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October 5, 2023

**BY EMAIL**

Honorable Vanita Gupta  
Associate Attorney General  
U.S. Department of Justice  
950 Pennsylvania, NW  
Washington, DC 20530

Honorable Kristen Clarke  
Assistant Attorney General  
Civil Rights Division

Steven Rosenbaum  
Chief, Special Litigation Section  
Civil Rights Division

Re: Review of Draft Findings Report

Dear Ms. Gupta, Ms. Clarke, and Mr. Rosenbaum:

As you know, approximately a year ago, on October 6, 2022, we wrote to you requesting a reasonable and meaningful opportunity to review the draft findings report of the Department of Justice's pattern-or-practice investigation of the City of Phoenix and the Phoenix Police Department before its public release. That letter is attached. Now that the investigation is drawing to a close – we have been advised that a final set of interviews of high-level city officials will take place in early November – we are renewing our request for such access. We believe that such access would be in the best interests of the Department of Justice (DOJ) as well as the City of Phoenix and is required as a matter of fundamental fairness.

The investigation was announced by Attorney General Garland on August 5, 2021 and has continued for the past 26 months. The investigation has included, among other things, eight site visits by teams of DOJ lawyers and consultants, the production of more than 81,000 documents; approximately 20TB of data from multiple City and PD information systems; approximately 20,000 body-worn-camera videos; approximately 200 recordings of 911 calls; interviews of over 100 Phoenix PD and city employees; and approximately 200 hours of DOJ ride-alongs with PPD officers and supervisors. The City and Police Department have worked extremely hard to provide the large body of materials requested by DOJ and to respond as promptly as possible to the numerous follow-up inquiries from the Civil Rights Division lawyers conducting the investigation.

Our original October 6, 2022, letter requesting pre-publication access to the findings report made clear that the purpose of such access would be to identify factual errors in the report rather than contesting DOJ's interpretation of the facts. Factual errors are in the interest of neither the DOJ nor the City – they cast a cloud of doubt over the entire set of findings and make discussions about next steps more difficult because they create mistrust among both rank and file police officers and members of the Phoenix community. This is not conjecture; this is a fact we have learned from the experience of other cities who have been involved in this process.

In our October 6 letter, we pointed out the historical precedents within DOJ for providing access to draft reports – most notably the Office of the Inspector General, which has done so since the 1990s. We also noted that the reasons historically given by the Civil Rights Division for not providing meaningful pre-public release access – Civil Rights Division precedent, the risk of leaks, and concerns about the appearance of providing access to city officials and not to other stakeholders – were not adequate to overcome the need for transparency and ensuring the accuracy of a report that will be widely circulated.

Subsequent to our October 6 letter, we had discussions about pre-release access with AAG Clarke on December 2, and Associate AG Gupta on December 16. We were advised in both of those calls that DOJ was rejecting our request for meaningful pre-release review of the Phoenix findings report. The principal reason provided to us was the lack of similar pre-release review accorded to members of the community who have shared their experiences and views about the Phoenix PD during the investigation. As we pointed out at the time, the two audiences are very differently situated – the DOJ is investigating the Phoenix PD and making findings about it; DOJ is not investigating or making assessments of those members of the community who have brought DOJ their concerns and shared their experiences. There is no equivalence.

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Since those December 2022 discussions, DOJ has issued findings reports relating to its investigations in Louisville (March 28, 2023) and Minneapolis (June 16, 2023). Our understanding is that representatives of each city were provided a very limited window (24-48 hours) to review the reports in advance of their public release, but that they were required to sign an Agreement in Principle to “reach a comprehensive settlement in the form of a consent decree” (Louisville Agreement in Principle, p. 2) as a prerequisite to even this limited advance access. Putting the Agreement in Principle aside, we believe that a 24-48-hour review period is insufficient to provide a meaningful opportunity to fact-check the findings report. That view is widely shared by city officials, who have been both surprised and disappointed to learn of your unwillingness to share a draft of the Phoenix findings report before its public release.

In short, we renew our request to obtain a meaningful and reasonable opportunity to review the draft findings report prior to its release. We are prepared to discuss reasonable means to limit distribution of the draft report to reduce the possibility of leaks, including signing non-disclosure agreements.

Thanks for your consideration of this request.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael R. Bromwich". The signature is written in a cursive, flowing style.

Michael R. Bromwich