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Force Science[®] News

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The LAPD consent-decree mess; more of the same ahead for other agencies as DOJ ramps up a campaign against police, author warns

An award-winning journalist who frequently writes on law enforcement issues has given a scathing account of the federal government's 10-year oversight of the LAPD and calls it "a disturbing harbinger for other police departments."

In a 3,100-word report in *The Weekly Standard* magazine, author and TV commentator Heather Mac Donald paints a damning picture of life for an agency under a so-called "consent decree" that allows outside forces to tightly regulate day-to-day policing activities.

In Los Angeles, she alleges, this absentee management has been "a power grab from day one," resulting in, among other abuses:

- Hundreds of crime-fighters pulled off the street to meet "mountainous paperwork requirements" at enormous expense;
- An "obsessive" and "delusional" pursuit of dubious "racial profiling" complaints that refuses to accept the possibility that officers patrol with integrity;
- A "laughably bogus methodology" for judging whether the law is fairly applied to minorities that ignores the reality of the community's crime patterns;
- The extensive misdirection of resources to pursue "the phantom of widespread police racism," while genuine crime issues with non-politically correct implications are deliberately side-stepped.

The LA mess, Mac Donald predicts, is "what lies ahead" for other American law enforcement agencies. "The deputy attorney general who forced federal control on the LAPD" back in 2000 "was none other than Eric Holder, who now presides over a Justice Department determined to make the Los Angeles consent decree the model for its future oversight of police departments."

Holder's assistant attorney general for civil rights, Mac Donald says, has made clear that the DOJ intends to start pushing for federal takeovers of law enforcement agencies "much more aggressively" and has hired nine additional attorneys "to beef up his division's search for alleged police agency racism and to sue agencies that

don't capitulate to federal demands."

Mac Donald writes with prestigious credentials. She has a law degree from Stanford University, has clerked for the 9th circuit US Court of Appeals, has testified before a variety of Congressional subcommittees, has been honored with the Civilian Valor Award by the NJ State Law Enforcement Officers Assn. and the Integrity in Journalism Award from the NY State Shields, a law enforcement fraternal organization. Author of the book *Are Cops Racist?* (No is her conclusion), she is a frequent guest on Fox News and CNN and a contributor to the *Wall Street Journal*, the *Washington Post*, the *NY Times*, and other publications.

Her article on the LAPD appears in the Jan. 31 issue of *The Weekly Standard*, a conservative periodical. [Click here](#) to read it in full.

Highlights of her report include the following:

COSTLY RED TAPE MORASS. Under a 1994 law, the DOJ has authority to seek control of police agencies that have engaged in a "pattern or practice" of constitutional violations. Through a "consent decree"--a "nominally consensual" agreement overseen by a court--the feds can then govern virtually every aspect of a department's operations.

In the case of the 180-clause decree affecting the LAPD, "the first thing the DOJ demanded," according to Mac Donald, "was the collection of racial information on every stop" LA officers make.

This has "mired the LAPD's operations in red tape," Mac Donald writes. "Today, an L.A. officer can hardly nod at a civilian without filling out numerous forms documenting his salutation for later review. If he returns fire at a gangbanger, his use of force will be more intensely investigated for wrong-doing than the criminal shooting that provoked the officer's defensive reaction in the first place."

In the first year alone, the LAPD spent some \$40,000,000 trying to comply with the decree. It pulled 350 officers off the street to meet the "mountainous paperwork requirements." And yet the DOJ's civil rights division insists that the PD "does not investigate racial profiling complaints with sufficient intensity" and instead tolerates a "culture that is inimical to race-neutral policing."

Such accusations, Mac Donald charges, "are nothing short of delusional." She says that DOJ attorneys "never uncovered any systemic constitutional abuses in the LAPD as required by the 1994 law, despite having commandeered hundreds of thousands of documents (and having lost 10 boxes of sensitive records)."

FRIVOLOUS COMPLAINTS. In reality, Mac Donald claims, LAPD under federal pressure "investigates every racial profiling allegation with an obsessive thoroughness that stands in stark contrast to the frivolity of most profiling accusations." Days of "painstaking investigation through multiple chains of command" are spent even on complaints that are "patently fabricated" and admittedly filed in retaliation for an arrest, she says.

"The department logs a whopping average of 100 hours on each" racial profiling complaint, devoting more resources to these accusations than to any other kind of alleged officer misbehavior. A civilian inspector general audits the department's investigations with a "reflexive skepticism" toward officers' statements in an effort to avoid ever dismissing a complaint as unsubstantiated, Mac Donald says.

She details as "typical" the recent case of a profiling allegation made by a black driver who was cited for tinted windows. He denied that his windows were tinted, although he admitted that he had to roll down his window to enable the officer to

see inside his car. The complainant was interviewed twice; the arresting officer was closely interrogated; a canvass was made of local businesses around the stop location for video of the interaction. But the complainant refused to cooperate in having his car photographed to prove that the windows were tint-free and said he wanted no additional contact from the department.

Still, it was ruled that the officer could not be cleared of the profiling accusation and that the investigation should continue, even though "there was nothing more to investigate." To the department's overseers, Mac Donald claims, the failure to substantiate a complaint "proves that the investigative process is inadequate, if not in bad faith," since the DOJ staff believes that "the LAPD, like every other police department, routinely violates people's rights." The possibility that officers overwhelmingly operate within the law "is simply not acceptable."

BOGUS METHODOLOGY. In Mac Donald's view, DOJ career staffers embrace a flawed premise vigorously promoted by activist organizations: namely, that any racial imbalance "in the rate of contact between the police and civilians must reflect officer misbehavior toward minorities, rather than varying propensities for law breaking on the part of different racial groups."

She explains that civil rights activists "invariably" measure the rate of police stops for various racial groups "against the proportion of those groups in the local population" and argue that police bias is responsible "if the stop rate for a particular group is higher than its population ratio."

Mac Donald calls this a "laughably bogus methodology" that "exploits blindness to the facts of crime" and would only be appropriate "if racial crime rates were equal." As it is, blacks commit 42% of all robberies and 13% of all felonies in Los Angeles, she reports, although they constitute less than 10% of the city's population. Whites commit 5% of all robberies and 13% of all felonies, although they are nearly 30% of the city's population.

"Such crime disparities--which are repeated in every big city--mean that the police cannot focus their resources where crime victims most need them without disproportionate enforcement activity in minority neighborhoods"--and without incurring the DOJ's suspicion of "cops randomly hauling over blacks and Hispanics to harass them," an inevitable Catch-22.

RICHES FROM MONITORING. Mac Donald asserts that the "greatest beneficiary" of the "campaign against police departments" that the DOJ is ramping up "will be the police monitoring business." Under consent decrees, "monitors," paid for by the locality but reporting to a federal court, are hired to track the targeted agency's "progress" in mending its allegedly errant ways. These individuals "range from attorneys to former police officials...ostensibly jointly selected by the locality and the Justice Department," Mac Donald says. But in truth, their getting "repeat business depends on not antagonizing their DOJ backers," whom she characterizes as "possibly the most left-wing members of the standing federal bureaucracy."

Monitors, she alleges, have "perfected such fee-generating practices as billing eight hours to summarize a one-hour meeting." A federal monitor in Detroit "collected from \$120,000 to \$193,000 per month for her services, for a cool \$13 million," Mac Donald says. "Oakland's federal monitor pulled in nearly \$2 million for her two most recent years overseeing the financially strapped police department, which now allocates 35 officers for internal affairs investigations, but only 10 for homicides."

Similar staffing priorities can be expected to be imposed on other departments, Mac Donald says. "There are police departments that could benefit from expert advice from actual police professionals on such issues as use of force, but these are unlikely

to draw the attention of the Justice Department."

MISDIRECTED ENERGY. While the DOJ "pursues the phantom of widespread police racism, the real abuse in minority communities gets no attention" from the Justice Department's civil rights division, Mac Donald says.

"Violence continues to afflict minority communities at astronomically higher levels than white communities. For the last two decades, the public discourse around policing has focused exclusively on alleged police racism to avoid talking about a far more serious and pervasive problem: black crime.

"If a fraction of the public attention that has been devoted to flushing out supposed police bias had been devoted to stigmatizing criminals and revalorizing the two-parent family, the association between black communities and heavy police presence might have been broken." Instead, she says, the DOJ "promises a further retreat from honesty."

Already, according to Mac Donald, its adventures in L.A. alone have "cost over \$100,000,000 in contracting fees and in manpower diverted to mindless paper-pushing."

She asserts: "If the Justice Department were serious about police reform, it would publish its standards for opening a pattern or practice investigation so that police agencies could take preventive action on their own. It has never done so....

"Once the federal attorneys show up in town, for what can be a multiyear fishing expedition through thousands of documents, they rarely disclose to the police department what exactly they are looking for. Meanwhile, the local press engages in a frenzy of speculation about which racist practices the feds are investigating and pressures the department to cave in to federal control."

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