

Enhancing Oversight to End Discrimination in Policing Act of 2021

After 18-year-old Michael Brown was tragically shot and killed by an officer with the Ferguson, Missouri Police Department, President Obama's Department of Justice (DOJ) launched a civil rights investigation – also called a “pattern or practice” investigation – into the Ferguson Police Department. The investigation concluded that the Department had a history of engaging in unlawful and discriminatory practices and resulted in a consent decree – a legally-enforceable reform agreement between the federal government and the Ferguson PD. This agreement required the Ferguson PD to, among other steps, establish stronger restrictions on the use of force by officers. The Ferguson consent decree was one of 14 consent decrees that the Obama administration used to push police departments to address unconstitutional behavior.

Consent decrees are powerful oversight tools that allow the DOJ to combat police abuse and force local police departments to adopt meaningful reforms. However, the former Attorney General Jeff Sessions severely curtailed DOJ's ability to deploy these powerful tools by issuing guidance that limited the use of consent decrees. That guidance weakened a Division that already had limited capacity to pursue pattern or practice investigations due to funding constraints. While Attorney General Garland recently announced the rescission of that memorandum, the Trump Administration's attack on consent decrees demonstrates the need for Congress to provide additional authority and resources for DOJ to conduct these investigations, and to give state governments the funding and tools necessary to act in case the DOJ won't.

The Enhancing Oversight to End Discrimination in Policing Act of 2021 would strengthen DOJ's and state governments' ability to investigate and prosecute discriminatory police practices. The bill would:

- Empower state attorneys general to pursue pattern or practice investigations, providing a critical backstop if the DOJ fails to act, and create a grant program to assist states in pursuing investigations and consent decrees.
- Triple funding for the DOJ Civil Rights Division, and dedicate \$100 million per year for the next 10 years to the Division to pursue these investigations into police departments with a history of engaging in unconstitutional and discriminatory policing practices.
- Encourage the DOJ to look beyond traditional law enforcement mechanisms when fashioning remedies with police departments, and consider reform mechanisms like mental health support, civilian oversight bodies, and community-based restorative justice programs.
- Prevent conflicts of interest in pattern and practice investigations by barring certain officials from being designated to bring federal actions for pattern and practice violations if there would be a conflict of interest.