JOHN S. KIERNAN
**PRESIDENT**
Phone: (212) 382-6700
Fax: (212) 768-8116
jkiernan@nycbar.org

May 15, 2018

Jefferson Beauregard Sessions, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

**Re: Elimination of the Community Relations Service**

Dear Attorney General Sessions:

The New York City Bar Association ("City Bar") urges you to reconsider proposed measures, set forth in the Department of Justice's 2019 budget, that would undermine the neutrality and critically reduce the funding of the Community Relations Service ("CRS"). As you are aware, the CRS has worked with local communities in the United States for over 50 years to mitigate tensions resulting from actual or perceived discrimination. The CRS deploys mediation, education and reconciliation services to help communities impacted by racial, religious and sexual violence, harassment and discrimination. This type of alternative justice has long been recognized by legal practitioners as a more efficient means of resolving conflicts. Indeed, victims of violence are increasingly asking for more of this kind of dispute resolution service.[1] Expansion, not contraction, of institutions like the CRS is what our country needs. The CRS has been highly respected throughout the country for its resolution of community crises and we are hopeful that the Department of Justice ("DOJ") will allow it to continue its effective and meaningful work.

The DOJ's 2019 Proposed Budget eliminates the CRS as a division, integrating its functions within the Civil Rights Division ("CRT") in order "to improve efficiency and reduce redundancies."[2] While we fully support efforts to streamline government operations, we are concerned about this proposed integration given the importance of neutrality to dispute resolution. In our experience, the perception of neutrality by a facilitator or mediator is imperative. Hostilities cannot be reduced and agreement cannot be reached if a mediator is believed to favor one side over another. Indeed, mediations of high conflict disputes require an even greater focus by the mediator to preserve the appearance of neutrality. Without the confidence of all parties in the mediator's neutrality, they cannot trust the process sufficiently to come to resolution.

[1] *See* Karasek, Sofie, *I'm a Campus Sexual Assault Activist. It's Time to Reimagine How We Punish Sex Crimes*, The New York Times, 22 Feb 2018, https://www.nytimes.com/2018/02/22/opinion/campus-sexual-assault-punitive-justive.html.

[2] See CRS FY 2019 Budget at a Glance, https://www.justice.gov/file/1033131/download.

As stated above, mediators and facilitators must both be neutral and be perceived as such. Given the CRT's function as the prosecutorial arm of the DOJ for hate crimes, can the CRT truly be neutral in mediating conflicts and facilitating community dialogue arising from racial tensions? If asked to mediate a conflict arising between members of different ethnicities after the commission of an alleged hate crime being investigated by the CRT, can the mediator employed by the CRT and reporting to the same division head be neutral? While consolidating divisions responsible for similar subject matters is logical, we are concerned that even the perception of bias may limit their effectiveness in performing community relations services.

Moreover, the CRT is an enforcement division. It has not had any previous responsibility for mediating conflicts within communities, nor engaging in reconciliation efforts within communities impacted by hate crimes. The City Bar fully supports increasing the efficiency of the DOJ and eliminating overlapping roles and responsibilities, however we are concerned that the proposed integration may seriously compromise the CRS' services by housing them within a functionally dissimilar division. There is precedent for engaging other parts of the Federal Government in mediation and dispute resolution processes in order to better preserve the neutrality of the participants and ensure effectiveness and efficiency. For example, the Equal Employment Opportunity ("EEO") staff utilizes mediators and alternative dispute resolution services managed by the FBI.[3] The DOJ's Mediator Corps Program exists to aid the DOJ in dispute resolution processes.

We are further concerned by the reduction of earmarked funding. The CRT's 2019 budget does not speak to its new responsibility to engage in community relations services, and also reflects a 27-person reduction in personnel.[4] As you are aware, Congress mandated that the Federal Government perform the functions and responsibilities of the CRS when it enacted 42 USC Chapter 21, Subchapter VIII (the "CRS Act").[5] In passing the CRS Act, Congress recognized that prosecution and punishment of hate crimes are necessary, but on their own insufficient, responses to this problem. In order to address the underlying tensions that can erupt in hate crimes, community reconciliation is necessary. The CRS Act goes beyond requiring enforcement of civil rights laws by mandating the creation of a service to work with communities to resolve problems before racial tensions result in violence and to help communities grapple with the aftermath of violence when it occurs. These are very important services which should be adequately funded and overseen.

The budget allocation in 2018 for the CRS was a mere $15.4 million – a miniscule amount relative to the DOJ's overall 2019 budget. Americans believe that race relations are worsening.[6] Newspapers and pundits decry the polarization of our society. Few want a return to the chaos of riots, mass protests and violence that characterized past generations when this level of polarization

[3] *See* Justice Management Division, https://www.justice.gov/jmd/doj-mediator-corps.

[4] The CRT's 2019 budget states that funding is solely requested for its current services and that "[n]o program changes are requested." See CRT FY 2019 Budget At A Glance, https://www.justice.gov/jmd/page/file/1033091/download.

[5] *Available at* http://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter21/subchapter8&edition=prelim.

[6] *See* the February 2018 AP-NORC Poll, http://apnorc.org/projects/Pages/Assessing-Race-Relations-under-the-Trump-Administration-.aspx; Pew Research Center Survey, 19 Dec 2017, http://www.people-press.org/2017/12/19/most-americans-say-trumps-election-has-led-to-worse-race-relations-in-the-u-s/ (finding a year-over-year increase in the share of Americans who say race relations are worsening).

was experienced. CRS services are preventative measures necessary to help individuals and communities achieve the kind of communication that resists violent social upheaval. It is in the country's best interests to ensure that the great work done by the CRS is continued. We hope that you will ensure the continued success of the DOJ's provision of community relation services through adequate funding, staffing and supervision.

Thank you for your consideration.

Respectfully,

John S. Kiernan
President, New York City Bar Association

cc: President of the United States Donald Trump
Senate Majority Leader Mitch McConnell
Senate Minority Leader Charles E. Schumer
Speaker of the House Paul D. Ryan
House Minority Leader Nancy Pelosi
Senate Budget Committee Chairman Mike Enzi
Senate Budget Committee Ranking Member Bernie Sanders
Senate Committee on the Judiciary Chairman Chuck Grassley
Senate Committee on the Judiciary Ranking Member Dianne Feinstein
House Budget Committee Chairman Steve Womack
House Budget Committee Ranking Member Steve Yarmuth
House Judiciary Committee Chairman Bob Goodlatte
House Judiciary Committee Ranking Member Jerry Nadler
House Appropriations Committee Chair Rodney Frelinghuysen
House Appropriations Committee Ranking Member Nita Lowey
Members of the NYS Congressional Delegation