

City of Pittsburgh Investigative Findings Letter

Jacquelyn Morrow, Esq.
City Solicitor
City of Pittsburgh
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219

Dear Ms. Morrow:

As you are aware, the Civil Rights Division has been conducting a civil investigation of the Pittsburgh Bureau of Police (the "PBP") to determine whether its officers are engaging in a pattern or practice of violating individuals' federal civil rights. As a result of our investigation, we have determined that the City of Pittsburgh, the PBP and the Department of Public Safety (collectively, the "City") have violated the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 14141). Our investigation pursuant to the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d(c)) into possible racial discrimination against African-Americans is still ongoing. I have authorized filing a civil suit in United States District Court to remedy these violations. We would be willing to defer filing suit, however, if you are interested in negotiating a voluntary settlement in the form of a consent decree to be filed with the complaint.

Our investigation has revealed the following facts: (1) PBP officers engage in a pattern or practice of the use of excessive force and of making false arrests and performing improper searches and seizures; (2) PBP officers use racial epithets or racially insensitive language against African-Americans; (3) the municipal defendants fail properly to investigate complaints of misconduct; (4) the municipal defendants fail adequately to discipline officers who engage in misconduct; and (5) the PBP fails properly to supervise its officers.

1. Use of Excessive Force, False Arrests, Improper Searches and Seizures

Our investigation has uncovered a pattern or practice by PBP officers of frequently using excessive force against the public in effecting arrests and against individuals in police custody and restrained in violation of the Fourth and Fourteenth Amendments to the United States Constitution. We have also uncovered a pattern or practice of falsely arresting, and improperly stopping, searching and seizing individuals in violation of the Fourth Amendment to the United States Constitution. Further, our investigation has uncovered evidence that PBP officers use racial epithets or racially insensitive language directed against African-Americans. The use of racial slurs by police officers, when they occur with other misconduct, heightens our concerns about possible racial discrimination. Our analysis of OPS/OMI files and interviews of individuals who have complained of police misconduct indicates that very few meritorious OPS/OMI complaints have resulted in any discipline being imposed against a PBP officer. This information, combined with the fact that OMI does not consider an officer's prior record of complaints when investigating allegations of the use of excessive force, false arrests or improper searches and seizures, along with recent jury findings, leads us to conclude that the municipal

defendants engage in a pattern or practice of the use of excessive force, both in effecting arrests and against persons already in custody, and of falsely arresting, and conducting improper stops, searches and seizures of, individuals.

2. Failure to Investigate Complaints Properly

Our investigation has uncovered a number of management-related deficiencies that encourage the use of excessive force and improper searches and seizures. Our review of the OPS/OMI files reveals that OPS/OMI improperly applies its own disposition standards; closes an investigation if a complainant fails to provide the names of witnesses or fails to respond to a letter requesting this information within a fixed period of time; gives greater weight to the statements of its police officers, while discounting the statements of witnesses for the complainant; does not fully collect all evidence during its investigations; and does not consider an officer's prior complaint history in its investigation, although generally this information is included in an investigation file.

3. Failure to Discipline Officers Adequately

Our investigation has revealed that PBP officers are rarely disciplined, and then usually only for minor infractions, while the more serious allegations in complaints are ignored. OPS/OMI's failure properly to investigate all allegations of misconduct by PBP officers, as discussed above, means that some officers cannot be disciplined for misconduct. In addition, we found a pattern by PBP management designed to avoid disciplining its officers by changing OPS/OMI's sustained dispositions of complaints to a lesser disposition, resulting in no discipline or management intervention. This is usually done without sufficient explanation. Our analysis of the OPS/OMI files indicates that a significant number of all sustained complaints resulted in no discipline against the officer. A low discipline rate is confirmed by the City's own recent controller's report into police misconduct, known as the Flaherty Report. Our investigation also revealed a tendency to mete out more serious discipline for administrative violations than for civil rights violations. Finally, the PBP fails to discipline officers found guilty of misconduct by the courts, and in fact, fails to monitor such court proceedings involving its officers.

4. Failure to Supervise Officers

The PBP does not monitor complaints filed against its officers as a means of detecting problems before they occur. Such a tracking system would alert management to a potential problem and to the need for counseling, retraining or other intervention techniques. Our information also indicates a pattern or practice of inadequate field supervision of PBP officers. Further, the PBP does not consider an officer's complaint history for evaluation purposes, there are no performance evaluations conducted on PBP officers and officers with significant complaint histories can and have been promoted.

We have concluded that the PBP engages in a pattern or practice of police misconduct. We recognize that, since being notified of our investigation, the City has begun the process of identifying and implementing certain reforms. While some of these proposed reforms appear to be a step in the right direction, we believe these proposed reforms are inadequate to remedy the

scope of the misconduct we have identified. We would be willing to build on these reform efforts to attempt to settle this matter without litigation through the entry of a consent decree ordered by the United States District Court. Steven H. Rosenbaum, Chief of the Division's Special Litigation Section (202-514-6255), will contact you shortly to discuss this matter.

Sincerely,

Deval L. Patrick
Assistant Attorney General
Civil Rights Division