

OFFICE OF INDEPENDENT POLICE MONITOR
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

February 5, 2015

Mr. Brian Buchner
President, NACOLE
P.O. Box 87227
Tucson, AZ 85754-7227

RE: Importance of Police Oversight

Dear Mr. Buchner:

*“Nothing About Us, Without Us, is For Us”
– South African Proverb Adopted by New Orleans Community Activists*

Our nation is engaged in an important conversation in this moment in time. More and more individuals are recognizing that public confidence in the police is failing in large and small cities around the country. The federal intervention known as a consent decree has been, up to this point, one of the most powerful tools in our national arsenal against unconstitutional policing. Since the 1994 legislation was passed vesting the Department of Justice with the power to pursue civil actions against local police departments for patterns and practices of violating constitutional rights,¹ at least 15 communities have had their police departments placed under consent decree.² Each decree was unique and not all were quickly or successfully resolved. We here in New Orleans were encouraged by federal intervention but we also realized that intervention would come at a cost. Our community, like most, wants to make sure that the expensive consent decree process works. Communities want to know what makes reforms stick. Therefore we offer this letter as a contribution to the national conversation around making policing work better in our respective communities and argue that the federal process itself could be improved by working more closely with impacted communities.

Some studies of the effectiveness of consent decrees have invested in dissecting police department and police union resistance to consent decrees and how they can hamper effectiveness. We have also seen studies about how the attitudes of the law enforcement executive impact a consent decree. However, a key player in the consent decree process whose role has not been fully studied is the community itself: community groups,

¹ The 1994 Violent Crime Control and Law Enforcement Act allowed the Department of Justice to open investigations into local and state law enforcement agencies suspected of civil rights violations.

² Pittsburgh, Los Angeles, Cincinnati, Oakland, New Orleans, Portland, Oregon, Cleveland, New York City, Detroit, the New Jersey State Police, the Virgin Islands PD, and, most recently, departments in Seattle, Albuquerque, NM and [Newark, NJ](#) went under consent decree.



churches, youth, service providers, activists and above all arrestees are key stakeholders in consent decrees. Consent Decrees often follow a dramatic event that has undermined the community's confidence in its police department to self-regulate. As community concerns are almost always the impetus for federal oversight, those concerns should remain central to the implementation of federal oversight.

Compare the consent decrees of Detroit and Cincinnati. Cincinnati completed its consent decree in 9 years. Detroit has been under a decree for 10 years and remains under that decree. Both cities started off with resistance from police unions. However, a major difference in these two cities' experience of the consent decree was community involvement. The Cincinnati decree created the Cincinnati collaborative, a group "made up of community organizations, citizens, attorneys, police and city representatives that meet regularly to foster respect and cooperation between the police and the community."³ Community members were part of the consent decree negotiation process, and the Cincinnati decree strengthened and demanded more adequate resources for civilian oversight of police in Cincinnati. We have learned, from news articles, a small amount of information on why the Detroit consent decree has continued for over 10 years. It is worthwhile to investigate the level of community involvement in the Detroit decree. In fact, investigating the impact of past decrees through the lens of community involvement is essential to better understanding federal intervention's role in our future police reform work.

As we determine the future course of policing in our country, we must take a deeper look at the role of consent decrees. Research around the history of consent decrees in our country should include four key features of federal intervention that are likely to play an important role in the outcomes of federal intervention:

- Levels of Community Involvement in Implementation;
- Level of Recognition and Support for the Role of Local Oversight Agencies;
- A pre-decree process that includes the local community and oversight agency in the consent decree drafting process;
- Comprehensive studies of past consent decrees in other cities.

Those communities that feel empowered by and participate in the reform process are most likely to have the highest level of satisfaction in the consent decree process. It is also likely that these communities are the best guardians of reforms. In the consent decree process, communities are also the only factor that remains constant before and after consent decrees. Law Enforcement administrators change. Department of Justice leadership changes. Even presidential administrations and their attitudes toward law enforcement accountability change. What remains constant is that there is a community being directly impacted that remembers all the causes of that fractured police/community relationship. Who better to maintain hard-won reforms? Who has a greater stake? As this nation thinks

³ http://www.cleveland.com/metro/index.ssf/2014/06/cleveland_police_doj_investiga.html



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about the future of policing, it is therefore imperative that we consider and investigate the efficacy of high levels of community involvement versus a reform process designed, staffed, and controlled exclusively by outside experts.

Likewise, local police oversight agencies are a part of the local communities and often represent the needs, concerns and expertise of the community they serve. Many oversight agencies were created in response to community outcry. When investigating the effectiveness of consent decrees and other federal interventions, it's also important to be mindful of the role that local oversight will play in the reform process. Arguably, the agency responsible for continuing the work accomplished by the consent decree should be involved in implementing the consent decree. Unlike federal oversight, local police oversight's resources are directly tied to the local government's commitment to reform. It stands to reason that a city that is subject to a DOJ pattern and practice review will not, until that point, have committed many resources to police accountability. If we understand local oversight to be the long-term safeguard of constitutional policing, step one in federal intervention should be to strengthen local oversight.

Because both community members/groups and local oversight agencies are key stakeholders in implementation, it makes sense that they should be involved in drafting consent decrees. Communities know how to conduct best practice research and design creative solutions. The New Orleans community went so far as to organize a year-long process in which it drafted its own "People's Consent Decree". That document argued for reforms that, although not part of the consent decree, have nonetheless been implemented. Body cameras are the most widespread example. Community members suggested body cameras but the federal government did not insist upon including them in our consent decree because of the cost. Certainly, the law around federal intervention into local police departments and the laws affecting policing itself can be complicated and require the expertise of trained professionals. However, the expertise of impacted people is often missing from consent decrees. Although DOJ investigators gather information from those impacted in the community, there is room to convert the community being treated as objects into subjects – partners in the reform process. Doing so requires local governments and the federal government to share some of the responsibilities and the power with the people who have the most to lose – the communities being underserved by their police departments.

Sincerely,



Susan Hutson
Independent Police Monitor

