



United States Mission to the OSCE

Ensuring Constitutional Policing in the United States

As delivered by U.S. Ambassador Daniel B. Baer
to the Permanent Council, Vienna
September 8, 2016

In April and May of 2015, the United States reported to the Permanent Council on the tragic death of Mr. Freddie Gray as a result of an encounter with the Baltimore Police, and subsequent protests and demonstrations that occurred in Baltimore. We also informed the Permanent Council that the U.S. Department of Justice had opened a civil investigation into the Baltimore Police Department that would seek to determine whether there have been systemic violations of the U.S. Constitution or federal law by Baltimore police officers. This civil investigation did not examine the actions of the officers involved in Freddie Gray's arrest, and was separate from the Justice Department's concurrent criminal civil rights investigation related to the death of Freddie Gray.

On August 10, the Justice Department announced the findings of its civil investigation. The Justice Department found reasonable cause to believe that the Baltimore Police Department engages in a pattern or practice of conduct that violates the U.S. Constitution as well as federal anti-discrimination laws.

In particular, the Justice Department found reasonable cause to believe that the Baltimore Police Department engages in a pattern or practice of:

- Conducting stops, searches and arrests without meeting the requirements of the Fourth Amendment of the U.S. Constitution;
- Focusing enforcement strategies on African Americans, leading to severe and unjustified racial disparities in violation of Title VI of the Civil Rights Act and the Safe Streets Act;
- Using unreasonable force in violation of the Fourth Amendment of the U.S. Constitution;
- Interacting with individuals with mental health disabilities in a manner that violates the Americans with Disabilities Act; and
- Interfering with the right to free expression in violation of the First Amendment of the U.S. Constitution.

The Justice Department also identified serious concerns about other Baltimore police practices, including an inadequate response to reports of sexual assault, which may result, at least in part, from underlying gender bias. Another significant concern identified was police transport practices that place detainees at significant risk of harm.

The Justice Department determined that these patterns or practices resulted from systemic deficiencies that have persisted within the Baltimore Police Department for many years, and has exacerbated community distrust of the police, particularly in the African-American community.

The City of Baltimore and the Baltimore Police Department have entered into an agreement in principle to work together, with community input, to create an enforceable consent decree addressing the deficiencies found during the Justice Department investigation. In the agreement in principle, both parties agreed that compliance with the consent decree will be reviewed by an independent monitor. The agreement in principle highlights specific areas of reform to be included in the consent decree, including:

- Policies, training, data collection and analysis to allow for the assessment of police officer activity and to ensure that police officers' actions conform to legal and constitutional requirements;
- Technology and infrastructure to ensure capability to effectively monitor police officer activity;
- Support to ensure that police officers are equipped to perform their jobs effectively and constitutionally; and
- Community policing strategies to guide all aspects of police operations and help rebuild the relationship between Baltimore Police Department and the various communities it serves.

In announcing the findings of the Justice Department's investigation, U.S. Attorney General Loretta Lynch stated, "Public trust is critical to effective policing and public safety. Our investigation found that Baltimore is a city where the bonds of trust have been broken....The results of our investigation raise serious concerns, and in the days ahead, the Department of Justice will continue working tirelessly to ensure that all [of the people of Baltimore] enjoy the safety, security and dignity they expect and deserve."

Maryland state prosecutors conducted their own criminal investigation of the officers involved in Mr. Gray's death under Maryland law. Six officers were charged with Maryland state crimes, including manslaughter and murder; the first trial ended in a hung jury, and three more officers were acquitted after trials before a judge. On July 27, the state's attorney dropped all remaining charges against the three city police officers awaiting trial.

The Justice Department and the FBI monitored the state of Maryland's investigations and trials related to the death of Freddie Gray. They are continuing their independent review of that

matter, and will assess all available materials and determine what actions are appropriate, given the strict burdens and requirements imposed by applicable federal civil rights laws.

The United States will continue to inform OSCE participating States of the outcome of investigations by the Justice Department, as well as other elements of the U.S. government's efforts to address issues related to policing in the United States. As we have said previously, the United States continues to believe that respect for human rights and fundamental freedoms, tolerance, and the rule of law, are the underpinnings of a strong democratic nation. We strive to fulfill our OSCE commitments to the highest possible standard.

Thank you, Mr. Chair.