



**U.S. Department of Justice**

Office of Justice Programs

*Office for Civil Rights*

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*Washington, D.C. 20531*

August 10, 2016

VIA CERTIFIED AND ELECTRONIC MAIL

Leon Lott, Sheriff  
Richland County Sheriff's Department  
5623 Two Notch Road  
Columbia, South Carolina 29223

**Re: Compliance Review of the Richland County Sheriff's Dep't (15-OCR-678)**

Dear Sheriff Lott:

I write to advise you of the resolution of the Compliance Review initiated by the Office of Justice Programs' (OJP) Office for Civil Rights (OCR), within the U.S. Department of Justice (DOJ). This Compliance Review examined the Richland County Sheriff's Department's (RCSD) School Resource Officer (SRO) program, focusing on its adherence to federal civil rights laws prohibiting discrimination based on race, color, national origin, and disability. In order to promptly enact changes to the RCSD's SRO program and quickly enhance service delivery to the community, the OCR and the RCSD mutually agreed to enter into the enclosed Voluntary Resolution Agreement (Agreement) prior to the completion of the OCR's investigation. Under the Agreement, the RCSD will take comprehensive action to address the issues examined by the OCR and improve its SRO program.

*The OCR's School Resource Officer Compliance Review Initiative*

The DOJ is working on multiple fronts to stem the "school-to-prison pipeline," which is the collection of local policies and practices that can push students out of classrooms and into the juvenile and criminal justice systems.<sup>1</sup> To support the DOJ's effort, the OCR launched a compliance review initiative to evaluate whether SRO programs, including the RCSD's, are complying with the federal civil rights laws that DOJ enforces. Ensuring that school-based law enforcement programs adhere to their civil rights responsibilities is a critical component of dismantling the school-to-prison pipeline because of the disproportionate impact school-based arrests and referrals to law enforcement have on students of color and students with disabilities.<sup>2</sup>

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<sup>1</sup> Press Release, Department of Justice Office of Public Affairs, Attorney General Holder, Secretary Duncan Announce Effort to Respond to School-to-Prison Pipeline by Supporting Good Discipline Practices (July 21, 2011), <https://www.justice.gov/opa/pr/attorney-general-holder-secretary-duncan-announce-effort-respond-school-prison-pipeline>.

<sup>2</sup> For example, according to the 2013-2014 U.S. Department of Education Civil Rights Data Collection, black students are 2.3 times as likely to receive a referral to law enforcement or be subject to a school-related arrest as

School-based law enforcement strategies must include age-appropriate, nondiscriminatory responses to student misbehavior and should ensure that school personnel, not law enforcement, administer routine student discipline.<sup>3</sup> Meeting this standard requires SRO programs to work closely with school systems and other partners, intensively train their officers, and to collect and regularly analyze data on each school-based law enforcement program.<sup>4</sup>

### *Relevant Legal Standards*

The OCR is responsible for ensuring that recipients of federal financial assistance from the DOJ's Office of Community Oriented Policing Services (COPS Office), the Office on Violence Against Women, the OJP, and OJP components comply with applicable federal civil rights laws. These laws include: Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations;<sup>5</sup> the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) and its implementing regulations;<sup>6</sup> Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulations;<sup>7</sup> and Title II of the Americans with Disabilities Act of 1990 (ADA) and its implementing regulations.<sup>8</sup> The RCSD is a recipient of financial assistance from the DOJ,<sup>9</sup> and is a public entity; therefore it is subject to these laws and its SRO program may not discriminate based on race, color, national origin, or disability, as well as sex or religion. The OCR investigates alleged race- or disability-based discrimination in the context of a school-based law enforcement program based on federal statutory authority, pertinent case law, and the DOJ's regulations and policies.

Title VI and the Safe Streets Act prohibit discrimination based on race, color, or national origin by any program or activity receiving Federal financial assistance.<sup>10</sup> In the context of examining SRO programs, we note that school-based law enforcement policies and practices can result in unlawful discrimination based on race in multiple ways, including when students are intentionally subject to different treatment on account of their race or when the law enforcement agency utilizes a method of administration that has the effect of discriminating, such as enforcing nonessential policies that are neutral on their face.<sup>11</sup>

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white students. U.S. Dep't of Educ. Office for Civil Rights, *Civil Rights Data Collection: Data Snapshot 4* (June 7, 2016), <http://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>.

<sup>3</sup> U.S. Dep't of Educ. and U.S. Dep't of Justice, *Dear Colleague Letter: Nondiscriminatory Administration of School Discipline 27-28* (Jan. 8, 2014) (Dear Colleague Letter), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf>.

<sup>4</sup> See *Id.*; Office of Community Oriented Policing Services, U.S. Dep't of Justice, *Fact Sheet, Memorandum of Understanding for School-Based Partnerships* (Sept. 2014), [http://www.cops.usdoj.gov/pdf/2014\\_MOU-FactSheet\\_v3\\_092513.pdf](http://www.cops.usdoj.gov/pdf/2014_MOU-FactSheet_v3_092513.pdf).

<sup>5</sup> 42 U.S.C. §2000d (2012); 28 C.F.R. §§ 42.101-.112 (2015).

<sup>6</sup> 42 U.S.C. §3789d; 28 C.F.R. §§ 42.201-.215.

<sup>7</sup> 29 U.S.C. §794 (2012); 28 C.F.R. §§ 42.501-.540.

<sup>8</sup> 42 U.S.C. §12132; 28 C.F.R. pt. 35.

<sup>9</sup> The RCSD is a current recipient of approximately \$1,400,000.00 in OJP and COPS Office funding, including a \$500,000.00 COPS Hiring Program grant for School Resource Officers.

<sup>10</sup> 42 U.S.C. § 2000d; 42 U.S.C. § 3789d(c)(1).

<sup>11</sup> 28 C.F.R. § 42.104(a)-(b); Dear Colleague Letter at 6-12.

Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance from the DOJ.<sup>12</sup> Title II of the ADA contains a similar prohibition on disability discrimination by any public entity, including law enforcement agencies, regardless of whether it receives Federal financial assistance.<sup>13</sup> These laws require SRO programs to provide the same services to students with disabilities that are provided to others, unless different services are needed to provide those students with services that are as effective as those provided to individuals without disabilities.<sup>14</sup> Both Section 504 and the ADA also prohibit utilizing methods of administration that have the effect of subjecting individuals with disabilities to discrimination on the basis of their disability.<sup>15</sup> These laws also require law enforcement agencies to make reasonable modifications to their policies, practices, and procedures when necessary to avoid disability-based discrimination.<sup>16</sup> The ADA requires that an SRO program take appropriate steps to ensure effective communication with students with disabilities, including by providing needed auxiliary aids and services.<sup>17</sup>

### *Initial Review of the RCSD School Resource Officer Program*

The OCR selected the RCSD SRO program as the subject of a compliance review based on several factors, including the amount of federal financial assistance awarded to the RCSD and data collected by the DOJ and other federal agencies on the county's juvenile population and arrest rates; information on school-based arrests, referrals to law enforcement and exclusionary discipline in the county; and concerns about the SRO program voiced by Richland County community members to the DOJ.<sup>18</sup>

The RCSD SRO program has approximately 75 officers stationed at over 60 schools, including high schools, alternative schools, middle schools, and elementary schools. The SRO program serves three public school districts: Richland County School District One, Richland County School District Two, and School District Five of Lexington and Richland Counties.

The OCR reviewed a large volume of information provided by the RCSD in response to the OCR's data request, including RCSD policies, memoranda of understanding between the RCSD and the school districts its SRO program serves, SRO program training materials, and SRO arrest records. In September of 2015, the OCR visited the RCSD and some of the schools served by the RCSD SRO program. These visits included interviews with RCSD command staff, RCSD

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<sup>12</sup> 28 C.F.R. § 42.503.

<sup>13</sup> 42 U.S.C. § 12132.

<sup>14</sup> 28 C.F.R. § 35.130(b)(1)(iv); 28 C.F.R. § 42.503(b)(1)(iii).

<sup>15</sup> 28 C.F.R. § 35.130(b)(3); 28 C.F.R. § 42.503(b)(3).

<sup>16</sup> 28 C.F.R. § 35.130(b)(7); 28 C.F.R. § 42.503(b)(1). *See also* U.S. Dep't of Justice, *Commonly Asked Questions About the Americans with Disabilities Act and Law Enforcement*, § V (Apr. 4, 2006), [http://www.ada.gov/q&a\\_law.htm](http://www.ada.gov/q&a_law.htm).

<sup>17</sup> 28 C.F.R. § 35.160(a)-(b).

<sup>18</sup> *See* 28 C.F.R. § 42.206(c); Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice, *Easy Access to Juvenile Populations (EZAPOP), Population Profiles*, <http://www.ojjdp.gov/ojstatbb/ezapop/> (last visited July 5, 2016); U.S. Bureau of Justice Statistics, ); U.S. Dep't of Justice, *Arrest Data Analysis Tool*, <http://www.bjs.gov/index.cfm?ty=datool&surl=/arrests/index.cfm> (last visited August 9, 2016); Office for Civil Rights, U.S. Dep't of Educ., *Civil Rights Data Collection 2011-12*, <http://ocrdata.ed.gov/> (last visited August 9, 2016).

SROs, and school administrators. Additionally, the OCR gathered information from local youth advocates.

*Voluntary Resolution Agreement*

In the interest of quickly improving services for students, the OCR and the RCSD agreed to resolve the Compliance Review prior to its completion. On August 9, 2016, the RCSD signed the enclosed Agreement. The OCR will monitor implementation of the Agreement. Pursuant to the Agreement, the RCSD will:

- Conduct a comprehensive assessment of the RCSD SRO program, including interviews of RCSD personnel and community stakeholders, data analysis, and a review and revision of the SRO program's policies, procedures, and practices;
- Institute a program of detailed data collection and analysis to assist the SRO program's compliance with civil rights laws;
- Develop policies on meeting the needs of students with disabilities and minimizing school-based seizures and arrests;
- Provide intensive, annual professional development to the RCSD SROs on de-escalation, bias-free policing, adolescent development, and other topics designed to appropriately meet the needs of students with disabilities and reduce racial and ethnic disparities in seizure and arrest rates, as well as generally improve the SRO program;
- Collaborate with the school districts the RCSD SRO program serves in order to implement the Agreement and appropriately revise the governing memoranda of understanding; and
- Establish a community working group, that includes parents and students, to provide the RCSD SRO program with recommendations for improvement, particularly with regard to civil rights matters.

We wish to thank you, and your staff, for your cooperation with this Compliance Review. Federal law protects persons who participated in the OCR's Compliance Review from retaliation for having provided information to the OCR. The OCR will initiate an investigation if it receives credible evidence of reprisal. This letter and the Voluntary Resolution Agreement are public documents that the OCR will post on its website.

If you have any questions please contact either Rachel Glickman, at [Rachel.Glickman@usdoj.gov](mailto:Rachel.Glickman@usdoj.gov), or Shelley Langguth, at [Shelley.Langguth2@usdoj.gov](mailto:Shelley.Langguth2@usdoj.gov).

Sincerely,



Michael Alston

Enclosure