



January 12, 2021

Attorney General-Designate Merrick Garland
Associate Attorney General-Designate Vanita Gupta
Assistant Attorney General for Civil Rights-Designate Kristen Clarke
U.S. Department of Justice
Washington, DC 20530

RE: Regional Convenings with Prosecutors Focusing on Racial Justice

Dear Judge Garland, Attorney Gupta, and Attorney Clarke:

Congratulations on your selection by the Biden/Harris Administration to lead the Department of Justice (DOJ). As you prepare to take office, Lawyers for Civil Rights (LCR) writes to suggest an immediate action step that DOJ can take to bring an intentional and deliberate racial justice and civil rights lens to the criminal justice system, particularly focusing on prosecutors. We invite DOJ to convene regional conversations with key prosecutors and criminal justice stakeholders to provide guidance and to convey best practices designed to increase racial equity within the criminal justice system. Specifically, LCR would welcome an opportunity to work closely with DOJ to convene prosecutors in New England to address deep rooted racial disparities in the criminal justice system.

Since 1968, LCR has been a leader in protecting the rights of people of color and immigrants. We marshal legal resources from the private sector and work in concert with our community partners to create blueprints for advocacy in issues ranging from immigrant rights, voting rights, equal opportunity in the workplace, wealth development in communities of color, and police accountability. For example, LCR is currently suing the Boston Police Department for fatally shooting Terrence Coleman, an unarmed young Black man with a disability.

A re-examination of the civil rights implications of the criminal justice system is long overdue. Black people are still far more likely to be stopped by police without cause compared to their white counterparts. Racial disparities also plague prosecution and incarceration.

Across the country, no region is immune to the scourge of racial disparities inherent in the criminal justice system. Even in Massachusetts and other so-called progressive states, we have seen DOJ investigations of local police departments due to invidious practices. See "Justice Department Announces Findings of Investigation into Narcotics Bureau of Springfield, Massachusetts Police Department," Justice Department (July 8, 2020).

In Massachusetts, the Supreme Judicial Court is taking a close look at policing practices using a racial justice lens. For example, in *Commonwealth v. Warren*, the Court acknowledged that Black men may have a legitimate reason to flee police for fear of the indignities associated with racial profiling. 475 Mass. 530 (2016). The Court also recently altered its longstanding analysis for challenging racially motivated vehicle stops in recognition that the previous structure allowed racial profiling to continue. *Commonwealth v Long*, 485 Mass. 711 (2020).

Deeply rooted racial disparities in the criminal justice system – and the rapidly evolving jurisprudence at the intersection of race and policing – militate strongly in favor of DOJ convening regional conversations with prosecutors and partners such as LCR.

LCR leadership has experience in developing and facilitating these types of convenings. Under the Obama/Biden Administration, LCR's executive director worked collaboratively with DOJ and the White House to convene a national discussion with key prosecutors to address the over-criminalization of people living with HIV/AIDS. Following these convenings, there was a measurable decrease in HIV-related prosecutions nationally. This collaborative work with key prosecutors and stakeholders, can be replicated by DOJ to help address racial equity concerns surrounding the criminal justice system.

LCR proposes the following focus areas for the regional convenings with prosecutors:

- **Pre-Prosecution Issues:** Reducing arrests for non-violent crimes with a particular focus on marijuana; and rooting out pretextual traffic stops and other racially-motivated law enforcement and investigative tactics.
- **Active Prosecution Issues:** Consistent use of databases and open sharing by law enforcement, police, and prosecutors to identify corrupt police officers and eliminate questionable police evidence; and the development of strategies and tools to address racial disparities in bail, charging and sentencing decisions.
- **Post-Prosecution Issues:** Increasing support programs that lessen recidivism, including access to programming while incarcerated; and expanding access to sealing and expungement opportunities to avoid collateral consequences, particularly in communities of color.

Together with DOJ leadership, prosecutors, and stakeholders, we can set a series of dynamic goals for the transformation of our criminal justice system. LCR is well positioned to work closely with DOJ to collaboratively launch this important initiative starting with a regional convening in New England.

We would welcome an opportunity to discuss this proposed collaboration with you in greater detail. Given your commitment to racial equality and criminal justice reform, we look forward to working in partnership with you and your colleagues to light the way for change leading from a place of racial justice and equity.



Sincerely,

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