

Section by section analysis
H.R. 3981

Section 1. SHORT TITLE

This act may be cited as the "Law Enforcement Trust and Integrity Act of 2000"

TITLE 1 -- LAW ENFORCEMENT ACCREDITATION

SECTION 101. ACCREDITATION OF LAW ENFORCEMENT AGENCIES

(a) STANDARDS --

(1) **IN GENERAL --** The Attorney General shall develop national standards for the accreditation of law enforcement agencies.

(2) **INITIAL ANALYSIS --** The Attorney General shall perform an initial analysis of existing standards and accreditation methodology.

(3) **PROMULGATION OF STANDARDS --** The Attorney General, in consultation with professional law enforcement organizations, labor and community-based organizations develop additional standards, including early warning programs, civilian review procedures, traffic stop documentation and procedures, administrative due process requirements and training standards.

(4) **CONTINUING ACCREDITATION PROCESS --** The Attorney General shall adopt policies in partner with other law enforcement accreditation agencies, professional law enforcement organizations, labor and community based organizations to develop further accreditation standards and to encourage the pursuit of accreditation by Federal, State and local law enforcement agencies.

(b) ACCREDITATION GRANTS -- The Attorney General may make grants available to assist in gaining or maintaining accreditation.

TITLE II -- LAW ENFORCEMENT DEVELOPMENT PROGRAMS

SECTION 201. LAW ENFORCEMENT GRANTS.

(a) GRANT AUTHORIZATION -- The Attorney General may make grants to study and implement effective management, training, recruitment, hiring and oversight policies and programs.

(b) PROJECT GRANTS TO STUDY LAW ENFORCEMENT AGENCY MANAGEMENT -- Grants shall be used for the study of law enforcement agency mismanagement an operations standards and for research into the effectiveness of existing programs, projects or other activities

(c) PROJECT GRANTS TO DEVELOP PILOT PROGRAMS -- Grants shall also be used to develop pilot programs and implement effective programs in the areas of training, hiring and recruitment, and oversights to address misconduct by law enforcement officers. These programs shall include:

(1) TRAINING -- The areas of (a) lethal and non-lethal force; (b) reporting and responding to instances of law enforcement misconduct; (c) tactical and defensive strategy; (d) arrests, searches, and handcuffing; (e) communications with civilians; (f) interactions with youth, the mentally ill, and monolingual multi cultural communities; (g) proper enforcement stops; and (h)community relations.

(2) RECRUITMENT, HIRING, RETENTION AND PROMOTION OF DIVERSE LAW ENFORCEMENT OFFICERS -- to establish policies to encourage the hiring of a diverse force, develop educational and psychological standards, encourage residency and continue education.

(3) OVERSIGHT -- establish civilian review boards

(d) AMOUNTS -- Establishes how authorized amounts will be distributed.

(e) TECHNICAL ASSISTANCE --
e

(1) IN GENERAL -- The Attorney General may provide assistance in furtherance of this section

(2) MODEL -- Technical Assistance may be provided in the form of a model to reduce law enforcement misconduct.

(f) USE OF COMPONENTS -- Any component of the Department of Justice may be used in carrying out this title.

(g) MATCHING FUNDS --

(1) IN GENERAL -- The portion of the costs of an activity provided by a grant under subsection (a) may not exceed 75%.

(2) WAIVERS -- The Attorney General may waive the non-Federal contribution requirement.

(h) APPLICATIONS --

(1) APPLICATION -- The Attorney General may prescribe guidelines for applications for grants.

(2) APPROVAL -- All grants must be approved by the Attorney General

(i) PERFORMANCE EVALUATIONS --

(1) MONITORING COMPONENTS -- Each activity funded under this title shall contain a monitoring component.

(2) EVALUATIONS COMPONENT -- Selected grants shall be evaluated pursuant to guidelines established by the Attorney General.

(3) PERIODIC REVIEW AND REPORTS -- The Attorney General may require grant recipients to submit the results of monitoring and evaluations.

(j) REVOCATION OR SUSPENSION OF FUNDING -- The Attorney General may revoke or suspend funding of any entity (s)he determines to not be in compliance.

(k) DEFINITIONS --

(1) "career law enforcement officer" is one who is authorized to engage in the prevention, detection or investigation of violations of criminal law

(2) "law enforcement agency" is an entity engaged in the prevention, detection or investigation of violations of criminal law

(3) "Indian tribe" is an organized group that is recognized as eligible for the special programs and services provided by the United States to Indians

(4) "Community based organization" is a grassroots organization that monitors the issue of police misconduct and that has a national presence and membership

(5) "federal law enforcement" is a federal public agency engaged in the prevention, detection or investigation of violations of criminal law

(6) "professional law enforcement associations" are law enforcement membership associations that work for the needs of law enforcement groups and with the civilian community on matters of common interest

(7) "law enforcement accreditation agency" is a law enforcement association involved in the development of standards of accreditation for law enforcement agencies

(8) "private entity" is a private security organization engaged in the prevention, detection or investigation of violations of criminal law and/or organizational policy

(9) "civilian review boards" are entities that include the following characteristics: independent, investigatory authority and staff, subpoena power, adequate funding, representative diversity, policy making authority, provide advocates for civilian complaints, mandatory police, power to conduct hearings, conduct statistical studies on prevailing trends of unusual complaints, and have a disciplinary role

TITLE III -- ADMINISTRATIVE DUE PROCESS PROCEDURES

SEC. 301. ATTORNEY GENERAL TO CONDUCT STUDY

(a) STUDY --

(1) IN GENERAL -- The Attorney General shall conduct a national study of the prevalence and impact of any law, rule or procedure that allows a law enforcement officer to delay the answer to questions posed on law enforcement misconduct

(2) INITIAL ANALYSIS -- The Attorney General shall conduct an analysis of New York city's 48-hour rule

(3) DATA COLLECTION -- The Attorney General shall then collect national data on rules similar to the 48-hour rule

(b) REPORTING -- No later than 120 days after enactment, the Attorney General shall report his/her findings

TITLE IV -- ENHANCED FUNDING TO COMBAT POLICE MISCONDUCT

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

In fiscal year 2001, \$5,000,000 for additional expenses related to the enforcement of section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 and the Department of Justice's Office of Civil Rights, and \$3,000,000 for the Department of Justice, Community Relations Service

TITLE V -- ENHANCED AUTHORITY IN PATTERN AND PRACTICE INVESTIGATIONS

SEC. 501. UNLAWFUL CONDUCT.

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting "criminal or" before ",juvenile justice" and inserting "adults or" before "Juveniles"

SEC. 502. ENSURING ACCESS TO DOCUMENTATION

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to add that the Attorney General shall have the right to require all information necessary to carry out this Act.

SEC. 503. PRIVATE CAUSE OF ACTION RELATING TO POLICE PATTERN OR PRACTICE

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to add that a person who is aggrieved by a violation of this section may obtain declaratory and injunctive relief with respect to the violation

TITLE VI -- DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

SEC. 601. CRIMINAL ENFORCEMENT

(b) Section 242 of title 18, United States Code, is amended to include whoever, acting under color of any law, intentionally subjects or attempts to subject any person to force that

(A) exceeds that which is necessary, or

(B) engage in any unwanted sexual act

(b)(2) PUNISHMENT --

Shall be punished with a fine, imprisonment, or both.

(B)

(i) If death results from acts committed in violation of this section, imprisonment for any term of years or for life.

(ii) If bodily injury results, or if such act is sexual in nature, or if it involves the use or threatened use of a firearm, not more than ten years

(iii) In any case, imprisonment not to exceed two years.

(b)(3) DEFINITIONS --

(A) "sexual act" is defined as set forth in 18 U.S.C. 2246 (2) (A) - (C)

(B) "sexual contact" is defined as set forth in 18 U.S.C. 2246 (3)

(C) "bodily injury" is defined as set forth in 18 U.S.C. 1515 (a) (5)

(b)(4) CERTIFICATION --

No prosecution shall be undertaken except upon the notification of the Assistant Attorney General for the Civil Rights Division that in his judgement a prosecution by the United States is in the public interest

SEC. 602. PRIVATE AND CIVIL ENFORCEMENT

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to say

- (c) The Court may include expert fees as part of the attorney's fees

TITLE VII -- STUDY OF DEATHS IN CUSTODY

SEC. 701 -- STUDY

(4) Section 210401(a) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to require that states shall report, on a quarterly basis, information regarding the death of any person who is in the process of arrest, has been arrested, has been incarcerated or is en route to be incarcerated. Such information shall include:

- (A) name, gender, ethnicity and age of the deceased;
- (B) date, time and location of death, and
- (C) a brief description of the circumstances surrounding the death

TITLE VIII -- NATIONAL TASK FORCE ON LAW ENFORCEMENT OVERSIGHT

SEC. 801. NATIONAL TASK FORCE ON LAW ENFORCEMENT OVERSIGHT

(a) Establishment -- Within the Department of Justice there shall be a "Task Force on Law Enforcement Oversight"

(b) COMPOSITION -- The Task Force shall be comprised of at least one individual from each of the following:

- (1) the Special Litigation Section of the Civil Rights Division;
- (2) the Criminal Section of the Civil Rights Division;
- (3) the Coordination and Review Section of the Civil Rights Division;

- (4) the Employment Litigation Section of the civil Rights Division;
 - (5) the Disability Rights Section of the Civil Rights Division;
 - (6) the Office of Justice Programs;
 - (7) the Office of Community Oriented Policing Services (COPS);
 - (8) the Corruption/Civil Rights Section of the Federal Bureau of Investigation;
 - (9) the Community Relations Service, and
 - (10) the unit within the Department of Justice assigned as a liaison for civilian review boards.
- (k) POWERS AND DUTIES -- The Task Force Shall
- (1) coordinate investigative, prosecutorial and enforcement efforts in cases related to law enforcement misconduct; and
 - (2) coordinate the process of the detection and referral of complaints regarding alleged law enforcement abuse.
- (l) AUTHORIZATION OF APPROPRIATIONS -- \$5,000,000 is authorized for each fiscal year to carry out the provisions in this section.

TITLE IX -- IMMIGRATION ENFORCEMENT REVIEW COMMISSION

SEC. 901. CREATION OF IMMIGRATION ENFORCEMENT REVIEW COMMISSION.

Establishes the Immigration Enforcement Review Commission, to be comprised of a Board of Commissioners, the Investigations Office and a Community Outreach Office. The Immigration and Naturalization Service and the customs Service shall cooperate fully with the Review Commission.

SEC. 902. DUTIES OF REVIEW COMMISSION

Responsible for investigating complaints of civil rights abuses against the services. The Commission shall make disciplinary and policy recommendations.

SEC. 903. REVIEW COMMISSION

(a) COMPOSITION OF THE BOARD OF COMMISSIONERS -- The Board of Commissioners shall be composed of 7 members, appointed by the President in consultation with community-based groups and with the consent of the Senate. The President shall designate a Director. No more than 4 members may be of the same political party.

(b) APPOINTMENTS AND TERMS OF OFFICE --

(1) except as provided in paragraph (2), the term of each Commissioner shall be 6 years

(2) Of the Members first appointed, 4 shall be appointed for terms of 3 years. Not more than 2 members appointed under this paragraph may be of the same political party.

(3) A member appointed to fill a vacancy shall be appointed only for the remainder of the term

(4) No person shall serve more than 2 consecutive terms.

(c) COMPENSATION -- Each Member of the Board shall receive compensation for level V of the Executive Schedule.

(d) ELIGIBILITY -- A member of the Board may not have been employed by the Services within the preceding 5 years, nor by any other law enforcement agency for the preceding 1 year.

SEC. 904. ADMINISTRATIVE POSITIONS

(a) INVESTIGATIONS OFFICE -- The Review Commission shall employ such investigative personnel as the Board considers advisable

(b) COMMUNITY OUTREACH OFFICE -- the Board shall appoint a Director of Community Outreach

- (c) REVIEW COMMISSION FACILITIES -- The Review Commission shall establish a headquarters and 3 regional offices.
- (d) PERSONNEL LIMITATION -- An employee of the Review Commission may not have been employed by the Services within the preceding 5 years, nor by any other law enforcement agency for the preceding 1 year.
- (e) REGULATIONS -- The Review Commission is authorized to promulgate such rule as necessary to carry out its mission

SEC. 905. OPERATIONS OF REVIEW COMMISSION

(a) COMPLAINT FORMS --

- (1) Shall be made available at all Service Facilities
- (2) Shall be written in languages reflecting the languages of the immigrant populations

(c) FILING OF COMPLAINTS --

- (1) Complaints may be filed in person or by any other reasonable means, by any person, anonymously, and on behalf of a third party. Complaints need not be on official forms.
- (2) Establish and operate a multilingual, 24-hour toll free hotline to receive complaints
- (3) Complainants shall receive information describing the review process.

(d) PUBLIC OUTREACH --

- (1) The Review Commission shall serve to educate the public and shall seek out public input on improving the commission
- (2) The Review Commission shall develop outreach materials,
- (3) The Review Commission shall oversee the dissemination of such materials

(d) SERVICE EMPLOYEES' DUTY TO INFORM COMMISSION --

- (1) Any Service employees shall inform all complainants about the Review Commission
- (2) Any Service employee who witnesses or is made aware of abuse shall inform the Review Commission;
- (3) The Review Commission may require Service Employees to report other violations.

(d) INVESTIGATION OF COMPLAINTS --

Each complaint shall be investigated and a report shall be issued to the Board within 60 days.

(e) DISPOSITION OF COMPLAINTS --

- (1) Upon receiving each report, the Board shall establish a panel of 3 of its members to review the report
- (2) The Panel shall conduct hearing if
 - (A) the alleged abuse is serious, or
 - (B) the Panel decides, by majority vote, to hold a hearing
- (3) The Panel shall issue a written finding based on the hearing
- (4) The Panel shall forward its finding to both the complainant and the Service employee. Both shall have 30 days to review the finding. During this time, either may:
 - (A) If no hearing was held, request a hearing. A hearing shall be held at the approval of one Panel member
 - (B) Request an en banc review of the Panel's decision
- (3) If neither party makes a request for further action, the Board shall report its findings to the appropriate service.

- (4) All finding shall be reported directly to the appropriate service

(e) HEARINGS --

- (1) Both the complainant and the Service employee shall have the right to represented by counsel, present witnesses, and cross-examine witnesses.
- (2) Any violation by the service employee must be established by a preponderance of the evidence
- (3) (A) Except as provided in subparagraph (B), hearings shall be public
(B)The Board may close hearings to the public
- (4) A hearing shall be conducted in a location convenient to all concerned

(e) DISCIPLINARY RECOMMENDATIONS --

- (1) A finding of a criminal offense shall result in the Board contacting the appropriate authorities
- (2) The Board shall recommend disciplinary action when appropriate
- (3) Nothing in this Act shall affect the Services' authority to discipline their employees.

- (d) EARLY WARNING PROGRAM -- The Review Commission shall conduct periodic reviews of all complaints to establish any patters or individuals who are repeat offenders

- (e) RECORDS OF COMPLAINTS AND STATISTICAL SUMMARIES -- Records shall be maintained of all complaints and summaries as developed in subsection (i)

SEC. 906. RETALIATION

- (a) RETALIATION PROHIBITED

- (b) DEFINITION -- "Retaliation" is any action or threat because a complaint

was filed

SEC. 907. LIMITATION OF USE OF TESTIMONY

No testimony may be used in any proceeding under the Immigration and Nationality Act

SEC. 908. FUNDING

Authorizes funds to carry out this Act.

TITLE X -- FEDERAL DATA COLLECTION ON RACIAL PROFILING

SEC. 1001. DATA COLLECTION.

The U.S. Departments of Justice, Treasury and Interior shall

- (a) collect data on actions by federal agencies by race, ethnicity and gender of the individual against whom action was taken
- (b) After one year, report to the Attorney General on the findings. The Attorney General shall report to the President, in consultation with relevant agency heads.

TITLE XI -- WHISTLEBLOWER PROTECTION

SEC. 1101. PROHIBITION AGAINST DISCRIMINATION OR RETALIATION

- (a) No person shall retaliate or discriminate against any law enforcement officer because the officer, acting in good faith,
 - (1) disclosed information regarding the unlawful behavior of other fellow officers
 - (2) advocated on behalf of a civilian
 - (3) cooperated in the investigation of a fellow officer
- (d) ATTEMPTS -- No person shall even attempt to retaliate or discriminate as

described above.

(e) RESTRICTIONS ON REPORTING PROHIBITED -- No person shall restrict a law enforcement officer from participating in any activity as described in subsection (a), above.

(f) CONFIDENTIAL INFORMATION -- Is protected

(g) GOOD FAITH ACTION -- A law enforcement officer shall be considered acting in good faith if the officer believes that

(1) the information is true; and

(2) the information

(A) shows a violation of the law; or

(B) relates to a potential danger of officers or civilians

SEC. 1102. CONFIDENTIALITY OF COMPLAINTS TO GOVERNMENT AGENCIES.

Protect any law enforcement officer who complains in good faith to a government agency or department

SEC. 1103. ENFORCEMENT

(a) PRIVATE CAUSE OF ACTION --

(1) Any law enforcement officer who believes he or she has been retaliated against may file a federal or state civil action

(2) If the court determines that a violation has occurred, it may award damages

(3) The court may issue injunctive relief

(4) An action may be brought not later than 2 years after the date of the last event

(e) CIVIL PENALTY -- Any person who violates this provision shall be subject to a civil penalty not to exceed \$10,000 for each violation. This amount may be

(1) deducted from any sums owing by the US to the person charged; or

(2) ordered by the court.

(c) CRIMINAL PENALTY -- Any person who repeatedly violates a provision of section 2 is related to --

(1) a pattern and practice

(2) quality of services which would likely lead to serious injury or death

(3) retaliation against a law enforcement officer

SEC. 1105. BURDEN OF PROOF

(a) ON COMPLAINT -- The complainant shall have the initial burden of proof. This may be done by showing that --

(1) the respondent knew of the complainant's protected activities

(2) the discriminatory action occurred within a period of time such that a reasonable person could conclude a cause and result.

(c) ON RESPONDENT -- Once a complainant establishes a prima facie case, the burden shifts to the respondent

SEC. 1105. DEFINITIONS

(1) "Discrimination or Retaliation" includes a threat or intimidation against a law enforcement officer or his employer.

(2) "Person" includes an institution, Federal, State or tribal or local government entity

(3) "Attorney General" means the Attorney General of the United States

SEC. 1107. NOTICE

- (a) IN GENERAL -- Each law enforcement agency shall post a notice of the provisions in section 2 of this Act
- (b) PENALTY -- Any employer who violates this section may be assessed a civil penalty not to exceed \$100 for each offense

SEC. 1107. NONPREEMPTION

Nothing in this act preempts any other law

SEC. 1108. EFFECTIVE DATE.

This Act shall be effective on the first day of the first month after enactment of this Act.

TITLE XII -- Sexual Abuse in Correctional Facilities

SEC. 1201. Increased penalties and expanded jurisdiction for sexual abuse offenses in correctional facilities.

- (a) Amends 18 U.S.C.A. 2242 to expand jurisdiction beyond federal prisons to include the custody of the Attorney General, the Bureau of Prisons or in any institution or facility by direction of the Attorney General;
- (b) Increase the penalty for sexual abuse from one to three years;
- (c) Increases the penalty for abusive sexual contact from six months to two years.

END

Law Enforcement Trust and Integrity Act of 2000

H.R. 3981

Section by Section Description

Section 1: Short Title – This section sets forth the short title of the Act, the “Law Enforcement Trust and Integrity Act of 2000.”

Title I: Law Enforcement Accreditation – Requires Attorney General to perform an initial analysis of existing law enforcement accreditation standards and to recommend areas for the development of additional national standards for accreditation of law enforcement agencies in conjunction with law enforcement accreditation organizations, law enforcement associations, labor and community-based organizations; Authorizes the Attorney General to make grants to law enforcement agencies for the purpose of obtaining accreditation from certified professional law enforcement accreditation organizations.

Title II: Law Enforcement Development Programs – Authorizes the Attorney General to make grants to States, units of local government, Indian Tribal Governments, or other public and private entities, and multi-jurisdictional or regional consortia to study law enforcement agency operations and to develop pilot programs focused on effective training, recruitment, hiring, management and oversight of law enforcement officers which would provide focused data for the development of additional accreditation standards.

Title III: Administrative Due Process Procedures – Requires the Attorney General to study the prevalence and impact of any law, rule or procedure that allows a law enforcement officer to delay for an unreasonable or arbitrary period of time the answer to questions posed by a local internal affairs officer, prosecutor, or review board on the investigative integrity and prosecution of law enforcement misconduct.

Title IV: Enhanced Funding To Combat Police Misconduct – Authorizes appropriations for expenses related to criminal and civil enforcement activities by the Civil Rights Division of the Justice Department, specifying the enforcement against pattern and practice discrimination described in section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C.A. 14141); Authorizes appropriations for expenses related to programs managed by the DOJ Community Relations Service.

Title V: Enhanced Authority in Pattern and Practice Investigations – Amends section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. A. 14141) to create a private cause of action for declaratory and injunctive relief relating to police pattern and practice discrimination.

Title VI: Deprivation of Rights Under Color of Law – Amends section 242 of Title 18 of the United States Code to expressly define excessive use of force and sexual assault as deprivations of rights under color of law; Makes expert witness fees available to the prevailing party in actions brought under section 1983.

Title VII: Study of Deaths in Custody – Amends section 20104(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C.A.) to require assurances that States will follow guidelines established by the Attorney General for reporting deaths of persons in custody and medical care given or withheld for persons in custody.

Title VIII: National Task Force on Law Enforcement Oversight – Requires Department of Justice to establish a task force to coordinate the investigation, prosecution and enforcement efforts of federal, state and local governments in cases related to law enforcement misconduct; Authorizes appropriations to support task force efforts.

Title IX: Immigration Enforcement Review Commission – Creates Commission to investigate civil rights complaints against the INS and Customs Services, with authority to make policy and disciplinary recommendations; Commission is also required to develop outreach office to educate and improve the relationship between the Services and local community groups.

Title X: Federal Data Collection on Racial Profiling – Requires Justice, Treasury and Interior Departments to collect data concerning the personal characteristics (race, ethnicity and gender) of individuals targeted for investigation (e.g., detention, traffic stop or warrantless search) by federal law enforcement agencies; requires each department to prepare a report concerning the data collected under this title, with the Justice Department preparing a “master report” analyzing the findings made by the other departments and recommending improved policies and procedures.

Title XI: Whistleblower Protection – Prohibits retaliation against law enforcement officers who in good faith disclose, initiate or advocate on behalf of a civilian complainant in actions alleging police misconduct; creates private cause of action for retaliation; establishes civil and criminal penalties for violations of this title.

Title XII: Sexual Abuse in Correctional Facilities – Amends chapter 109A of Title 18 to increase penalties and expand jurisdiction for sexual abuse offenses in correctional facilities.



Office of the Attorney General
Washington, D. C. 20530

February 29, 2000

The President
The White House
Washington, DC 20500

Dear Mr. President:

Pursuant to your memorandum of April 14, 1997 on Whistle-blower Protection for Federal Bureau of Investigation (FBI) Employees, 62 Fed. Reg. 23,123 (1997), enclosed please find a chart that reports the status of certain FBI whistleblower allegations in calendar year 1999.

Please do not hesitate to let me know if I can provide any further information in response to your request.

Respectfully,



Janet Reno

Enclosure

**Allegations of Reprisal for Whistleblowing
by Federal Bureau of Investigation Employees:
Calendar Year 1999**

(Report to the President pursuant to 62 Fed. Reg. 23,123 (1997))

	1999
Number of reprisal allegations received	3
Number of unresolved allegations pending at end of year	5
Number of allegations disposed of as non-cognizable	2
Number of allegations resulting in no retaliation being found	0
Number of allegations resulting in a settlement	1
Number of allegations resulting in retaliation being found	0
Number of allegations resulting in corrective action being ordered	0

4TH DOCUMENT of Level 1 printed in FULL format.

FEDERAL REGISTER
Vol. 62, No. 81

Presidential Documents

PRESIDENT OF THE UNITED STATES

Memorandum of April 14, 1997

Title 3-
The President
Delegation of Responsibilities Concerning FBI Employees Under the Civil
Service Reform Act of 1978
Memorandum for the Attorney General

Part XI

62 FR 23123

DATE: Monday, April 28, 1997

By the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Attorney General the functions concerning employees of the Federal Bureau of Investigation vested in the President by section 101(a) of the Civil Service Reform Act of 1978 (Public Law 95-454), as amended by the Whistleblower Protection Act of 1989 (Public Law 101-12), and codified at section 2303(c) of title 5, United States Code, and direct the Attorney General to establish appropriate processes within the Department of Justice to carry out these functions. Not later than March 1 of each year, the Attorney General shall provide a report to the President stating the number of allegations of reprisal received during the preceding calendar year, the disposition of each allegation resolved during the preceding calendar year, and the number of unresolved allegations pending as of the end of the calendar year.

All of the functions vested in the President by section 2303(c) of title 5, United States Code, and delegated to the Attorney General, may be redelegated, as appropriate, provided that such functions may not be redelegated to the Federal Bureau of Investigation.

You are authorized and directed to publish this memorandum in the Federal Register.

3 WILLIAM J. CLINTON

THE WHITE HOUSE,

Washington, April 14, 1997.

[FR Doc. 97-10984 Filed 4-25-97; 8:45 am]

Billing code 4410-21-M

THE WHITE HOUSE

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DoJ stats
re FBI
whistleblower
complaints

Paul Octken

6-6297



Leadership Conference on Civil Rights

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Washington, D.C. 20006
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April 2, 1999

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Brian Komar

(Tolson)

President William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

The problem of law enforcement abuse in our communities is a national issue of longstanding concern. This letter is a follow-up to the recent meeting with Attorney General Janet Reno and several of the undersigned individuals and organizations regarding steps that the Department of Justice, with the assistance of other federal agencies and White House efforts, might undertake to begin addressing, expeditiously, the growing national problem of police brutality and unlawful racial profiling.

Recent accounts of deadly police action in New York, Riverside, Pittsburgh and Houston highlight the harm that excessive force does to individuals, families, and entire communities. Unfortunately, these instances of excessive use of force by police officers are not isolated events.¹ Police misconduct and abuse – ranging from verbal harassment and racial profiling to excessive and deadly use of force and fatal encounters – takes place daily across our nation. This unwarranted and often illegal conduct erodes the trust of our citizenry and the safety of our communities. We support the majority of law enforcement officers in this country who serve our citizens well, often under difficult and dangerous conditions. However, we ask that those who engage in misconduct, or whose leadership permits it, be held accountable.

We applaud your March 13, radio address – “Strengthening Police Integrity” – as an important beginning. We encourage you to continue to speak on these issues; to bring about a fuller discourse at all levels of government; and to bring to bear the resources of the federal government in finding constructive solutions. We believe it is especially important to place the discussion of police abuse – a problem which

¹See Appendix I: Recent Cases Involving Excessive Use of Force in Law Enforcement. See also, *United States of America: Rights for All*. Amnesty International, USA (1998).

“Equality In a Free, Plural, Democratic Society”

President William J. Clinton

April 2, 1999

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is frequently and disproportionately directed at members of racial and ethnic minority communities - in a larger context which discusses openly the questions of race, ethnicity, law enforcement, and the administration of justice. One must also understand this problem in the context of immigration enforcement - an area where Hispanic Americans and Asian Americans are particularly targeted. We are alarmed that local and federal law enforcement agents have engaged in unlawful use of force and illegal applications of racial profiling for immigration purposes. We reiterate, this problem must be understood in a context much broader than it has traditionally been presented.

We urge you to develop a national agenda to encourage the highest level of law enforcement service, both to protect all persons in our society and to hold police departments and federal law enforcement agencies accountable for their officers' conduct. We believe the following steps are essential elements of any national agenda to begin to address the problem of law enforcement abuse and misconduct:

1) We urge you and Attorney General Reno to continue your efforts by making major public addresses on the problems of abuse and misconduct by law enforcement officers, as well as the need for accountability. We believe that the use of the "bully pulpit" by both the President and Attorney General is an important ingredient in educating both the public and the law enforcement community about the depth of our national concern over these issues.

2) The Administration should seek, and Congress should provide, adequate funding to enable the Department of Justice (DOJ) to fulfill its obligation under the Police Accountability Act provisions of the Violent Crime Control and Law Enforcement Act of 1994. The Department of Justice should compile and annually publish detailed national data on police excessive use of force (including all fatal police shootings and deaths in custody), with analysis of patterns of concerns and policy recommendations. Unfortunately, reliance on voluntary reporting from police departments has resulted in extremely limited and misleading accounts of the use of excessive force. Many police departments do not have adequate systems or mechanisms for collecting and analyzing data on the use of force; for tracking individual officers reported to have used excessive force; or for identifying officers who failed to report excessive force by fellow officers. Similarly, reports that rely only on the numbers or outcomes of citizen complaints officially filed with a police department do not reliably reflect the use of excessive use of force in this country.²

²See, *Beyond the Rodney King Story, An Investigation of Police Conduct in Minority Communities* (1995). The report, based on national hearings on police abuse conducted by the NAACP, found that many citizens are afraid to file complaints about police misconduct, that procedures for filing complaints are not widely publicized or known, and that citizens are

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3) The DOJ Special Litigation Section should be provided adequate resources to enable it to fulfill its task of pursuing "pattern and practice" lawsuits against police agencies nationwide that commit widespread abuses. The Special Litigation Section continues to be severely underfunded. While you have said you want to "... ensure that prosecutors have all the resources they need to enforce our laws in these cases," the allocation of only \$1 million in new spending to the Civil Rights Division's work in this area is inadequate. Federal agencies such as the Immigration and Naturalization Service (INS) and U.S. Customs Agency must also be held accountable for "pattern and practice" violations. Federal prosecution of acts and practices of police abuse will send a strong message that such conduct will not be condoned.

4) The federal government should increase its use of Title VI of the Civil Rights Act of 1964 to seek to eliminate racially discriminatory treatment by law enforcement agencies. Far too often police departments and law enforcement agencies are not held accountable for their failure to appropriately protect the civil rights of members of racial and ethnic communities. These communities continue to live under the authority of agencies and agents who repeatedly fail to administer justice. The DOJ must send a clear sign that such unjust practices will not be tolerated.

5) Federal funding to law enforcement agencies should require agencies to institute systems of accountability within each department. Funding should be contingent upon agencies which engage in discriminatory practices, taking effective steps to eliminate them. Necessary features of accountability systems include early warning systems to identify, monitor, and discipline officers reported to engage in misconduct; clearly defined requirements for reporting misconduct at every level of command; clearly defined standards for evaluating reports or findings of misconduct in considering officers for promotions or assignments within the department; and auditing systems to discern patterns of abuse among specific officers, units, stations and departments. Agencies that fail to adopt and operate such systems should understand they risk the loss of all federal funding.

actively discouraged from filing complaints. See also *Shielded from Justice: Police Brutality and Accountability in the United States* (1998) by Human Rights Watch in the United States which among other things, found that most victims of abuse correctly perceive that criminal prosecution, either locally or federally, is rarely an option and as a result, resentment and frustration exacerbate the original abusive treatment and violent officers remain on the job.

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6) Each of the ninety-four (94) United States Attorneys' Offices should create Civil Rights units whose sole responsibility is the enforcement of civil rights laws. While we acknowledge that these offices currently assign attorneys to do civil rights work, that level of commitment is inadequate. U.S. Attorney offices should create Civil Rights Divisions or units to handle civil rights cases. These units should be prominent within the Offices. Federal prosecutors, if funded and supported as we propose, will have the resources and the greater independence from local police departments to investigate and bring actions against both local and federal law enforcement agencies. In addition, we note that state and federal authorities have successfully cooperated in recent years in the investigation and prosecution of what had previously been considered local offenses, such as crimes involving guns and drugs. Such successful cooperation in efforts to prosecute offenders could provide a model for similar cooperation in the area of civil rights abuses.

7) We urge the Administration's vigorous support of the Traffic Stops Statistics Act of 1999, recently introduced by Rep. John Conyers (D-MI). The Act, which would require the collection of existing data, would provide a crucial tool in evaluating the extent of racial and ethnic profiling in motor vehicle stops.¹ While there have been many individual accounts of stops that can only be explained by the race or ethnicity of the motorist, the absence of reliable and comprehensive national statistics has allowed the problem of racial and ethnic profiling to evade systematic review.

8) Federal funding to police departments should require that adequate portions of the funds be earmarked for the purchase and deployment of video-cameras on each patrol car. Mounted video-cameras, already in use in some police departments, provide protection to both the officers on the scene and the civilians stopped by the police. Videotapes of police encounters would provide reliable evidence as to who is being stopped and on what basis, as well as hard evidence of wrongdoing. The Christopher Commission concluded that were it not for the Rodney King videotape, it was doubtful that any police investigation of the incident would have resulted in sanctions against the officers. However, any such measure must be limited to assure that cameras do not become instruments of surveillance against the very communities they are designed to protect.

¹An abundance of anecdotal evidence from citizens, community groups, lawyers, judges, and law enforcement officers from across the country indicates that many traffic stops are motivated by improper considerations of race. For example, in Maryland, a U.S. District Court judge found credible evidence that Maryland troopers on I-95 engaged in a pattern and practice of racial discrimination; and in Boston, a U.S. District court judge recently noted that an African American defendant's record of motor vehicle offenses raised "deep concerns" about racial disparity and that because of these concerns, a downward departure from the sentencing guidelines was justified because the defendant's record was skewed by the cumulative effect of his minor convictions.

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9) Federal, state, local, and tribal authorities should be encouraged to establish independent and effective oversight bodies for their respective law enforcement agencies. There is strong preference for civilian and independent review authority. Such authority should have the power to investigate or review complaints of civil rights violations against law enforcement agents. Such authority should also have subpoena power to require witnesses to appear and to insist on cooperation from police departments, law enforcement agencies, and individual officers. Establishment of such independent oversight bodies should be a necessary condition for receiving federal law enforcement monies.

10) The DOJ must severely restrict collaboration between the INS and state & local law enforcement agencies in enforcing federal immigration laws. Cooperative agreements between the INS and local police and sheriff departments should be terminated. These type of agreements enhance an atmosphere of intimidation in which those fearing harassment or deportation in the Hispanic and Asian communities are apprehensive to report crimes. Likewise, collaboration between the INS and other federal government agencies, including the Drug Enforcement Agency, should be re-examined. In this case, immigration enforcement operations carried out under the guise of drug enforcement operations are not acceptable, and far too often lead to the violation of individuals' constitutional rights. Instead, INS should be given the resources to hire sufficient federal agents to adequately and efficiently respond to police requests for assistance in determining the immigration status of criminals already in police custody for criminal offenses. The Department of Justice lacks the resources to prosecute the current level of civil rights violations, and thus, delegation would only increase the likelihood of improper police activity, without a concurrent increase in resources for civil rights enforcement.

11) Law enforcement conduct and accountability in our communities should be included in the follow-up to the President's One America Initiative. The White House should sponsor a summit meeting later this year on the issues of law enforcement conduct and accountability. The issues of law enforcement are inextricably linked in this country to issues of race and ethnicity. The President's One America Initiative provides an appropriate venue and framework to bring together representatives from the Department of Justice, Immigration and Naturalization Service, other federal agencies, local and tribal law enforcement, academicians, and community-based organizations to discuss the overall direction of law enforcement in America and its impact on all Americans. Such a meeting should examine the connections between the falling crime rate and the methods employed by police and federal law enforcement agencies to aggressively combat crime. It should also address the tensions between respect for civil rights, civil liberties, and effective crime control. And similar to ideas expressed in Hugh Price's (President and Chief Executive Officer of the National Urban League) March 29, 1999 letter to you, the summit should be expected to commit your Administration to a timetable for implementing a corrective agenda.

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We strongly believe that these proposals will serve the nation's interests as law enforcement moves into the twenty-first century. As a nation, we have the resources to increase the safety of our citizens and their trust in those charged with enforcing the law. We have the opportunity to marshal our resources to address claims of misconduct reported in significant numbers across the country. We urge you to commit the federal government to achieving these goals.

Sincerely,

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Chairperson
Leadership Conference on Civil Rights

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President
National Congress of American Indians

Barbara Arnwine
Executive Director
Lawyers' Committee for Civil Rights
Under Law

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APPENDIX I

This appendix lists recent instances of excessive force by police officers. While this list is by no means exhaustive, it provides representative examples of problems associated with the use of excessive force by a variety of police officers and other law enforcement officials across the country.

CALIFORNIA:

- 1999, Fullerton. A federal case was brought by the family of a Hispanic man who died from positional asphyxia as a result of being hogtied by police officers. The police department concealed the cause of death from the district attorney and coroner and did not tell the widow what had happened for nearly two years. At trial, the judge instructed the jury that a plaintiffs' verdict was permissible only if it found that the officers intended to kill the victim. The defense verdict is now on appeal. See Garcia v. Fullerton, U.S. District Court, Fullerton.
- 1998, Riverside. Tyisha Miller, a 19-year-old African-American woman, was shot 12 times as she sat in her aunt's car at a gas station. A friend and relative of Miller's found her unresponsive in a locked, idling car with a flat tire, with a gun in her lap, and called 911 for help. Four officers responded to the call and found Miller to be unresponsive. One of the officers broke the driver's side window to get the gun. Police opened fire with 24 shots, killing Miller instantly, after they say Miller moved towards the gun. A cousin who arrived at the scene before the shooting has said that she told the officers another relative was on the way with a spare key and that had the officers waited, they could have entered the car without startling Miller from her stupor. See The Press Enterprise (February 21, 26, and March 25, 1999); see also Los Angeles Times (February 17, 1999); USA Today, January 12, 1999.
- July 5, 1997, Riverside. In testimony before a grand jury, a Riverside police officer said he and two other officers picked up Jose Hilario Martinez, a 48-year-old construction worker, because he appeared to be drunk while walking along the street. According to the officer's testimony, the three officers then took Martinez to a local city park, beat him, and threw him into the park lake when Martinez refused to cooperate with their

¹This Appendix is affixed to an April 2, 1999 Letter to President William J. Clinton from the Leadership Conference on Civil Rights regarding Police Accountability and Racial Profiling.

demands. See "FBI Probes Possible Civil Rights Violations," The Press Enterprise (February 25, 1998).

- April 1997, Sonoma. Kuan Chung Kao, a Taiwanese man who was drunk and wielding a pole, was shot dead less than one minute after police arrived on the scene. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 30.
- June 1996, Fairfield. James Parkinson, an unarmed mentally ill man seen running naked around a swimming pool, died after police sprayed him repeatedly with pepper spray, hit him several times with an electronic taser gun, and shackled him face-down. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 30.
- April 1996, Riverside County. Two Riverside County sheriff's deputies pulled two unarmed Mexicans suspected of being undocumented immigrants out of a car and proceeded to prod and brutally beat them with their batons, also slamming them against the car. Both victims required hospitalization for severe injuries. A TV news crew captured the gruesome beating on videotape. See "The California Beating: The Rest of the Story," New York Post (May 1, 1996).
- March 1996, Santa Clara County. Gustavo Soto Mesa, 33-years-old and unarmed, was shot in the back of the head by a Santa Clara County Sheriff's officer. The Sheriff's Office claimed that while they knew that Mesa was unarmed, he was violently resisting arrest. Shortly thereafter, the officer was cleared of all charges. See "Grand Jury Clears Deputy in Fatal Shooting: Gustavo Soto Mesa and San Jose's 27-Year Fight," Policing by Consent (August 1996).
- February 1996, Orange City. An unarmed Korean man, Hong Il Kim, died after a chase that started over a minor traffic violation. Two police officers fired 20 shots into his car after it had been cornered and forced into a parking space. Five national experts in police use of deadly force who reviewed the videotape all stated that it was avoidable and that the officers had committed a series of tactical errors that cost Kim his life. However, an internal investigation by the City of Orange Police Department cleared the two officers of wrong-doing or violating departmental policy. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 28.
- 1995, Los Angeles. Class action lawsuit involving two of the deputy gangs in the LA Sheriff's Department: the "Vikings" (Caucasians only, carrying serially numbered tattoos with Viking helmets on their inner ankles) and "Original Gangster Chango Fighters" (Chicano only). This lead case emanated from the beating of a black man who had been falsely arrested after the funeral of a friend. After Thomas won at trial, the County settled the cases (approximating about 100) for \$7.5 million. See Thomas v. Los Angeles County, U.S. District Court, Los Angeles.

COLORADO:

- March 1997, Denver. A 17-year-old African-American named Gil F. Webb had his neck broken and suffered other severe injuries after being involved in a car crash in Denver in which an officer was killed. A videotape showed him being kicked by a police officer, and also grabbed by the arms, legs, and hair and slammed twice onto a wooden board after he had been removed, injured, from his car. One paramedic was fired and another suspended. The officer was cleared of criminal wrongdoing but disciplined by losing five days of holiday time. See The Denver Post (February 21, March 17, and June 30, 1998); see also Denver Westward (May 7, 1998); The Denver Rocky Mountain News (March 17, 1998).
- 1996, Denver. A police officer shot and killed an unarmed African-American man who had left a house after a domestic incident (not involving any crime). The man had previously filed a complaint against the officer who killed him. The case is pending after the original dismissal was overturned on appeal. See Podboy v. Blake, U.S. District Court, Denver.

FLORIDA:

- October 1996, St. Petersburg. An African-American teenager named Tyrone Lewis was shot dead by two white police officers after he had been stopped for speeding and allegedly refused to roll down his window. His death caused two days of protest among the town's black community. Tyrone Lewis was the sixth person in the town to be fatally shot by police that year. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 41.

ILLINOIS:

- March 1999, Chicago. An internal police investigation is being conducted into whether officers used excessive force when they searched for a suspect in a police shooting. Television footage appeared to show officers forcing young black men off a bus, slamming two men to the ground, and pushing a handcuffed man against a fence and then yanking apart his legs, causing him to fall. See "Officer Shot; Conduct of Investigators Draws Probe," The Chicago-Sun Times (March 26, 1999).
- November 1998, Chicago. Vadie McGee, a 67-year-old woman, was walking home from the grocery store around 8:00 p.m. when she stopped to talk to teenagers sitting on the stoop of her apartment building. The police drove by and told McGee to "get up against the fence." When she asked who they were talking to, the police yelled that they were talking to her, and from that, McGee was handcuffed and thrown into the car. The police also yelled racial and gender epithets at McGee, who is a stroke victim. See "Woman,

67, Charges Brutality, Lawyer Says Police Roughed Up Activist," The Chicago Tribune (November 25, 1998).

- September 26, 1997, Chicago. Jeremiah Mearday, an 18-year-old African-American man, was stopped by police and beaten on the head with flashlights, breaking his jaw. See "Mearday Files Lawsuit in Police-Beating Case," The Chicago Tribune (September 23, 1998).

IOWA:

- March 16, 1999, Des Moines. Des Moines officials settled a wrongful death lawsuit with the parents and brother of a 27-year-old African-American man who was killed by police officers in June of 1997. Charles Dudley, Jr., whom family members described as being mentally retarded and hearing-impaired, was shot to death by police after pointing a pellet gun at them during a 4:00 a.m. confrontation in a thunderstorm. Three officers fired 27 shots at Dudley, hitting him four times. See "Dudley's Kin Want Apology, Federal Charges," The Des Moines Register (March 17, 1999).

MARYLAND:

- 1993, Prince George's County. Archie Elliott III, a 24-year-old African-American, was stopped by Prince George's County police for operating under the influence, searched and handcuffed behind his back, then placed in a police cruiser. After police claim to have observed a gun behind his back, police fired and hit Elliott fourteen times. Elliott died from his wounds. Police discovered the gun was unloaded, and the internal affairs investigation blamed the shooting on an improper search of Elliott, who was clad only in shorts. See The Washington Times (June 19, 1995).

MASSACHUSETTS:

- January 25, 1995, Boston. Michael Cox, an African-American police officer and a 1990 Boston Police Department Medal of Honor winner, was on duty and acting in an undercover capacity. As Cox pursued one of several suspects in what was believed to be the shooting of a police officer, Cox was mistaken as a suspect and was badly beaten by other police officers. When one of the more than twenty officers at the scene recognized Cox as a police officer, they left Cox lying in the street. The local grand jury failed to return any indictments because it was stymied by uncooperative witnesses, but Cox recently won a federal civil judgment against three officers. See "One Disgrace After Another," The Boston Globe (January 12, 1999).
- 1993, Worcester. Chris Hernandez died ten days after being arrested by two police officers. Hernandez was in a coma until his death. The police claim Hernandez fell during a struggle and resisted arrest, while a video captured the officers beating him

during the arrest. The autopsy showed he died from strangulation. See USA Today (July 15, 1993); WBZ News 4 at 6:00 (September 15, 1994); WHDH News Seven at 5:30, Boston (December 23, 1993); WBZ Eyewitness News at 6:00, Boston (November 8, 1993); WBZ Eyewitness News at 12:00 p.m., Boston (July 19, 1993); WBZ Eyewitness News at 6:00, Boston (July 14, 1993).

NEBRASKA:

- October 1994, Lincoln. Francisco Renteria was escorting his mother home, by foot, from the laundromat when he was suddenly set upon by University of Nebraska police officers who mistook him for a drunken suspect being sought for another crime. He was fatally beaten. The only match between the dispatcher's description was that the suspect was "a Hispanic male." See "Immigrant Killed While Lincoln's 'Proud Citizens' Watch," Pacific News Service (July 1996).

NEW JERSEY:

- April 17, 1998, Passaic. Federal immigration officials, in conjunction with Passaic County Sheriff's officer and state police, conducted a raid at three outdoor recreation areas frequented by Latino youth. Officials claimed that the raid was meant to pick up Mexican gang members who were wanted on arrest warrants. However, of the 19 people arrested, all were Latinos; 12 were U.S. citizens and most had no gang connections. Children were forced to get on their knees and put their hands on their heads during questioning. Hugo Alvarez, 14-years-old, was head-butted by a police officer in Pulaski Park because he could not remember his social security number. "If you tell me, 'I don't know it,' I'm going to hurt you," the officer told him. When the boy's father complained, he was ordered to show his green card and driver's license. See "Critics Blast Passaic Raid," The Record (April 22, 1998).

NEW YORK:

- February 4, 1999, Bronx. Four plainclothes officers from the Street Crimes Unit killed Guinean immigrant Amadou Diallo in the vestibule of his Bronx apartment building. Diallo was a street peddler who sold an assortment of CDs and videotapes. He had come home from work around midnight and, according to his roommates, was heading out again to get something to eat when the police arrived. The police fired a total of 41 bullets at Diallo, nineteen of which penetrated his body. At this time of the shooting, the officers could not have been standing more than twenty feet away from him. See The New Yorker (March 22, 1999), at 50-57.
- November 6, 1997, Queens. Andre Burgess, a 17-year-old high school soccer star, was shot by a federal marshal as he walked to a friend's house. The officers were on a stakeout looking for a federal fugitive on a drug warrant and were parked in an unmarked

car when they spotted Burgess walking with a silver object in his hand, which one officer later told investigators looked like a pistol. When the officers jumped out of their car and yelled for Burgess to put up his hands, the youth turned toward the officers and was consequently shot in the thigh. The object in Burgess' hand turned out to be a Three Musketeers candy bar. See "Deputy Marshal is Cleared in Shooting of Queens Teenager," The New York Times (March 5, 1998).

- August 9, 1997, Brooklyn. Haitian immigrant Abner Louima was tortured, beaten, and sodomized by police officers in the 70th precinct station in Brooklyn. Four officers are alleged to have participated at various points, one of them using a wooden stick to sodomize Louima, thereby puncturing his intestines. Louima had no previous criminal record and had reportedly been trying to break up a brawl when the police arrived outside a scuffle at a Brooklyn night club and picked him up. See The New Yorker (March 22, 1999), at 50-51.

- December 22, 1994, New York City. Anthony Baez, aged 29, of Puerto Rican origin, died of injuries sustained during his arrest by officers from the 46th Precinct in the Bronx. He had been visiting his family from Florida and was kicking a football around with his brothers outside the family home when the ball accidentally hit two parked police patrol cars. According to family members who witnessed the incident, one officer lost his temper and arrested Anthony Baez's brother, placing him in handcuffs. When Anthony questioned the officer's arrest and treatment of his younger brother, the officer reportedly grabbed him, placing him in a choke hold. He and other officers present then allegedly knelt on Anthony's back while handcuffing him behind his back as he lay face-down to the ground. Anthony's father and other family members reportedly warned the officers to be careful as he suffered from chronic asthma. According to the civil action filed by the family in the case, Anthony was left face-down on the ground in a prone position for about 10-15 minutes before being dragged into a police car, with no attempt made to resuscitate him. He was taken face-down in a police car to a hospital where he was pronounced dead approximately one hour later. The Medical Examiner concluded that Anthony's death was caused by asphyxia due to compression of the neck and chest as well as acute asthma, and classified the death as a homicide. The officer who allegedly applied the choke hold on Anthony had fourteen prior complaints of brutality filed against him, eight for excessive force and four for using a choke hold. See United States of America: Police Brutality and Excessive Force in the New York City Police Department (New York: Amnesty International, June 1996).

NORTH CAROLINA:

- April 1997, West Charlotte. Caroline Sue Botticher, an unarmed African-American woman, died in April 1997 after police fired at the car in which she was a passenger when it failed to stop at a checkpoint. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 28.

OHIO:

- January 17, 1998, Cleveland. A Puerto Rican family was terrorized and viciously beaten by Cleveland police when police rushed into their home to arrest a man accused of a traffic violation. A 53-year-old man was knocked out and had one of his ribs broken. A 25-year-old pregnant woman was pushed against the wall and taken to the hospital for treatment. One of the children caught some of the incident on tape. The case is under investigation. See "Family Accuses Police of Brutality: Officers Say Arrested Men Threatened Them," Plain Dealer Reporter (January 17, 1998).
- 1996-Present, Ohio Highways. After a permanent injunction was ordered by a Michigan court against the Border Patrol to prohibit them from making traffic stops in both Michigan and Ohio, the Border Patrol began utilizing the Ohio Highway Patrol's drug enforcement task force for this purpose. In depositions of task force officers and in a response filed by the Ohio Highway Patrol to the original complaint in a lawsuit filed in 1996 by the Equal Justice Foundation, the Highway Patrol admitted that they make routine stops of Hispanics on behalf of the Border Patrol. These stops occur whether or not there has been a traffic violation. They also admitted that they routinely confiscate "green cards" from legal immigrants and weekly turn them over to the Border Patrol for verification. A statistical analysis shows that some officers in the task force have stopped a higher proportion of Hispanic than other drivers. Fifteen percent of one officer's stops are of Hispanics, despite the much lower percentage of Hispanics overall in the population of the region. During one deposition, an attorney for the Equal Justice Foundation asked whether the officer would ask him for his "green card" if he was pulled over for a traffic stop in Ohio. The response was "you being you, or you being Hispanic?" See "Judge to Patrol: Stop Questioning Motorists About Immigration Status," Akron Beacon-Journal (December 9, 1997).

PENNSYLVANIA:

- 1997, Philadelphia. Police used official blackjacks to beat an African-American family, including the father, mother, and two daughters, who had parked their car in a driveway pursuant to permission from a local police commander. The police investigation concluded that the officers did not use blackjacks, even though the officers themselves testified that they did. See Russell v. Philadelphia, U.S. District Court, Philadelphia.
- 1995, Pittsburgh. Jonny Gammage was driving a Jaguar owned by his cousin, pro-football star Ray Seals, through the white Pittsburgh suburb of Brentwood, when he was stopped by police for tapping his brakes late at night. Although Gammage was unarmed, a fight ensued. Five white police officers struck Gammage up to 20 times with nightsticks, a heavy metal flashlight, and a leather blackjack. Gammage was then killed by asphyxiation when officers forced him to the pavement, his hands cuffed behind him.

and pressed knees to his back with such force that he could not breathe. See The Post-Standard (March 23 and February 23, 1999); Newsday (March 14, 1999).

TEXAS:

- July 12, 1998, Houston. Pedro Oregon Navarro, a 22-year-old Hispanic man and father of two, was shot to death by six Houston police officers when they burst into Oregon's bedroom while chasing an informant's tip that drugs were being sold in the apartment. Out of the 21 bullets fired by Houston police officers, Oregon had nine gunshot wounds in the back, two shots entered his head from above, and another round hit his body and went through his left hand. The grand jury dismissed charges against most of the officers involved in the incident and charged one officer with a misdemeanor charge for criminal trespass. The case is currently being investigated by the U.S. Department of Justice for any possible civil rights violations. See "Houston Police Face Civil Rights Probe," Washington Post (November 11, 1998).
- May 1994, Katy. The Katy Police Department and the INS conducted a joint operation in which vehicles driven by individuals of Hispanic appearance were stopped and detained. Searches in homes, trailers, and apartment complexes where Latinos resided were also conducted. In addition, "street sweeps" in which Latinos were the only individuals stopped and questioned about their immigration status were also part of the operation. Katy City Police officers acted out of their jurisdiction and wrongfully questioned, detained, and arrested individuals based on their immigration status. See Mamé Cedillo-Perez, et al. v. Pat Adams, et al., U.S. District Court, Southern District of Texas Houston Division.

UTAH:

- April 25, 1997, Salt Lake City. A group of 75 heavily armed police officers and federal agents burst through the metal door of Rafael Gomez's tortilla factory and Mexican food store. Wearing scarves over their faces, with bulletproof vests and brandishing rifles and pistols, the law enforcement agents ordered some 80 employees down on the floor. Gomez, who was standing near the door when the police arrived, was struck in the face with what appears to have been the butt of a rifle. As he fell to the ground, he struck his head against the concrete floor and was later handcuffed by police. When he tried to lift himself to see what was happening, he was kicked in the back of the head and was ordered to stay down. Gomez says that police later pointed a rifle at the head of his 6-year-old son. His secretary was dragged by her hair across the floor. According to the police, they had been tipped off by an anonymous source that the tortilla factory was being used as a distribution center for drugs and illegal weapons. No street drugs or weapons were found. So far, the police have made no apologies for the raid. See "Immigrant Business Owner Harassed by Law Enforcement," The Salt Lake City Tribune (May 18, 1997).



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March 29, 1999

VIA FAX

President William J. Clinton
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Clinton:

As you know from recent news accounts, there is growing anger and anguish over the epidemic of police brutality and abuse against people of color in the United States. This problem knows no ethnic, socioeconomic or geographic boundaries. Minority Americans want, like all Americans, to live and work in safe communities. We support the police and believe the overwhelming majority of them want to do the right thing.

But people of color refuse to be treated as second class citizens by the criminal justice system. Nor do we intend to sacrifice hard-won constitutional rights that were gained through years of sacrifice and struggle. Law enforcement agencies at every level of government must protect all citizens from crime without undercutting the civil liberties of any citizens. Experience in communities across the country shows that public safety and civil liberties can co-exist.

On February 25th, a broad, multi-ethnic coalition of civil rights, civil liberties and community-based groups called upon you to lead the nation out of this abyss that is so perilous for people of color and the entire country.

We are gratified that you heard our message. The new initiatives that you announced in your weekend radio address are, by and large, a welcome step in the right direction. We are pleased as well that Attorney General Janet Reno has accelerated the pace of her department's enforcement activities and reached out to engage civil rights and law enforcement groups in a search for solutions.

Yet there are miles to go before police misconduct is adequately under control and the tensions caused by it subside. Now

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that you are engaged, we wish to propose the following action agenda for your administration and for Congress. To produce significant and lasting progress, there must be concerted attention, aggressive enforcement and oversight, and systemic changes in law enforcement policy and practice. This action agenda will achieve those objectives.

The Problem

To recapitulate briefly, the problems of police misconduct fall into two basic categories:

- **Excessive use of force** that results all too frequently in brutality and/or fatalities at the hands of police. These outrages are often mismanaged, investigated without the requisite sense of urgency, and eventually disposed of in suspect ways that defy justice and common sense. These unjust outcomes fuel anger, turmoil and mistrust among minorities toward the entire criminal justice system.
- **Dragnet techniques** that ensnare minorities who've done little or nothing wrong. We speak of such police tactics as racial profiling, excessive stopping and frisking, traffic "safety" sweeps and use of trivial infractions as a ruse to troll for more serious offenses. These practices needlessly undercut civil liberties in the name of public safety.

African Americans aren't alone in suffering at the hands of overzealous and brutal law enforcement officers. Latinos, Asian Americans and Native Americans endure brutality and abuse as well. The offending agencies include state and local police departments, as well as U.S. Customs and the Immigration and Naturalization Service.

The Need for Leadership

We are gratified — and relieved — that the problem of police brutality and abuse has captured your attention. The initiatives you announced recently point in the right direction. But they are modest in our estimation. We seek a level of leadership and engagement that is commensurate with the severity and scope of a problem that has embittered America's minorities and tossed many communities into turmoil.

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We urge you and the Attorney General to provide high profile leadership and display genuine empathy for the victims of police misconduct. There must be loud and clear and recurring signals to the nation that police brutality and abuse are unacceptable and that you feel the pain suffered by the victims and their families.

Accordingly, we call upon you and Attorney General Reno to visit the actual sites of the most egregious and inexcusable incidents, meet with family members, and declare publicly that your administration will leave no stone unturned until justice is done.

Aggressive Enforcement

The measures you announced mostly point in the right direction. But they do not go nearly far enough. More specifically, we call upon your administration and Congress to take the following actions:

- Allocate at least \$20 million more -- not merely \$1 million more, as you've proposed -- to ensure that the Justice Department has the capacity to cope with the nature and national scope of the problem. Justice needs a dedicated team of investigators and prosecutors that can pursue the many complaints of brutality and abuse so swiftly and resolutely that the prospect of federal intervention itself is an effective deterrent to such behavior by law enforcement officers.
- The Justice Department should intensify and expedite its investigations into police department patterns and practices in communities that experience high incidences of brutality and abuse. The department should entertain appeals to reopen cases that may have been closed inappropriately.
- Each U.S. Attorney's office in the nation should be staffed by an attorney who focuses on civil rights and police misconduct cases.
- The House Judiciary Committee should convene formal hearings to receive testimony on the scope and breadth of police brutality and misconduct and formulate recommendations for legislation.

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- The White House should pressure Congress to enact the proposed Jonny Gammage Law. It would provide for independent federal prosecutors to investigate allegations of police misconduct where the use of deadly force by police results in injury or death of victim.
- Your administration and Congress should adhere to the Omnibus Crime Bill of 1994 by appropriating funds for the Justice Department to systematically collect and disseminate data on the incidence of brutality and abuse.

The federal government should not rely solely on enforcement and prosecution to combat police misconduct. Accordingly, we call upon your administration to institute the following sanctions for law enforcement agencies that are plagued by recurring patterns of brutality and abuse:

- Issue an executive order that federal law enforcement subsidies will be withheld from police departments that have an unusually high number of brutality complaints or a significant number of unresolved or pending complaints of brutality or excessive force. This and other sanctions could be imposed in a graduated fashion commensurate with the level of offensive practices and local willingness to address the problem.
- In the case of unrepentant police departments that fail to correct patterns of brutality and abuse, the Justice Department should institute legal proceedings to place the departments under federal receivership until they mend their ways.
- The Justice Department should require that all state and local police departments receiving federal law enforcement subsidies establish civilian complaint review boards that possess investigative and subpoena power.
- Your administration should allocate funds to support the efforts of community-based organizations to promote police/community trust and heal tensions. Grass-roots groups are invariably drawn into the strife to extinguish fires and foster trust. With federal support, they could be even more effective.

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Reforming Police Practice

Your announced plan to invest \$42 million in improving the caliber of local police forces makes eminent good sense. The better educated, trained and supervised police officers are, the better the job they will do and the fewer problems they'll have with those they protect.

However, we strenuously oppose your proposal for increased federal funding to hire even more police officers. America's criminal justice system is amply endowed already. The nation's prisons are saturated, filled as it is with thousands of non-violent offenders who pose no threat to society. By contrast, the federal government invests far too little in public schools and after-school programs that steer young people clear of crime in the first place. We urge you to beef up funding for prevention, instead of police.

We are deeply concerned that your plan does not adequately address the urgent need to reform the policies governing use of force and the dragnet practices that are explicitly or tacitly sanctioned by state and local police departments. In addition to increasing the capacity of Justice to investigate and sanction misconduct after the fact, we believe your administration must seek fundamental reforms in police policy and practice. Unless these tactics that treat minorities as second class citizens are addressed systematically, the deep-seated fear and distrust of police will continue to simmer and erupt.

Law enforcement agencies routinely deny the existence of policies and practices that result in brutality and abuse. They have little incentive to acknowledge them. If there's to be progress in police/civilian relations, we must move past stubborn denials to constructive remedies.

As the nation's chief law enforcement officer and the champion of racial harmony, you are best positioned to spearhead this process of ferreting out truth and restoring trust. Accordingly, we call upon you to convene a one-day White House Summit this spring. The Summit would serve several purposes:

- Shine the national spotlight on the problem of police brutality and abuse;

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- Underscore your determination to seek constructive solutions;
- Secure commitments from a cross-section of thoughtful leaders -- police chiefs, mayors and other elected officials, police union leaders, other representatives of the law enforcement community, and leaders of civil rights, civil liberties and community-based groups -- to work together in devising concrete and constructive solutions; and
- Launch a fast-track process that is directed by the Attorney General and that involves those who attend the Summit. We see this as a six-month exercise at most. Its purpose is to promulgate a set of best practice guidelines that law enforcement agencies will embrace and implement. The guidelines would be coupled with mechanisms for monitoring and enforcing compliance.

Following the Summit, the Attorney General would empanel three working groups comprised of representatives of the key sectors. Each working group would be given a specific assignment:

- One would function as a blue ribbon panel that conducts public hearings around the country to ferret out evidence of police brutality and abuse. Armed with subpoena power, it would take testimony, hold focus groups with young people and adults, and conduct surveys. The purpose of this exercise is to document the nature, scope and impact of the problem of police misconduct.
- A second working group would delve into the issue of unjustified use of force by law enforcement officers. Beyond the headline cases, how prevalent is the problem? What forms does it take? What accounts for the cases that result in fatalities, in severe brutality and abuse, and in intimidation? What sorts of situations seem to set policemen off? What lessons can be gleaned from law enforcement agencies that aren't riddled with allegations of brutality and abuse? How do they recruit and train officers? What kinds of supervisory, assignment and disciplinary regimens do they employ to keep things satisfactorily under control?

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From the evidence and information garnered through this exercise, the working group would devise a series of best practice recommendations that could be disseminated to law enforcement agencies for implementation. They would also be distributed to civilian police review boards, legislative and judicial bodies, community organizations and the media for purposes of monitoring the performance of police departments.

- The third working group would focus on the dragnet practices that ensnare so many innocent people and minor offenders and thus undercut their civil liberties. This panel would examine case studies of law enforcement agencies that have successfully reduced crime without relying beyond reason on these techniques.

More specifically, the working group would devise best practice guidelines in the following problem areas:

- Minorities complain bitterly that they are harassed by police officers who detain them for little or no reason and who then use that stop as a ruse to conduct a broader investigation. The working group would prepare guidelines governing when officers should and should not be allowed to go beyond the scope of the initial infraction.
- In the past, police were only supposed to stop people who were "suspects" or otherwise connected to specific crime. But under current practice, people can be stopped and even frisked if they are deemed "suspicious." Those who have done nothing illegal are then released because the police were "mistaken." This practice gives policemen carte blanche to abuse and intimidate.

The working group would devise guidelines, based on best practice in actual communities, that are aimed at promoting public safety without undermining the civil liberties of innocent civilians and trivial offenders.

- Once the findings and guidelines of the three working groups are completed, the Attorney General would compile them into a coherent set of recommendations. To assure that these recommendations don't gather dust on shelves once they are

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disseminated, the Attorney General should also devise mechanisms plans for monitoring implementation and prevailing upon recalcitrant police departments to comply. To be more specific:

- The Justice Department should publish an annual report on police misconduct. The report card would shine the national spotlight on specific police departments that have poor records on brutality and abuse.
- You should issue an executive order requiring police departments that receive federal law enforcement subsidies to endorse and implement the best practice guidelines or risk loss of federal funding. Similar directives could be issued to state police departments, INS and Customs.

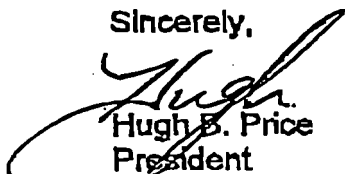
When the report of the Justice Department is prepared, we suggest you convene a second White House Summit in the fall. You would use that occasion to officially receive the report and announce your plans and timetable for implementing the various recommendations.

Mr. President – We wholeheartedly embrace your dream of One America. Transforming that dream into reality is what Urban Leaguers and the other groups in our coalition do day in and day out.

Yet the widespread and indiscriminate treatment of innocent civilians like suspects foments alienation along racial lines, perpetuates the treatment of minorities as second class citizens under law, and makes an utter mockery of your dream.

We implore you to spare no effort and expense in spearheading an aggressive drive to purge the nation's criminal justice system of bias, brutality and abuse.

Sincerely,



Hugh B. Price
President

cc. The Hon. Janet Reno
Charles Ruff, Esq.
Bruce Reed
Ben Johnson