

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

Plaintiff;

v.

POLICE DEPARTMENT OF BALTIMORE

CITY, et al.,

Defendants.

Civil Action No. 1:17-cv-00099-JKB

MOTION FOR CONTINUANCE OF PUBLIC FAIRNESS HEARING

Plaintiff, the United States of America, respectfully moves this Court to continue, until at least June 26, 2017, the Public Fairness Hearing currently scheduled for April 6, 2017. See Order Soliciting Public Comment, Setting a Public Fairness Hearing, and Establishing Related Procedures (ECF No. 17).¹ Pursuant to Local Rule 105(9), the United States has conferred with the Defendants, the Police Department of Baltimore City (“BPD”), and the Mayor and City Council of Baltimore (collectively “the Parties”), who have not consented to a continuance. In support of this motion the United States would show the Court as follows:

1. On August 10, 2016, the United States Department of Justice released a report entitled “Investigation of the Baltimore City Police Department” that found, among other things, “systematic deficiencies in BPD’s policies, training, supervision, and accountability structures that fail to equip officers with the tools they need to police effectively.” The United States reaffirms its commitment to the need for reform of the Baltimore Police Department, recognizing that the

¹ Federal Rule of Civil Procedure 16(b)(4) provides that a schedule may be modified “for good cause and with the judge’s consent.”

paramount duty of law enforcement is to promote and protect public safety while also respecting civil rights.

2. The Court previously granted the United States' motion for a continuance of a hearing on this matter, from January 24 to February 1, 2017, because of the federal government's change in administration on January 20, 2017. *See* Motion for Continuance of Initial Hearing (ECF No. 9); Order (ECF No. 10).

3. Since that time the federal government has announced several new initiatives and policies that prioritize combatting and preventing violent crime in response to alarming spikes in violent crime in cities across the country (including Baltimore). *See* FBI, Uniform Crime Report: Crime in the United States (Sept. 26, 2016) (documenting a nationwide 3.9 percent increase, from 2014 to 2015, in the estimated number of violent crimes), <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/offenses-known-to-law-enforcement/violent-crime>; *FBI, 2016 Crime in the United States*, Table 4 (documenting a 22% increase in Baltimore's violent crime, from 2015-2016), <https://ucr.fbi.gov/crime-in-the-u.s/2016/>.

4. On February 9, 2017, the Attorney General took office and the President issued executive orders directing the government to prioritize crime reduction. *See* Exec. Order No. 13776, 82 Fed. Reg. 10699 (Feb. 9, 2017) (establishing a task force on crime reduction and public safety); Exec. Order No. 13773, 82 Fed. Reg. 10691 (Feb. 9, 2017) (directing the federal government to take steps to address the rise in violent crime associated with trafficking in controlled substances). Among other things, the President found that a "focus on law and order and the safety and security of the American people requires a commitment to enforcing the law and developing policies that comprehensively address illegal immigration, drug trafficking, and violent crime." Exec. Order No. 13776, 82 Fed. Reg. 10699 (Feb. 9, 2017). The President directed

the Department of Justice to “take the lead on Federal actions to support law enforcement efforts nationwide and to collaborate with State, tribal, and local jurisdictions to restore public safety to all of our communities.” *Id.* The President also ordered that it will be the policy of the executive branch to “enforce all Federal laws in order to enhance the protection and safety of Federal, State, tribal, and local law enforcement officers, and thereby all Americans,” and to “develop strategies, in a process led by the Department of Justice ... to further enhance the protection and safety of Federal, State, tribal, and local law enforcement officers.” Exec. Order No. 13774, 82 Fed. Reg. 10695 (Feb. 9, 2017).

5. On February 27, 2017, the Attorney General created the U.S. Department of Justice Task Force on Crime Reduction and Public Safety and directed the Department to prioritize efforts at crime reduction and cooperation with state and local law enforcement.²

6. On March 31, 2017, the Attorney General announced objectives and principles that the Department should prioritize with respect to local law enforcement issues. *See* Memorandum from the Attorney General on Supporting Federal, State, Local and Tribal Law Enforcement, attached at Exhibit 1. The Attorney General directed the Deputy Attorney General and the Associate Attorney General, and through them all components of the Department “to immediately review all Department activities – including . . . existing or contemplated consent decrees . . . to ensure that they fully and effectively promote the principles outlined [in the Memorandum].” *Id.* at 2. Specifically, the Department must ensure that such contemplated consent decrees advance the safety and protection of the public, promote officer safety and morale, protect and respect the civil

² *See* Press Release, U.S. Department of Justice, Attorney General Announces Crime Reduction and Public Safety Task Force (Feb. 28, 2017), <https://www.justice.gov/opa/pr/attorney-general-announces-crime-reduction-and-public-safety-task-force>.

rights of all members of the public, respect local control of law enforcement, are rooted in timely and reliable statistics on crime and criminals, and do not impede recruitment and training of officers. *Id.* at 1-2.

7. Pursuant to these recent directives, the United States seeks this extension of time to assess whether and how the provisions of the proposed consent decree interact with the directives of the President and Attorney General.

8. The Attorney General and the new leadership in the Department are actively developing strategies to support the thousands of law enforcement agencies across the country that seek to prevent crime and protect the public. The Department is working to ensure that those initiatives effectively dovetail with robust enforcement of federal laws designed to preserve and protect civil rights. There are few better examples of places where such difficult and important work is necessary than Baltimore. The Department has determined that permitting it more time to examine the consent decree proposed in this case in light of these initiatives will help ensure that the best result is achieved for the people of the City.

9. The United States' investigation in this case determined that there is reasonable cause to believe that the BPD has engaged in a pattern or practice of conduct that violates the Constitution or federal law. The United States is therefore aware of the need for police reform in Baltimore and of the need to rebuild public confidence in law enforcement in Baltimore. As the Department has previously acknowledged, the City of Baltimore has made progress toward reform on its own and, as a consequence, it may be possible to take these changes into account where appropriate to ensure future compliance while protecting public safety.

10. The United States, acting through the Department of Justice, remains committed to helping BPD, and all law-enforcement officers who work in Baltimore, fight violent crime and

protect the civil rights of all residents of Baltimore. The United States also remains committed to working to ensure that the BPD can carry out its mission of fostering trust with community members, safeguarding life and property, and promoting public safety through enforcing the law in a fair and impartial manner. The Department of Justice will continue to offer support to Baltimore to help build public trust and ensure that all Baltimore residents enjoy the safety, security, and dignity they expect and deserve.

For the foregoing reasons, the United States respectfully requests that the Court continue the April 6, 2017 hearing for ninety (90) days to allow the United States to review and assess the proposed Consent Decree and confer with the City in light of this Administration's recent directives.

Respectfully submitted this 3rd day of April, 2017,

T.E. WHEELER, II
Acting Assistant Attorney General
Civil Rights Division

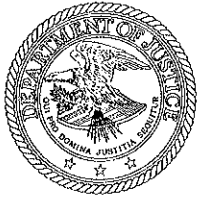
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CERTIFICATE OF SERVICE

I certify that on April 3, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, to give notice to all registered parties.

s/Seth Wayne



Office of the Attorney General
Washington, D. C. 20530

March 31, 2017

**MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS AND
UNITED STATES ATTORNEYS**

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Jeffery B. Sessions".

SUBJECT: Supporting Federal, State, Local and Tribal Law Enforcement

Our mission statement directs the Department of Justice “to ensure public safety,” “to provide federal leadership in preventing and controlling crime,” and “to ensure fair and impartial administration of justice for all Americans.” We fully embrace and share these responsibilities with thousands of law enforcement agencies across the country that also seek to prevent crime and protect the public. We understand the crucial role interagency partnerships play in successful crime prevention strategies, and the Department is proud of the longstanding relationships it has with our federal, state, local, and tribal law enforcement partners. The Federal government alone cannot successfully address rising crimes rates, secure public safety, protect and respect the civil rights of all members of the public, or implement best practices in policing. These are, first and foremost, tasks for state, local, and tribal law enforcement. By strengthening our longstanding and productive relationships with our law enforcement partners, we will improve public safety for all Americans.

The Department will use its resources to effectively promote a peaceful and lawful society, where the civil rights of all persons are valued and protected. To that end, I expect that all Department components will adhere to and support principles that will advance those two goals, including, but not limited to the following:

- The safety and protection of the public is the paramount concern and duty of law enforcement officials.
- Law enforcement officers perform uniquely dangerous tasks, and the Department should help promote officer safety, officer morale, and public respect for their work.
- Local law enforcement must protect and respect the civil rights of all members of the public.
- Local control and local accountability are necessary for effective local policing. It is not the responsibility of the federal government to manage non-federal law enforcement agencies.

- The misdeeds of individual bad actors should not impugn or undermine the legitimate and honorable work that law enforcement officers and agencies perform in keeping American communities safe.
- The collection and analysis of timely, reliable statistics on crime and criminals are essential for effective law enforcement strategies.
- Recruitment and training of law enforcement officers should focus on making law enforcement a rewarding career, and attracting and retaining well-qualified personnel.
- Collaboration between federal and local law enforcement is important, and jurisdictions whose law enforcement agencies accept funding from the Department are expected to adhere to the Department's grant conditions as well as to all federal laws.

The Deputy Attorney General and the Associate Attorney General are hereby directed to immediately review all Department activities – including collaborative investigations and prosecutions, grant making, technical assistance and training, compliance reviews, existing or contemplated consent decrees, and task force participation – in order to ensure that they fully and effectively promote the principles outlined above. Nothing in this Memorandum, however, should be construed to delay or impede any pending criminal or national security investigation or program.