



April 21, 2017

Director Mick Mulvaney
The Office of Management and Budget (OMB)
725 17th Street, NW
Washington, DC 20503

Dear Director Mulvaney,

We write to you on behalf of a coalition of organizations committed to advancing constitutional policing practices that increase public safety. We have reviewed the Budget Blueprint for Fiscal Year 2018 (Budget Blueprint) released by the Office of Management and Budget (OMB) on March 16th¹ and offer several recommendations based on our priorities for the upcoming fiscal year.

Advancing Public Safety through Law Enforcement Reform

Funding programs should enhance policing skills and law enforcement practices in a manner that advances public safety and promotes constitutional policing. With that in mind, the Department of Justice (DOJ) should prioritize funding for **the Collaborative Reform Initiative of the Office of Community Oriented Policing Services (COPS Office)**. The Collaborative Reform Initiative is a valuable program that offers technical assistance and operational support to local police departments to improve policing practices, transparency, professionalism, accountability, community inclusion, and procedural fairness. The Collaborative Reform Initiative enables police departments to sustain long-term, significant reforms in a manner that improves trust between police and communities and meets the public safety goals of residents. Police departments participate on a voluntary basis and commit to addressing the recommendations and reforms by the COPS Office.²

¹ OMB, "American First: A Budget Blueprint to Make America Great Again" (2017), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf.

² DOJ, COPS, Collaborative Reform, available at <https://cops.usdoj.gov/collaborativereform>.

The budget should also reflect continued support for the **Special Litigation Section of the Civil Rights Division (CRT)**, resourcing existing investigations of police departments and consent decrees. It is critical that the Special Litigation Section continues robust enforcement of our nation's civil rights laws to advance constitutional and unbiased policing practices.³ It is undeniable that recent events, including the deaths and assaults of unarmed people of color, youth, and people in crisis at the hands of police, have required a renewed commitment to federal intervention by DOJ. This intervention is necessary to protect the constitutional rights and liberties of all Americans, particularly those communities subject to discrimination and marginalization. To meet these challenges, the role of the Special Litigation Section is indispensable and the budget should reflect support for its continued work in this area.

Providing Proper Training for Law Enforcement Officers

Funding should support **De-escalation and Crisis Intervention Training**. As a result of this training, law enforcement agencies apply strategies that reduce the likelihood of force-related incidents. De-escalation training is essential to reducing the number of violent confrontations between law enforcement and communities. These trainings promote best practices and, as a result, reduce the risk of injury to police officers and members of the community. Relatedly, funding should also promote crisis intervention training that utilizes mental health professionals. Such training can help police officers identify and responsibly respond to a person who is impacted by mental illness, an intoxicating substance, or emotional distress. The public safety benefits resulting from this training are well-documented and broadly supported by policing and public safety experts.⁴

Understanding Police-Community Relations through Data Collection Initiatives

Federal data collection on deaths and use-of-force incidents caused by law enforcement must remain a national priority. To this end, the budget should reflect support for the **Federal Bureau of Investigation (FBI) National Use-of-Force Data Collection Program**, which expands the Uniform Crime Report Program to include use of force incidents by law enforcement that result in serious bodily injury. This data collection initiative is in the public interest and is of significant practical value to law enforcement. FBI Director James Comey has highlighted the need to “improve the way we collect and analyze data to see the true nature of what’s happening in all of our communities.”⁵ Indeed, an accurate accounting of use of force incidents will provide increased transparency for law enforcement and the public, and properly shape reforms that reduce police related violence.

³ DOJ, CRT, Special Litigation, available at <https://www.justice.gov/crt/special-litigation-section>.

⁴ DOJ, COPS, “U.S. Department of Justice Sponsors De-Escalation Training For Law Enforcement Personnel,” June 10, 2014, available at <http://www.cops.usdoj.gov/Default.asp?Item=2721>.

⁵ James Comey, Director, FBI, “Hard Truths: Law Enforcement and Race,” Feb. 12, 2015, available at <https://www.fbi.gov/news/speeches/hard-truths-law-enforcement-and-race>.

The budget should similarly reflect support for the full implementation of the bipartisan **Death In Custody Reporting Act of 2013 (DICRA)**. This law was enacted in 2014 and requires states and federal law enforcement agencies to collect and submit to DOJ data on prison, jail, arrest-related, and other custodial deaths. DOJ's December 2016 proposed implementation of DICRA must be resourced.⁶ Understanding the scope and circumstances of deaths in custody is critical to addressing the failures of the criminal justice system.

Addressing Racial Bias and Diversity in Law Enforcement

Funding should also be provided for **DOJ's Implicit Bias Training for Law Enforcement**. Implicit biases are the unconscious and subtle associations that a person makes about another person or a group of people. In response, DOJ provides science-based training to its more than 23,000 agents and 5,000 thousand attorneys to address implicit biases.⁷ Agents and attorneys are equipped to identify and correct their naturally-occurring implicit biases, enabling them to make better enforcement decisions. DOJ's commitment to a fair and impartial criminal justice system is advanced through implicit bias training.

Funding should also be provided for the **Diversity in Law Enforcement Initiative**, supported by the DOJ and the Equal Employment Opportunity Commission (EEOC). This program examines barriers to diversity in law enforcement agencies and considers steps that can be taken to increase diversity.⁸ Police departments that employ officers of diverse backgrounds, as well as officers from the communities in which they serve, may improve police-community relations and build trust. Better employment practices within law enforcement agencies can certainly lead to better policing practices and safer interactions for both police and community members.

⁶ DOJ, "Agency Information Collection Activities; Proposed Collection Comments Requested; New Collection: Death In Custody Reporting Act Collection, 81 Fed. Reg. 91948," Dec. 19, 2016, available at <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-30396.pdf>.

⁷ DOJ, "Department of Justice Announces New Department-Wide Implicit Bias Training for Personnel," June 27, 2016, available at <https://www.justice.gov/opa/pr/departments-justice-announces-new-department-wide-implicit-bias-training-personnel>.

⁸ DOJ, EEOC, "Advancing Diversity In Law Enforcement," Oct. 2016, available at <https://www.justice.gov/crt/case-document/file/900761/download>.

Prioritizing Scarce Resources

In addition to these funding priorities, we recognize that the DOJ budget has continued to be squeezed over the years. We are encouraged that OMB recognizes in the Budget Blueprint “savings of almost a billion dollars from the 2017 annualized CR level in federal prison construction spending due to excess capacity resulting from an approximate 14 percent decrease in the prison population since 2013.”⁹ Importantly, these savings came as a result of DOJ’s Smart on Crime Initiative, wherein U.S. Attorneys were advised to use discretion in the application of mandatory minimum sentences for drug offenses.¹⁰ We would caution against any reversal of these policies and oppose any move to use these savings to merely fill the federal prison system again through the use and expansion of drug task forces. Our country incarcerates more people than any other country in the world, and many of those in federal prison are there for drug offenses. We should be looking to reduce our prison population, not increase it.

Furthermore, eight states have voted to legalize marijuana for adult use. The previous Administration exercised important discretion when it came to prosecuting use of marijuana under federal law in these states. This discretion was articulated in what is known as the “Cole memo.”¹¹ Additionally, there is bipartisan support for allowing states to set their own marijuana policies. In March, a number of Republican and Democratic Senators sent a letter to Attorney General Sessions requesting that he maintain the hands-off approach to marijuana legalization outlined in the Cole memo.¹² We would again urge you to refrain from using precious resources to arrest and prosecute marijuana cases, particularly in states that have legalized marijuana.

Finally, the budget should prioritize Byrne JAG and COPS Office funding that supports the right to counsel, pre-booking and pre-trial diversion programs, and juvenile justice, rather than simply expand the number of law enforcement officers we have on the street. Studies have shown that more law enforcement does not translate into improvements in public safety; it often contributes to unconstitutional policing, more arrests, and an increase in the prison population with no discernible benefit to the public.¹³

⁹ OMB, “American First: A Budget Blueprint to Make America Great Again” (2017), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf.

¹⁰ See Letter from Justice Roundtable to Jeff Sessions, Attorney General, U.S. Dep’t of Justice (Apr. 5, 2017)(on file with NAACP Legal Defense and Educational Fund, Inc.).

¹¹ James M. Cole, DAG, “Memo for all U.S. Attorneys, Guidance Regarding Marijuana Enforcement,” Aug. 29, 2013, available at <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.

¹² Everett, Burgess. “Sessions Reassures Senators: No Pot Crackdown Imminent,” Politico, Mar. 2, 2017, available at <http://www.politico.com/story/2017/03/jeff-sessions-marijuana-crackdown-senators-react-235616>.

¹³ OMB, “Detailed Information on the Multipurpose Law Enforcement Grants Assessment” (2006), available at: <http://www.whitehouse.gov/omb/expectmore/detail/10003806.2005.html>.

The federal government has an important role to play in overseeing law enforcement agencies throughout the country, and can use taxpayer dollars in a smart way that benefits public safety. We appreciate the opportunity to comment on the Budget Blueprint. We also respectfully request a meeting with OMB to further discuss our budget priorities.

If you have any questions or comments, please contact Michael Collins, Drug Policy Alliance, at mcollins@drugpolicy.org; Sonia Gill, NAACP Legal Defense and Educational Fund, Inc., sgill@naacpldf.org; Kanya Bennett, American Civil Liberties Union, kbennett@aclu.org; or Sakira Cook, The Leadership Conference on Civil and Human Rights, cook@civilrights.org.

Sincerely,

American Civil Liberties Union
The Constitution Project
Drug Policy Alliance
Human Rights Watch
LatinoJustice PRLDEF
The Leadership Conference on Civil and Human Rights
NAACP
NAACP Legal Defense and Educational Fund, Inc.
The Sentencing Project

cc: Members of U.S. House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies
Members of U.S. Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies