

Congress of the United States
Washington, DC 20515

March 22, 2017

The Honorable Jefferson Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Sessions:

During the campaign, then candidate Trump sought to reach out to African-American voters with the following appeal: “What do you have to lose by trying something new like Trump? What do you have to lose?” He promised meaningful changes that would benefit minorities in the area of crime and equal justice, among other things. As the Attorney General, you are responsible for helping to oversee some of the most critical and sensitive issues impacting African Americans – from civil rights and voting rights to criminal justice. As such, you are in a position to be a force for positive change with regard to some of the most important issues facing our communities and constituents.

Unfortunately, the first several weeks under your tenure have given us many causes for concern, including the following:

- The Department’s reversal of policy on private prisons. In your memorandum of February 21, you rescinded the memorandum of August 18, 2016 issued by former Deputy Attorney General Sally Yates, entitled “Reducing our Use of Private Prisons.” We strongly support her instruction to reduce—with the ultimate goal of eliminating—the use of privately-operated prisons. As she noted, privately-operated prisons “compare poorly to our own Bureau facilities. They simply do not provide the same level of correctional services, programs, and resources” and they jeopardize the ability of the Bureau to provide rehabilitative services that are “essential to reducing recidivism and improving public safety.”
- The Department’s possible reversal of more rational sentencing policies. On March 8, you issued a memorandum to federal prosecutors concerning efforts to fight violent crime in which you indicate that you will issue additional guidance to federal prosecutors concerning charging for all criminal cases. We are concerned that this may indicate a departure from prior DOJ policies issued by former Attorney General Eric Holder: (i) designed to give greater latitude to prosecutors in making charging decisions that are appropriate under the circumstances of each case; and (ii) setting forth a series of policies concerning charging, plea agreements, sentencing advocacy, and recidivist enhancements

which are designed to limit application of unfair, one-size-fits-all mandatory minimum penalties. This is one of the most important and impactful issues facing our minority communities.

- The Department's decision to reverse the scope of its challenge of a racially discriminatory voter ID law in Texas. On February 27, the Justice Department withdrew its longstanding claim that Texas enacted its 2011 voter ID law with discriminatory intent. This was done even though there was considerable evidence that in passing the law, Texas lawmakers had selected IDs that were most utilized by white voters and refused to honor IDs that were more frequently used by minority voters. (For example, the Texas law included licenses to carry concealed handguns, which tend to be predominantly carried by whites, and excluded government employee IDs and public university IDs, which tend to be more used by African-Americans and Hispanics.) If a court finds that Texas acted with discriminatory intent, it could be forced to seek federal approval before it makes any changes to its voting laws or procedures, which would constitute an important voting rights victory.
- Indicating that the Department intends to pull back on pursuing police misconduct investigations. On February 28, in your very first public speech as Attorney General, you indicated that Department would “pull back” from using its legal authority to monitor police departments responsible for repeated instances of police misconduct and abuses. Such investigations and ensuing consent agreements have been a central component used to force accountability onto local law enforcement and respond to rising racial tensions. By backing away from that legal commitment, first enacted into law by Rep. Conyers as part of the 1994 crime reform legislation, you are sending a signal to the African-American community that the police misconduct laws will not be equally and fully enforced.

We continue to hope to find common cause and work together on issues within your purview. Nevertheless, we are alarmed by what we see have seen from the Department thus far. In order to help further our dialogue going forward, we also wanted to set forth in summary description below some of the most important policy priorities of members of the Congressional Black Caucus going forward as they relate to the Department. These include the following:

Criminal Justice:

You have indicated your desire to do more to combat crime in the United States, but we are concerned that this approach does not, incorporate steps to make our criminal justice system fairer, more just, and fiscally more sound. There are over 2 million people imprisoned in this country, including nearly 200,000 inmates in federal prisons. Nationally, we have experienced an explosion in incarceration from the level of 500,000 in 1980. The growth of the federal prison population has contributed to the problem, as the federal prison population increased by almost 800 percent between 1980 and 2013, before a modest decline to a level of 195,000 as of last year.

One of the main reasons for this crisis is the use of mandatory minimum sentencing, which often imposes sentences that are not appropriate for the facts and culpability of individual cases. All of this disproportionately impacts African Americans. We can and must change our sentencing laws to make them more just and more fiscally responsible. We must also help ex-offenders re-integrate into society after serving their time. DOJ must play a central role to support this bipartisan effort.

Racial Profiling:

Racial profiling drives a wedge between law enforcement and the communities they serve. Recent events in the wake of President Trump's Executive Orders on Immigration demonstrate that racial, ethnic and religious profiling remain dangerous and divisive issues in our communities. Airport detentions of Muslims and immigration raids targeted at the Latino community are some of the most recent and obvious attempts by this Administration to inject race into law enforcement policy. Despite the fact that the majority of law enforcement officers perform their duties professionally and without bias – and we value their service highly – the specter of discriminatory profiling has contaminated the relationship between the police and minority communities to such a degree that Federal action is justified to begin addressing the issue.

Voting Rights:

The right to vote is the foundation of all other rights in a democracy. During the civil rights movement, many patriots gave up their lives to ensure that all Americans had the ability to vote. Since the Supreme Court decision in *Shelby v. Holder* incapacitated the preclearance requirement of the Voting Rights Act in 2013, we have seen a significant increase in the number of restrictive voting laws passed by the states. The enforcement of many of these laws has been proven to disproportionately impact low-income, minority, student, and elderly voters. We favor continued vigorous enforcement of the Voting Rights Act by DOJ combined with legislative action to respond to the *Shelby* decision.

Policing:

The Department of Justice has a responsibility to encourage local police organizations to voluntarily adopt data collection practices and performance-based standards to ensure that incidents of misconduct are minimized through appropriate management, training and oversight protocols. For the better part of two decades, the relationship between African-American communities across the country and their police departments have hovered in a state of volatility, awaiting a single incident to combust. These tensions have grown as allegations of bias-based policing by law enforcement agents, sometimes supported by data collection efforts and video evidence, have increased in number and frequency. In response to such incidents DOJ must ensure that any and all allegations will be properly investigated.

Gun Violence Prevention:


We must do much more than prosecute gun criminals in order to reduce gun violence in this country. We know that our citizens overwhelmingly support expanding and strengthening our firearms background check system. The Brady Act, enacted more than 20 years ago, helps keep firearms out of the hands of criminals, but its requirement that sellers of guns conduct background checks on prospective purchasers only applies to sellers who are licensed gun dealers. We need to close this dangerous loophole by extending this requirement to all sellers of firearms. We also need to take steps such as banning high-capacity ammunition magazines, which make it easier for mass shooters to kill large numbers of innocent victims before having to reload their weapons; ensuring that individuals on the terrorist watch list are unable to purchase firearms; banning deadly assault weapons; and closing the “default proceed” loophole that allowed Charleston shooter Dylan Roof to legally acquire a firearm. These are only a few initial steps of the many that we can take to help prevent guns from getting into the hands of criminals.

We hope that we can develop and maintain a positive working relationship with you and your Department on these and other matters of importance to the African American community. We appreciate your time and consideration of these vital matters.

Sincerely,



JOHN CONYERS, JR.
Ranking Member
House Committee on Judiciary



CEDRIC RICHMOND
Chairman
Congressional Black Caucus