

February 2, 2016

Mayor James W. Knowles III
De'Carlton Seewood, City Manager
Ferguson City Council Members
Ferguson City Hall
110 Church Street
Ferguson, Missouri 63135

Submission of Public Comments Regarding the Department of
Justice Investigation and Proposed Consent Decree Agreement

Dear Mayor Knowles, Mr. Seewood, and Members of the Ferguson City Council:

I write today on behalf of Strategies for Youth, a national nonprofit training and policy organization that seeks to improve police/youth interactions and reduce disproportionate minority contact. We work with law enforcement agencies across the country analyzing and making recommendations to their polices, providing *Policing the Teen Brain* training, and implementing educational outreach tools for use with youth.

We commend the City of Ferguson and USDOJ for the Consent Decree (hereinafter “the Decree”.) It is one of the most systematic, comprehensive, and thoughtful Decrees we have reviewed. The level of guidance it provides to law enforcement is extraordinary and demonstrates a model roadmap for necessary organizational and attitudinal reform.

We are especially impressed by the Decree’s focus on encouraging officers to get to know and engage with youth and to reform the use of ordinances, which often disproportionately impact youth. This is especially true when fines are levied as youth are least well situated to pay the resulting fines, leading to adversarial interactions with officers that alternative approaches address better.

SFY’s comments about the Decree are focused on issues relating to how it addresses police/youth interactions. In the next pages, we outline some methods by which increased focus on these interactions should be included in the Decree. We view the exclusion of these considerations in the realms of training, policy, and supervision as an opportunity to address some of the issues that led to the Michael Brown shooting death and the resulting involvement of the U.S. Department of Justice.

The Missouri Context

To put our concerns in perspective, it is important to know that the state of Missouri curriculum for training officers requires only 3.5 hours or 0.9% of the total time spent in the academy, on the topic of dealing with youth. According to information obtained from the Missouri Police Officer Standards and Training (POST), none of this time is spent on understanding how to communicate with and de-escalate interactions with them, recognizing and responding appropriately to youth demonstrating mental health issues, using community based resources and restorative justice practices to mediate low level disputes and offending. Notably, the curriculum does not address the federally mandated obligation for law enforcement to address and reduce disproportionate minority contact that has consistently been documented as being the most significant at the point of arrest.

Additionally, the state of Missouri does not issue model policies and procedures for law enforcement interactions with juveniles. The current policies and procedures used by most law enforcement agencies are developed by law enforcement organizations that may not consider the interests of youth and communities, or reflect best practices for interacting with youth in the context of the community policing philosophy proposed by the Consent Decree.

It is with these factors in mind that we make these suggestions.

Decree Requirements Regarding School Resource Officers

SFY commends the proposed Consent Decree's language on defining SRO's role and limits, creation of a memorandum of understanding (MOU), and required training. This section demonstrates most of the Decree's focus on police/youth interactions.

To this section of the Decree SFY suggests:

- Paragraph 207's focus on selection of SROs would be well served to include a recruitment process that involves members of the schools, community, and includes a screening process that considers SROs' past discipline and legal history regarding use of force and complaints of bias;
- Paragraph 210 focus on training for SROs should include school laws that protect youth with special education and behavior needs; all training of officers should be presented as cross training that includes school officials and teachers to ensure consistency in understanding of the parameters of SROs' roles;
- Paragraph 211 requires the development of an MOU between the FPD and the schools to which it deploys its officers; SFY recommends that:
 - The MOU clarify the method of deployment of officers (e.g. one per school or one officer is responsible for several schools);
 - The MOU should be accompanied by an operational plan that guides SROs *and* school administrators and teachers' responses;

- Developing a mechanism by which FPD notifies SROs of traumatic events in students' lives (e.g. arrest of a parent, murders in a housing complex) will reduce the risk of SROs arresting students for expressing traumatic distress at school;
- The Decree's repeated requirements to collect data about use of arrest and force in public schools should be accompanied by a requirement to disclose the information publicly on the schools' website and/or other venues.

In the five years that we have reviewed law enforcement agencies' policies and procedures we have regularly noted that few agencies have policies to guide SROs conduct. As the FPD reviews its policies and procedures, it will be critical to ensure such policies exist in addition to the MOU.

Finally, SROs should receive training on implicit bias in the school context and the danger of profiling by proxy, i.e. accepting at face value characterization of a student's conduct instead of conducting an independent investigation. Awareness of these biases can reduce SROs compounding school staff bias and accelerating students' entry into the school to prison pipeline.

Academy & In-Service Training of Working with Youth

We commend the Decree for requiring recruits and experienced officers to participate in training. We suggest that beyond the school context, all FPD officers should be trained in adolescent development, how to communicate effectively with youth, de-escalating interactions with youth, both alone and in groups, recognizing and responding appropriately to youth exhibiting symptoms of mental illness, juvenile law for law enforcement, and how to use core concepts of procedural justice to assert authority effectively with youth. (SFY has included our description of what procedural justice includes for youth.)

In Section XVII, starting with paragraph 303, we recommend that FPD's training should enhance the minimum requirements of the state of Missouri and increase the hours spent on the topics noted above. A discrete training focused on working with juveniles should, in addition to the components identified above, also include:

- Cross-training and discussion about SROs' roles in the school;
- community policing approaches that rely on youth serving community based organizations to understand and redirect behaviors,
- restorative justice skills and mediation to address low level offending in lieu of arrest,
- review of the U.S. Supreme Court decisions in *Roper v. Simmons* and *JDB v. North Carolina*, officers are required to adopt a developmental approach to policing youth; officers should be routinely apprised of state court interpretations of these U.S. Supreme Court decisions as it affects their non-custodial and custodial interactions, interviews, and interrogations of youth;

- use of force training that reflect differences in adolescent strength and physical vulnerabilities, and be calibrated as a function of youths' age.

Involving youth in training officers can be very effective for both police and youth to understand why some kinds of assertion of police authority are more likely than others to garner compliance and trust. Youth voice and engagement are key to successful training.

FPD Policies & Procedures for Guiding Officer Interactions with Youth

No mention is made in the Decree of a comprehensive set of policies and procedures to guide officers' interactions with youth. SFY strongly recommends that in light of other policy and procedural revisions underway, this policy be reviewed, too. SFY would be delighted to provide FPD with a model policy of a comprehensive policy as well as connect FPD to departments that have implemented them to good effect.

SFY commends the policy changes proposed in paragraphs 77, 82, and 88 and strongly recommends that the directives in these paragraphs be included in a comprehensive set of policies and procedures for working with youth and SROs. The prohibitions on police actions outline in Paragraph 82 are key to reducing police coercion that leads to violation of youths' rights.

Too often, youths' lack of power in police/youth interactions has resulted in youth being stopped, frisked, searched and detained for no reasonable or probable cause, except that an adult authority figure can do so. In these situations, youth are unclear about how to balance deference to authority with an assertion of their right. Including the language set forth in Paragraph 82 in a comprehensive policy for youth will be a major step towards concurrently reducing violation of youths' rights and improving police/youth relations.

Use of Force with Youth Policies & Procedures

SFY commends the proposed policies and procedures for use of lethal and non-lethal force but is concerned at the short shrift given to consideration of youths' age and body-type (mentioned only Paragraph 132). We recommend that the existing policies be calibrated and defined as a function of age and size. An excellent example is the use of force policies of the Cleveland Division of Police implemented in 2014, that set limits on which kinds of non-lethal force can be used.

This is of particular concern with the use of tasers. While the Taser Corporation has specifically noted that their equipment should not be used with children, no definition of "child" has been offered by Taser Corporation. In view of the long term damage use of tasers can cause on youth, often as a result of their different physique and factors unique to their age and development, SFY strong recommends limitation of use of tasers on children and youth in the development of use of force policies. Similarly, the dangers of OC spray with youth who are at high risk of asthma poses a sizeable risk that should be considered carefully.

SFY recommends that implicit bias training intersect with use of force training in the context of youth. Youth of color are routinely “aged-up” by an average of 4 to 5 years and are perceived to present a stereotype-threat if they are male. (See Goff, et al., “The Essence of Innocence: Consequences of Dehumanizing Black Children,” *Journal of Personality and Social Psychology*, Vol. 106, No. 4, 526-545, 2014) Raising awareness of implicit racial bias, which has an insidious and strong hold on officers’ perceptions of when to use force, is critical to improved police encounters with youth. Presently the standard for determining whether force has been unreasonable does not contemplate how biased perceptions of youth of color are more likely to merit use of force.

Supervision of Officers Interactions with Youth

SFY commends the Decree’s many suggestions about supervision of officers. In addition SFY would recommend specific strategies to ensure that concerns specific to police/youth interactions are flagged and addressed. First, SFY recommends the practice of tracking officers’ citations and/or arrests of youth for disorderly conduct, resisting arrest, and fleeing. High rates of citations/arrests for these kinds of infractions often indicates poor police/youth interactions. The reform of city ordinances proposed in the Decree will go a long way to reducing such negative interactions which are often perceived by youth as predatory in nature. To ensure that such conduct is completely dismantled, SFY recommends careful review of future use of low-level state charges.

Second, we commend the Decree for recommending positive recognition, including financially, for officers who go above and beyond the call of duty to work with youth in coaching, mentoring, and other engagement activities.

In conclusion, Strategies for Youth reiterates its admiration of the Decree and the improvements in the constitutionality and procedural justice of the FPD’s approach to policing. The Decree’s plans for increasing youth voice and trying engagement new approaches to engaging youth are necessary steps for implementing a community policing approach.

Ferguson was in the spotlight due to the shooting of an unarmed 18 year-old teen. To demonstrate lessons learned from Michael Brown’s death, the Decree and FPD must take steps to develop policies for working with youth that reflect a developmentally informed, legally up-to-date, and proactive community policing response in its polices, training, and oversight practices.

We would be happy to speak at greater length on these topics and offer research and models to support such efforts.

Very truly yours,

Lisa H. Thurau, Esq.
Executive Director