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January 9, 2015

President's Task Force on Policing in the 21st Century
Office of Community Oriented Policing Services
U.S. Department of Justice
145 N. Street, NE – 11th Floor
Washington, DC 20530

Dear Commissioner Ramsey, Professor Robinson, and Members of the Task Force:

We write to provide the views of the Anti-Defamation League (ADL) on policing practices that can promote effective crime reduction while building public trust and collaborative relationships between law enforcement officials and the communities they serve and protect. In this submission, we will focus on three of the many ways which we believe can help build public trust: (1) training and engagement to strengthen law enforcement's connection to the communities it serves; (2) underscoring the importance of an effective response to bias-motivated crimes and (3) curbing the school-to-prison pipeline. We look forward to other opportunities to contribute to the Task Force's important work in the weeks to come.

The Anti-Defamation League

The Anti-Defamation League, founded in 1913, is one of the nation's most respected civil rights organizations. In the past 10 years, ADL has trained well over 100,000 federal, state and local law enforcement personnel on hate crimes, extremism, domestic terrorism, ethics and core values at our national training programs or through our network of 27 regional offices. As a leading civil rights and advocacy organization, with vast experience in working with law enforcement, we are uniquely positioned to assist in addressing issues affecting the relationship and trust of law enforcement and the people and communities they serve.

ADL is the leading organization in combating hate crimes. The model statute on hate crimes we created more than 30 years ago has been enacted in 45 states and the District of Columbia. ADL chaired the coalition of more than 200 organizations, including law enforcement, which helped secure the passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. ADL is a respected leader in coalition building in support of strong police-community relations.

The Role of Law Enforcement in America

The men and women who go into law enforcement have chosen a singularly difficult calling. They shoulder significant responsibilities, including enforcing our nation's laws, preserving the peace, and preventing and responding to crime and terrorism. They are given powers that are entrusted to few others in our society – the authority to use force (even lethal force) and to deprive people of their freedoms. They are expected to run toward danger, quell violence, to make split-second decisions about the use of force. They risk their lives to protect ours.

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But what makes their calling especially challenging is the essential requirement that they carry out these responsibilities within the framework of our country's democratic principles and values, without abusing their extraordinary powers or violating individual rights and our Constitution. The role of law enforcement in our democracy revolves around the relationship of police to the people they serve. Policing in a democracy is about dealing with people. In every encounter – from the most routine to the most violent and extreme – police officers are expected to treat people they meet in accord with our nation's principles and values: with fairness and equality, respect and dignity.

If police are perceived as treating any segment of the population unfairly, trust in law enforcement is eroded and the ability of the police to do its work is impaired. Mistrust results in unwillingness to cooperate in investigations, to report crime, or to turn to police for protection. Mistrust is exacerbated when law enforcement agencies' primary interaction with the community is through arrests and anti-crime operations. Without ongoing community engagement, negative perceptions and even hostility to police will go unchecked. Pluralism is one of the guiding principles of our nation, and fostering diversity in law enforcement agencies is recognized within the profession as a critical component of police forces in democracies. Mistrust significantly undermines efforts to recruit from the very communities underrepresented in law enforcement.

The work of this Task Force is especially timely because of two recent grand jury decisions not to indict white police officers who were involved in the killing of unarmed black men. Those cases, in Ferguson, Missouri and Staten Island, New York, are neither unique nor typical, but they have sparked serious questions related to race and fairness in the American criminal justice system, and they highlight the need for proactive efforts to build trust, respect, and greater engagement between law enforcement agencies and the communities they serve.

We have come a long way since the infamous images of police officers using dogs, fire hoses and billy clubs against peaceful civil rights protestors. Law enforcement today is held to a very high standard, namely, that there can be no separation between the behavior of police and our national principles and values. There is need for deeper community engagement and training for law enforcement personnel and community members to address profiling, bias – and perceptions of bias – and to ensure equal procedural justice.

As Attorney General Holder said, “racial profiling by law enforcement is not only wrong, it is misguided and ineffective – because it can mistakenly focus investigative efforts, waste precious resources and, ultimately, undermine the public trust.”¹ Biased police practices are “unfair, promote mistrust of law enforcement, and perpetuate negative and harmful stereotypes.”²

Training and Community Engagement to Build Trust and Legitimacy

Education and training that strengthens the understanding of law enforcement values and connection to the people they serve must be given the highest priority. For the past fifteen years, ADL has played a significant role in working with law enforcement to increase understanding of the role they play in our democracy. In 1998, Charles H. Ramsey, then the newly-appointed Chief of Police of the Washington, DC Metropolitan Police Department, asked ADL to work with the United States Holocaust Memorial Museum to create a training program for his recruits using the history of the Holocaust as a foundation for increasing officers' understanding of their relationship to the people they serve and their role as protectors of individual rights and the Constitution.

This culminated in the launch of the *Law Enforcement and Society* (LEAS) program. LEAS examines how police build trust with the members of the community, the dangers of seeing the world in terms of “them versus us,” and the checks and balances that prevent police from abusing their power. The

session culminates with a discussion of central role of core values and behaviors for law enforcement. To date, LEAS has reached over 95,000 law enforcement professionals from the Immigration and Customs Enforcement, United States Secret Service, the United States Marshals Service, the Bureau of Alcohol, Tobacco, Fire Arms and Explosives, DEA, DC Metropolitan Police Department, and Philadelphia Police Department. The enormous demand for Law Enforcement and Society reflects both the impact and effectiveness of the program, and its educational approach. *LEAS* is affirmative. It trains participants to aspire to the highest standards and core values of their profession and to understand that their identity as law enforcement professionals is fused to their role as protectors of the people they serve and of our national values.

The Importance of an Effective Response to Hate Crimes

Bias crimes are designed to intimidate the victim and the victim's community, leaving them feeling fearful, isolated, vulnerable, and unprotected by the law. These crimes demand significant attention because of their special impact. By making members of minority communities fearful, angry, and suspicious of other groups – and of the power structure that is supposed to protect them – these incidents can damage the fabric of our society and fragment communities. ADL is recognized as the leading organization on hate crimes in legislation and advocacy, victim assistance, and training – at the forefront of national and state efforts to train law enforcement officials and civic leaders to deter and counteract hate crimes.

Police have come to recognize the significant benefits to law enforcement and the community of tracking hate crime, as well as preventing and responding to them. In partnership with community-based organizations, civic leaders and law enforcement officials can advance police-community relations by demonstrating a commitment to be both tough on hate crime perpetrators and the special needs of hate crime victims.

One important way in which law enforcement's response to hate crimes can be improved is through enhanced data collection. Since 1990, the FBI has been charged with collecting and publishing hate crime data from the nation's 18,000 law enforcement agencies. By compiling statistics and charting the geographic distribution of these crimes, police officials may be in a position to discern patterns and anticipate an increase in racial tensions in a given jurisdiction. The FBI released its 2013 HCSA data³ (the most recent data available) in December, 2014.

Unfortunately, more than 80 cities with populations over 100,000 either did not participate in the FBI 2013 data collection program or affirmatively reported zero (0) hate crimes. That is an unacceptably high level of non-participation. As FBI Director James B. Comey said at the 2014 ADL Leadership Summit, "We must continue to impress upon our state and local counterparts in every jurisdiction the need to track and report hate crime. It is not something we can ignore or sweep under the rug."⁴

Studies by the National Organization of Black Law Enforcement Executives (NOBLE) and others have revealed that some of the most likely targets of hate violence are the least likely to report these crimes to the police.⁵ In addition to cultural and language barriers, some immigrant victims, for example, fear reprisals or deportation if incidents are reported. Many new Americans come from countries in which residents would never call the police – especially if they were in trouble. Gay, lesbian, and transgender victims, facing hostility, discrimination, and, possibly, family pressures, may also be reluctant to come forward to report these crimes.

While bigotry cannot be outlawed, comprehensive participation in the FBI HCSA data collection program, adoption of comprehensive hate crime prevention polices, ongoing training on these polices and relevant laws, and effective enforcement strategies can demonstrate commitment to community

engagement and deterring and preventing this deeply-impactful criminal behavior. Victims are much more likely to trust the police, report a hate crime, and cooperate in the investigation if they know hate crime prevention policies and reporting systems are in place.

Curbing the School to Prison Pipeline

A top priority for the Anti-Defamation League is working to create safe, inclusive schools and communities and to ensure that all students have access to equal educational opportunities.⁶ Sixty years after the U.S. Supreme Court issued a landmark decision in *Brown v. Board of Education*⁷ desegregating America's schools, the promise of education equity in the United States remains unfulfilled. Today black and Latino students are approximately twice as likely as their white peers to drop out of high school.⁸ There are many factors that contribute to the persistent achievement gap, but school suspensions and expulsions are among the best predictors of which students will drop out of school. Studies have concluded that African American students tend to receive harsher punishment for less serious behavior, and are more often punished for subjective offenses, such as "loitering" or "disrespect."⁹ Data from the Department of Education's Civil Rights Data Collection Program confirms that African American students are three times as likely to be suspended or expelled as white students.¹⁰

Dropping out of school has lasting, irreparable consequences affecting students' employment possibilities, earning potential, and increase their likelihood to become involved with the criminal justice system. One study found that rates of incarceration for young adults who dropped out of high school were more than 63 times higher than rates of incarceration for young adults with college degrees.¹¹ This cycle of suspensions and expulsions that leads to students dropping out of school, which in turn leads to increased likelihood of incarceration, has become known as the "school-to-prison pipeline."

In January 2014, the Departments of Justice and Education jointly issued landmark guidance¹² urging schools to "clearly define and formalize roles and areas of responsibility... with school resource officers and other security or law enforcement personnel,"¹³ and to create a written memorandum of understanding formalizing those roles and responsibilities with appropriate law enforcement agencies. Schools that have moved away from zero tolerance policies and from using school resource officers (SROs) as primary disciplinarians have seen remarkable results.

As School Resource Officers (SRO) increasingly become first-line disciplinarians, diversity and anti-bias training, like a program ADL piloted for San Diego SRO's, becomes critical to help stem the number of students being channeled into the juvenile justice system.

Recommendations:

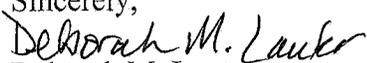
- Congress and the Administration should seize this extraordinary teachable moment to commit to a national conversation about racism, the nature of bias and implicit bias, about building trust in police-community relations.
- The Department of Justice and the COPS Office should work with ADL and the US Holocaust Memorial Museum to expand LEAS training to selected jurisdictions.
- Promote the Department of Justice revised and updated federal profiling guidance for law enforcement¹⁴, which expands protection on the basis of gender, national origin, religion, sexual orientation, and gender identity. This demonstrates the government's commitment to ensuring that law enforcement conduct their activities in an unbiased manner.

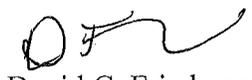
- Congress should support the Department of Justice and Department of Education's efforts to dismantle the school-to-prison pipeline to close the achievement gap in schools.
- Congress and the Administration should support outreach programs to promote an inclusive and diverse police force that better reflects the racial, ethnic, and religious communities it serves.
- With funding from Congress, the FBI, the Justice Department, and US Attorneys should incentivize police participation in the FBI's HCSA data collection program through national recognition, targeted funding, matching grants for HCSA-related training, and replication of effective programs.

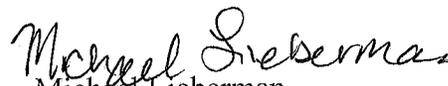
While this submission focuses on three key areas, other initiatives worthy of consideration include, cultural competency and diversity training for the police; effective implementation of the Administration's guidance on profiling; appointments of separate, independent special prosecutors to try cases against police; expanded data collection on the death of persons arrested or incarcerated, administrative and legislative proposals to tighten standards and expand training on military-style equipment for police, and proposals to expand federal criminal civil rights jurisdiction and oversight over allegations of excessive use of force by police officers.

We commend the President for establishing this Task Force and look forward to the important contributions you will make in addressing the significant challenges we face.

Sincerely,


Deborah M. Lauter
Director, Civil Rights


David C. Friedman
Director, Law Enforcement Initiatives


Michael Lieberman
Washington Counsel

¹ <http://www.justice.gov/opa/pr/attorney-general-holder-announces-federal-law-enforcement-agencies-adopt-stricter-policies>

² <http://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf>

³ *About Hate Crimes Statistics*, 2013, Fed. Bureau of Investigation (2013), <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2013>

⁴ <http://www.fbi.gov/news/speeches/the-fbi-and-the-adl-working-toward-a-world-without-hate>

⁵ *Racial and Religious Violence: A Model Law Enforcement Response*, National Organization of Black Law Enforcement Executives (NOBLE), September 1985 at 36.

⁶ Over the past decade, the League has emerged as a principal national resource developing education and advocacy tools to prevent prejudice and bigotry. ADL has built on award-winning anti-bias education and training initiatives, including the A WORLD OF DIFFERENCE® Institute, <http://www.adl.org/education-outreach/anti-bias-education/c/a-world-of-difference.html>, to craft innovative programming and advocacy to address bullying and its pernicious electronic form known as cyberbullying.

⁷ *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

⁸ Mary C. Stetser & Robert Stillwell, *Public High School Four-Year On-Time Graduation Rates and Event Dropout Rates: School Years 2010-11 and 201-12*, U.S. Dep't of Educ. (Apr. 2014), <http://nces.ed.gov/pubs2014/2014391.pdf>

⁹ Russel J. Skiba, et al., "Race is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline," *School Psychology Review* 40, No. 1, 86-7 (2011), available at <http://www.indiana.edu/~equity/docs/Skiba%20et%20al%20Race%20is%20Not%20Neutral%202011.pdf>.

¹⁰ *Civil Rights Data Collection Data Snapshot: School Discipline*, U.S. Dep't of Educ. Office of Civil Rights (March 2014), <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>.

¹¹ Andrew Sum, et. al., *The Consequences of Dropping Out of High School: Joblessness and Jailing for High School Dropouts and the High Cost for Taxpayers* (Oct. 2009), available at http://www.northeastern.edu/chms/wp-content/uploads/The_Consequences_of_Dropping_Out_of_High_School.pdf

¹² *Joint 'Dear Colleague Letter*, U.S. Dep't of Justice & U.S. Dep't of Educ. (Jan. 8, 2014), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>.

¹³ *Id.*

¹⁴ <http://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf>