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August 25, 2014

Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Holder:

The recent unrest in Ferguson, Missouri underscores the need to address long-standing problems in the Cleveland Division of Police (CDP) in Cleveland, Ohio. The use of excessive force, racial discrimination and police pursuits have far too often led to serious injury or death of citizens. A chronic lack of officer accountability has existed in the Cleveland Police Department, so much so that the Special Litigation Section of the Department of Justice has been investigating Cleveland for many months. I am told we will see findings sometime this fall. With the killing of Malissa Williams and Timothy Russell in a hail of 137 bullets in 2012 and the videotaped beating of Edward Henderson at the end of massive police pursuits, we are very far from sustainable reform. The Cleveland community, particularly African Americans, has been patient. Now is the time to truly engage them in a meaningful police reform. Therefore I am asking the Department of Justice to seek a formal court sanctioned agreement, which returns policing back to the citizens of Cleveland.

The Cleveland Division of Police has been on notice since at least since 2002 that its supervision of officers regarding use of force and its investigation of excessive force claims were both inadequate. That was the year the DOJ officially acknowledged and memorialized many problems existing internally with the Cleveland Police Department. A sampling of the problems noted and memorialized are as follows:

“Our review of CDP use of deadly force and use of non-deadly force investigations from 1998-2000, and our interviews with CDP investigators, reveal a lack of documentation that raises concerns about the competency, thoroughness, and impartiality of use of force investigations.”

What happened after problems were identified by the DOJ and that report was issued? Nothing! The recommendations were ignored and the abuse of many citizens continued. The lack of accountability

sent a clear signal throughout the Cleveland Police Department that despite the federal government's written acknowledgement of chronic problems within the police department that resulted in unnecessary injury or death to citizens, and despite the government's suggested changes, a lack of meaningful accountability remained within the Cleveland Police Department.

A comprehensive study of more recent use of force incidents and investigations in Cleveland was commenced by police practice expert Lou Reiter in *Henderson v. Lentz*, USDC ND OH, Case No. 1:11-cv-1646. In his report, Mr. Reiter, a veteran police officer and supervisor, indicated that there are continuing systemic problems of inadequate supervision, excessive force and inadequate investigations embedded within the Cleveland Police Department. He further indicated that:

"I am satisfied that there is a pattern of supervisors doing cursory reviews and rubber stamping force as reasonable without thoroughly investigating the facts. Police supervision has access to officers' and supervisors' reports of uses of force and has not used this valuable data to determine officers' propensity to use unreasonable force on citizens. Moreover these reports are not used to determine the effectiveness in the field of City written policies and training on use of force."

We can and must do better. We have that opportunity with the current investigation of the CDP. We need to change the police culture. The citizens of Cleveland need a formal court sanctioned agreement that fundamentally returns policing to the people. Ferguson, Missouri is the result of a lack of accountability. I want to do everything within my power to protect all constituents from experiencing another Ferguson. Here are some core terms I believe must be included in any agreement:

- **Federal Court Order:** Any agreement must be included in a federal court order. We accepted a Memorandum of Agreement in 2004, and those terms were never implemented. The needed reforms will outlive any of us currently in office. We need a court order that spans the term of any officeholder and keeps all public officials focused on these challenging terms. The court order must be monitored by a professional and experienced team of police and civil rights professionals who regularly report to the court and the parties in a public manner. The monitors must also be accessible to the public (not to interfere with day-to-day policing but to hear concerns that will inform their monitoring work.)
- **Community Engagement:** This is extremely critical. We need to involve respected community members in the negotiation of terms and in the implementation of any agreement. Only through such a process will we have a community knowledgeable of the process and ready to continue working on reforms after any court supervision has ended. The Cincinnati Collaborative, where a private lawsuit was merged with the DOJ agreement, is an excellent model. There may be other models as well. The point is not simply to "consult" or "liaison" with the community but to actually partner with the community with an eye toward long term reforms.
- **Problem Solving:** Develop strong prevention strategies through problem solving and community involvement. Multi-disciplinary approaches should include environmental changes, advice to landlords regarding standards on tenant selection, and engaging local stakeholders as they successfully have done in many ways in Cincinnati.
- **Data Driven Policing:** Replace reactive policing, sweeps, and stop-and-frisk policies with strategies that deploy police where they are needed – study service calls and assign police where repeat addresses (properties), repeat perpetrators, and repeat victims require a response. This will reduce the harassment of all citizens, particularly those who are African American, and reduce the feeling that the police are "occupying" the community. This will start to build trust and a positive relationship with law enforcement.

- **Accountability:** Police misconduct must be vigorously and independently investigated. An independent citizen board with a competent and empowered professional investigation staff must supplement internal investigations. Both inquiries must conclude before discipline is decided. The scope and mission of any such independent citizen board in Cleveland must be reviewed to ensure its capability to supplement internal investigations, and recommend new policies and training where needed.
- **Bias-Free Policing:** Terms must include measures to prevent race discrimination and profiling.
- **Union Engagement:** The police unions should be invited to have a meaningful role in crafting the agreement and in implementation so long as they agree not to appeal any decree or otherwise block implementation.

With the assistance and thoroughness of the DOJ team and the engagement of residents in the community, I am sure we can identify the problems and find solutions that achieve lasting, positive reform in the CDP. I look forward to working with the DOJ on achieving this goal.

Sincerely,



Marcia L. Fudge

Member of Congress