



Cleveland State University

engagedlearning™

Maxine Goodman Levin College of Urban Affairs
Office of the Dean

1/24/2015



Dr. Ronnie A. Dunn
Cleveland State University
2121 Euclid Avenue, UR 314
Cleveland, Ohio 44115-2214

Mr. Ronald L. Davis, Executive Director
President's Task Force on 21st Century Policing

Dear Mr. Davis and Task Force members,

It is a great honor, and with a sense of obligation and humility that I graciously accept the invitation of the President's Task Force on 21st Century Policing to provide written testimony on Policy and Oversight relative to policing in America. This is an area in which I have conducted a considerable amount of research, particularly on the issues of racial profiling¹ and civilian oversight of police.² I welcome this opportunity to share some of my thoughts and perhaps unique perspective and insights in this area, in that I am an African American male as well as an academic that studies issues that intersect race, policing, and the criminal justice system. I am a product of the Cleveland Public School system, an Air Force veteran, and earned my doctorate degree at Cleveland State University where today, I am an associate professor of Urban Studies. I have conducted research in this subject area for the past 17 years, completing my dissertation on racial profiling, and having conducted three separate studies of the Cleveland Police Department, which is currently negotiating a consent decree with the Department of Justice as a result of a "pattern and practice" investigation, and is at the center of the national debate regarding policing in America, particularly relative to African-Americans and other minorities. Given this experience, I would like to offer recommendations in three substantive areas: racial profiling or bias-free policing; federal grant funding of state and local police initiatives; and community engagement for ongoing police reform efforts.

First, I would recommend the passage of federal legislation on racial profiling, consistent with the provisions entailed in the End Racial Profiling Act. The most frequent contact the average citizen has with the police occurs as a result of a traffic stop. Nationally, approximately 40 million persons 16 years of age or older had a face-to-face encounter with



police in 2008, the most recent year for which this data is available, 59 percent of which resulted from a traffic stop or accident. Although allegations by minorities, particularly blacks, that they are singled out by law enforcement for disparate treatment is not a new phenomenon, as evidenced by the 1968 Kerner Commission Report, the increased use of “pretextual stops” by law enforcement since the mid-1980s as a tactic in the “War on Drugs,” has exacerbated the already historically troubled relationship between police and the African-American community and brought racial profiling to the forefront as one of the most contentious social and political issues confronting local law enforcement and public officials across the nation (Dunn & Reed, 2011).

Federal survey data between 2002 and 2008 shows that while black, white, and Hispanic motorists are stopped by police at similar rates, blacks and Hispanics are more likely to have their vehicles searched and receive a traffic citation than are white motorists.³ The research literature has also consistently shown that minorities are no more likely and often less likely to be in possession of drugs, guns, or other forms of contraband than are whites. Skolnick and Fyfe⁴, identify routine traffic stops, and stops of suspicious vehicles as two of the most frequent and “potentially violent situations,” (PVs) between police and citizens. Central to addressing the current crisis of police use of deadly force against unarmed citizens is to monitor, and where it is not in response to a specific, known, and articulable violation of local, state, or federal law, reduce the frequency of these involuntary police-citizen interactions.

As the nation has witnessed a moderating of some of the more harsh criminal justice policies as the “crack epidemic” has waned, and some reforms have occurred in the courts, e.g., reduction in sentencing disparities, and in corrections, e.g., community reentry for ex-offenders, such as Ohio’s Collateral Sanctions Reform Bill HB 337, a corresponding shift in policing, the point of entry into the criminal justice continuum, has not occurred. This can be achieved by passage of federal legislation that explicitly prohibits the use of race, ethnicity, gender identity, sexual orientation, or religious affiliation as the basis to target, stop, investigate, question, or detain a person, be they motorists, pedestrian, or cyclists, without articulable probable cause that such person has committed an unlawful offense. Such legislation should also include a provision requiring the uniform collection of social demographic data on all involuntary police-citizen contacts, not only those resulting in a traffic ticket or misdemeanor citation. This will help to determine the magnitude of those that are not formally sanctioned, but effectively diverted from the criminal justice system by being given a warning or questioned and searched, yet for which no record exists. This data should then be collected, analyzed, and reported annually to the appropriate local governmental entity, and the state and U.S. Attorney General’s Office. Federal funding to local and state law enforcement agencies can be used to incentivize the enforcement of this legislation and provide support and remedial training for agencies found to be in non-compliance with federally established guidelines.

Many of the criminal justice reforms that have been recently enacted across the country have primarily come about as a result of the 2007 economic recession and the unsustainable cost of prisons and corrections on state budgets. And while the President has officially announced the end of the War on Drugs as is traditionally done when combat operations cease in a foreign war, funding strategies such as the Brennan Center For Justice's, "Success-Oriented Funding"⁵, can be used to shift from non-effective, counter-productive law enforcement approaches that have evolved over the past 30-plus years under the "War on Drugs" regime, which have not enhanced public safety, but led to the U.S. being the world leader in incarceration of its citizens. By applying this Success-Oriented Funding strategy to the federal government's primary criminal justice funding source, the Edward Byrne Memorial Justice Assistance Grant (JAG) program, resources can be redirected to help offset some of the adverse effects of policies and practices such as the 100-to-1 sentencing disparities between crack and powder cocaine, and mandatory minimum drug sentences, which has led to the disproportionate incarceration of minorities, particularly blacks and Hispanics, for low-level, non-violent drug offenses, and exacerbated the racial disparities within the nation's criminal justice system. Such an initiative will focus federal grant-funding on criminal justice performance measures of outcomes, such as the violent crime rate and the percentage of such arrest resulting in conviction, the percentage of misdemeanors adjudicated through a citation versus jail, and the percentage of drug offenders screened for addiction and treatment rather than funding local and state grant recipients that focus on outputs, such as the number of arrests, gun crime charges, and warrants. The former are more precise indicators of public safety than are the latter, which measure law enforcement/criminal justice activities.

Lastly, there is a need for creation of a toolkit for community engagement in ongoing police reforms. Since 2009, the US Department of Justice's Civil Rights Division has opened more than twenty investigations into police departments across the country. Not since the social unrest of the late 1960s and early 70s has the issue of police conduct and police reform been more at the forefront of the minds of law enforcement officials as well as the average American citizen. Clearly the Department of Justice's role in ensuring constitutional policing is paramount in guiding the reform efforts of law enforcement and their civilian leadership. As Sam Walker, Professor Emeritus of Criminal Justice, University of Nebraska stated in, *Civil Rights Investigations of Local Police: Lessons Learned*⁶, "No police department should be in a position where it can be sued by the Justice Department, because past cases make clear what is expected of them to achieve professional, bias-free and accountable policing."

Whereas law enforcement have clear guidance and a roadmap for how to promote best police practices, communities and the general public often have a much more challenging and daunting task before them when they find themselves in a situation where their city's police practices have been placed under DOJ scrutiny. Often this scrutiny comes on the heels of high-



profile negative police-citizen encounters. Communities may be angry, frustrated and confused, and feelings are raw on all sides. When a DOJ pattern and practice investigation is initiated and findings are issued, these same communities, who may have long felt disengaged from their police departments at best and are distrustful and cynical about their departments at worst, are suddenly thrust into the spotlight and are being asked to step up and provide input and feedback on how they want to be policed. These communities often lack insight into the internal workings of their police department and they may lack knowledge about the basic structures of police accountability. In short, communities know something is terribly wrong, but they are not sure how to engage in the process of fixing the problem. A toolkit on “Community Engagement in Police Reform” could cover basic accountability measures and help communities quickly find a sense of direction and purpose in working with their police departments to implement positive changes.

The need for such a guide has become readily apparent to the residents of the City of Cleveland, Ohio who have recently inserted themselves into the police reform process on the heels of a US Department of Justice pattern and practice investigation into the use of force by the Cleveland Division of Police. After a DOJ findings letter was issued on December 4, 2014, that determined the Cleveland Division of police engaged in a pattern and practice of unconstitutional policing with respect to the use of force, the community quickly learned that its voice mattered in the reform process and that its concerted engagement would be necessary to help plan how to monitor the efficacy and sustainability of any subsequent reforms. Yet, instead of being able to rely on an organized blue print, stakeholders have had to engage in weeks of self-study, research and community consultations to gain a foothold and a modicum of understanding as to what the consent decree process is like and where the community would potentially fit in. A toolkit that helps to gather, delineate, and streamline information about the DOJ intervention process under 42 U.S.C. 14141 and other relevant statutes would be indispensable to other cities who may find themselves in a similar situation.

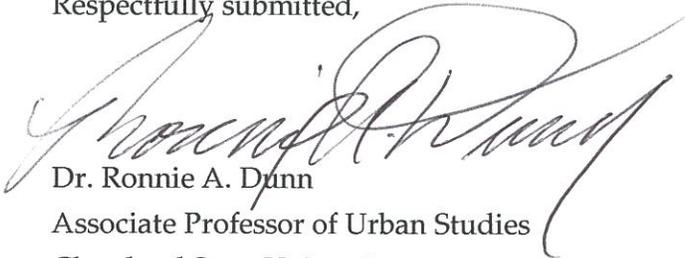
The Department of Justice together with communities that have undergone a federal consent decree process or other DOJ intervention should work together to compile a road map or toolkit that sets forth best practices for navigating the community engagement aspect of implementing and sustaining police reforms. The toolkit could, for example, be entitled “Principles for Promoting Community Engagement in the Police Reform and Accountability Process.” The document would 1) explain the basics of DOJ intervention; 2) set forward the relevant laws and statutes governing DOJ’s involvement in police reforms; 3) offer a historical overview of DOJ initiated reform efforts; 4) provide profiles of the different types of community engagement models that have emerged in various cities and 5) explore the challenges and opportunities involved in bringing the community’s voice to bear in efforts to improve police practices and accountability measures across the country. The report could include testimonials



from DOJ officials, community members and diverse stakeholders, as well as police line officers and supervisory staff, and local public officials.

The toolkit should explore models of community engagement such as those in Los Angeles, Cincinnati, Seattle, Portland and other cities that have come under DOJ guidance. The report should include a reference and resource section that would provide guidance and examples for community groups to use to help engage diverse community safety stakeholders who can in turn seek to amplify the voices of impacted communities. The toolkit should provide stakeholder groups with concrete examples of survey tools; guides for community dialogues; ideas for holding panels and events on police policies and procedures; methods of gathering community input on how communities would like to be policed; and procedures for neighborhoods to work together with police to create neighborhood safety plans, etc. The toolkit would assemble the combined knowledge of various stakeholders who have been involved in police reform efforts from various sectors. The overall goal of the toolkit would be to provide a roadmap for community engagement in reform efforts and well as sustained involvement in community oriented and problem-solving oriented policing. Collectively, I believe these recommendations will help advance effective, constitutional, community-oriented policing, which will strengthen the social fabric of our nation and the principles of democracy.

Respectfully submitted,



Dr. Ronnie A. Dunn
Associate Professor of Urban Studies
Cleveland State University

¹ Ronnie A. Dunn and Wornie Reed, *Racial Profiling: Causes & Consequences*, 2011. Dubuque, IA: Kendall-Hunt Publishing Co.

² Ronnie A. Dunn, "Race and the Relevance of Citizen Complainants Against the Police," 2010. *Administrative Theory & Praxis*, 32, 4, 557- 577.

³ Christine Eith and Matthew R. Durose, *Contacts between Police and the Public*, 2008. U.S. Department of Justice. Office of Justice Programs: Washington, D. C.

⁴ Jerome H. Slolnick and James J. Fyfe, *Above The Law: Police and the Excessive Use of Force*, 1993. New York: Free Press.

⁵ Inimai Chettiar, Lauren-Brooke Eisen, Nicloe Fortier, and Timothy Ross, *Reforming Funding to Reduce Mass Incarceration*, 2013. New York: The Brennan Center for Justice, New York University School of Law.

⁶ Samuel Walker, 2013, *Civil Rights Investigations of Local Police: Lessons Learned*, Critical Issues in Policing Series, Washington, DC: Police Executive Research Forum.

http://www.policeforum.org/assets/docs/Critical_Issues_Series/civil%20rights%20investigations%20of%20local%20police%20-%20lessons%20learned%202013.pdf