



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

June 12, 1997

Mr. Gary Repella
City Law Director
308 Market Street
Steubenville, OH 43952

Re: Investigation of Steubenville Police Department

Dear Mr. Repella:

As you are aware, the Civil Rights Division has been conducting a civil investigation of the Steubenville Police Department (the "SPD") to determine whether its officers are engaging in a pattern or practice of violating individuals' federal civil rights. As a result of our investigation, we have determined that the City of Steubenville, the SPD, and the City Manager, in his role as Director of Public Safety (collectively, the "City") have violated the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. I have authorized filing a civil suit in United States District Court to remedy this violation. (The lawsuit would name as a defendant the Civil Service Commission, in addition to the above parties, in order to allow the District Court to accord complete relief.) We would be willing to defer filing suit, however, if you are interested in negotiating a voluntary settlement in the form of a consent decree to be filed with a civil complaint.

During the course of our investigation, we reviewed: policies and procedures of the SPD; SPD internal files relating to civilian complaints of police misconduct and discipline of officers; complaints and other documents from recent civil lawsuits against the City relating to police misconduct; hundreds of arrest and incident reports; criminal judicial decisions excluding evidence or dismissing criminal charges on the basis of police misconduct; and internal City documents relating to allegations of misconduct. We also interviewed many individuals, and met with City representatives, including you and the City Manager, the Mayor, and the Chief of Police, and, with your consent, a number of SPD officers.

Our investigation has revealed that SPD officers engage in a pattern or practice of misconduct. Specifically, SPD officers engage in a pattern or practice of using excessive force, including when they are off-duty but acting under color of law,

and in a pattern or practice of making false and retaliatory arrests and charges. In addition, SPD officers tamper with evidence and/or witnesses, falsify official reports and filings, and conduct unlawful searches and seizures of Steubenville residents and their homes and property. The misconduct of individual officers is caused and condoned by City policies and practices — inadequate use-of-force policies; inappropriate off-duty-conduct policies; a civilian complaint policy that both discourages and fails to investigate complaints; failure to monitor and supervise police conduct; failure to train; failure to discipline; and retaliation against civilians who complain.

1. Misconduct by SPD officers

We have uncovered substantial evidence of SPD officers' use of excessive force, especially when they are off-duty but acting under color of law, or prompted by minor resistance to police action. In addition, SPD officers frequently falsely arrest and charge individuals. Moreover, SPD officers tamper with evidence and/or witnesses, and falsify in official reports and filings. Finally, SPD officers conduct unlawful searches and seizures of residences and residents. This behavior amounts to a pattern or practice of conduct that deprives persons of their federal civil rights.

2. City policies and practices

Our investigation has uncovered a number of management-related deficiencies that operate both singly and in tandem to cause and condone police misconduct:

a. Lack of use-of-force policies.

The City has no policy and provides no training about what types of force are useful and acceptable in different types of situations. In addition, it fails to require use-of-force reports or otherwise investigate or review uses of force.

b. Off-duty policies.

SPD policy requires police officers to carry a firearm at all times and to "take action" whenever the need arises — without respect for whether they are on or off duty. Misconduct and harm to civilians arises not from either policy alone, but from the combination of the policies and the absence of guidance about how SPD officers should deal with predictable but difficult situations. The result is two problems: First, police are able to abuse their authority to vindicate their side of a personal dispute. Second, off-duty police are encouraged to place themselves and civilians at risk when they respond to an emergency situation in the heat of the moment, unprepared and not readily identifiable as police officers.

c. Civilian complaint practice and failure to investigate complaints.

The City's practice is to discourage civilians from making complaints, and to fail to investigate adequately those that are made. Civilians who do make formal complaints are discouraged from seeking formal resolution. Instead, the Chief of Police encourages his shift commanders to resolve complaints "in-house" — i.e., without documentation or disciplinary result. Where there is formal resolution of a civilian complaint, the documentation leading to such resolution, and apparently the investigation that would otherwise be documented, is practically nonexistent. Only seldom are statements taken from police officers, and even more rarely from other witnesses. Equally rarely is physical evidence collected or evaluated.

d. Failure to monitor and supervise.

The SPD has in place no mechanisms to monitor police officers for the possibility of a developing problem: as already stated, use of force is not reviewed or evaluated; no records are kept about injuries to persons arrested; documentation of disciplinary actions considered but rejected is not kept. Further, the SPD does not take advantage of a number of available sources of information about possible misconduct by officers; it does not initiate disciplinary investigations based on judicial findings of misconduct, informal complaints, known injury, or even receipt of a lawsuit. Especially in a system in which complaints are so underutilized by civilians, this failure leads to a police force in which oversight of civil rights is practically nonexistent.

e. Failure to train.

Once SPD officers are sworn in as Ohio peace officers, they have until recently received no reinforcement or refresher training on critical skills and knowledge, and no training about new developments in law or law enforcement techniques. No training is required or even offered to remedy emerging problems as found in criminal cases, lawsuits, or complaints. Nor is any training required or offered when officers are promoted to supervisory positions. Following our interview of him, Chief McCartney did contact the FBI to ask for training in a number of areas. Over the next several months, the FBI will be providing SPD officers with on-site training on four topics — search and seizure, defensive tactics, use of force, and hostage negotiation. This is a positive step, taken in response to our investigation, but it does not cover all the relevant areas, and there is no indication that the City intends to institutionalize necessary training of its officers.

f. Failure to discipline.

The SPD also fails to discipline adequately its officers' misconduct. When misconduct is disciplined, that discipline is inappropriately light. Driving accidents and cursing at superior officers are punished more heavily than misconduct against civilians.

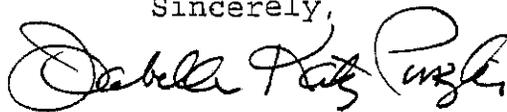
g. Retaliation against complainants.

Many Steubenville residents reported to us that they were afraid to talk to us, because they feared retaliation from the police if an allegation of misconduct becomes public. And, indeed, we found numerous examples of police activity apparently calculated to intimidate police critics. For example, SPD officers sometimes file criminal charges against potential complainants, in order to gain leverage to obtain a waiver of the civilian's right to sue.

In sum, we have concluded that the City engages in a pattern or practice of police misconduct. We have reached no conclusion on two sets of allegations, relating to race and gender. Our investigation of alleged race discrimination, sexual coercion, and failure to enforce domestic violence laws (which may discriminate against women) continues.

We recognize that, since being notified of our investigation, the City has acted to improve training of police officers, by calling on the FBI to conduct training in several areas. In addition, numerous City officials have told us of their desire to work with us to accomplish positive reform. We would be willing to build on this expression of good will by attempting to settle this matter without litigation through the entry of a consent decree enforceable by the United States District Court. Margo Schlanger, of the Division's Special Litigation Section, will contact you shortly to discuss this matter.

Sincerely,



Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division