

REMARKS FROM

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AT THE

BRIEFING OF THE PRESIDENT'S TASK FORCE ON 21<sup>st</sup> CENTURY POLICING  
EISENHOWER EXECUTIVE OFFICE BUILDING

MONDAY, JANUARY 12, 2015

Good morning and thank you for the opportunity to appear before you to discuss the Civil Rights Division's work on policing and criminal justice reform.

As recent events across the country have revealed, the work of this Task Force is critically important and timely. A fair, transparent and equitable criminal justice system is one of the strongest pillars of this Nation's democracy. Police officers are the front line of that system and the authority we give police is among the most profound in our constitutional form of government. The exercise of this power must be measured not only against legal standards, but community values and community priorities.

For the last several months, our nation has been engaged in an important national dialogue about police practices, community-police trust, racial justice, public safety, and officer safety. Yet, as you all are well aware, these conversations are not new and are not just a response to isolated incidents – they are the latest stage in our decades-long public conversation about effective self-governance, crime, our history of racial discrimination, and the pursuit of justice. Evaluating critically the relationship between law enforcement agencies and the communities they serve, particularly communities of color, has always been a key part of that dialogue. Many people in communities of color, communities living in poverty and others perceive police, courts, and corrections systems as arbitrary, biased, and unfair. These perceptions, whether real or imagined, undermine the legitimacy of those institutions and place the public, law enforcement personnel, and the health and wellbeing of communities at risk.

What I hope does not get lost in this conversation is that the overwhelming majority of the women and men who serve as police officers do their very difficult and sometimes dangerous job with honor, pride, and distinction. We owe a debt of gratitude to the brave law enforcement officers who dedicate their lives to protecting us. We know that the vast majority of police officers want to be, and want to be perceived as, part of the communities that they serve. And I know that law enforcement and community leaders alike feel a sense of urgency at the moment to rebuild mutual trust and respect.

There is no single panacea and solutions will not come overnight. But I am hopeful that the best practices and recommendations that this Taskforce ultimately presents to the President will provide a blueprint for developing strong and thriving relationships between local law enforcement and the communities they serve.

The Civil Rights Division is engaged in a broad range of criminal justice reform work, including in our nation's prisons, jails, school, juvenile justice, and indigent defense systems. I am focusing my remarks today on what some of us at the Civil Rights Division call our "Policing work 2.0." Through the Violent Crime Control and Law Enforcement Act of 1994, our Special Litigation Section gained jurisdiction to review law enforcement practices that may be violating people's federal rights. We call the last five years of our enforcement "2.0" because we learned a lot from the first 15 years of enforcement and we have incorporated lessons learned from that first decade and a half into our more recent efforts. Since 2009 alone, we have opened more than 20 investigations into police departments across the country. We are currently enforcing no fewer than 15 agreements with law enforcement agencies – including eight consent decrees – to correct unconstitutional policing practices. Reform is underway in New Orleans; Seattle;

Albuquerque; Cleveland; Portland, Oregon; Puerto Rico; and elsewhere. This work has resulted in landmark agreements that are changing the way that police services are being delivered, and reforming use of force practices, as well as racial and ethnic bias in policing. They are rebuilding mutual trust and respect between law enforcement and the community.

The Civil Rights Division is usually invited into jurisdictions by local officials and law enforcement leaders to investigate concerns about unconstitutional policing. Our investigations entail exhaustive engagement with the community through individual interviews and town hall meetings. We meet with local officials and civil rights leaders. We learn from law enforcement leaders. And we spend a lot of time speaking with line officers and with police unions. From them we learn too often about how they lack adequate support, training, policy guidance, supervision, and even equipment to keep them safe and allow them to engage in constitutional policing that keeps them and the public safe. Engagement by the Civil Rights Division is aimed at giving police officers the tools to be more effective, to partner with civilians to enhance officer and public safety, to make their jobs safer and to ensure that the criminal justice system is equitable and seen by all as legitimate. Even after we announce our findings, we continue intensive engagement with all of the various stakeholders, including community leaders and line officers and police unions to help shape the remedies that we negotiate at arms length with city officials. These stakeholders must feel some investment in the remedies laid out in our agreements for them to be successful and sustainable.

I want to spend the few minutes I have with you to briefly highlight ten themes that have emerged from our work with police departments and in communities that may provide context for the Task Force's deliberations. Each of our investigations and agreements provide concrete ways to address the issues described below. Every agreement we reach is unique because it reflects the input of law enforcement and community stakeholders. The Civil Rights Division will submit them as a set of resources to guide your thinking about ways to concretely address some of the questions with which you are wrestling.

**First, Police Departments Must Belong to the Communities They Serve.** Where there exists a dichotomy between police and the communities they serve, components of the community cease to trust the police, and, just as importantly, police cease to trust components of the community. Restoring mutual trust requires concrete measures to ensure that individual officers employ community policing strategies; that departments commit to community engagement; and also that there are potent mechanisms for civilian oversight and transparency.

Law enforcement leaders and the Civil Rights Division have emphasized that community engagement must occur at all levels of a law enforcement agency, from line officers to police leadership. Line officers need to interact with and develop relationships with the people they are most likely to take enforcement action against and with vulnerable populations in a context other than law enforcement actions. Police leadership has a dual role of supporting and rewarding community interactions and setting the tone for the entire department. Police leaders also should be present in their jurisdictions, and make a special effort to engage affected areas where police will apply new tactics or enforcement strategies.

**Second, Transparency is Essential to Ensuring that Police Departments Operate As Democratic Institutions.** The public too often has scant information about police departments and knows little about the operation of these critical public institutions. Frequently, we have seen that patterns and practices of constitutional violations have developed and been permitted to fester because of the inherent opacity of police operations. Through our agreements, we seek to provide communities with better access to information about the reforms underway and their impact on police services. The confidence that comes from transparency builds trust between the police and communities and promotes greater cooperation.

The public should have access to as much information as they can about the operation of their police department without compromising confidential information or effective police operations. The more communities know, the more they can influence operations to reflect community values and priorities through their elected representatives. Transparency will ensure that the public has a complete picture of the department and that controversial incidents are not the only basis for perceptions about the effectiveness of police services. We have found that the information that the public should have access to includes: police policies and procedures; data on enforcement activities such as stops, searches and arrests and the use of force; information on complaints and how they are processed and resolved; basic information on the work force, including demographic details; and the department's assessment and evaluation of the public safety impact of particular police priorities, tactics and strategies.

**Third, Accountability Must be Robust.** Effective and constitutional policing requires that there be robust internal and external systems of accountability. Internally, this means supervisory reviews, early warning systems, corrective as well as disciplinary options for misconduct, and effective "after action" assessments. Police departments must adopt a culture of self-examination and be "learning organizations." Line officers have complained in numerous jurisdictions where we have open matters that too often internal accountability mechanisms barely exist or are deployed arbitrarily. Internal accountability measures must be fair and consistent in their application to officers engaging in misconduct.

In the Civil Rights Division we attempt to build meaningful community engagement into all of our agreements as a key external accountability measure. We make this a priority because we know that reform is not inherently permanent and that changes will only take root if there is a strong institutional capacity to support assessment and course correction. For example, the evidence from our work shows that effective civilian oversight mechanisms lead to longer-lasting, more effective reform. While the type of oversight varies greatly based on the jurisdiction, some form of independent civilian review is essential.

**Fourth, Officers Must Be Given the Support, Training, and Tools to Do Their Jobs Consistent with Community Values.** Police officers are given complex responsibilities and are often called upon to deal with some of the most challenging social problems. We must ensure that police are provided with the proper training, support, and equipment to interact with all members of the community in a constitutional and bias-free manner.

For example, police officers often respond to persons in mental health crises or persons with intellectual and physical disabilities. These interactions can be difficult and, on occasion,

dangerous. Specialized training including de-escalation techniques, access to other support services, knowledge of the dynamics of mental health and supervisory support are often necessary to ensure that the encounter avoids unnecessary force or risk of harm. Officers also need to be given the capacity to meaningfully and effectively interact with limited English speakers and people who are deaf or who have hearing loss.

In addition, departments need specialized training and techniques to effectively and appropriately handle sexual assault and domestic violence cases. The violent nature of sexual assaults and the trauma caused to victims of these crimes creates inherent challenges to the investigation, including how to sustain the involvement of the victim, and how to ensure that gender bias and other stereotyping do not influence the resolution of the matter. That is why it is so important that police officers practice trauma-informed investigative techniques and ensure that victims are treated with dignity and respect.

Police officers must also be given the mental health support to address their own trauma and stress from the difficult circumstances they encounter on the job. The health and well-being of officers can affect how they operate under stress when interacting with the community in challenging or complex circumstances. Accordingly, it is important that officers receive assistance and support, including measures to ensure that all law enforcement personnel have ready access to mental health and support services and that supervisors are trained in making referrals in a manner that minimizes stigma.

Finally, equipment, such as less lethal force weapons and body and car cameras can be important law enforcement tools. The right equipment can provide safety and transparency. However, there is a risk in overreliance on technology. Technology should augment, not supplant, the other accountability measures or community engagement I just described.

**Fifth, Data Collection and Analysis is Essential.** Police departments collect vast amounts of data. Far too often, the data is never compiled or reviewed nor used to assess whether police activity promotes or undermines community trust or public safety. Time and again we will uncover patterns of troublesome conduct from reviewing a department's own reports that the department itself had never known nor understood. As previously noted, the collection and publication of core data points would permit police executives, line officers, political leaders and community members to better understand and address the performance of the department.

Using the Uniform Crime Reporting system and the National Incident-Based Reporting System as models, data should also be collected nationally so it can be used to identify problems, study promising practices, and promote evidence based public policy initiatives.

**Sixth, Explicit and Implicit Biases Need to be Identified and Corrected.** Race, gender, gender identity, sexual orientation, age, disability and other demographic characteristics influence the perceptions of police officers as well as members of the public. As Assistant Attorney General Mason's remarks highlighted, prejudice and bias, explicit and implicit, are prevalent in our culture. We all hold implicit biases. Police officers are no exception and the consequences of these biases can be particularly damaging. But those biases can be overcome

through training, policy, supervision and accountability. Data collection and assessment are critical to identifying and correcting bias. Developing effective metrics on the impact of bias in police services should be a priority.

**Seventh, We Must Strengthen Capacity and Multiply Impact of Civil Rights Enforcement.** The Civil Rights Division cannot open a matter in every city or town that may request or benefit from our intervention. Thankfully, as you know from AAG Mason's presentation, several other parts of the Justice Department including namely OJP and COPS, are deeply engaged in supporting law enforcement through a variety of tools, and we are grateful for their work and our partnership.

To respond to the limitations on our capacity, the Division has attempted to leverage the impact of our work through strategic case selection, and greater transparency and engagement about our work with professional policing and civilian oversight organizations. We are also in the beginning stages of designing a project to review the information and data collected from our investigations and enforcement actions and determine what lessons can be drawn that will assist others who are looking to advance constitutional policing and build trust between law enforcement and the community. We would also include law enforcement and community perspectives from jurisdictions around the country where we have been present. I have heard from both law enforcement leaders and advocates that such a project would be very welcome.

**Eighth, Diversity in Law Enforcement is an Important Component to Building Mutual Trust and Respect.** Any consideration of policing also needs to take a close look at who our police officers are, and whether the demographic composition of a police force reflects the community that those officers are sworn to serve.

For many years, the Civil Rights Division's Employment Litigation Section has sought to address diversity in law enforcement, and we have brought litigation challenging hiring practices that unnecessarily screen out minorities disproportionately. We cannot and will not achieve progress on this issue through litigation alone however. That is why we have recently started working with the Office of Justice Programs, the Equal Employment Opportunity Commission, and the Department of Labor to explore other ways to encourage police departments, particularly smaller ones that may have more challenges in this area, to take steps to diversify their ranks. We want to hold up police departments that have been particularly successful in this area and find ways to share and spread the steps they took to ensure that their officers reflect the communities they serve.

While we are only in the beginning stages, I am optimistic it will yield meaningful results. I hope this Task Force will emphasize the importance of diversity in policing. To aid in that process, I will provide a list of experts on this matter, whose input the Task Force will find valuable. The Civil Rights Division, in collaboration with our colleagues at OJP, EEOC, and DOL, will also prepare and submit a short literature review on this topic.

**Ninth, Effective Reform Requires Engagement Across Criminal Justice Sectors, Beyond Policing.** Although this Task Force is focused on policing, we know police do not operate in isolation. They are part of a continuum that includes prosecutors, defenders, courts,

correctional institutions and community supervision. The effectiveness of the entire system—as well as community confidence—depends on the fairness and legitimacy of each component. While all of these components are critical, I want to highlight the role of one that is sometimes forgotten: legal aid organizations and public defenders. These offices are often on the frontlines, and are uniquely situated to identify recurring problems that undermine community trust and involvement. For example, community defender offices, where they exist, can be powerful partners in bridging law enforcement and community. I encourage the Taskforce to consider how these offices can be better incorporated into our national conversation about policing reform.

**Tenth, No One Owns the Solutions; the Most Effective and Sustainable Remedies have Community and Law Enforcement Input and Buy In.** Our enforcement experience tells us that sustaining reform, transforming mutual perceptions and suspicions, and promoting public and officer safety requires constant and authentic engagement at the local level between law enforcement and the communities they serve.

### Conclusion

In closing, let me say that again thank you for your work and this opportunity to speak with you. The Civil Rights Division looks forward to helping you in any way we can.