor Dan Richman had a chance to test the "harmless offenders in prison" claim as chair of New York City's Local Conditional Release Commission. Richman studied the criminal profile of Rikers jail inmates in late 2004. Jails are supposed to be where the most "innocuous" lawbreakers end up—those with misdemeanor convictions or sentences of less than a year. "It struck me how serious the offenders were," he says. "I'd come from the academy, where there's persuasive writing about over-incarceration. I had assumed there would be mostly first-time offenders in jail, but it wasn't true." About 40 percent of the inmates had prior felony convictions, Richman discovered, and the inmates' most recent offenses, which had put them in jail this time around, were usually serious. People in for assault would have pleaded down from attempted manslaughter; possession pleaded down from distribution. "These weren't people who were there by accident," says Richman.

One can also test the theory that locking away offenders doesn't lower crime by seeing what prisoners do when they get out. The Bureau of Justice Statistics studied the postprison careers of over 272,000 state prisoners released in 1994. Within three years, 67.5 percent of the group

had been rearrested for 744,000 new felonies and serious misdemeanors. How many additional crimes they committed during those three years before getting arrested is unknown; estimates of the number of crimes that a typical unapprehended criminal commits per year range from zero to several hundred. And the ex-cons' post-release crime spree seems not to have resulted from the negative effects of prison itself, since convicts who spent the longest time behind bars had significantly lower rearrest rates than others.

Not all criminologists and law professors dispute that prison lowers crime. University of Chicago economist Steve Levitt hypothesized in 1996 that had incarceration rates not risen sharply from 1971 to 1993, violent crime would have been 70 percent higher and property crime almost 50 percent higher. More typical estimates attribute 10 to 25 percent of the 1990s crime drop to incarceration. And Berkeley law professor Franklin Zimring rejected the diminishing-returns argument against incarceration in his 2007 book *The Great American Crime Decline*. The fact that crime started dropping consistently only at the end of the decades-long prison buildup makes perfect sense, he argued, since that's when the greatest number of criminals were off the streets.

Heather Mac Donald is a contributing editor of City Journal and the John M. Olin Fellow at the Manhattan Institute. Her latest book, coauthored with Victor Davis Hanson and Steven Malanga, is The Immigration Solution.

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce, Justice, Science
and Related Agencies
Committee on Appropriations
Washington, D.C. 20510

The Honorable Barbara Mikulski
Ranking Member
Subcommittee on Commerce, Justice, Science
and Related Agencies
Committee on Appropriations
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski,

We write to express our strong support for adequate funding for the Justice and Mental Health Collaboration program in the fiscal year (FY) 2016 Commerce, Justice, Science, and Related Agencies Appropriations Act. This program provides state and local governments with the resources necessary to plan and implement initiatives for people with mental illness who interact with the criminal justice system—resources proven to increase public safety, reduce state and local spending, and improve the lives of people with mental illness and of their families.

People with mental health conditions are overrepresented in our criminal justice system. The statistics indicate that individuals with mental illness disproportionately are arrested and incarcerated, and make up a significant percentage of the population not just in jails and prisons, but also on parole and in probation caseloads across the country. According to a U.S. Department of Justice report, approximately 45 percent of federal inmates, 56 percent of state inmates, and 64 percent of jail inmates displayed symptoms of a mental health condition.

Our criminal justice system should not be used as a substitute for a functioning mental health system. Right now, law enforcement officers put their lives at risk every time they are called upon to intervene in a mental health crisis. Our courts are inundated with cases involving people with mental illness. People with mental health conditions in the criminal justice system are poorly served by traditional punishment, and would benefit more from treatment and intensive supervision than incarceration. Additionally, taxpayers are currently footing the bill for high incarceration costs and overcrowded corrections facilities.

The Justice and Mental Health Collaboration program funds innovations that bring together mental health and criminal justice agencies to address the unique needs of persons with mental health conditions. It supports crisis intervention teams, which give law enforcement officers the resources and training they need to identify and properly respond to mental health crises in their communities, as well as mental health courts that direct people with a mental health condition into appropriate treatment and supervision programs. To date, grants awarded under this program funded 115 mental health courts and other court-based initiatives, supported 84 local police and county sheriff departments, and provided a total of 319 grants to 49 states, as well as the District of Columbia, Guam, and American Samoa.

The Justice and Mental Health Collaboration program was first authorized by the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) of 2004, and was reauthorized in 2008, both times with broad bipartisan support. A reauthorization bill introduced in the last Congress had 92 cosponsors from both chambers and both sides of the aisle, and was endorsed by more than 200 law enforcement, mental health, and criminal justice organizations from across the country.

With the responsibility of treating people with mental illness often falling on an already strained criminal justice system, it is clear that we need to direct resources to treatment. The Justice and Mental Health Collaboration program has helped law enforcement officers, judges, corrections officers, and mental health professionals develop more compassionate and cost-effective approaches to incarceration.

We appreciate your subcommittee's past support for the Justice and Mental Health Collaboration program and request that you continue support for this important program in the FY2016 Commerce, Justice, Science, and Related Agencies Appropriations Act.

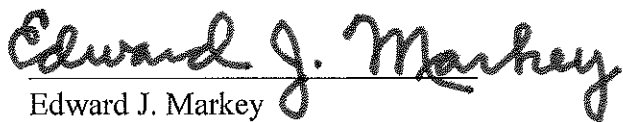
Sincerely,



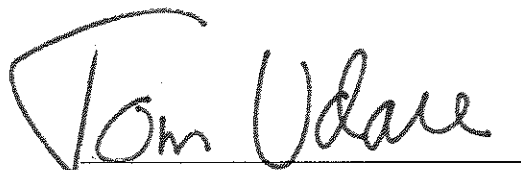
Al Franken
United States Senator



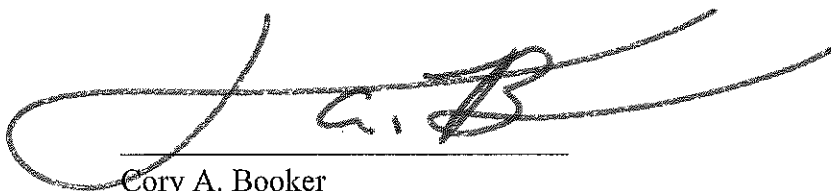
Kelly A. Ayotte
United States Senator



Edward J. Markey
United States Senator



Tom Udall
United States Senator



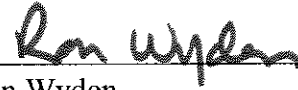
Cory A. Booker
United States Senator



Christopher A. Coons
United States Senator



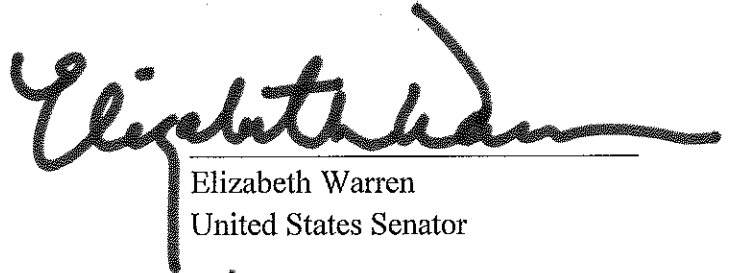
Sherrod Brown
United States Senator




Ron Wyden
United States Senator



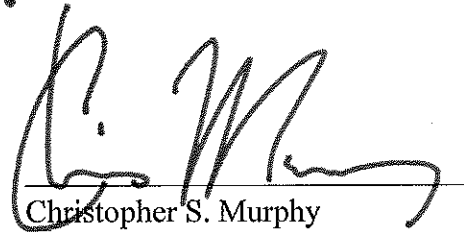
Patrick Leahy
United States Senator



Elizabeth Warren
United States Senator



Jeanne Shaheen
United States Senator



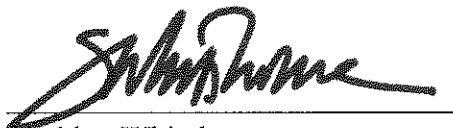
Christopher S. Murphy
United States Senator



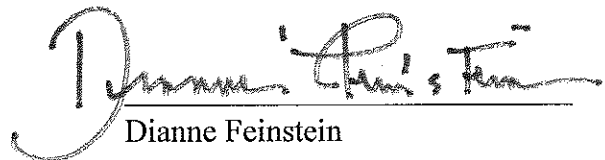
Kirsten Gillibrand
United States Senator



Charles E. Schumer
United States Senator



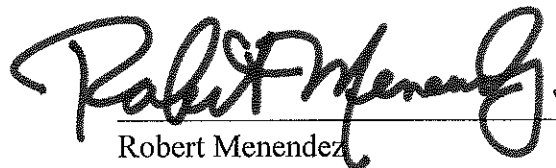
Sheldon Whitehouse
United States Senator



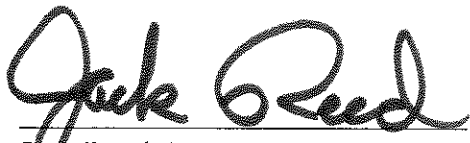
Dianne Feinstein
United States Senator



Barbara Boxer
United States Senator



Robert Menendez
United States Senator



Jack Reed
United States Senator



Richard Blumenthal
United States Senator



Tim Kaine
United States Senator



Richard J. Durbin
United States Senator



Amy Klobuchar
United States Senator

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce, Justice
Science, and Related Agencies
Senate Committee on Appropriations
Washington, D.C. 20510

The Honorable Barbara Mikulski
Ranking Member
Subcommittee on Commerce, Justice
Science, and Related Agencies
Senate Committee on Appropriations
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski,

We write to thank you for your previous support in funding the John R. Justice prosecutor and defender student loan repayment program, and we urge your continued support for this important program in the Fiscal Year 2016 Commerce, Justice, Science, and Related Agencies Appropriations Act.

Prosecutor and public defender offices across the nation face serious challenges in recruiting and retaining qualified attorneys. The average law student graduates with over \$100,000 in student loan debt, and this debt deters many qualified graduates from even considering a criminal justice career. Of those law graduates who initially accept jobs in the criminal justice system, many soon leave because they cannot pay off their student loans on a prosecutor or public defender salary and because their practical experience makes them marketable for higher-salaried positions at law firms. As a 2013 study by the Illinois State Bar Association concluded, "Law school debt makes it unaffordable to work as a public interest attorney for any significant length of time, depriving public interest offices of their best young attorneys and draining their resources through the need to constantly train new hires."

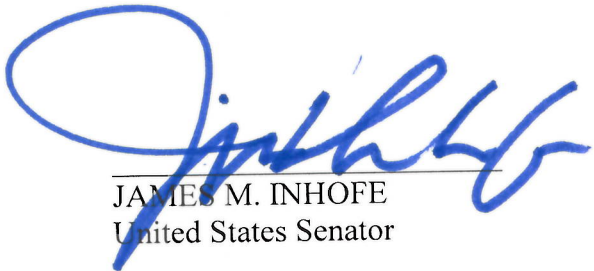
The Department of Justice provides significant grant funding for state and local law enforcement efforts, which reflects Congress' commitment to help states and localities protect the public's safety. However, public safety is undermined when there is a shortage of experienced prosecutors and public defenders to handle criminal cases, as this creates harmful bottlenecks in our states' criminal justice systems. As an October 26, 2011, AP article entitled "State Budget Cuts Clog Criminal Justice System" described, shrinking budgets for prosecutor and public defender offices have a significant impact on the administration of justice in our states. According to the article, "Prosecutors are forced to ignore misdemeanor violations to pursue more serious crimes...in some cases, those charged with violent crimes are set free because caseloads are too heavy to allow a speedy trial." Another report issued in 2011 by the Justice Policy Institute found that 73 percent of county-based public defender offices lack the requisite number of attorneys to meet caseload standards.

Enacted in 2008, the John R. Justice Act created a targeted student loan repayment assistance program to bolster the ranks of talented attorneys in the criminal justice system. Under the program, attorneys can receive federal student loan repayments if they agree to remain employed for at least three years as state or local criminal prosecutors, or as state, local, or federal public defenders. This program is modeled on existing loan repayment programs that cover federal prosecutors and executive branch attorneys and that have demonstrated great success as recruitment and retention tools. The John R. Justice program is the only federal program targeted specifically to bolstering staffing at state and local prosecutor and defender offices.

The John R. Justice Act has been funded by the CJS Subcommittee for the last six fiscal years, and has provided student loan repayment assistance to prosecutors and defenders in every state in exchange for making three-year commitments to the criminal justice system. For example, according to statistics reported by the administering agencies in each state, 1,160 prosecutors and 895 public defenders across the nation received assistance under the program's FY12 allocation of \$4 million. This represents a significant benefit for state criminal justice systems at a mere fraction of the amount that Congress appropriates each year for state and local law enforcement grants. In light of these benefits, the John R. Justice program enjoys enthusiastic support among the criminal justice community.

The challenges facing our prosecutor and defender offices are serious. The John R. Justice Act is an important tool to help prosecutor and defender offices keep talented attorneys on staff in these challenging times. We urge your support for the John R. Justice program in FY16. Thank you for your consideration of this request.


Sincerely,



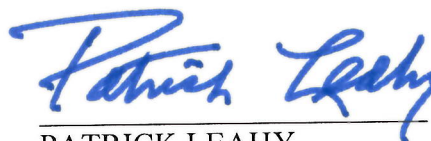
JAMES M. INHOFE
United States Senator



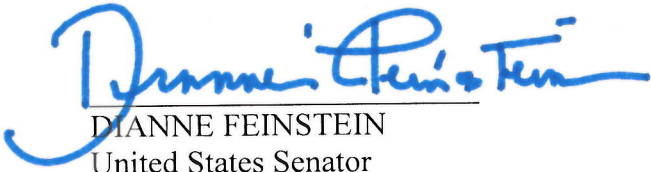
RICHARD J. DURBIN
United States Senator



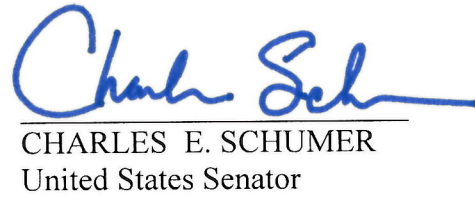
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PATRICK LEAHY
United States Senator



DIANNE FEINSTEIN
United States Senator



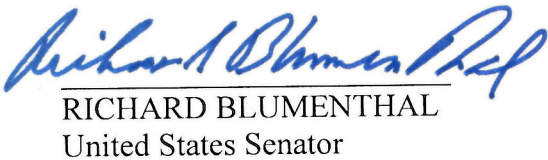
CHARLES E. SCHUMER
United States Senator



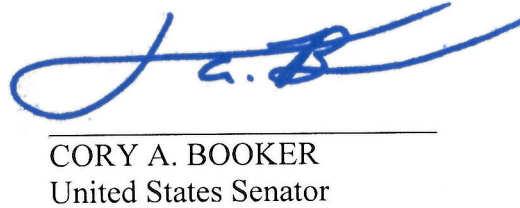
SHELDON WHITEHOUSE
United States Senator



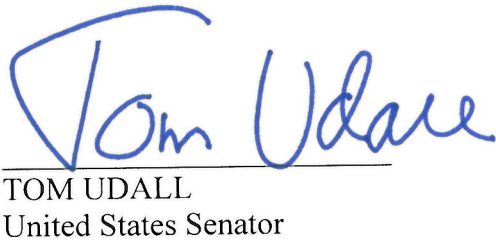
CHRISTOPHER A. COONS
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RICHARD BLUMENTHAL
United States Senator



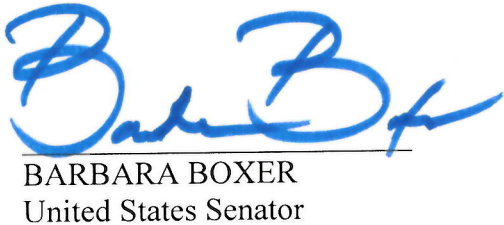
CORY A. BOOKER
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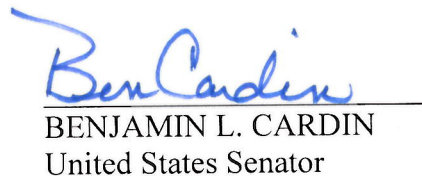
TOM UDALL
United States Senator



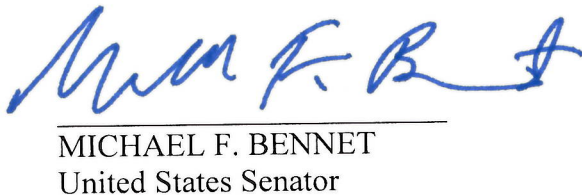
EDWARD J. MARKEY
United States Senator



BARBARA BOXER
United States Senator



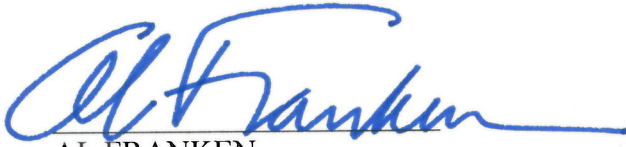
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United States Senator



MICHAEL F. BENNET
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RON WYDEN
United States Senator



AL FRANKEN
United States Senator



SHERROD BROWN
United States Senator



ELIZABETH WARREN
United States Senator



ROBERT MENENDEZ
United States Senator



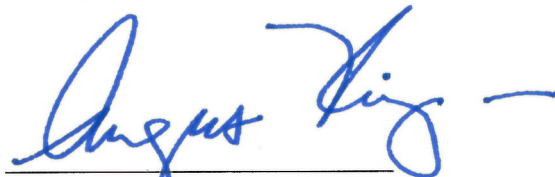
KIRSTEN GILLIBRAND
United States Senator



MARTIN HEINRICH
United States Senator



MARK R. WARNER
United States Senator



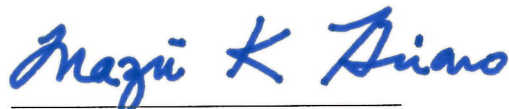
ANGUS S. KING, JR.
United States Senator



GARY C. PETERS
United States Senator



AMY KLOBUCHAR
United States Senator



MAZIE K. HIRONO
United States Senator

Justice, police unions finding common ground



Kevin Johnson, USA TODAY

4:43 p.m. EDT July 15, 2015



(Photo: Tony Dejak, AP)

WASHINGTON — As the Justice Department weighed its strategy for responding to the crisis that engulfed the [Baltimore Police Department](#) earlier this year, top police union officials found themselves in a most unlikely place: a conference table in the Justice Department's [Civil Rights Division](#), talking with the very people who would shape the federal government's plan.

Rarely in the past six years, when more than 20 local police agencies have drawn the department's scrutiny for excessive force and discrimination, had union officials—traditional adversaries in federal civil rights inquiries — been included in such a way. Not even during the civil unrest in [Ferguson, Mo.](#), that immediately followed the police shooting of an unarmed black teenager.

"We never got a whiff over there," said Jim Pasco, executive director of the [Fraternal Order of Police](#), the nation's largest police union.

The meeting — which included the police union's national president, Chuck Canterbury, Maryland Fraternal Order of Police president Vince Canales, Baltimore Fraternal Order of Police president Gene Ryan and Pasco — signals the emergence of a new relationship between federal authorities seeking to restore public trust in local law enforcement and union leaders who have closely guarded the rights of rank-and-file officers.

Much of the change, analysts say, represents a recognition that labor's involvement is key to the success of federal reform efforts undertaken by the new leadership at Justice's Civil Rights Division, which is increasingly exerting its authority in troubled communities across the country.

"If the Department of Justice wants to see real change, it has to involve the unions, too," [University of Pittsburgh](#) law professor David Harris said. "If they don't involve the unions, at the very least, (any) agreement created may not be as good. At worst, the unions may feel no involvement or obligation and may work to undermine the agreement's success."

[Vanita Gupta](#), named last fall as acting chief of the Civil Rights Division, said that unions were among the first groups she sought out after taking office.

The start of the former ACLU lawyer's tenure — in the wake of continuing unrest in Ferguson — coincided with perhaps one of the most volatile periods in police-community relations in recent history.

"Coming in after Ferguson, there is a much greater focus on the part of everyone," Gupta told USA TODAY. "Unions are looking at these issues, too, because lack of trust has real implications for (officer) safety on the streets.

"These groups require engagement," she said.

Gupta called the May meeting with union officials — which followed the death of Freddie Gray, who died while in the custody of Baltimore police — an opportunity to "demystify what we are doing at the (civil rights) division."



Police stand in front of a burning store in Baltimore on April 27, 2015, during unrest following the funeral of Freddie Gray in Baltimore. (Photo: Patrick Semansky, AP)

"It was a very important meeting, a really productive meeting," Gupta said. The division, meanwhile, is continuing a broad inquiry into Baltimore policing operations.

Pasco, whose organization numbers more than 320,000 members across the country, said that he was first introduced to Gupta in October at a policing conference in Orlando and "walked away feeling that she was somebody I was comfortable working with."

During the height of the Baltimore crisis, Pasco said the police union and the civil right chief were in contact "multiple times a day." It is a line of communication that has remained open and has included other union representatives in local communities where Justice has taken its recent reform efforts.

In Cleveland, the Justice Department reached a deal this spring to place the troubled local police department under the direction of an independent monitor.

A centerpiece of the sweeping Cleveland agreement is a call for local union representation in the creation of a Community Police Commission to address racial bias and police accountability issues. Other members of the commission will be drawn from local civil rights groups and the business community.

Gupta has described the Cleveland agreement as a potential national "model" for police reform efforts across the country.

"We are increasingly building union representation into (local police) agreements," Gupta said. "All of that has to go in the mix."

Chuck Wexler, executive director of the law enforcement think tank [Police Executive Research Forum](#), said greater union involvement also underscores a "recognition among labor leaders that something has to change."

"It's not something that you have seen in the past," Wexler said of the increased role of union leaders, who cited the "magnitude" of recent events as spurring the need for greater cooperation.

"This is our Tylenol moment," Wexler said, referring to the drug-tampering crisis that threatened the iconic pain-killer's brand in 1982. "We all have to figure out how we can do a better job."

It is fitting, perhaps, that when the Fraternal Order of Police celebrates its 100th anniversary next month, Attorney General [Loretta Lynch](#) will be in Pittsburgh to give the keynote address.

"It is more than symbolic," Pasco said. "It is a signal to our members. If they weren't happy with (former attorney General) [Eric Holder](#), then this a person they should consider."

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| Table 47 | | | | | | | | | | | | |
|---|-------------------------------|-------|------|------|------|------|------|------|------|------|------|------|
| Law Enforcement Officers Feloniously Killed | | | | | | | | | | | | |
| Race and Sex of Known Offender, 2005–2014 | | | | | | | | | | | | |
| Known offender | | Total | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
| Number of known offenders | | 563 | 56 | 59 | 66 | 42 | 45 | 80 | 76 | 52 | 28 | 59 |
| Race | White | 309 | 36 | 25 | 35 | 20 | 28 | 32 | 44 | 32 | 15 | 42 |
| | Black | 224 | 20 | 31 | 26 | 21 | 17 | 39 | 28 | 17 | 12 | 13 |
| | Asian/Pacific Islander | 10 | 0 | 0 | 4 | 1 | 0 | 2 | 1 | 1 | 0 | 1 |
| | American Indian/Alaska Native | 9 | 0 | 0 | 0 | 0 | 0 | 4 | 2 | 1 | 0 | 2 |
| | Not reported | 11 | 0 | 3 | 1 | 0 | 0 | 3 | 1 | 1 | 1 | 1 |
| Sex | Male | 545 | 56 | 58 | 65 | 40 | 43 | 78 | 74 | 50 | 27 | 54 |
| | Female | 18 | 0 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 1 | 5 |



MAJOR CITIES CHIEFS ASSOCIATION

Albuquerque
Arlington
Atlanta
Aurora
Austin
Baltimore
Baltimore Co.
Boston
Buffalo
Calgary, Canada
Charlotte-Mecklenburg
Chicago
Cincinnati
Cleveland
Columbus
Dallas
Denver
Detroit
Edmonton, Canada
El Paso
Fairfax County
Fort Worth
Fresno
Honolulu
Houston
Indianapolis
Jacksonville
Kansas City
Las Vegas Metro
London, England
Long Beach
Los Angeles
Los Angeles Co.
Louisville
Manchester, England
Memphis
Mesa
Miami
Miami-Dade
Milwaukee
Minneapolis
Montgomery Co.
Montreal, Canada
Nashville
Nassau Co.
New Orleans
New York City
Newark
Oakland
Oklahoma City
Omaha
Ottawa, Canada
Peel Region, Canada
Philadelphia
Phoenix
Pittsburgh
Portland
Prince George's Co.
Quebec City, Canada
Raleigh
Sacramento
Salt Lake City
San Antonio
San Diego
San Francisco
San Jose
Seattle
St. Louis
Suffolk Co.
Tampa
Toronto, Canada
Tucson
Tulsa
Vancouver, Canada
Virginia Beach
Washington
Winnipeg, Canada

November 11, 2015

Vanita Gupta
Principal Deputy Assistant Attorney General
United States Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530-0001

Dear Vanita:

I am writing for a couple of reasons. First, I want to thank you for your presentation at the Major Cities Chiefs Association Fall Meeting on October 24, 2015 in Chicago. Your presentation was very well received – the Chiefs appreciated your candor in addressing the investigative process and in answering their questions. Your personal appearance was important to them and they appreciated your willingness to accommodate our schedule by traveling to Chicago on a Saturday morning.

Second, thank you for your follow up on the questions concerning the stop data analysis methodology and the monitoring process. I will share this information with MCCA members and, if your schedule permits, you can address these questions in more detail at our winter meeting in February 2016.

The overall consensus of MCCA members is that the patterns and practices investigations have resulted in much needed reform. Where concerns have been about the process we appreciate your ongoing engagement and dialogue. Your effort to reach out to law enforcement to enhance communications and establish a collaborative relationship has been noticed and has made a difference.

You have certainly earned my respect and admiration for your commitment to addressing civil rights issues while recognizing those goals can be achieved more effectively in a collaborative, rather than adversarial process. Though we do understand that is required in some circumstances.

I look forward to working with you and the Civil Rights Division in the future to improve policing in America.

Sincerely,

Darrel W. Stephens
Executive Director

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce, Justice, Science, and Related Agencies
Senate Committee on Appropriations
142 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Barbara A. Mikulski
Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies
Senate Committee on Appropriations
125 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski:

We write to thank you for your continued support of the Regional Information Sharing Systems (RISS) Program, and to urge you to include full funding for RISS in the Fiscal Year 2016 CJS Appropriations Bill.

RISS allows law enforcement agencies across the country to successfully resolve criminal investigations, apprehend and prosecute offenders, and ensure officer and public safety. Agencies from across the country rely on RISS for information and intelligence sharing, officer safety event deconfliction, and investigative support services. RISS serves almost 9,000 state, local, tribal, and federal agencies, including many smaller law enforcement agencies. Through RISS, these agencies receive services and resources that otherwise would not be available to them. RISS also plays an important role in federal information sharing initiatives.

In FY 2011, RISS received \$45 million. Last year, it received \$30 million. Reductions in its funding have had an effect on RISS's law enforcement operations, although the Appropriations Committees have mitigated the potential damage by funding the program at a level higher than that requested in the President's budget for each of the past five years.

RISS supports and partners with 1,057 federal agencies, such as the National Data Exchange, the Office of the Program Manager for the Information Sharing Environment, the Homeland Security Information Network, the United States Secret Service's Targeted Violence Information Sharing System, the Medicaid Fraud Control Units, and the National Motor Vehicle Title Information System. Agencies seek RISS's support because of its proven, trusted, and solutions-based approach.

RISS is an innovative, cost-effective, and evidence-based program that provides an excellent return on investment for our nation. Over the last 10 years, officers leveraging RISS's services have arrested almost 47,000 offenders and seized more than \$600 million in narcotics, property, and currency. More than 40 million intelligence and investigative records are available through


RISS's Secure Cloud (RISSNET). In addition, through the RISS Officer Safety Event Deconfliction Systems (RISSafe), more than 321,000 undercover operations, buy-busts, and other law enforcement events have been identified as possible conflicts, thus avoiding potential blue-on-blue tragedies. Without RISS's services and resources, many more criminals, drugs, stolen property and other contraband would still be on our streets. Every day, officers use RISS to help solve cases and stay safe.

We appreciate your leadership on this and other law enforcement issues, and urge your continued support for RISS in Fiscal Year 2016. If you have any questions about this request, please feel free to contact us or have your staff contact Michael Fischer with Senator Whitehouse at (202) 224-9508 or Elizabeth Frei with Senator Hoeven at (202) 224-2551.

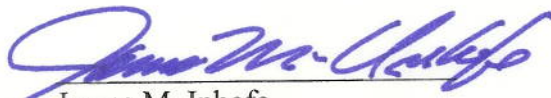
Sincerely,



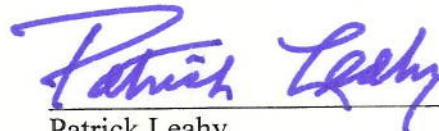
John Hoeven
United States Senator




Sheldon Whitehouse
United States Senator



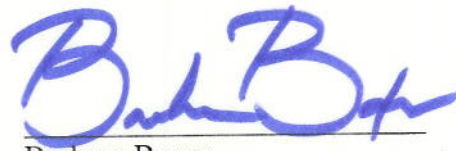
James M. Inhofe
United States Senator



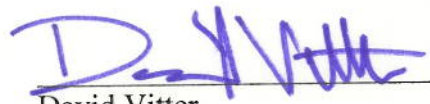
Patrick Leahy
United States Senator



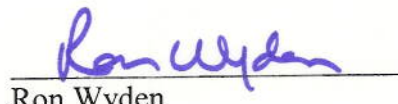
Johnny Isakson
United States Senator



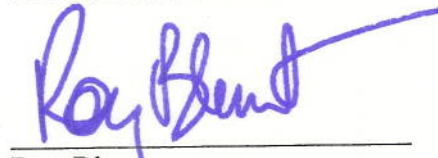
Barbara Boxer
United States Senator



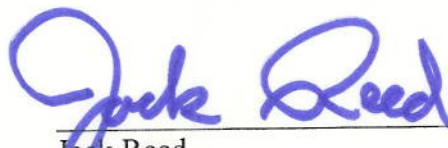
David Vitter
United States Senator



Ron Wyden
United States Senator



Roy Blunt
United States Senator



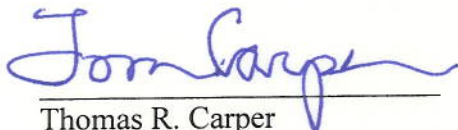
Jack Reed
United States Senator



Kelly Ayotte
United States Senator



Charles E. Schumer
United States Senator



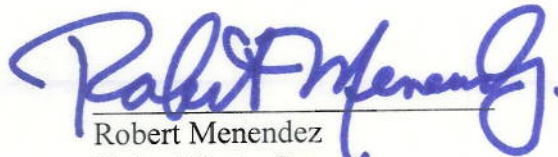
Thomas R. Carper
United States Senator



Debbie Stabenow
United States Senator



Maria Cantwell
United States Senator



Robert Menendez
United States Senator



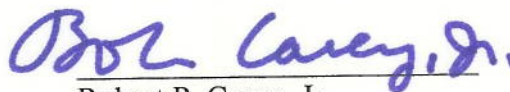
Benjamin L. Cardin
United States Senator



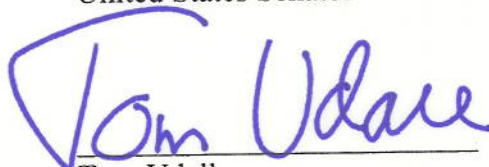
Bernard Sanders
United States Senator



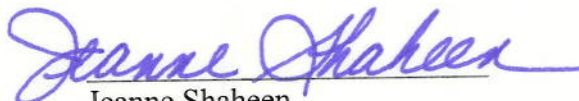
Sherrod Brown
United States Senator



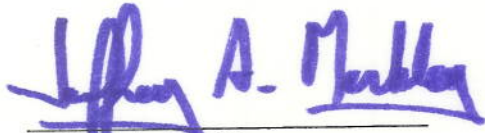
Robert P. Casey, Jr.
United States Senator



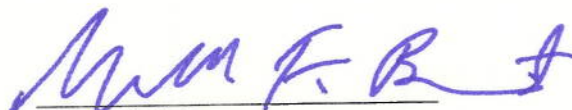
Tom Udall
United States Senator



Jeanne Shaheen
United States Senator



Jeffrey A. Merkley
United States Senator



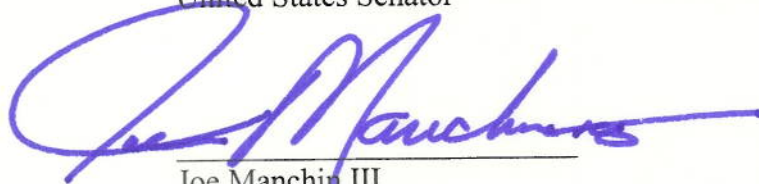
Michael F. Bennet
United States Senator



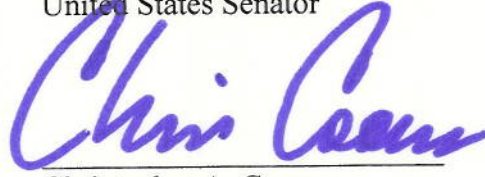
Kirsten Gillibrand
United States Senator



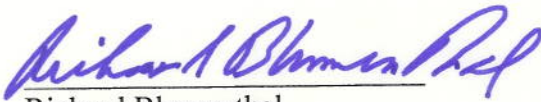
Al Franken
United States Senator



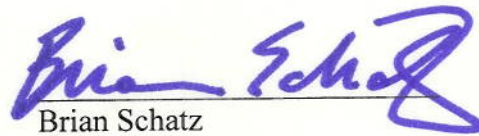
Joe Manchin III
United States Senator



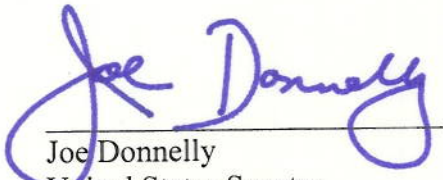
Christopher A. Coons
United States Senator



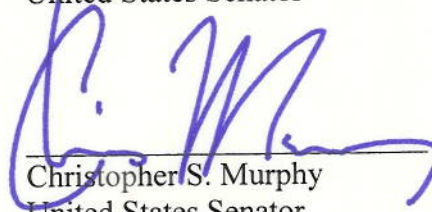
Richard Blumenthal
United States Senator



Brian Schatz
United States Senator



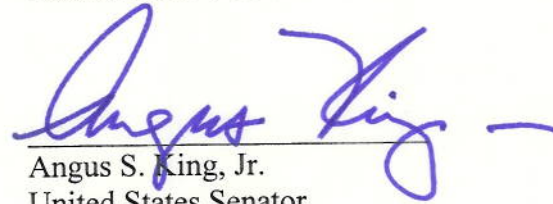
Joe Donnelly
United States Senator



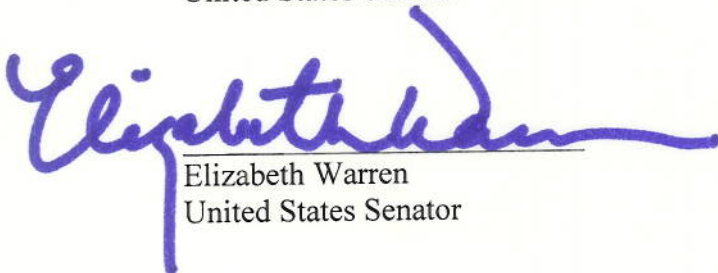
Christopher S. Murphy
United States Senator



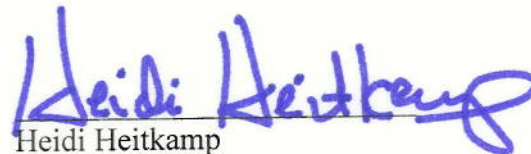
Mazie K. Hirono
United States Senator



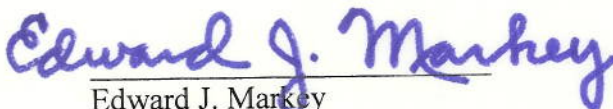
Angus S. King, Jr.
United States Senator



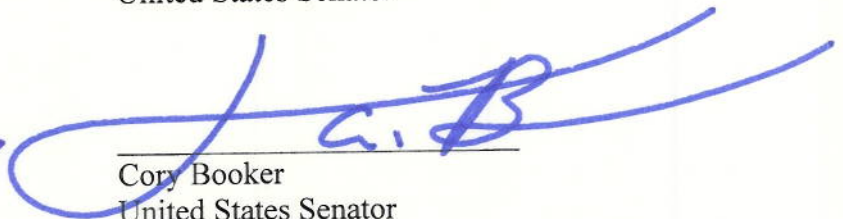
Elizabeth Warren
United States Senator



Heidi Heitkamp
United States Senator



Edward J. Markey
United States Senator



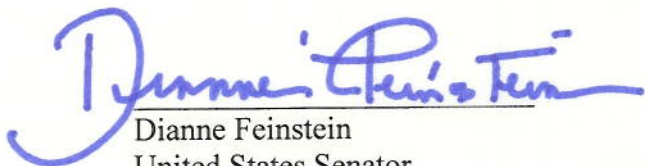
Cory Booker
United States Senator



Gary Peters
United States Senator



Amy Klobuchar
United States Senator



Dianne Feinstein
United States Senator

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard Shelby
Chair, Subcommittee on Commerce,
Justice, Science, and Related Agencies
Committee on Appropriations
Washington, D.C. 20510

The Honorable Barbara Mikulski
Ranking Member, Subcommittee on Commerce
Justice, Science, and Related Agencies
Committee on Appropriations
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski:

Thank you for your leadership on reentry and recidivism investment, and for your continued support of the Second Chance Act. We're writing to request \$100 million for reentry programs authorized by the Second Chance Act.

As you know, the Second Chance Act represents an important federal investment in strategies to increase public safety and reduce recidivism. This legislation, which passed with bipartisan support in 2008, authorizes enhanced corrections and supervision practices, and the development and coordination of reentry services, including employment training, family support, substance abuse treatment, mentoring, and interventions for juveniles.

The Second Chance Act is particularly important as many States—including Vermont and New Hampshire—continue to confront prescription opioid abuse and heroin use epidemics. Through programs funded by the Second Chance Act, we can help to confront these problems. The Second Chance Act supports initiatives like substance abuse treatment for offenders and court diversion programs, which allow offenders charged with minor crimes to keep their records clean if they successfully complete a program designed for them by community members. Community-based law enforcement, including treatment and prevention alternatives, has consistently yielded positive, cost-saving results.

Research shows that more than four in ten people released from prison or jail return within three years. However, evidence-based programs have demonstrated that comprehensive, coordinated services can help people returning from prison and jails succeed in their communities. Since 2009, more than 600 Second Chance Act grant awards have been made to government agencies and nonprofit organizations for reentry programs serving adults and juveniles.

Investment in these effective reentry programs is working. Many States have successfully reduced their statewide recidivism rates and seen other improved outcomes. Here are just a handful of other examples of the innovative, evidence-based initiatives funded through the Second Chance Act that have helped lead to reductions in recidivism:

- After a sharp 40-percent increase over the course of 10 years, recidivism in **Alabama** has steadied and been decreasing for the past 3 years. The recidivism rate for 2010 releases was 32.1 percent, compared to 34 percent for 2008 releases. Alabama officials have continued to fund the L.I.F.E. Tech Transition Center, which offers parolees substance abuse and mental health treatment and cognitive behavioral interventions, all of which

have impacted recidivism and contributed to the center's 89-percent success rate. Alabama is also increasingly considering more efficient ways to hold offenders accountable, expanding the use of community corrections programs to divert nonviolent individuals from prisons and reserving prison space for the most violent and dangerous offenders. From FY06 to FY14, the community corrections population increased from 1,114 to 3,673, a 230-percent increase. Six Second Chance grants have been awarded to agencies and nonprofit organizations in Alabama, including a recent grant to create a day reporting center in Birmingham to continue their efforts to reduce recidivism.

- **Maryland's** recidivism rate has dropped by 15 percent in two years, from 47.8 percent for 2007 releases to 40.5 percent for 2009 releases. The State has received eight Second Chance grants, including an award to the Montgomery County Department of Correction and Rehabilitation, which partners with its local community college and a workforce development organization to offer computer-based training and job placement assistance to individuals within 12 months of their release. Classes range from basic computer skills to college courses in industry-accepted certificate programs. In addition, participants receive targeted reentry services, including substance use treatment, housing, GED classes, and mentoring.
- **Texas** has seen a significant decline in recidivism of **28 percent** since 2000 by expanding the capacity of existing treatment programs and alternatives to incarceration, including transitional housing for parolees, in-prison treatment for substance abuse, and outpatient substance abuse treatment for people under probation supervision. Agencies and organizations in Texas have received a total of 28 Second Chance grants since 2009.
- Recidivism in **Pennsylvania** declined 7.1 percent in just three years, from 43.9 percent for 2007 releases to 40.8 percent for 2010 releases. State officials have prioritized evidence-based practices with correctional populations, including risk assessments to inform supervision and services, graduated sanctions, and therapeutic communities for individuals with substance use disorders. Pennsylvania has received 28 Second Chance grants, including a planning grant to focus on statewide recidivism reduction.
- **South Carolina** recidivism has lowered from 33.5 percent for 2007 releases to 27.5 percent for 2010 releases—a 17.9-percent reduction. In 2010, legislators created alternatives to incarceration for technical violations and ensured that more people receive supervision and support upon release from prison, and officials have expanded trainings for probation and parole agents in effective supervision practices, intensive community supervision and services for high-risk youth, and pre-release treatment for health and behavioral health needs. Two Second Chance grants have been awarded to South Carolina.

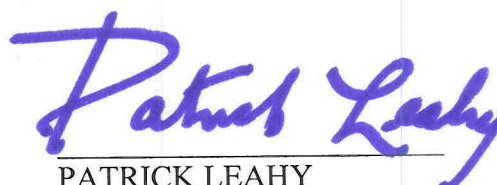
Lower recidivism rates have major implications for public safety. Significant declines in recidivism represent thousands of averted crimes. Decreases in recidivism also represents important cost savings for States – over the last three decades, States' corrections have risen steadily and outpaced the overall growth in State budgets. Programs funded through the Second

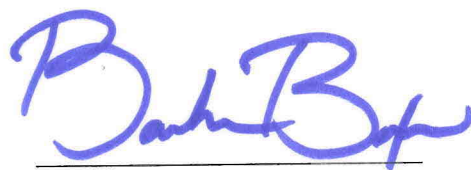
Chance Act have proven effective at reducing recidivism, thereby saving taxpayer dollars and making our communities safer.

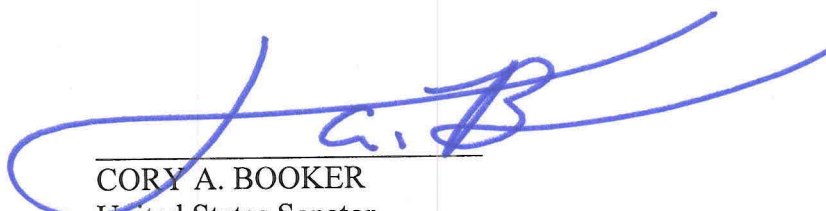
By providing the resources needed to coordinate reentry services and policies at the State, tribal, and local level, the Second Chance Act ensures that the tax dollars spent on corrections do not simply fuel a revolving door in and out of prison and jail. Please support FY2016 funding for the Second Chance Act.

Sincerely,


KELLY A. AYOTTE
United States Senator


PATRICK LEAHY
United States Senator


BARBARA BOXER
United States Senator



CORY A. BOOKER
United States Senator


CHRISTOPHER MURPHY
United States Senator

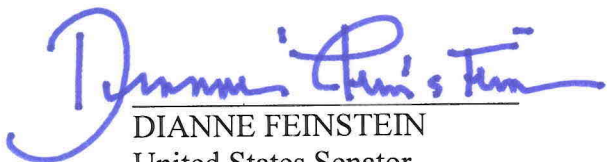

JOE MANCHIN III
United States Senator



AL FRANKEN
United States Senator


JEFFREY A. MERKLEY
United States Senator


CHARLES E. SCHUMER
United States Senator



MAZIE K. HIRONO
United States Senator



DIANNE FEINSTEIN
United States Senator


BENJAMIN L. CARDIN
United States Senator



ROBERT MENENDEZ
United States Senator

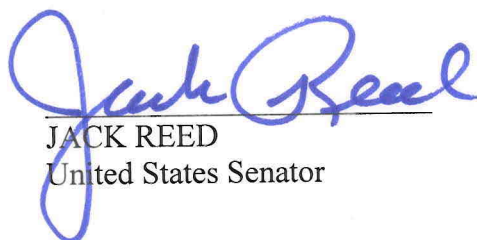

SHELDON WHITEHOUSE
United States Senator



RICHARD BLUMENTHAL
United States Senator

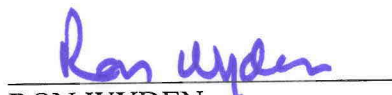

RICHARD J. DURBIN
United States Senator


SHERROD BROWN
United States Senator

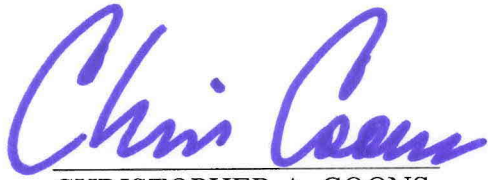

TAMMY BALDWIN
United States Senator


JACK REED
United States Senator



BERNARD SANDERS
United States Senator


RON WYDEN
United States Senator

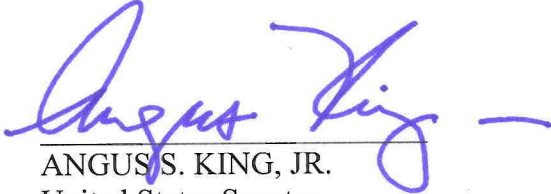

GARY C. PETERS
United States Senator



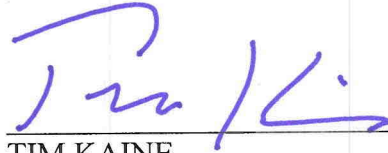
CHRISTOPHER A. COONS
United States Senator



EDWARD J. MARKEY
United States Senator



ANGUS S. KING, JR.
United States Senator



TIM Kaine
United States Senator



KIRSTEN GILLIBRAND
United States Senator



JEANNE SHAHEEN
United States Senator



AMY KLOBUCHAR
United States Senator

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

The Honorable Barbara Mikulski
Ranking Member
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski:

We write to express our strong support for the Debbie Smith DNA Backlog Grant Program which helps law enforcement and forensic labs keep up with the increasing demand for DNA analysis. We request that you provide sufficient funding in FY 2016 for vital DNA-related and forensic programs, including the Debbie Smith DNA Backlog Grant Program, the Kirk Bloodsworth Post Conviction DNA Testing Program, and Sexual Assault Forensic Exam Program Grants.


Since the program was first authorized in 2004, the Debbie Smith DNA Backlog Grant Program has given states the help and resources they desperately need, and continue to need, to carry out DNA analyses of backlogged evidence, particularly rape kits. It has provided a strong starting point in addressing this serious problem, but much work still remains to be done before we clear the national backlog of untested DNA crime scene evidence and offender profiles.


Crime laboratories have made tremendous progress towards increasing the number of DNA cases that can be processed. Unfortunately, forensic DNA is a victim of its own success – as more cases are solved using DNA, law enforcement has asked for even more DNA testing in a more cases. Any decrease in this vital funding for forensic DNA analysis will lead to considerable strain on crime labs as backlogs will grow to unprecedented levels, with impacts that will resound throughout the criminal justice system.

Your subcommittee has long recognized the importance of the Debbie Smith DNA Backlog Grant, and the funding you have appropriated has aided thousands of cases and had a tremendously positive effect on public safety. We strongly urge you to provide sufficient funding for these critical programs.

We appreciate your commitment to solving and preventing violent crime and protecting victims of crime, and we thank you for your commitment to continued funding to maximize the use of DNA to solve crime.


Sincerely,


JOHN CORNYN
United States Senator


PATRICK LEAHY
United States Senator

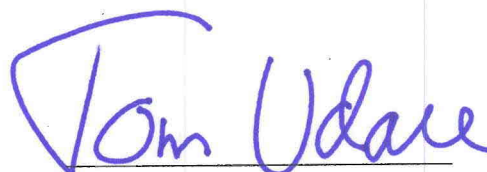

AL FRANKEN
United States Senator


MAZIE K. HIRONO
United States Senator

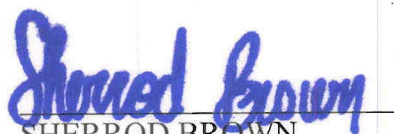

BENJAMIN L. CARDIN
United States Senator



ROBERT MENENDEZ
United States Senator


SHELDON WHITEHOUSE
United States Senator


TOM UDALL
United States Senator


RICHARD BLUMENTHAL
United States Senator


SHERROD BROWN
United States Senator


GARY C. PETERS
United States Senator


CHRISTOPHER A. COONS
United States Senator



MICHAEL F. BENNET
United States Senator



KIRSTEN GILLIBRAND
United States Senator



KELLY A. AYOTTE
United States Senator



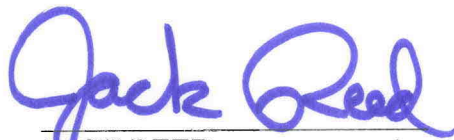
MITCH MCCONNELL
United States Senator



MARK R. WARNER
United States Senator



CHARLES E. GRASSLEY
United States Senator



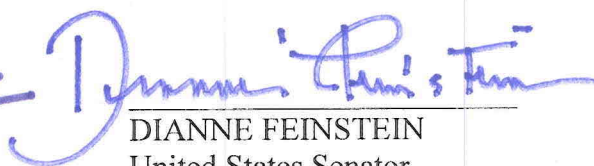
JACK REED
United States Senator



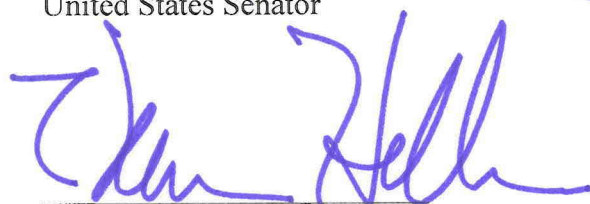
ROGER F. WICKER
United States Senator



MARIA CANTWELL
United States Senator



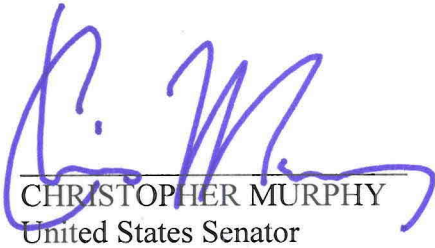
DIANNE FEINSTEIN
United States Senator



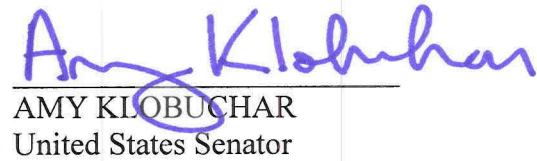
DEAN HELLER
United States Senator



CHARLES E. SCHUMER
United States Senator



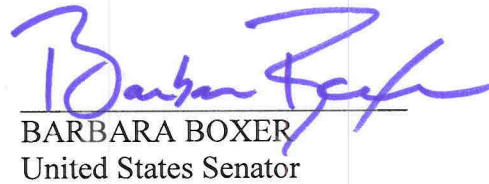
CHRISTOPHER MURPHY
United States Senator



AMY KLOBUCHAR
United States Senator



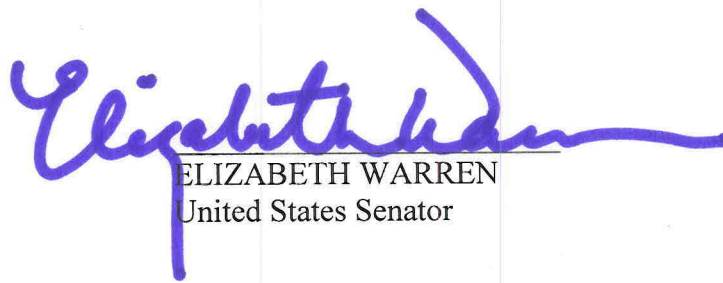
DEBBIE STABENOW
United States Senator



BARBARA BOXER
United States Senator



MARTIN HEINRICH
United States Senator



ELIZABETH WARREN
United States Senator

United States Senate

WASHINGTON, DC 20510

March 30, 2015

The Honorable Richard Shelby
Chairman
Senate Appropriations Committee
Subcommittee on Commerce, Justice, and
Science
Washington, DC 20510

The Honorable Barbara Mikulski
Vice Chairwoman
Senate Appropriations Committee
Subcommittee on Commerce, Justice, and
Science
Washington, DC 20510

Dear Chairman Shelby and Vice Chairwoman Mikulski:

As you begin work on your Subcommittee's Fiscal Year 2016 Appropriations bill, we respectfully request that you appropriate the authorizing funding level to the Victims of Child Abuse Act program. Last year, Congress unanimously reauthorized the bipartisan Victims of Child Abuse Act. The Victims of Child Abuse Act provides funding to local Children's Advocacy Centers (CACs) across the country, the four Regional Children's Advocacy Center programs, the National Children's Alliance, the National Children's Advocacy Center, and other essential programs serving victims of child abuse. We greatly appreciate the Subcommittee's past support for these critically important programs.

CACs are a critical law enforcement resource for local, state and federal agencies. These community-based, public-private partnerships also bring together professionals from law enforcement, prosecution, medical, mental health, child protective services, and victim advocacy agencies to pursue the truth in child abuse investigations. These centers prevent further victimization by ensuring that investigations are comprehensive and meet the age-appropriate needs of the child. Communities with a CAC demonstrate increased successful prosecutions of perpetrators, reduction in re-abuse rates for child victims, and better access to medical and mental healthcare for victims of child abuse. A recent analysis also found that the use of a CAC in a child abuse case saved, on average, over \$1,000 per case.

We recognize the extremely difficult budgetary environment under which the Committee continues to operate, and are greatly appreciative of efforts made to ensure these programs are funded at adequate levels. The need has certainly not abated; the number of child victims served by CACs has increased from 100,539 in 2000 to more than 315,806 in 2014. Funding for the Victims of Child Abuse Act will allow National Children's Alliance, the Regional Children's Advocacy Centers, the National Children's Advocacy Center, and the almost 800 local CACs to continue serving child abuse victims nationwide, as well as provide opportunities for new development in the 1,000 underserved counties with no access to a CAC. Therefore, we respectfully request that the Victims of Child Abuse Act program be funded at the authorized level for Fiscal Year 2016.

Thank you for your consideration of this important request.

Sincerely,



Roy Blunt
United States Senator



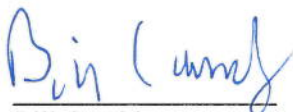
Christopher A. Coons
United States Senator



Kelly Ayotte
United States Senator



Richard J. Durbin
United States Senator



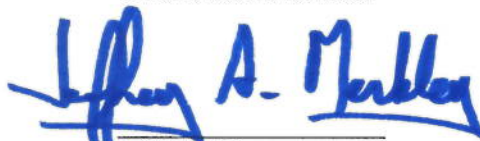
Bill Cassidy
United States Senator



Thomas R. Carper
United States Senator



Deb Fischer
United States Senator



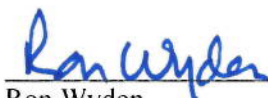
Jeff Merkley
United States Senator



Richard Blumenthal
United States Senator



Tammy Baldwin
United States Senator



Ron Wyden
United States Senator



Charles E. Schumer
United States Senator



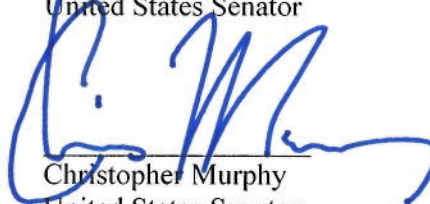
Barbara Boxer
United States Senator



Kirsten Gillibrand
United States Senator



Sherrod Brown
United States Senator



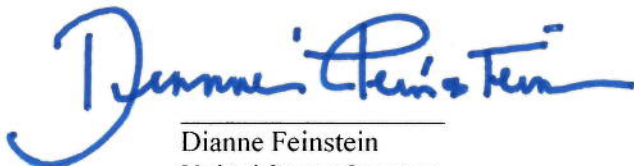
Christopher Murphy
United States Senator



Robert Menendez
United States Senator



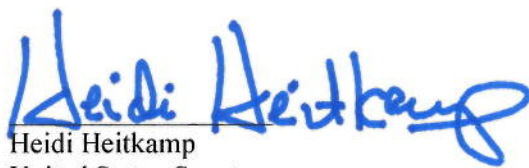
Bernard Sanders
United States Senator



Dianne Feinstein
United States Senator



Al Franken
United States Senator



Heidi Heitkamp
United States Senator



Michael F. Bennet
United States Senator



Gary C. Peters
United States Senator



Debbie Stabenow
United States Senator



Jack Reed
United States Senator



Patrick Leahy
United States Senator



Jeanne Shaheen
United States Senator



Sheldon Whitehouse
United States Senator



Elizabeth Warren
United States Senator



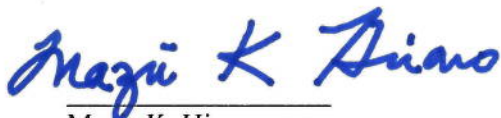
Robert P. Casey, Jr.
United States Senator



Brian Schatz
United States Senator



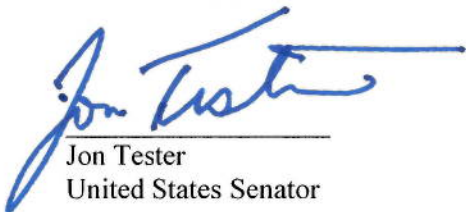
Amy Klobuchar
United States Senator



Mazie K. Hirono
United States Senator



Angus S. King, Jr.
United States Senator



Jon Tester
United States Senator

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard Shelby, Chairman
The Honorable Barbara Mikulski, Ranking Member
Subcommittee on Commerce, Justice, and Science
Senate Appropriations Committee
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski:

As you begin work on the Commerce, Justice and Science Appropriations bill for Fiscal Year (FY) 2016, we respectfully request that outlays from the Crime Victims Fund be as high as possible to support core Victims of Crime Act (VOCA) assistance programs and fulfill the needs of victims across the country. We also request that you oppose efforts to use the Fund to cover expenses other than those authorized by VOCA.

In FY 2000, Congress began limiting the amount of Fund deposits that could be obligated each year. This was to provide a stable level of funding available for these programs in future years despite annual fluctuations in Fund deposits. Congress also amended the law to ensure that all receipts remain in the Fund for obligation in future fiscal years. In subsequent years, the balances in the Fund have grown in excess of \$12 billion. These balances are needed to support essential services to victims' assistance programs facing resource strains in every state.

We request that the Subcommittee oppose rescissions to the Fund. We are concerned the President has proposed diverting money from the Fund for other purposes without taking steps to ensure the continued viability of the Fund. As you know, the Senate has consistently voted to prevent the diversion of Fund resources to other activities. The Subcommittee should oppose efforts to use the Fund to cover expenses other than those authorized for the Fund and utilize the balances to address unmet needs.

While the Fund's balances are growing, so is the need for victim assistance and compensation. Victim service professionals have seen a clear rise in demand from a support network facing strained financial resources. Limits on state government funding and significant decreases in private giving present additional challenges. With the increased need for funding, and the growing balances in the Fund, now is the time to release additional money from the Fund for the purpose for which it was collected.

The balances in the Crime Victims Fund are sufficient to provide significantly increased funding without jeopardizing the Fund's future sustainability. Accordingly, we strongly urge the Subcommittee to release as much funding as possible to help meet the dire needs of victims of all types of crime throughout the nation and that you oppose efforts to use the Fund to cover expenses other than those authorized by VOCA.

The Honorable Richard Shelby, Chairman
The Honorable Barbara Mikulski, Ranking Member
Page 2 of 3

Thank you for your leadership in this critical area and for your consideration of this request.

Sincerely,



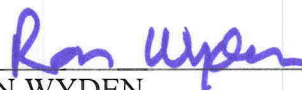
MIKE CRAPO
United States Senator



PATRICK LEAHY
United States Senator



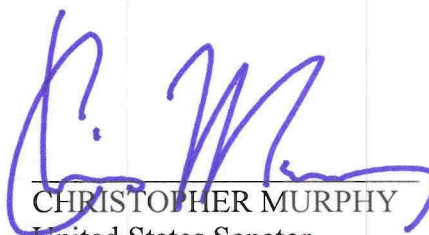
KELLY A. AYOTTE
United States Senator



RON WYDEN
United States Senator



BARBARA BOXER
United States Senator



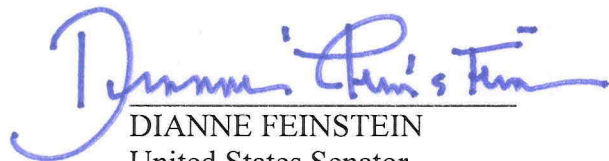
CHRISTOPHER MURPHY
United States Senator



CHARLES E. SCHUMER
United States Senator



MAZIE K. HIRONO
United States Senator



DIANNE FEINSTEIN
United States Senator



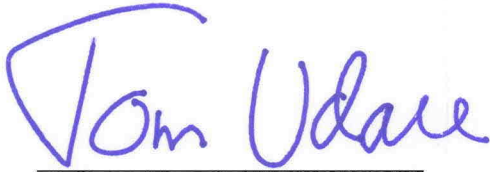
BENJAMIN J. CARDIN
United States Senator



ROBERT MENENDEZ
United States Senator



SHELDON WHITEHOUSE
United States Senator



TOM UDALL
United States Senator



RICHARD BLUMENTHAL
United States Senator



DEBBIE STABENOW
United States Senator



JACK REED
United States Senator



CHRISTOPHER A. COONS
United States Senator



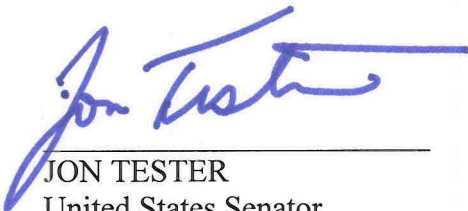
ROBERT P. CASEY, Jr.
United States Senator



PAT TOOMEY
United States Senator



KIRSTEN GILLIBRAND
United States Senator



JON TESTER
United States Senator

United States Senate

WASHINGTON, DC 20510

April 2, 2015

The Honorable Richard C. Shelby
The Honorable Barbara Mikulski
Subcommittee on Commerce, Justice, Science,
and Related Agencies Senate Committee on
Appropriations
Washington, D.C. 20510

The Honorable Roy Blunt
The Honorable Patty Murray
Subcommittee on Labor, Health and Human
Services, Education and Related Agencies
Senate Committee on Appropriations
Washington, D.C. 20510

Dear Chairman Shelby, Chairman Blunt, Ranking Member Mikulski and Ranking Member Murray:

Thank you for your commitment to funding programs serving victims of domestic violence, dating violence, sexual assault, and stalking. As the Commerce, Justice, Science and the Labor, Health and Human Services Subcommittees consider their Fiscal Year 2016 priorities, we urge you to fund the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA) at the highest possible levels.

The 113th Congress enacted the bipartisan Leahy-Crapo Violence Against Women Reauthorization Act, demonstrating its strong commitment to protecting and supporting victims of domestic and sexual violence. Despite past achievements of programs administered through this law, the National Network to End Domestic Violence reports that, on any one day, nearly 10,000 requests for services were unmet due to lack of resources. We must do more to address these unmet needs. According to a 2014 survey by the National Alliance to End Sexual Violence, over one-third of rape crisis centers have a waiting list for basic services.

We recognize that you face significant budget constraints, but we urge you to support these programs fully because they not only save lives, they are a smart investment. These programs have long-term positive impacts for victims of abuse and children who witness violence against family members. These programs help stop the generational cycle of violence. Assistance funded through VAWA and FVPSA provides emergency shelter, legal advocacy, and counseling for victims in the aftermath of abuse. It provides training and educational sessions for parents, teachers, law enforcement, and other professionals to prevent, identify, and respond to domestic and sexual violence. Over the next few years, VAWA is also estimated to save taxpayers over \$14 billion in net averted social costs.

Notwithstanding the clear benefits of these services, programs across the country are experiencing severe budget shortfalls, forcing shelters to close and programs to reduce services. Now, more than ever, it is imperative that we invest in VAWA and FVPSA to ensure service providers and law enforcement have the tools they need to protect victims, and to bring perpetrators of domestic and sexual violence to justice.

Subcommittee on Commerce, Justice, Science and Related Agencies
Subcommittee on Labor, Health and Human Services, Education and Related Agencies
April 2, 2015
Page 2 of 5

Thank you again for your past support for victims of domestic and sexual violence. We urge the Subcommittees to support the highest possible funding levels for these cost-effective, life-saving programs administered by the Office on Violence Against Women and the Department of Health and Human Services.

Sincerely,



MICHAEL CRAPO
United States Senator



PATRICK LEAHY
United States Senator



KELLY A. AYOTTE
United States Senator



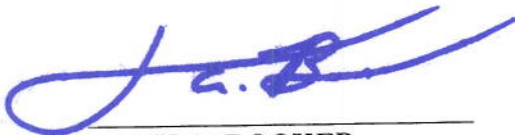
RON WYDEN
United States Senator



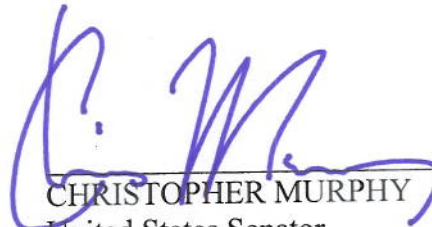
BERNARD SANDERS
United States Senator



BARBARA BOXER
United States Senator



CORY A. BOOKER
United States Senator



CHRISTOPHER MURPHY
United States Senator



JOE MANCHIN III
United States Senator



AL FRANKEN
United States Senator



JEFFREY A. MERKLEY
United States Senator



ELIZABETH WARREN
United States Senator



CHARLES E. SCHUMER
United States Senator




MAZIE K. HIRONO
United States Senator



DIANNE FEINSTEIN
United States Senator

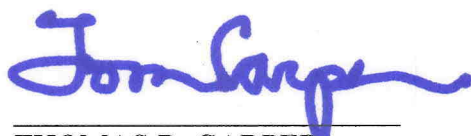


HEIDI HEITKAMP
United States Senator




JEANNE SHAHEEN
United States Senator

BENJAMIN L. CARDIN
United States Senator



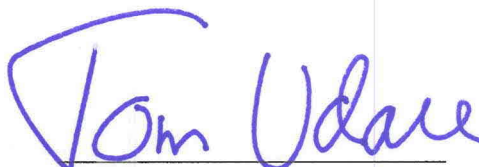
THOMAS R. CARPER
United States Senator



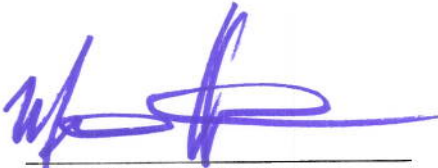
ROBERT MENENDEZ
United States Senator



SHELDON WHITEHOUSE
United States Senator



TOM UDALL
United States Senator



MARTIN HEINRICH
United States Senator



RICHARD BLUMENTHAL
United States Senator



RICHARD J. DURBIN
United States Senator



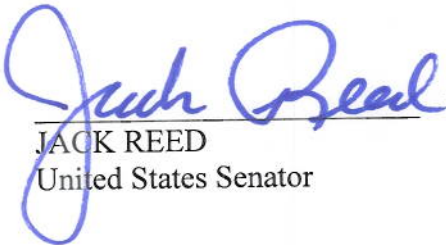
SHERROD BROWN
United States Senator



TAMMY BALDWIN
United States Senator



BRIAN SCHATZ
United States Senator



JACK REED
United States Senator



DEBBIE STABENOW
United States Senator



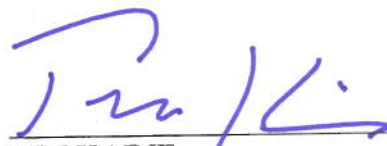
GARY PETERS
United States Senator



CHRISTOPHER A. COONS
United States Senator



EDWARD J. MARKEY
United States Senator



TIM KAINE
United States Senator



ROBERT P. CASEY, JR.
United States Senator



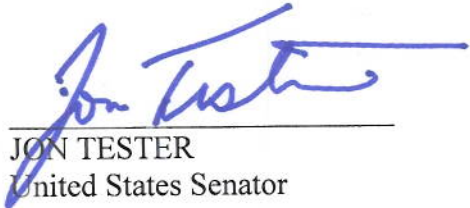
MICHAEL F. BENNET
United States Senator



KIRSTEN GILLIBRAND
United States Senator



AMY KLOBUCHAR
United States Senator



JON TESTER
United States Senator

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of an amendment

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

(no.) _____

Making appropriations for Departments of Commerce,
Justice, Science, and Related Agencies

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. MIKULSKI

Viz:

1 At the appropriate place, insert the following:

2 TITLE VI

3 INVESTING IN AMERICAN SECURITY, GROWTH,

4 AND OPPORTUNITY

5 DEPARTMENT OF COMMERCE

6 INTERNATIONAL TRADE ADMINISTRATION

7 OPERATIONS AND ADMINISTRATION

8 For an additional amount for “International Trade

9 Administration, Operations and Administration”,

10 \$33,750,000, to remain available until September 30,

11 2017.

2

1 BUREAU OF THE CENSUS

2 PERIODIC CENSUSES AND PROGRAMS

3 For an additional amount for “Bureau of the Census,
4 Periodic Censuses and Programs”, \$360,101,000, to re-
5 main available until September 30, 2017.

6 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

7 SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

8 For an additional amount for “National Institute of
9 Standards and Technology, Scientific and Technical Re-
10 search and Services”, \$62,161,000, to remain available
11 until expended.

12 INDUSTRIAL TECHNOLOGY SERVICES

13 For an additional amount for “National Institute of
14 Standards and Technology, Industrial Technology Serv-
15 ices”, \$161,000,000, to remain available until expended,
16 of which \$11,000,000 shall be for the Hollings Manufac-
17 turing Extension Partnership, and of which \$150,000,000
18 shall be for the National Network for Manufacturing Inno-
19 vation.

20 CONSTRUCTION OF RESEARCH FACILITIES

21 For an additional amount for “National Institute of
22 Standards and Technology, Construction of Research Fa-
23 cilities”, \$46,000,000, to remain available until expended.

3

1 NATIONAL OCEANIC AND ATMOSPHERIC
2 ADMINISTRATION
3 OPERATIONS, RESEARCH, AND FACILITIES

4 For an additional amount for “National Oceanic and
5 Atmospheric Administration, Operation, Research, and
6 Facilities”, \$10,578,000.

7 PROCUREMENT, ACQUISITION AND CONSTRUCTION

8 For an additional amount for “National Oceanic and
9 Atmospheric Administration, Procurement, Acquisition
10 and Construction”, \$395,000,000, to remain available
11 until September 30, 2017, except that funds provided for
12 construction of facilities shall remain available until ex-
13 pended.

14 FISHERIES FINANCE PROGRAM ACCOUNT

15 For an additional amount available to the National
16 Oceanic and Atmospheric Administration, \$10,300,000, to
17 implement section 3095 of the Carl Levin and Howard
18 P. “Buck” McKeon National Defense Authorization Act
19 for Fiscal Year 2015.

20 DEPARTMENT OF JUSTICE

21 ADMINISTRATIVE REVIEW AND APPEALS

22 For an additional amount for “Administrative Review
23 and Appeals”, \$77,309,000, to remain available until Sep-
24 tember 30, 2017.

4

1 LEGAL ACTIVITIES

2 SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

3 For an additional amount for “Legal Activities, Sala-
4 ries and Expenses, General Legal Activities”,
5 \$45,000,000.

6 SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

7 For an additional amount for “Legal Activities, Sala-
8 ries and Expenses, United States Attorneys”,
9 \$59,216,000.

10 UNITED STATES MARSHALS SERVICE

11 SALARIES AND EXPENSES

12 For an additional amount for “United States Mar-
13 shals Service, Salaries and Expenses”, \$35,581,000.

14 DRUG ENFORCEMENT ADMINISTRATION

15 SALARIES AND EXPENSES

16 For an additional amount for “Drug Enforcement
17 Administration, Salaries and Expenses”, \$58,289,000.

18 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND

19 EXPLOSIVES

20 SALARIES AND EXPENSES

21 For an additional amount for “Bureau of Alcohol,
22 Tobacco, Firearms and Explosives, Salaries and Ex-
23 penses”, \$60,158,000.

5

1 FEDERAL PRISON SYSTEM

2 SALARIES AND EXPENSES

3 For an additional amount for “Federal Prison Sys-
4 tem, Salaries and Expenses”, \$186,000,000.

5 STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

6 OFFICE ON VIOLENCE AGAINST WOMEN

7 VIOLENCE AGAINST WOMEN PREVENTION AND

8 PROSECUTION PROGRAMS

9 For an additional amount for “Violence Against
10 Women Prevention and Prosecution Programs”,
11 \$19,000,000, is for the Office on Violence Against Women
12 to remain available until expended, for implementing ini-
13 tiatives to improve investigation and prosecution of sexual
14 assault and reduce domestic violence firearms lethality.

15 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

16 For an additional amount for “State and Local Law
17 Enforcement Assistance”, \$153,332,000, is for the Office
18 of Justice Programs to remain available until expended,
19 of which—

20 (1) \$121,332,000 for the State Criminal Alien
21 Assistance Program, as authorized by section
22 241(i)(5) of the Immigration and Nationality Act (8
23 U.S.C. 1231(i)(5)): *Provided*, That no jurisdiction
24 shall request compensation for any cost greater than
25 the actual cost for Federal immigration and other

1 detainees housed in State and local detention facili-
2 ties; and

3 (2) \$32,000,000 for offender reentry programs
4 and research, as authorized by the Second Chance
5 Act of 2007 (Public Law 110–199), without regard
6 to the time limitations specified at section 6(1) of
7 such Act.

8 COMMUNITY ORIENTED POLICING SERVICES

9 COMMUNITY ORIENTED POLICING SERVICES PROGRAMS

10 For an additional amount for “Community Oriented
11 Policing Services Programs”, \$95,000,000, is available for
12 grants under section 1701 of title I of the 1968 Act (42
13 U.S.C. 3796dd) for the hiring and rehiring of additional
14 career law enforcement officers under part Q of such title
15 notwithstanding subsection (i) of such section: *Provided,*
16 That, notwithstanding section 1704(c) of such title (42
17 U.S.C. 3796dd–3(c)), funding for hiring or rehiring a ca-
18 reer law enforcement officer may not exceed \$125,000 un-
19 less the Director of the Office of Community Oriented Po-
20 licing Services grants a waiver from this limitation to re-
21 main available until expended.

7

1 SCIENCE

2 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

3 SCIENCE

4 For an additional amount for “National Aeronautics
5 and Space Administration, Science”, \$96,000,000, to re-
6 main available until September 30, 2017.

7 SPACE TECHNOLOGY

8 For an additional amount for “National Aeronautics
9 and Space Administration, Space Technology”,
10 \$54,000,000, to remain available until September 30,
11 2017.

12 EXPLORATION

13 For an additional amount for “National Aeronautics
14 and Space Administration, Exploration”, \$50,000,000,
15 which shall be for the Orion Multi-Purpose Crew Vehicle,
16 to remain available until September 30, 2017.

17 SPACE OPERATIONS

18 For an additional amount for “National Aeronautics
19 and Space Administration, Space Operations”,
20 \$300,000,000, to remain available until September 30,
21 2017.

22 NATIONAL SCIENCE FOUNDATION

23 RESEARCH AND RELATED ACTIVITIES

24 For an additional amount for “National Science
25 Foundation, Research and Related Activities”,

1 \$252,655,000, to remain available until September 30,
2 2017.

3 EDUCATION AND HUMAN RESOURCES

4 For an additional amount for “National Science
5 Foundation, Education and Human Resources”,
6 \$96,570,000, to remain available until September 30,
7 2017.

8 LEGAL SERVICES CORPORATION

9 PAYMENT TO THE LEGAL SERVICES CORPORATION

10 For an additional amount for “Legal Services Cor-
11 poration, Payment to the Legal Services Corporation”,
12 \$67,000,000.

13 ADMINISTRATIVE PROVISION

14 SEC. 601. No part of any appropriation contained in
15 this title shall be made available for obligation or expendi-
16 ture, nor any authority granted herein be effective, until
17 the enactment into law of a subsequent Act entitled “Bi-
18 partisan Budget Act of 2015”.

United States Senate

WASHINGTON, DC 20510

March 30, 2015

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce, Justice
Science, and Related Agencies
Senate Committee on Appropriations
Washington, D.C. 20510

The Honorable Barbara Mikulski
Ranking Member
Subcommittee on Commerce, Justice
Science, and Related Agencies
Senate Committee on Appropriations
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Mikulski:

We urge you to continue strong support for the important federal, state and local law enforcement programs in the Adam Walsh Child Protection and Safety Act.

In the wake of a number of high-profile child kidnapping, molestation and murder crimes in 2004-2005, Congress worked to combine and strengthen three existing federal child protection laws and ultimately passed the Adam Walsh Act. This bipartisan legislation received overwhelming support in both the Senate and House and became law in 2006.

The Adam Walsh Act authorized many important programs to keep our children safe, specifically funding for the electronic monitoring of sex offenders; Project Safe Childhood; the Juvenile Sex Offender Treatment Program; the Child Sexual Predator Elimination Program; Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office; the U.S. Marshals Service's Fugitive Safe Surrender Program; sex offender apprehension grants; and sex offender management assistance.

The Adam Walsh Act helps keep our children safe from those who would threaten their health, emotional well-being and lives. We request that funding for these important federal, state and local law enforcement programs be provided in the FY 2016 appropriations bill.

Thank you for your consideration of our request.

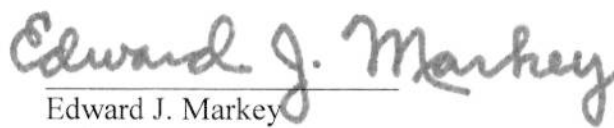
Sincerely,



Barbara Boxer
United States Senator



Mike Crapo
United States Senator



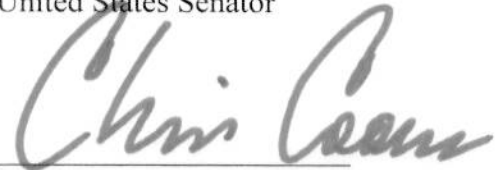
Edward J. Markey
United States Senator



Dianne Feinstein
United States Senator



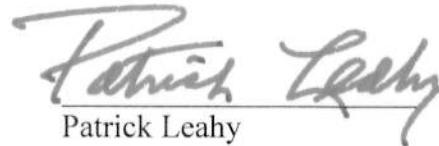
Sherrod Brown
United States Senator



Christopher A. Coons
United States Senator



Al Franken
United States Senator



Patrick Leahy
United States Senator



Kirsten Gillibrand
United States Senator



Charles E. Schumer
United States Senator



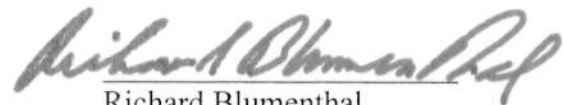
Tammy Baldwin
United States Senator



Sheldon Whitehouse
United States Senator



Jeffrey A. Merkley
United States Senator



Richard Blumenthal
United States Senator



Amy Klobuchar
United States Senator