The Heritage Foundation

LEGAL MEMORANDUM

No. 184 | JUNE 23, 2016

The "Ferguson Effect": Restricting Law Enforcement's Ability to Protect Americans

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Abstract

On April 5, 2016, the voters of Ferguson, Missouri, rejected a proposed property tax increase that would have funded the city's settlement agreement with the Civil Rights Division of the U.S. Department of Justice. Now personnel cuts are being prepared, and bankruptcy looms. The police department, in particular, must transform its operations, subjecting itself to unprecedented new oversight and surrendering much of its authority to the federal government. Rather than resisting the Justice Department's overreach, the Ferguson City Council has capitulated to pressure from an array of advocacy groups and interest groups. Emboldened, these radical elements are now flexing their muscles, requiring the city's police department to cede virtually all power to the consent decree monitor and federal government overseers.

In March 2016, the City of Ferguson, Missouri, announced that unless voters agreed to a massive tax increase to fund its debilitating consent decree with the Civil Rights Division of the U.S. Department of Justice, the city would have to lay off 12 police officers and six firefighters and close one of the city's two fire stations.[1] The cuts would represent more than 20 percent of the police and fire departments' current staffing levels. Furthermore, the mayor informed city employees that even if the tax hike was to be approved, the crippling costs of the consent decree would make it necessary for all municipal employees to take a 3 percent pay cut and endure a reduction in the city's contribution to their retirement benefits.

Despite that warning, on April 5, 2016, voters rejected the proposed property tax increase.[2] Pink slips are apparently being prepared, and city services will soon be slashed. Bankruptcy could be

This paper, in its entirety, can be found at **http://report.heritage.org/lm184**

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Key Points

- In April, Ferguson, Missouri, rejected a massive tax hike to fund its consent decree with the Department of Justice's Civil Rights Division.
- The police department now must transform its operations, subject itself to new oversight, and surrender much of its authority to the federal government.
- DOJ's involvement in Ferguson rests on 42 U.S.C. § 14141, which prohibits law enforcement agencies from engaging in a "pattern or practice" of conduct that violates the local population's federal constitutional rights.
- The consent decree goes far beyond the relief the DOJ likely could obtain even if it actually proved a "pattern or practice" of unconstitutional policing.
- The purported "pattern and practice" of unconstitutional behavior against racial minorities relies on selective use of statistics and studies on race and crime rates.
- States and municipalities need to recognize that principled resistance to Civil Rights Division investigations is not tantamount to opposing reform or approving discriminatory conduct.

just around the corner. The city manager noted simply that repudiation of the tax hike "will force a close look at the city budget."[3]

Those are just the fiscal costs. The wide-ranging, judicially enforced settlement agreement (consent decree) will require that the police department radically transform its operations, subject itself to unprecedented new oversight, and surrender much of its authority to the federal government. Yet these consequences could have been avoided if the city had better understood the law and the general tenor of the attorneys inside the Civil Rights Division's Special Litigation Section (SLS), which investigated Ferguson's police department and imposed the settlement agreement on the city.[4]

Had city leaders been willing to stand up to the Justice Department, resolution of this matter would have been cheaper and far less oppressive. Had the city demanded that the Civil Rights Division prove at least part of its case in court—which would have been no small task for DOJ, given the often flimsy nature of the allegations in its March 4, 2015, "findings letter"[5] on the supposed practices of the Ferguson Police Department—there would be little talk of municipal bankruptcy. Had the City Council insisted on long-term fiscal prudence and rejected those provisions in the proposed consent decree that have little or no connection to federal constitutional mandates, the public safety crisis and loss of confidence in law enforcement would have been far more fleeting. There still would have been substantial smoke, but the raging conflagration—in both fiscal and local authority terms—would have subsided.

Instead, after briefly displaying commendable fortitude, the council capitulated to pressure from the usual array of liberal advocacy groups and racially-centric organizations, most of which tend to act as surrogates for the Civil Rights Division during Democratic Administrations. Like any bully confronting a victim who is afraid to fight back, these radical elements are now flexing their muscles more than ever, calling for the city's police department to cede virtually all power to the consent decree monitor and his federal government overseers.[6]

Whatever political expediency and public relations may have achieved in the short term, the long-term consequences that the city is about to experience, both economically and in terms of diminished public safety, will be far more acute.

Police Departments Do Not Understand How Narrow DOJ Jurisdiction Is

All but lost in the typically overheated and nearly always misguided political rhetoric attacking the Ferguson City Council's original, but ultimately temporary, decision to resist a full-scale surrender in this case is the Justice Department's extremely narrow jurisdictional justification for getting involved in the first place. DOJ's authority is rooted in a federal statute, 42 U.S.C. § 14141, that prohibits law enforcement agencies from engaging in a "pattern or practice" of conduct that violates the federal constitutional rights of the local population.

Passed in the wake of the infamous Rodney King beating, Section 14141 was designed to fill a gap in the federal judiciary's ability to impose broad injunctive relief against law enforcement organizations that systematically contravene individuals' federally protected rights. Other laws (particularly 42 U.S.C. § 1983) were deemed unable to achieve systemic reforms because, while they allowed damage actions by individual plaintiffs who themselves had suffered some sort of particularized injury, they provided no legal basis for a court to order comprehensive

1. Jim Salter, *Ferguson Settlement Could Be in Jeopardy If Tax Hikes Fail*, U.S. News & World Report, Mar. 30, 2016, http://www.usnews.com/news/us/articles/2016-03-30/ferguson-settlement-could-be-in-jeopardy-if-tax-hikes-fail.
2. *See* Associated Press, *Ferguson Official: Tax Vote Shouldn't Affect Police Reform*, Apr. 7, 2016, https://www.washingtonpost.com/national/ferguson-official-defeat-of-tax-hike-should-not-stall-police-reform/2016/04/07/15aaa4a4-fc40-11e5-886f-a037dba38301_story.html.
3. *Id.*
4. *See* Hans A. von Spakovsky, *Every Single One: The Politicized Hiring of Eric Holder's Special Litigation Section,* PJ Media (Aug. 16, 2011), https://pjmedia.com/blog/every-single-one-the-politicized-hiring-of-eric-holders-special-litigation-section/.
5. Civil Rights Division, U.S. Department of Justice, *Investigation of the Ferguson Police Department* (Mar. 4, 2015). Civil Rights Division, U.S. Department of Justice, "Findings Letter," https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report_1.pdf (last visited June 16, 2016).
6. *See* Brett Blume, *Ferguson Collaborative Lays Out Consent Decree Demands*, CBS Radio (May 23, 2016), http://stlouis.cbslocal.com/2016/05/23/ferguson-collaborative-lays-out-consent-decree-demands/.

changes in the operations and policies of an entire agency. The new law gave the Attorney General of the United States, rather than individual citizens, the right to commence a lawsuit seeking "appropriate equitable and declaratory relief to eliminate the pattern or practice" of constitutional violations.

Section 14141, however, imposes a very high threshold for establishing liability. As an initial matter, the Attorney General cannot predicate her case on principles of *respondeat superior* (a legal doctrine providing that an employer is responsible for the actions of employees performed within the course of their employment). Instead, there must be proof that the agency had some officially promulgated or *de facto* custom or policy that triggered the violation of constitutional rights. That is an uphill slog for any plaintiff.

DOJ is well aware of this rough terrain and routinely argues for a more liberal standard that holds a city responsible for any misbehavior of a police officer even when the city was unaware of the misbehavior and even when such behavior clearly violated the standards, policies, or regulations of the police department. It appears, however, that the courts have rejected all such efforts, most recently in litigation with Alamance County, North Carolina;[7] Erie County, New York;[8] the State of Arkansas;[9] the State of Pennsylvania;[10] and the City of Columbus, Ohio.[11]

Another roadblock the Justice Department encounters is that it has to prove true constitutional violations, not mere deviations from "best practices." This distinction is critical and, in our experience, often ignored by those who are charged with enforcing the statute. In a jail setting, for example, where the Justice Department is investigating the administration of the prison, it is well settled that mere medical malpractice does not equate to a constitutional infirmity. Similarly, the fact that a police department may be using an antiquated device to control suspects or that its record-keeping practices may have failed to keep pace with advancing technology does not automatically translate into a constitutional violation.

An agency's practices may be unorthodox and cry out for modernization. They may cause great consternation to academics and so-called experts in the field. Reform may be in order. But establishing a violation of the minimum standards mandated by the U.S. Constitution requires a great deal more. The mere fact that a police department could do a "better" job in the view of federal bureaucrats does not violate the "pattern or practice" statute.

Further, demonstrating a "pattern or practice" of constitutional violations is no small task. Although the case law defining this term is somewhat sparse, the Supreme Court of the United States has stated generally that the phrase refers to situations in which the legal violations at issue are the "standard operating procedure," the "regular rather than the unusual practice."[12] A few rogue officers or a handful of isolated incidents over an extended period of time do not a "pattern or practice" make.

Perusing the "findings letters" on the Civil Rights Division's website[13] against other states and cities, it is easy to identify many where the alleged incidents triggering the Attorney General's Section 14141 jurisdiction are spread out over such an extended period of time. Characterizing these incidences as a true "pattern or practice" of misconduct is therefore difficult, even assuming the allegations' validity—which is no trivial matter, given the occasional proclivity for exaggeration by the complaining individuals who find themselves on the wrong end of the criminal justice system.

Moreover, even when Section 14141 has been properly invoked, its remedial breadth is hardly all-encompassing. Any injunctive relief must be limited to the specifically identified pattern or practice of constitutional violations. Section 5 of the Fourteenth Amendment does not confer upon the federal government the authority to require a state or

7. United States v. Johnson, 122 F. Supp. 3d 272 (M.D.N.C. 2015).
8. United States v. Erie County, N.Y., 734 F. Supp. 2d 357 (W.D.N.Y. 2010).
9. United States v. Arkansas, 794 F. Supp. 2d 935 (E.D. Ark. 2011).
10. United States v. Pennsylvania, N.Y., 902 F. Supp. 565 (W.D. Pa. 1995).
11. United States v. City of Columbus, Ohio, 2000 WL 1133166 (S.D. Ohio Aug. 3, 2000).
12. *See* International Bhd. of Teamsters v. United States, 431 U.S. 324 (1977).
13. United States Department of Justice, *Special Litigation Section Cases and Matters*, https://www.justice.gov/crt/special-litigation-section-cases-and-matters0 (last visited June 16, 2016).

municipality to engage in "best practices" in law enforcement as defined by the federal government.[14]

While a judicially directed remedy may be broader than the constitutional right protected in order to safeguard that right prophylactically,[15] the remedy still must be congruent and proportional to the identified constitutional violation.[16] Again, based on a review of the consent decrees available on the Civil Rights Division's own website, many show little deference to this constitutional constraint.

For example, mandating new requirements for a citizen review panel or—worse yet—insisting on the establishment of an entirely new citizen oversight commission for the police department, as many recent decrees do is attenuated from any constitutionally grounded requirements. Such bodies may well advance the goal of community engagement and may even be a good idea as a matter of policy, but they are in no way constitutionally compulsory, and they certainly do not prevent any particular constitutional violation.

A prime example of how the Civil Rights Division goes far beyond its statutory authority is a peculiar letter that SLS Deputy Chief Christy Lopez sent to Ferguson in the middle of its investigation.[17] That September 16, 2014, letter ordered Police Chief Thomas Jackson to "prohibit Ferguson Police Department officers from wearing 'I am Darren Wilson' bracelets while in uniform and on duty." The types of uniforms worn by a police department are not even within the purview of the Justice Department, and it had no authority of any kind to order the officers to stop wearing a bracelet in support of their fellow officer who was erroneously accused of wrongdoing.

Legal Deficiencies in DOJ Investigation of Ferguson Police Department

A careful review of the "findings letter" that the Civil Rights Division's SLS issued following its investigation of the Ferguson Police Department demonstrates that many of the cited examples of unconstitutional policing used by the SLS to support its "pattern or practice" lawsuit wither under scrutiny.[18] In fact, according to Peter Kirsanow, a member of the U.S. Commission on Civil Rights, the letter was "so replete with conclusions unsupported by facts, so lacking in basic methodological rigor," that it "is an embarrassment."[19]

SLS claims there was a "pattern and practice" of unconstitutional behavior because "African Americans account for 85% of vehicle stops, 90% of citations, and 93% of arrests made by" Ferguson police officers, despite the city's population being only 67 percent black. This claim ignores the fact that numerous studies, including data from DOJ itself, demonstrate that blacks commit crimes and routine traffic violations at a much higher rate than whites. Other than this statistical disparity that is easily explained by such higher crime rates, SLS is unable to point to specific, intentional, knowing conduct and discriminatory policies promulgated by the city that are causing any unconstitutional policing.

In other words, SLS appears to be relying on guilt by political correctness.

In another example, SLS complains about an officer who broke up "an altercation between two minors and sent them back to their homes." The officer told one of the minors to stay in her home and not return

14. The Fourteenth Amendment to the Constitution guarantees that no state shall make or enforce any law depriving a person of "life, liberty, or property, without due process of law" or denying any person the "equal protection of the laws." Section 5 of the Fourteenth Amendment empowers Congress to enforce those guarantees by appropriate legislation. The Supreme Court made clear in *City of Boerne v. Flores*, 521 U.S. 507, 518–20 (1997), though, that Congress's authority under Section 5 is restricted to legislation that is "preventive or remedial" of constitutional violations. Substantive changes in the governing law, as opposed to measures designed simply to enforce an existing constitutional right, are not within the ambit of Congress's power.

15. *See* Brown v. Plata, 563 U.S. 493, 531–39 (2011); Milliken v. Bradley, 433 U.S. 267, 281–82 (1977).

16. The Supreme Court has held that Congress's power to pass remedial legislation pursuant to Section 5 of the Fourteenth Amendment is subject to two conditions: First, "there must be a congruence between the means used and the ends to be achieved," *City of Boerne*, 521 U.S. at 530; and second, the legislation cannot be "so out of proportion to a supposed remedial or preventive object that it cannot be understood as responsive to, or designed to prevent, unconstitutional behavior." *Id*. at 532.

17. Letter from Christy E. Lopez to Chief Thomas Jackson (Sept. 26, 2014), https://www.justice.gov/sites/default/files/crt/legacy/2014/11/04/ferguson_ltr_bracelet_9-26-14.pdf.

18. *See* Hans A. von Spakovsky, *What the Ferguson Report Really Exposed*, The National Interest, Mar. 13, 2015, http://nationalinterest.org/feature/what-the-ferguson-report-really-exposed-12417.

19. *Id.*

to the other minor's house. The two minors, however, got into a fight again outside the first minor's house. This time, the same officer arrested them both for "failure to comply" with his earlier order.

What the officer did seems perfectly reasonable. He did not arrest the minors the first time he was called to the scene; instead, he gave them a chance to cool off and not get arrested. But what may seem like common sense to us is not common sense to SLS. Its report faults the officer for arresting the minors without probable cause. That is one of the incidents that constitutes a "pattern or practice" of violating the Fourth Amendment. If these sorts of allegations were held up to scrutiny—say, before a jury—many would quickly be refuted.

SLS also complained that Ferguson was too focused on collecting revenue through its court system. As much as city residents may not like that, and while most would probably say that the city's law enforcement practices should be shaped by the need for public safety and not revenue, using traffic violations or "aggressively enforce[ing] the municipal code," as SLS complained, is not a "pattern or practice" of unconstitutional policing or intentional racial discrimination.

Ironically, on the same day that the SLS issued its report on the supposed "pattern or practice" of unconstitutional behavior by the Ferguson Police Department, a different part of the Civil Rights Division (the Criminal Section) issued a far less publicized report completely clearing former Ferguson police officer Darren Wilson in the shooting of Michael Brown. This should hardly have been surprising, given the overwhelming evidence uncovered by the FBI and a local grand jury that proved the original storyline about Brown peddled by certain media and racial agitators was a total fabrication conjured up by dishonest witnesses who lied to the police and reporters. Given the enormous pressure on the Justice Department, however, it is not difficult to imagine that there may have been a political motivation to "get" Ferguson in some way and placate anti-police and civil rights organizations in the wake of Wilson's exoneration.

The City of Baltimore, Maryland, which is awaiting the results of a similar investigation by SLS, can expect the same treatment. As Paul Mirengoff points out, at a time when the police department has experienced mass resignations and crime in the city has skyrocketed, the Justice Department's investigation "seems virtually guaranteed to destroy whatever is left of department morale."[20] The Obama Justice Department "can be expected [to] promote the twin goals of grandstanding and upholding a leftist narrative about the police at the expense of fair play for those who try to protect Baltimore's residents."[21]

Capitulation to Department of Justice Comes at a Steep Price

Jurisdictions that do not want to find themselves in Ferguson's position—teetering on the verge of bankruptcy, awash in escalated violent crime, and surrendering vast amounts of precious local authority in the name of short-term political expediency—must understand that there is a steep price to pay for unconditional acquiescence to the Department of Justice and its Civil Rights Division. As *The Washington Post* and *Frontline* observed in a comprehensive piece last November, consent decrees foisted on local law enforcement agencies during the Obama Administration virtually never end by the targeted completion date and nearly always cost exponentially more than anyone envisioned.[22] The article noted that "in 13 of the police departments for which budget data was available, costs are expected to surpass $600 million, expenses largely passed on to local taxpayers."[23]

In addition to mandating standards that often far exceed anything compelled by the Constitution, the monitors who oversee them have financial incentives to take aggressive positions toward the targeted police department and prolong federal oversight. The monitors are afforded broad latitude by the courts, of course, but if they run afoul of their ultimate patrons—the Civil Rights Division bureaucrats who were responsible for their appointment—their lucrative work could soon dry up. And lucrative it is:

20. Paul Mirengoff, *Baltimore's Shrinking Police Department*, Powerline (Apr. 30, 2016), http://www.powerlineblog.com/archives/2016/04/baltimores-shrinking-police-department.php.

21. *Id.*

22. Kimbriell Kelly, Sarah Childress, & Steven Rich, *Forced Reforms, Mixed Results*, Wash. Post, Nov. 13, 2015, http://www.washingtonpost.com/sf/investigative/2015/11/13/forced-reforms-mixed-results/.

23. *Id.*

The Washington Post / Frontline exposé, for example, cited the fees paid to the monitor overseeing a consent decree with the Puerto Rico Police Department. His annual tab: approximately $1.5 million, which he claims "is by far the cheapest consent decree budget in the entire nation."

The point here is not that all monitors are biased or unfair, which is assuredly not the case. The fundamental takeaway, which far too few jurisdictions appreciate, is that the promise of a pat on the back at a press conference for agreeing to a settlement agreement proposed by the Justice Department or the glimmer of temporary relief from media criticism and liberal advocacy group attacks is no reason for a local government to jeopardize its fiscal sanity, compromise the safety of the public, and jettison its proper authority.

States and municipalities need to recognize that, notwithstanding all the bluster and bellicose rhetoric from the Justice Department leadership and many leftist civil rights organizations, principled resistance to Civil Rights Division investigations is not tantamount to opposition to reform or approval of discriminatory conduct. It is merely an acknowledgement that the Constitution does not entrust the federal government with the responsibility of local policing or overseeing local law enforcement agencies.

In the face of actual, demonstrated abuses by those local agencies, Washington may be empowered to impose reforms designed to ensure that minimum constitutional standards are being met, but the federal government's authority ends there. It often takes courage to fight a bully, and too many states and municipalities have been unable or unwilling to stick up for themselves when the Civil Rights Division flexes its muscle. Instead, they come to a gunfight armed only with a pocketknife.

The consent decree to which Ferguson agreed is full of requirements that go far beyond the relief the Justice Department likely could obtain—even if it actually proved a pattern or practice of unconstitutional policing in violation of Section 14141.[24] For example, there has never been any finding that the Ferguson Police Department engaged in unlawful discrimination in its hiring, yet the Justice Department uses the consent decree as a tool to force discriminatory hiring criteria on Ferguson. Paragraph 281 of the consent decree requires Ferguson to have "throughout the ranks of the Department...diversity in life experience, cultural background, race, ethnicity, gender, sexual orientation, and language." The objective of police departments should be to hire the best-qualified law enforcement personnel who will protect the public *regardless* of their skin color, sexual orientation, or other such characteristics.

Moreover, the social engineering does not stop with paragraph 281.

- The consent decree requires Ferguson to have "goals" and "objectives" for "attracting and retaining a high-quality and diverse work force with the attributes" previously mentioned. Based on past practice, there is little doubt that Justice will use quotas to measure whether Ferguson has hired enough women, racial minorities, homosexuals, transgenders, and individuals in every other "diversity" category.

- There is a requirement that the police department's hiring criteria must "ensure that no process, criterion, or requirement has a statistically significant disparate impact on members of a protected group."

- The consent decree even requires "competitive" salaries for its police officers. Neither the Constitution nor federal law lays out some optimum standard for the salaries paid to a police officer.

These overreaching provisions are just the tip of the iceberg. The 129-page agreement between the city and the Justice Department is filled with such extralegal requirements. While there is an ongoing debate about the effectiveness and wisdom of having law enforcement officers wear body cameras, this agreement requires all Ferguson police officers to do so. Wearing body cameras is not a minimum constitutional requirement; neither is requiring the Ferguson Municipal Court to provide "a comprehensive amnesty program" for all open prosecutions "not yet adjudicated that were initiated prior to January 1, 2014."

24. Consent Decree, U.S. v. City of Ferguson, No. 4:16-000180-CDP (E.D. MO. Mar. 17, 2016), https://www.justice.gov/crt/file/833701/download.

This *Legal Memorandum* is not advocating a "bury your head in the sand" approach. Rather, it seeks to underscore that while the Civil Rights Division is insisting on certain reforms, the potentially troubled police department can and should still insist on far less burdensome reforms. For example, it should ask: Is the proposed reform critical to the department's professional operation or merely a thinly disguised effort at social engineering by federal bureaucrats? Is it truly mandated by the Constitution or merely a "best practice"? It is one thing to strive for best practices, but it is something altogether different to bind the department legally to those often prohibitively expensive best practices and face judicial sanctions and millions of dollars in monitor costs for failing to achieve them.

Finally, any conversation about these issues must consider the inevitable "Ferguson effect" of many law enforcement consent decrees. Much has been written on this "de-policing" issue, some of the best of which comes from the pen of Heather MacDonald, a scholar at the Manhattan Institute. As she explained in *The Wall Street Journal* late last year:

> Now cops making arrests in urban areas are routinely surrounded by bystanders, who swear at them and interfere with the arrests. The media and many politicians decry as racist law-enforcement tools like pedestrian stops and broken-windows policing—the proven method of stopping major crimes by going after minor ones. Under such conditions, it isn't just understandable that the police would back off; it is also presumably what the activists and the media critics would want. The puzzle is why these progressives are so intent on denying that such de-policing is occurring and that it is affecting public safety.[25]

As part of her column, Ms. MacDonald interviewed William Bryson, chairman of the Delaware Police Chiefs Council, who pointed out what should be obvious: "Proactive policing is what keeps our streets safe. Officers will not hesitate to go into a situation that is obviously dangerous, but because of recent pronouncements about racism, they are not so likely to make a discretionary stop of a minority when yesterday they would have."

FBI Director James Comey echoed these same concerns last October in a speech at the University of Chicago Law School[26]—much to the chagrin of the White House.[27] Comey underscored the consequence of this de-policing: Increases in violent crime—especially homicides and shootings—have hit nearly every big city in the country. He reiterated those same concerns recently in lamenting the soaring homicide rates in more than two dozen major cities.[28]

Throughout the United States, particularly in heavily minority areas, the tension and distrust between law enforcement and the communities they serve are as great today as they have been in many decades. Officer morale has plummeted.[29] Yet Civil Rights Division officials—many of whom were previously employed by or financial supporters of the same activist organizations that are now responsible for the often groundless attacks on local law enforcement—all too frequently exacerbate the problem.[30]

No one disputes that rogue officers can be found patrolling America's streets, and no one denies that constitutional violations occur. Enforcement of federal civil rights laws is clearly important. But to capitulate reflexively to federal bureaucrats in Washington who believe that cries of racism and unconstitutional policing are nearly always true, who believe

25. Heather MacDonald, *Trying to Hide the Rise of Violent Crime*, Wall St. J., Dec. 25, 2015, http://www.wsj.com/articles/trying-to-hide-the-rise-of-violent-crime-1451066997.

26. *See James B. Comey, Director Federal Bureau of Investigation, speech at the University of Chicago Law School Chicago, IL* (Oct. 23, 2015), https://www.fbi.gov/news/speeches/law-enforcement-and-the-communities-we-serve-bending-the-lines-toward-safety-and-justice.

27. *See* Michael Schmidt & Matt Apuzzo, *White House Disagrees with FBI Chief on Scrutiny as a Cause of Crime*, N.Y. Times, Oct. 26, 2015, http://www.nytimes.com/2015/10/27/us/politics/white-house-disagrees-with-fbi-chief-on-scrutiny-as-a-cause-of-crime.html?_r=0.

28. Mark Berman, *Homicides Up Again This Year in More than Two Dozen Major U.S. Cities*, Wash. Post, May 14, 2016, https://www.washingtonpost.com/news/post-nation/wp/2016/05/14/we-have-a-problem-homicides-are-up-again-this-year-in-more-than-two-dozen-major-u-s-cities/?hpid=hp_hp-top-table-main_pn-homicides-808am%3Ahomepage%2Fstory.

29. *See* Aaron Davis, *YouTube Effect Has Left Police Officers Under Siege, Law Enforcement Leaders Say*, Wash. Post, Oct. 8, 2015, https://www.washingtonpost.com/news/post-nation/wp/2015/10/08/youtube-effect-has-left-police-officers-under-siege-law-enforcement-leaders-say/.

30. *See* von Spakovsky, *Every Single One: The Politicized Hiring of Eric Holder's Special Litigation Section*.

that every police department should adhere to a uniform standard of conduct determined by national "experts" with Ivy League degrees, who believe that city coffers are bottomless and that the cost of "best practice" reform is irrelevant, and who consider state sovereignty to be little more than a quaint and antiquated notion is an even greater danger for society. The citizens of Ferguson, Missouri, are going to find that out.

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