



October 17, 2017

Jefferson Beauregard Sessions III  
United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

**RE: DOJ's oversight of federal, state and local law enforcement agencies**

Dear Attorney General Sessions:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, and the American Civil Liberties Union (ACLU), a national organization with nearly two million members and supporters advancing civil liberties, we are writing to urge you to unequivocally demonstrate through words and actions that the Department of Justice (DOJ) is still committed to using its civil rights enforcement and grant making authority to address police misconduct and advance constitutional policing across the nation. This Wednesday's DOJ oversight hearing with the U.S. Senate Judiciary Committee is an opportunity for you to do that.

Recently, the President of the United States shocked the nation by calling a Black athlete a "son of a bitch"<sup>1</sup> for peacefully demonstrating for racial justice and police accountability during the national anthem. Just weeks before, the President told an audience of law enforcement officials not to worry about injuring people while they are being arrested.<sup>2</sup> At the time, White House spokespersons dismissed the President's remarks as a "joke," but police brutality is not a joke to the victims of excessive force, nor to the dozens of local police departments and law enforcement associations that quickly condemned the President's comments and took to social media to reassure the public that their role is to *protect*, not to harm, members of their community.<sup>3</sup>

Regardless of what the President says, the issues that athletes have been protesting – police brutality and discriminatory policing practices – exist *and will continue to exist* unless the Department of Justice takes action to prevent them. This year alone, at least 748 people have been shot and killed by law enforcement officers, including 244 who were fleeing from officers when they were shot.<sup>4</sup> Black males are almost three times as likely, and Hispanic males are almost twice as likely, to be killed by police use of force than white males.<sup>5</sup> The overwhelming majority of law enforcement officers are never charged, let alone convicted, for using excessive force against civilians.<sup>6</sup> All the while, tragedies like the killing of 15-year-old Jordan Edwards earlier this year illustrate that excessive force, especially against people of color, will continue to plague the United States until aggressive action is taken by government actors.

As you know, it is the responsibility of the Attorney General and the DOJ to actively enforce *all* of this nation's laws, including the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §14141,

October 17, 2017  
Page 2 of 5

which gives the DOJ the authority to investigate police departments with a pattern or practice of police misconduct, and 18 U.S.C. §§ 241 and §§ 242, which requires the DOJ to prosecute those, including law enforcement, who deprive a person of his or her civil rights and liberties.

Despite this obligation, action taken by the DOJ in recent months suggests that the Department is abandoning its enforcement of these laws. For example, earlier this year, the DOJ attempted to postpone the implementation of Baltimore's carefully-negotiated consent decree<sup>7</sup> and accepted the City of Chicago's decision to abandon the consent decree process,<sup>8</sup> in spite of overwhelming evidence uncovered by your own Department that the police departments in those cities had engaged in a pattern of discrimination that threatened the safety and civil rights of their residents.<sup>9</sup>

In addition, over the last several months, the Department has been reviewing its procedures for addressing police misconduct in order to "effectively promote a peaceful and lawful society, where the civil rights of all persons are valued and respected."<sup>10</sup> However, there is broad concern within the civil rights community that the DOJ is not actively defending civil rights and is instead dismantling critical structures and abandoning tools that, for decades, have been used by the Department of Justice to protect people from police brutality and discrimination.

Indeed, the DOJ's review process and the status of existing consent decrees and investigations have been shrouded in secrecy. The public has been kept in the dark as to crucial details about the Department's work around police misconduct, which triggers several questions:

- What is the status of the 18 open reform agreements, 5 open investigations, and 1 case in active litigation brought under Section 14141 managed by the DOJ Civil Rights Division (CRT)?<sup>11</sup>
- Does the DOJ plan to amend any of the 18 existing consent decrees that were already negotiated, agreed to, and approved by the courts?
- How many police misconduct complaints has the DOJ received since January and how many of those complaints have been investigated?
- Has the DOJ sought the input of community organizations during its evaluation of existing consent decrees and other agreements that affect the civil rights and safety of the community?
- When will the DOJ's internal review process around policing, initiated on March 31, 2017, be completed, and when will initial findings and a final report be released to the public?

We are also disturbed by your recent announcement of changes to the Office of Community Oriented Policing Services (COPS) Collaborative Reform Initiative for Technical Assistance.<sup>12</sup> Collaborative reform is another valuable federal tool for addressing police misconduct and improving the relationships between local law enforcement and the communities they serve. According to the COPS office, collaborative reform "improve[d] trust between police agencies and the communities they serve[d] by providing a means to organizational transformation around specific issues."<sup>13</sup> Collaborative reform resulted in initial reports that covered a broad range of issues with specific critiques and robust recommendations that usually spanned 132 pages (Fayetteville)<sup>14</sup> to 432 pages (San Francisco).<sup>15</sup> The

October 17, 2017  
Page 3 of 5

COPS Office was actively engaged in collaborative reform projects as described with over a dozen police departments across the country,<sup>16</sup> but your changes to the program shift the focus from improving police-community relations to “fight[ing] violent crime.”<sup>17</sup>

Of particular concern with this novel approach to the COPS program is the fact that the DOJ has not released any progress reports for the Calexico Police Department (CA), the Fayetteville Police Department (NC), the Salinas Police Department (CA), the San Francisco Police Department (CA), or the St. Louis County Police Department (MO) since January. In addition, the DOJ has not yet released any initial reports for the Chester Police Department (PA), the Commerce City Police Department (CO), the Fort Pierce Police Department (FL), the Memphis City Police Department (TN), the Milwaukee Police Department (WI), the North Charleston Police Department (SC), or the Saint Anthony Police Department (MN). However, it is our understanding that the initial reports for at least two of these police departments, Milwaukee and North Charleston, are nearly finalized, and should therefore be released in their entirety to the public, as soon as possible. Subsequently, we raise the following questions given the opaque announcement around collaborative reform:

- Will the DOJ release the final reports for Milwaukee and North Charleston, and if so, when?
- Will the DOJ release the outstanding final or draft progress reports for the other jurisdictions, and if so, when?
- Will the DOJ release the draft initial reports for Chester, Commerce City, Fort Pierce, and Memphis, and if so, when?
- When will the DOJ provide details to the public on the new scope and purpose of the collaborative reform program?
- With the changes to collaborative reform, what DOJ resources will be available for law enforcement and local communities that solicit federal assistance to address police misconduct and advance community policing?

The Attorney General is our nation’s highest law enforcement official, tasked by Congress with the responsibility of protecting the civil and human rights of all people and ensuring public safety and the fair administration of justice. However, because of the President’s recent remarks on policing and the actions taken at the DOJ under your leadership, as highlighted above, many people in the United States are concerned that the DOJ is no longer seeking to protect them from police misconduct. Without any assurances or indications to the contrary, it is unclear to what extent the DOJ is affirmatively investigating and addressing allegations of police misconduct under Section 14141 and §§ 241 and §§ 242, or even supporting its existing legal docket of cases alleging violations of these statutes. We remain extremely concerned that the DOJ is acting behind closed doors to dismantle carefully negotiated consent decrees, undermine pattern or practice investigations, and abandon valuable collaborative reform efforts launched through the COPS office.

Now more than ever, people in America must hear from their Attorney General, in unrelenting terms, that the Department of Justice is protecting them, not only from crimes perpetrated by their fellow man, but

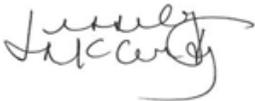
October 17, 2017  
Page 4 of 5

from threats posed by law enforcement officials who abuse the public faith and trust and engage in excessive violence. Furthermore, the taxpayers – whose hard-earned dollars fund the Department of Justice – deserve to know what their government is doing, especially when it concerns the protection of their most basic civil rights and civil liberties. We therefore urge you to publicly condemn the President’s recent remarks at Wednesday’s DOJ oversight hearing with the U.S. Senate Judiciary Committee, as well as demonstrate to the people in America that the Department of Justice is fulfilling its obligation to vigorously enforce police misconduct laws like Section 14141 and §§ 241 and §§ 242 by responding to the questions posed in this letter.

If you have any questions, please contact Sakira Cook, Senior Counsel at the Leadership Conference for Civil and Human Rights, at [cook@civilrights.org](mailto:cook@civilrights.org), or Kanya Bennett, Legislative Counsel at the American Civil Liberties Union, at [kbennett@aclu.org](mailto:kbennett@aclu.org).



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cc: Senate Judiciary Committee

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<sup>1</sup> See Graham, Bryan A. “Donald Trump blasts NFL anthem protesters: ‘Get that son of a bitch off the field.’” *The Guardian*. Sept. 23, 2017. <https://www.theguardian.com/sport/2017/sep/22/donald-trump-nfl-national-anthem-protests>.

<sup>2</sup> See Berman, Mark. “Trump tells police not to worry about injuring suspects during arrests.” *The Washington Post*. July 28, 2017. [https://www.washingtonpost.com/news/post-nation/wp/2017/07/28/trump-tells-police-not-to-worry-about-injuring-suspects-during-arrests/?tid=a\\_inl&utm\\_term=.02af32494e08](https://www.washingtonpost.com/news/post-nation/wp/2017/07/28/trump-tells-police-not-to-worry-about-injuring-suspects-during-arrests/?tid=a_inl&utm_term=.02af32494e08).

<sup>3</sup> See Wootson Jr., Cleve R. “U.S. police chiefs blast Trump for endorsing ‘police brutality.’” *The Washington Post*. July 30, 2017. [https://www.washingtonpost.com/news/post-nation/wp/2017/07/29/u-s-police-chiefs-blast-trump-for-endorsing-police-brutality/?utm\\_term=.c4e4edcdb624](https://www.washingtonpost.com/news/post-nation/wp/2017/07/29/u-s-police-chiefs-blast-trump-for-endorsing-police-brutality/?utm_term=.c4e4edcdb624).

<sup>4</sup> See “Fatal Force.” *The Washington Post*. <https://www.washingtonpost.com/graphics/national/police-shootings-2017/>.

<sup>5</sup> See Buehler, James. “Racial/Ethnic Disparities in the Use of Lethal Force by US Police, 2010–2014.” *American Journal of Public Health*. Jan. 11, 2017. <http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2016.303575>.

October 17, 2017  
Page 5 of 5

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- <sup>6</sup> See “Mapping Police Violence: Police Violence Map.” *Mappingpoliceviolence.org*. <https://mappingpoliceviolence.org>. (finding that 99% of cases in 2015 have not resulted in any officer(s) being convicted of a crime) See also Stinson, Philip. “Op-Ed: Cops shoot and kill someone about 1,000 times a year. Few are prosecuted. What can be done?” *Los Angeles Times*. Dec. 15, 2016. [http://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1072&context=crim\\_just\\_pub](http://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1072&context=crim_just_pub) (finding that “Since 2005, only 78 police officers across the country have been charged with murder or manslaughter resulting from an on-duty shooting”)
- <sup>7</sup> See Neuhauser, Alan. “Sessions Slams Baltimore Consent Decree.” *U.S. News*. April 7, 2017. <https://www.usnews.com/news/national-news/articles/2017-04-07/attorney-general-jeff-sessions-slams-baltimore-consent-decree>.
- <sup>8</sup> See Hinkel, Dan, et al. “Emanuel backs off from commitment to court oversight of Chicago police reform” *Chicago Tribune*. June 2, 2017. <http://www.chicagotribune.com/news/local/breaking/ct-chicago-police-independent-monitor-met-20170602-story.html>.
- <sup>9</sup> See “Investigation of the Chicago Police Department.” *United States Department of Justice*. Jan. 13, 2017. <https://www.justice.gov/crt/case-document/file/925771/download>. See also “Investigation of the Baltimore City Police Department.” *United States Department of Justice*. Aug. 10, 2016. <https://www.justice.gov/crt/file/883296/download>.
- <sup>10</sup> See Sessions, Jefferson B. “Memorandum for Heads of Department Components and United States Attorneys” *United States Department of Justice*. March 31, 2017. <https://www.documentcloud.org/documents/3535148-Consentdecreebaltimore.html>.
- <sup>11</sup> See “The Civil Rights Division’s Pattern and Practice Police Reform Work.” *United States Department of Justice Civil Rights Division*. Jan. 2017. <https://www.justice.gov/crt/file/922421/download>
- <sup>12</sup> See “Department of Justice Announces Changes to the Collaborative Reform Initiative.” *United States Department of Justice*. Sept. 15, 2017. <https://www.justice.gov/opa/pr/department-justice-announces-changes-collaborative-reform-initiative>.
- <sup>13</sup> “Collaborative Reform.” *Community Oriented Policing Services*. Archived page from Sept. 11, 2017. <https://web.archive.org/web/20170911082044/https://cops.usdoj.gov/collaborativereform>
- <sup>14</sup> See Rodriguez, Denise, et al. “Collaborative Reform Initiative: Assessment Report on the Fayetteville Police Department.” *Community Oriented Policing Services*. 2015. <https://ric-zai-inc.com/Publications/cops-w0790-pub.pdf>.
- <sup>15</sup> See “Collaborative Reform Initiative: Assessment Report of the San Francisco Police Department.” *Community Oriented Policing Services*. Oct. 2016. <https://ric-zai-inc.com/Publications/cops-w0817-pub.pdf>.
- <sup>16</sup> See “Collaborative Reform.” *Community Oriented Policing Services*. Archived page from Sept. 11, 2017. <https://web.archive.org/web/20170911082044/https://cops.usdoj.gov/collaborativereform>.
- <sup>17</sup> See “Department of Justice Announces Changes to the Collaborative Reform Initiative.” *United States Department of Justice*. Sept. 15, 2017. <https://www.justice.gov/opa/pr/department-justice-announces-changes-collaborative-reform-initiative>.