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The Honorable Jeff Sessions
Attorney General, U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Sessions:

As the Chief Legal Officers of our respective states, we write to call your attention to an issue of great concern in our states - the use of consent decrees by the U.S. Department of Justice (DOJ) under the previous Administration.

State and local law enforcement officials are the first line of defense in protecting the public and enforcing state criminal laws. State and local government officials likewise play an important role in protecting our citizens' civil rights, carrying out public educational missions, and operating prison systems, among other important governmental functions. They also are responsible for ensuring reforms are carried out when constitutional deficiencies are identified. Many of our states are facing new cases, initiated by DOJ, joined by DOJ, or initiated by non-governmental organizations and supported by DOJ under the prior administration. Meanwhile, we continue to deal with long running consent decrees, some dating back forty or more years, which have at times been used to as means of long-term federal control over various aspects of law enforcement and other state and local governmental activities and which can have serious impacts on state budgets.

We seek a more collaborative effort between the DOJ with state attorney generals to address litigation in a constructive manner tailored toward the resolution of issues and termination of federal oversight. To achieve this, we urge the DOJ to implement internal policies that allow a reasonable corrective period for state and local authorities to get their own house in order and implement more active use of technical assistance letters as opposed to initially seeking, or advocating for full-scale federal take-overs through the federal courts. This change in philosophy within the DOJ will ensure the proper state and local control of law enforcement agencies and governmental operations are maintained.

State and local governments when faced with the coercive power of the federal government, NGOs who are supported by the federal government and federal courts frequently submit to ongoing federal judicial oversight to avoid prohibitively expensive litigation against the federal government or to avoid exposure to exorbitant attorney fees that could be awarded to a private plaintiff. Managing these consent decrees long term, however, creates a new problem for state and local governments. Although easy to enter, they are extremely difficult to exit. Our concern as Attorneys General is that the manner in which consent decrees

have been used results in the long term as an end-run around the democratic process, as you have previously noted.

When federal judges control our schools, prisons, and law enforcement agencies over the course of several years and in some instances decades, democracy suffers through the dilution of elected officials' accountability to voters. By moving policy making from the public arena to the shadows of a judicial conference room or the parties' negotiating table, political agendas that would otherwise have little public support can be mandated by federal authorities. The result of this practice is a number of consent decrees containing intrusive language that, at best, limits the proper discretion and flexibility of local officials and, at worst, blatantly commandeers state and local law enforcement or other governmental agencies to implement otherwise untenable political policies. To be sure, the federal judiciary plays an important role in enforcing civil rights laws and violations. The DOJ can, however, play an important role in ensuring that such courts adopt the least restrictive means necessary for the shortest period of time necessary to correct problems.

In essence, these consent decrees are requiring state law enforcement, elected officials, and state agencies to spend a significant amount of time and money complying with federal mandates that exceed that which is necessary to correct a problem and instead transfer control of state and local governmental functions to the federal government for years.

With regard to law enforcement consent decrees in particular, the results of such control are disturbing. According to data provided by the FBI Uniform Crime Reporting, since the federal government began dictating police practices within the city of New Orleans, violent crime increased by 31% between 2010 and 2015. Los Angeles has seen violent crime increase 15% during that same period. This same pattern appears to be repeating in other similarly situated jurisdictions. Chicago, Baltimore, and other major cities have experienced spikes in violent crime after being put under federal supervision. Thankfully, not every state or local law enforcement agency under federal supervision has been subjected to overbroad and intrusive decrees. Nonetheless, law enforcement agencies in every corner of the nation have been affected by the DOJ's Civil Rights Division, from Miami to Seattle and from Montana to Arizona.

Given this, we write to urge the U.S. Department of Justice to evaluate recent trends under the prior administration and to take a fresh look at long-running consent decrees, as well as ongoing civil rights cases, with a goal of working collaboratively with states to end them. The undersigned Attorneys General pledge to work with the DOJ to facilitate resolution of outstanding issues, develop an achievable path toward closure, and to take the steps necessary to reverse this disturbing trend. We stand ready to assist you in this regard.


Sincerely,



Jeff Landry
Attorney General of Louisiana



Steven T. Marshall
Attorney General of Alabama



Leslie Rutledge
Attorney General of Arkansas



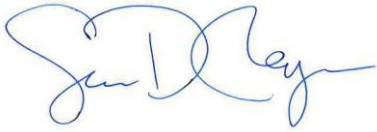
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