JUSTICE NEWS

Deputy Assistant Attorney General Eve Hill of the Civil Rights Division Delivers Remarks at the White House Forum on Criminal Justice Reform and People with Disabilities

Washington, DC, United States – Monday, July 18, 2016

Remarks as prepared for delivery

Thank you all for that warm welcome and thank you for this opportunity today to talk about a critical, pressing issue facing communities around the country: the interaction between people with disabilities and our criminal justice system.

Let me begin, as others have, by condemning, in the strongest possible terms, yesterday’s heinous act of violence against law enforcement officers in Baton Rouge, Louisiana. We extend our deepest condolences to the families and loved ones of those killed – Montrell Jackson, Matthew Gerald and Brad Garafola – and we send our thoughts and prayers to those wounded. While the local investigation remains ongoing and there are many questions still to be answered, we know that violence against police is unconscionable. It is never the answer. Agents from the FBI, ATF and U.S. Marshals are on the scene in Baton Rouge. The Department of Justice continues to do everything we can to support the thousands of police officers who work each day to keep us safe from harm.

Tragic events in recent days – from the fatal police shootings of Alton Sterling in Baton Rouge and Philando Castile in Falcon Heights, Minnesota; to the ambush in Dallas that killed five police officers: Lorne Ahrens, Michael Krol, Michael Smith, Patrick Zamarripa and Brent Thompson, and wounded several more; to yesterday’s violence against officers in Baton Rouge – have been devastating.

These incidents have highlighted and exacerbated mistrust and fear between minority communities and police. Fear and mistrust also exist between many people with disabilities and their families and the criminal justice entities that serve and protect them. Let us not let that fear and distrust prevent us from working together to address the root problems that face both people with disabilities and law enforcement agencies.

For too long, our society has failed people with mental illness and other disabilities. What does a person with a mental illness need to avoid a crisis? What does a person with a disability who is in crisis need? What does a family whose loved one is in crisis need?

I suggest that they do not need a police officer and a jail cell. Rather, they need mental health treatment. We would not respond to an epileptic seizure by calling a squad car. We would respond by calling a doctor. But for too long, we’ve failed to adequately invest in mental health treatment programs – for a range of reasons – from stigma, to misinformation, to neglect. Instead, we’ve turned to the criminal justice system, relying on arrest and incarceration, to jail – rather than treat – those in crisis.

And for too long, we’ve pretended that criminalizing mental illness would somehow solve the issue. As a society, we share a collective responsibility to reverse this trend by expanding diversion programs and by investing in community-based mental health care.
The lack of community-based resources results in jails becoming the de facto mental health treatment system in many communities and a primary institution that segregates people with disabilities. Serious mental illness affects an estimated 14.5 percent of men and 31 percent of women in jails – rates four to six times higher than in the general population. Similarly, four to 10 percent of the prison population has an intellectual disability, compared with only two to three percent of the general population. Some states have almost 10 times more people with serious mental illness in jails and prisons than in hospitals.

As part of our vigorous efforts to protect the rights of people with disabilities and support their ability to live in their communities, under the leadership of the Attorney General and Deputy Attorney General, we recently launched a new initiative to examine the interaction between mental health and the criminal justice system. Police, courts and corrections agencies have an important role. On our streets, we want to help police officers de-escalate tense encounters and reduce the need to use force, while promoting officer and public safety. In our courts, where appropriate, we want to divert individuals with mental illness from incarceration and connect them with community-based treatment. In our jails and prisons, we want to ensure that people get connected with the services they need to successfully re-integrate into their communities.

But, in order for criminal justice entities to meet their obligations and address the needs of all their community members, states and localities need to meet their obligations under the Americans with Disabilities Act to provide community-based mental health services. Because make no mistake: the community integration mandate in the Supreme Court's *Olmstead* v. L.C. ruling applies not just to some, but to all public entities. We cannot truly achieve fair and smart criminal justice reform unless criminal justice and state and local health services entities work together to fulfill their *Olmstead* and ADA obligations.

In policing, our approach begins by declaring an unwavering commitment to protecting human life and upholding the dignity of all individuals. The Justice Department has made clear that the ADA applies to arrests and other interactions between police and people with disabilities. From guiding principles, to specific rules, to comprehensive strategies, de-escalation embodies a critical approach for officer and community safety in these interactions. Through our consent decrees with various jurisdictions over the last several years, we aim to ensure that police departments adopt and apply a series of critical de-escalation and use-of-force principles – techniques that can minimize the need for force and increase the likelihood of voluntary compliance.

We also strive to ensure that police departments implement crisis intervention programs. Crisis intervention means recognizing when conditions such as mental illness, disability or the effects of drugs or alcohol may impact one’s behavior. It means recognizing that a person may not understand commands. It means dispatching specialized Crisis Intervention Team or CIT-trained officers to respond to crisis-related calls. And it means responding with care and communication to defuse tensions rather than resorting to unnecessary force.

In Portland, Oregon, where we found a pattern of excessive force against people with mental illness, the Portland Police Bureau agreed to implement new training and accountability measures and create an Enhanced Crisis Intervention Team. A 2013 local media story highlights the powerful impact of these efforts. Officers responded to a call about a naked man, possibly armed with a knife and threatening to jump off a parking garage. As the officers – including a member of the police department’s CIT – responded to the scene, they found a man cutting himself with a knife and in a mental health crisis. Rather than use force, the CIT officer started talking to the man and soon realized that he wanted food. So another officer went and got him a sandwich. The officers then talked the man off the ledge and placed him into custody.
We work to ensure courts and criminal justice entities have the resources they need to pursue diversion when appropriate. In courts, the Justice Department has provided guidance and funding to support diversion and services when more appropriate than incarceration.

We work to ensure corrections and re-entry aren't a revolving door back to incarceration. In recent settlements, we've required prisons and jails to improve their re-entry programs to ensure that people with mental illness are provided a real connection to community-based services so they will have real choices other than returning to the criminal justice system.

Of course, no matter how effectively law enforcement officers respond to crisis situations and corrections entities help people with disabilities re-enter their communities, we can't afford to leave them addressing public health issues like mental illness, disabilities and substance use disorders on their own. That's why our approach to crisis intervention emphasizes the need for partnerships among law enforcement, mental health professionals and community members. As part of our consent decrees in Portland, Seattle and Cleveland, for example, these cities and their police departments created advisory committees specifically focused on substance use, mental health and crisis intervention. These committees include CIT officers, other law enforcement personnel, service providers and community members. The committees help the police departments shape their crisis intervention systems, policies and staffing. And these partnerships also help people with mental illness and substance use disorders, where appropriate, receive treatment from community-based services, rather than get stuck in the criminal justice system. By helping people in need of behavioral health services access community-based treatment, we can reform harmful policies and practices that end up trapping people in a perpetual cycle of arrest and incarceration.

Only a comprehensive approach that includes investment in community-based mental health care can drive real reform. Already within the Civil Rights Division, we're working on strategies to incorporate sustainable solutions to systemic criminal justice problems - including problems of unlawful policing and over-incarceration - into our consent decrees. Our recent consent decree with Hinds County, Mississippi, provides a prime example of this approach in action. Last year, a Justice Department investigation found that systemic deficiencies at the Hinds County Jail caused serious harm to prisoners and severely limited or eliminated their access to treatment. And just last month, the Justice Department announced a landmark settlement agreement with Hinds County to remedy these violations. Our consent decree advances a series of key reforms to protect people with disabilities in the jail. Among other measures, the agreement requires enhanced screening of, treatment for and consultation with prisoners with disabilities, including mental illness. It calls for the use of interdisciplinary teams to oversee the treatment and housing of prisoners with serious mental illness. It calls for warm hand-offs to community-based mental health providers. And it calls for the jail to establish a Criminal Justice Coordinating Committee of behavioral health practitioners, advocates and community members. This committee will monitor individuals with serious mental illness and juveniles at every stage of the criminal justice system: from arrest, to detention, to incarceration.

To further advance this approach to diversion, in the coming months, the Justice Department plans to provide law enforcement and health care systems with additional tools, resources and guidance about how to treat justice-involved individuals with mental health conditions. We hope to help the field better understand how the ADA and Olmstead require reasonable modifications, including a comprehensive array of community-based services integrated for those with mental health conditions and intellectual and developmental disabilities. When criminal justice personnel get the training and guidance they need to fulfill their legal responsibilities - and when we provide community-based mental health services to keep people out of, and where appropriate, divert them from, the criminal justice system - it makes all of us safer.
Of course, in all of this work, lasting change won’t come easily. And real reform won’t take shape overnight. But looking around this room, I know we can get there. I know we will get there. Together, we’ll work to vindicate rights, to combat stigmas, to empower communities and to bring our country closer to its ideals. A place where all people are treated with dignity and decency. A place where all people get a fair chance. And a place where our public institutions advance data-driven, action-oriented reform to better support and protect the people they serve. With great anticipation, we look forward to working with all of you – public officials, community members and advocates – to make that vision a reality.

Thank you very much.