

Connecticut Bar Association Policing Task Force (“CBAPTF”) Draft Recommendations

Draft Recommendation # XX:

The CBAPTF recommends amendment of the Act to grant civil “pattern-or-practice” enforcement authority to the Attorney General. This authority would be invoked only when there is evidence of a persistent pattern of misconduct in a police department or evidence of a regular practice in place that unlawfully discriminates or violates civil rights, rather than an isolated incident. The remedy for a pattern-or-practice violation must include whatever reforms may be necessary within the police department to remedy systemic problems such as use of excessive force, racial profiling, and other biased policing and unlawful practices. To be effective, pattern-or-practice enforcement authority must include authorization to conduct investigations, including issuing subpoenas and civil investigative demands, as well as the power to commence litigation when appropriate.

Rationale:

An Act Concerning Police Accountability, Public Act 20-1 (Bill 6004), does not include civil authority for pattern-or-practice review. This authority lies beyond the scope of the criminal authority granted to the Inspector General. Although the federal Government has the authority to conduct pattern-or-practice investigations, the Connecticut Attorney General does not currently have this authority. Because the federal Government has a national focus, systemic and egregious misconduct in local police departments which are lower profile or less urgent relative to departments outside of the State may go unchecked.

State government is in the best position to monitor local police departments for patterns and practices of civil rights abuses. The Connecticut Attorney General is already well positioned to provide necessary oversight and accountability. The Office of the Attorney General is focused solely on the State of Connecticut, and it has the expertise and capacity to investigate and bring any necessary cases.

By definition, “pattern-or-practice” authority is only invoked when there is evidence of a persistent pattern of misconduct in a police department or evidence of a regular police practice that unlawfully discriminates or violates civil rights, rather than an isolated incident. The goal of a pattern-or-practice action is to secure whatever reforms may be necessary within a department to remedy systemic problems such as use of excessive force, racial profiling, and other biased policing and unlawful practices.

In response to concerns about the limitations of this authority, the grants of authority in other jurisdictions around the country can be instructive. Distinct from criminal investigations or charges that may be pursued for a single violation of law, this authority is aimed at addressing multiple instances and systemic abuses or violations

within a department. State AG enforcement may avoid the costs associated with similar DOJ enforcement by consent decree (which may require a court monitor and a more expansive scope of review and/or modification) and shorten the mandated period of oversight.