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August 27, 2024

The Honorable Kristen Clarke
Assistant Attorney General for Civil Rights
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Ms. Clarke,

I write today regarding the Department of Justice (DOJ) investigation into the Phoenix Police Department (PPD).

While I appreciate your efforts, I am deeply concerned that DOJ's approach to PPD misses the mark, could impose overly burdensome costs, and ultimately have unintended consequences that will undermine the safety of our community.

As you know well, pattern or practice investigations are conducted under the standard used in *Int'l Bd. Of Teamsters v. United States*, holding that a pattern of practice only exists where violations are pervasive rather than isolated. Yet after a three-year investigation, the DOJ's findings report references a mere 120 or so unspecified incidents across eight years of data and an estimated 6 million calls for service throughout that period. This amounts to an exceptionally small fraction of one percent of all service calls.

PPD's Continuous Improvement Unit has identified 12 of the incidents referenced in the report in which PPD officers were disciplined up to and including termination, demonstrating a clear commitment to upholding the law and the high standards of conduct expected of police. Further, one of the incidents that DOJ deemed a Constitutional violation was in fact *already reviewed by the DOJ*—the U.S. Attorney for the District of Arizona—and the Department found no indication of a civil rights violation. In light of these facts, it is clear that a pattern or practice of civil rights violations does not exist—and it is certainly not the kind of situation Congress envisioned when it gave DOJ the authority to conduct investigations of this type.

DOJ is attempting to impose a consent decree on the PPD, but consent decrees have a mixed record at best of improving public safety results. With an average monitoring period of ten years under a consent decree, this process is also tremendously expensive and imposes serious burdens on the PPD. The City of Phoenix expects to spend close to \$50 million if a consent decree is adopted—a significant burden on local taxpayers.

At a time in which it is increasingly challenging to recruit and retain police officers nationwide, a consent decree could initiate a staffing crisis in Phoenix. A staffing crisis and associated shortage of officers would pose a tremendous risk to public safety based on reporting from other police departments that have operated under consent decrees and seen increased risks to safety, such as violent crime.

DOJ has the option to utilize a technical assistance letter, which would streamline the monitoring process, particularly considering the ongoing reform process that has already been implemented by PPD. If done right, a technical assistance letter can improve a police department, create a cooperative relationship between the department and the DOJ, and do so without risking staffing shortages or increasing the financial burden on our communities.

To that end, I strongly urge DOJ to consider entering into a technical assistance letter with the City of Phoenix rather than continue to pursue a consent decree. While the DOJ raises several valid points in its findings report, both PPD and the City of Phoenix already welcome reforms to advance the mission to protect Phoenix's residents from crime and safeguard their civil rights.

Thank you for your attention to this important matter. I look forward to partnering with you in finding a commonsense solution advancing our shared goal of keeping our communities safe.

Sincerely,



Ruben Gallego
MEMBER OF CONGRESS