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Groups Call on Justice Dept. to Maintain Court-Ordered Police Reforms in Pittsburgh

(11/17/1999)

FOR IMMEDIATE RELEASE

PITTSBURGH -- In a letter sent today to the U.S. Department of Justice, a broad coalition of 20 community and national rights groups are urging officials to reject efforts to end a court-monitored decree requiring sweeping reforms in the city's police department.

The letter, sent by the American Civil Liberties Union of Pittsburgh, the NAACP, Parents Against Violence, and a host of others, calls on Acting Assistant Attorney General Bill Lann Lee to stand by the five-year term of the so-called decree, which has become a national model for police management.

The action comes in response to a November 4 announcement that Mayor Tom Murphy plans to ask the Department of Justice (DOJ) to end the decree halfway through its implementation period, currently set to expire at the earliest in April of 2002.

"The Pittsburgh community needs DOJ to stay the course and not abandon the reform effort prematurely," the letter said. "The most difficult reform of all has yet to be realized, namely, 'operational compliance' by street-level police officers."

Tim Stevens, President of the Pittsburgh branch of the NAACP, said that without the court-ordered consent decree in full force, such reforms may never be realized.

"It took Pittsburgh many, many years to achieve the depths of police misconduct which earlier existed," Stevens said. "It will also take many years to achieve a permanent turnaround."

In 1997, Pittsburgh became the first major city to make sweeping reforms in its police department, which came in response to a 1996 lawsuit filed by the American Civil Liberties Union on behalf of the NAACP, Parents Against Violence and sixty-six individual police misconduct victims.

The Justice Department joined the reform effort at the invitation of the ACLU shortly after the suit was filed. This was the first major initiative under a law Congress passed in 1994 that gave the Justice Department the right to investigate "patterns and practices" of civil rights violations by police departments and to file civil suits to remedy the misconduct. Previously, the agency was limited to investigating only individual allegations of police misconduct.

Among the abuses challenged were the practice of arresting and jailing innocent people for exercising their First Amendment right to question or complain about police officer behavior; the arrest and prosecution of people on the basis of false charges; the undertaking of unreasonable searches and seizures in African-American communities; and the use of gratuitous and excessive force against citizens of all races.

"The forces that for decades resisted overdue reforms are still strong, still in denial, and still in control," said Vic Walczak, Executive Director of the ACLU of Pittsburgh. "Without the decree, there is nothing to prevent those forces from repealing the recent reforms and returning Pittsburgh to the dark days of unaccountable and out-of-control cops."

The federal judge who approved the plan said the five-year agreement provided a "comprehensive methodology to responsibly manage and control instances of police misconduct."

Under the agreement, the city hired an independent auditor to assure that the terms of the consent decree are met, document all traffic stops and all arrests, conduct annual performance evaluations and provide annual training in cultural diversity, integrity and ethics.

Today's letter described a "town hall" meeting convened by Amnesty International USA last month to evaluate enforcement of the consent decree. At that meeting, attended by consent decree auditor Dr. James Ginger, representatives from the Department of Justice, Police Chief McNeilly and dozens of community activists, a consensus emerged that the decree should not be altered and that it should be enforced vigorously by the Justice Department.

Gerald LeMelle, Deputy Executive Director of Amnesty International, said his group has found that police departments often respond positively "when the glare of public scrutiny is upon a police force." But the response, he added, "is usually temporary."

"Based on Amnesty's recent examination of the Pittsburgh situation, we agree with the recommendations of the vast majority of forum participants that the consent decree is an essential part of the reform process and that process is not yet completed."

The letter was signed by local community organizations that helped gather information for the 1996 lawsuit filed by the American Civil Liberties Union, the NAACP and Parents Against Violence, as well as Ronald Hampton, Director of the National Black Police Association, and Gerald LeMelle of Amnesty International USA.

The community groups that signed on are: Urban League of Pittsburgh, Citizens For Police Accountability, Community Empowerment Association, National Council for Urban Peace and Justice, Coalition to Counter Hate Groups, Black and White Reunion, the Pittsburgh Chapter of Amnesty International, the YWCA Center for Race Relations, Cry Out Act Up!, Pennsylvania Baptist State Convention, Thomas Merton Center, Black Presbyterian Pastors, National Council for Community & Justice, as well as Pennsylvania state representative William Robinson of Pittsburgh.

The text of the letter to the Justice Department follows:

November 17, 1999

BY FAX & FIRST CLASS MAIL

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Civil Rights Division
U. S. Department of Justice
P. O. Box 65808
Washington, D.C., 20035-5808

RE: *United States v. City of Pittsburgh*, CA-97-0354 (W. D. Pa., Cindrich, J.); DOJ Consent Decree with the Pittsburgh Bureau of Police

Dear Mr. Lee:

The undersigned groups join together to call on the United States Department of Justice ("DOJ") to remain steadfast in the enforcement of the Pittsburgh Police Consent Decree and to resist a request from City officials to reduce the duration of the agreement. *United States v. City of Pittsburgh*, CA-97-0354 (W. D. Pa., Cindrich, J.). The City's solicitor advised the Pittsburgh City Council on November 4, 1999 that Mayor Tom Murphy would be asking to meet with you before the end of the year to request that DOJ agree to end the Decree before the five years expires.

Although the City has made positive strides toward compliance with the Decree, it has not yet achieved that status. More importantly, the most difficult reform of all has yet to be realized, namely, "operational compliance" by street-level police officers. Without vigorous enforcement by DOJ of the Consent Decree, the gains achieved to date are likely to evaporate. The Pittsburgh community needs DOJ to stay the course and

not abandon the reform effort prematurely.

The history of the Pittsburgh Bureau of Police is a prototypical example of deliberate indifference by elected City officials and police brass to a pattern and practice of police misconduct. For decades, the Pittsburgh community attempted to convince City leaders and police management to impose on local police officers a system of accountability. Well publicized incidents of misconduct generated periodic calls for reform, but City leaders desisted. Juries decided in numerous lawsuits that not only were police officers guilty of constitutional torts, but that the misconduct arose out of an unconstitutional City pattern, practice or policy. Still, City leaders resisted long overdue changes in police management. An American Civil Liberties Union ("ACLU") review of internal affairs files revealed that for many years no City police officer had been disciplined as the result of a citizen's civil rights complaint. The result was a climate wherein those police officers who chose to violate citizens' civil rights did so, and knew that they could do so, with impunity.

The 1996 lawsuit against the City and over one hundred police officers, which was filed by the ACLU on behalf of dozens of Pittsburgh citizens and the National Association for the Advancement of Colored People ("NAACP") and Parents Against Violence, was the product of years of hard work by many community organizations, including the undersigned. *Williams v. City of Pittsburgh*, CA-96-560 (W.D.Pa., Cindrich, J.). The lawsuit catalogued the Bureau's ills and alleged dozens of individual police misconduct cases. The suit requested not only damages, but equitable relief to reform "a long-standing municipal policy of deliberate indifference to citizen abuse on the part of City of Pittsburgh police officers."

The ACLU invited DOJ in April of 1996 to join the reform effort. After almost a year of intensive investigation and negotiation, the effort finally bore fruit in February of 1997 when DOJ convinced the City to enter into a Consent Decree. That Consent Decree has now become a national model for police management. More importantly, the Decree has begun the process of professionalizing the City's police department.

The culmination of the liability phase of litigation with a judgment or consent decree is, in institutional reform litigation, only half the battle. The hardest and most important aspect of the litigation is implementation of agreed upon changes and the compliance monitoring. Even in the compliance monitoring phase, the most crucial and difficult element of the process involves changing the attitude and culture of the agency's rank and file employees. It may take years if not decades for the policy changes to permeate the employment practices. The effort in Pittsburgh is no different and we are now still only in the early stages of the reform process. As the Consent Decree Auditor noted in his last quarterly monitoring report:

The City has come into compliance in all but three areas; however, these are among the most difficult areas to control, as quality assurance in the internal investigations process is among the more difficult tasks confronting American law enforcement. * * * On the police side, as well, the most difficult problem remains: moving responsibility for review and control of unwarranted police behavior, and recognition and award of exemplary police behavior to the sergeant's and lieutenant's level. Increasing supervisory presence and improving supervisory control and leadership are critical factors for the bureau, and are essential to maintain compliance. *Public Management Resources, Auditor's Quarterly Report; Long-Term Compliance Audit for the Pittsburgh Bureau of Police, Eighth Quarterly Report, at 76 (September 1999).*

If DOJ accedes to City officials' request for early relief from enforcement of the Decree, the entire reform effort will have been for naught. The undersigned recognize that the City has made great strides under the Decree, and for that Bureau Chief Robert McNeilly deserves credit. But we also know that the changes have occurred because of the Consent Decree. The City's leadership has not changed since the signing of the Decree. These same leaders resisted change and the development of a system for holding miscreant officers accountable. The Mayor's response to the catalogue of ills described in the ACLU lawsuit was that the Police Bureau didn't need to make changes and would not make any changes. Just weeks before signing the Decree in February of 1997, the Mayor characterized DOJ lawyers as knowing less about police management than his "six year-old son." This same administration is still in power.

Furthermore, many rank and file officers have been resistant to the changes required by the Decree. The local union, the Fraternal Order of Police ("FOP"), has waged an aggressive campaign to overturn the Decree and to oust Chief McNeilly. The FOP has been vocal in saying that the Decree has hamstrung law enforcement efforts. There has even been some indication of a "blue flu," whereby officers are declining to do their jobs in protest over the Decree. It is clear, therefore, that the forces that for decades opposed change, the police and elected City officials, are still in place and have not been convinced that reform is either desirable or necessary.

In short, it is only the force of law, embodied by the Consent Decree, that has brought the Pittsburgh Bureau of Police to where it is now. It is only the Consent Decree that will compel the Pittsburgh Bureau of Police to complete the reform process. And it is only the Consent Decree that will maintain the reform process for long enough to force a change in a culture that for too long allowed violations of citizens' civil rights.

At the end of October, Amnesty International USA held a town forum in Pittsburgh to evaluate the Consent Decree. The Consent Decree auditor, Dr. James Ginger, and DOJ representatives joined dozens of community activists and Chief McNeilly on this day of self-evaluation and reflection. After many hours of debate and discussion, a consensus emerged: the Consent Decree is a model for police management nationwide; the Consent Decree was and is needed in Pittsburgh; the Consent Decree should not be altered; and the Consent Decree should be enforced vigorously by DOJ. The biggest concern expressed by forum participants about the Consent Decree was that it could end after five years. We all agreed that the end of the Decree spelled trouble because the forces that for decades resisted change are still strong. Those of us who live in this community have no doubt that once the Consent Decree ends, regardless of the Chief's good intentions, the reforms will be diluted by City leaders and the FOP.

As you know, the Pittsburgh Decree also has significant national ramifications. It was the first, and still is the only, major victory under the 1994 statute (42 U.S.C. .14141) giving DOJ the authority to use civil litigation to root out "patterns and practices" of police misconduct. Police management experts, including Dr. Ginger and the ACLU's own expert, Dr. James Fyfe, have praised the Decree as a model for departments around the country. The power given DOJ by .14141 is arguably the most important new legal tool to help fight systemic police misconduct problems in at least a generation. For DOJ to accede to the Mayor's request to abandon its commitment to the people of Pittsburgh half-way through the reform effort would send the wrong message about DOJ resolve to police departments nationwide.

On behalf of the thousands of Pittsburghers in our ranks, we join now in calling upon you and DOJ to stand firm against efforts by the City to dilute the Consent Decree. If you feel compelled to allow City and police officials to meet with you to discuss modification of the Decree, we ask that you also meet with us. DOJ has done wonderful work for the Pittsburgh community, but that work is unfinished. Please don't abandon us before finishing the vitally important reform process, a process that will require a "rock-bottom" minimum of five years of vigilant DOJ enforcement.

Respectfully,

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ACLU of Pennsylvania, Greater Pittsburgh Chapter

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Pittsburgh Branch, NAACP

Timothy P. O'Brien, Esq.
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Gloria Scott,
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Rashad Byrdson,
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Hon. William R. Robinson,
Member, 19th District, Pennsylvania House of Representatives

Diane Hernon Chavis,
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