

FBI OPENING FAR FEWER CIVIL RIGHTS INQUIRIES - TERRORISM SUPERSEDES HATE CRIMES, POLICE ABUSE

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The FBI touts civil rights enforcement as a top priority, but the number of investigations into such cases - from hate crimes to the actions of rogue police officers - has fallen sharply, raising concerns that victims are left with nowhere else to turn.

Pressed by the Bush administration to beef up counterterrorism ranks, the FBI has pulled agents off civil rights and slashed the number of criminal investigations conducted nationwide.

The bureau has tacitly adopted more-stringent standards governing which cases to open. That move has contributed to two-thirds fewer investigations targeting abusive police officers, cross-burners and other purveyors of hate from 2001 to 2005, according to a Seattle P-I analysis of Justice Department data.

The downward trend began in 1999 and accelerated after the 9/11 terrorist attacks, the analysis found.

Civil rights experts - and even one of the Justice Department's top civil rights lawyers - are troubled by the trend. They say hate-crime enforcement is too important to ignore, and there is a deterrent effect to federal review of police misconduct that is being muted.

"You're going to have officers getting away with, in some cases, literally, murder," said Jesselyn McCurdy of the American Civil Liberties Union's legislative office in Washington, D.C.

The P-I analysis found a major drop in police-abuse cases handled by the FBI - down 66 percent from 2000 to 2005 nationwide, although figures for 2006 indicate a rebound in such investigations.

Federal authorities are investigating increasingly fewer hate crimes each year, with cases handled by the FBI plunging by 60 percent, records show.

Hate crimes can hurt more than the immediate victims. When someone burns a cross on the lawn of a mixed-race couple, other biracial couples feel threatened, said Mark Potok of the Southern Poverty Law Center, which tracks the crimes.

"These crimes tend to divide society along pre-existing fault lines," Potok said. "They are particularly heinous crimes."

FBI Assistant Director Chip Burrus did not directly address the drop in civil rights investigations in a recent interview with the P-I, but said agents have become more efficient because they're doing less paperwork.

The decline of civil rights enforcement was part of a massive shift of FBI resources to counterterrorism. The bureau reassigned some 2,400 agents from criminal programs after 9/11, causing major drops in other traditional investigations, particularly of white-collar crimes.

Repeated requests from FBI Director Robert Mueller for more agents have been rejected by the White House and the Justice Department, the P-I reported earlier this month.

Leading Democrats in Congress recently criticized the Bush administration for not backfilling the bureau's depleted units. They are vowing support for a bill introduced by Sen. Joseph Biden, D-Del., that calls for hiring 1,000 more FBI agents.

In Western Washington, the decline in civil rights enforcement is less visible than in some parts of the country. Federal prosecutions here are rare.

Top FBI and Justice Department civil rights officials were aware of the major decline in investigations - in fact, they adopted "tighter case-opening criteria" that effectively pushed all but the most serious cases away, according to a former FBI official who asked not to be identified.

"Where there was a huge impact or a cry for a perceived impartial investigation, we had to open them up, and we did," said the official, who retired last year. "But we didn't try to open the routine (police) shooting investigation, whereas before we would."

Two former FBI officials said Burrus cut back on civil rights investigations because the Justice Department prosecuted less than 10 percent of the cases the bureau opened.

"A lot of us felt like they were causing us to spin our wheels on civil rights cases," the retired official said. "We understood the deterrent value of opening (police-abuse) cases and the calming impact on the community."

The P-I's analysis looked at all civil rights cases that the FBI brought to prosecutors for any reason, including to get subpoenas or pursue criminal charges. The FBI, which tracks how many cases it opens each fiscal year, contends that the decrease between 2001 and last year was a less-drastic 42 percent.

FBI administrators reduced the number of civil rights agents from 162 in 2000 to 122 after 9/11. Last year, there were 132 agents, a number still down almost 20 percent from six years earlier.

The Justice Department refused requests to interview Attorney General Alberto Gonzales and Assistant Attorney General Wan Kim, the head of the agency's Civil Rights Division.

The agency made available a top civil rights prosecutor on the condition that he not be named. He acknowledged the drop in FBI investigations and said the trend warrants examination. "I'd like to know why that's happening. It's a concern to me if the FBI is missing cases that we can prosecute," he said.

The drop in police-abuse investigations, he added, "goes right to the heart of the public confidence in our criminal justice system."

Failure is `not trying'

With the FBI taking on fewer civil rights cases, the ACLU's McCurdy is concerned that some bad cops are getting off too easily.

Federal agents are needed, McCurdy said, to let local police know "they will not be able to whitewash these investigations."

Mike Kelly is convinced that's what happened to him.

In January 2004, he was cruising in his car in Buckley, a small Pierce County town, when off-duty King County Sheriff's Sgt. Denny Gulla - who was having an affair with Kelly's wife - pulled him over.

Gulla launched into a profanity-laced tirade directed at Kelly, according to another officer at the scene. He said Gulla kept shouting: "I will blow your (expletive) brains out, do you understand me? I will take my pistol and I will shoot you in the (expletive) head."

Pierce County prosecutors declined to file charges. During an internal investigation by the King County Sheriff's Office, Gulla admitted threatening to kill Kelly. He maintained that he acted in self-defense because he thought Kelly was looking for his Buckley home and wanted to kill him.

After an internal investigation, Gulla was demoted to deputy and docked a day's pay.

The FBI opened a preliminary investigation into the traffic stop, with Seattle agents consulting with at least two assistant U.S. attorneys. But the Justice Department in Washington, D.C., ordered the bureau not to open a full-fledged investigation.

On March 14, 2006, Justice's Civil Rights Division found that "federal interest is vindicated by administrative action." In other words, Gulla escaped federal criminal prosecution because he was already punished by his superiors.

Justice Department officials declined to comment on the decision. But one FBI agent, who asked not to be identified, expressed frustration that prosecutors didn't charge Gulla.

"It's not a failure of the system if we don't obtain a conviction," he said. "The failure is not even trying."

`Poor luck with FBI'

The FBI's decision to cut back on opening civil rights cases flies in the face of Justice Department and FBI policy calling for a preliminary investigation on every credible case. By doing so, the public would be assured that the incidents were getting an independent look.

But after 9/11, FBI supervisors and assistant special agents in charge around the country became "more stringent on what's credible or not," said one agent.

That's a problem from a deterrence standpoint, said David Rudovsky, a prominent civil rights lawyer and senior fellow at the University of Pennsylvania Law School.

"If local police don't think anybody is watching or investigating," he said, "it's likely you're going to have more misconduct."

Making matters worse, he said, "it's very difficult for people whose rights have been violated to get appropriate remedies."

The drop in misconduct investigations can erode trust in police, said Bill Lann Lee, assistant attorney general for civil rights under President Clinton.

"These cases have a lot of significance in the minority communities, because they involve how these communities perceive the integrity of the law enforcement system," Lee said. "If they believe they can't trust the system, they'll cooperate with it less."

In 2000, when four Oakland, Calif., police officers were accused of planting evidence and beating suspects, noted civil rights lawyer John Burris brought some of the alleged victims' claims to federal authorities.

Burris - who represented Rodney King in his lawsuit against the Los Angeles Police Department - thought the Justice Department should investigate because it has more resources and "less of a connection" to Oakland police than the local district attorney's office. But nothing ever came of it, he said.

When three of the officers were prosecuted in state court, two different juries acquitted them of a few of the charges and deadlocked on many more. Burris helped 119 victims get an \$11 million settlement and spur reform in the department.

"Frankly, I've had such poor luck with the FBI that I just stopped bringing cases to them," he said. "What happens is, they don't get investigated by the local people, they get investigated in Washington (D.C.). These are political questions about whether they'll get investigated or not."

He acknowledged that criminal civil rights cases can be difficult to prove unless there's a pattern of police abuse or "the beating was just way beyond the pale." Police might cover for one another. Juries can be reluctant to send officers to prison.

Experts say it's difficult to determine how serious a problem the decline in civil rights investigations is without knowing whether local authorities are doing more.

When it comes to hate crimes, for example, King County prosecutors have filed malicious harassment charges against more than 120 adults in the past decade. They filed about a dozen cases in most years, although the number spiked in 2000 and dropped off in 2004 and 2005. This year, they've already filed six cases.

Annual statistics kept for hate crimes are widely doubted. The reported 7,000 to 10,000 or so incidents across the country each year is believed to fall drastically short of reality. A 2005 Justice Department study concluded that the number of hate crimes committed each year is closer to 200,000.

Jack Levin, a nationally recognized hate crimes expert at Northeastern University in Boston, said there simply aren't enough resources to fight hate crimes - or crime in general.

"I know how important the war on terror is," he said, "but so is the war on crime."

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SHIFTING PRIORITIES

Decreases in number of cases handled by the FBI from 2000 to 2005:

POLICE-ABUSE CASES: -66

HATE-CRIME CASES: -60

• **Caption: Photo & Chart(1) Gulla (2) FBI CIVIL RIGHTS RECORD**

• *Index terms: MAJOR STORY; TERRORISM POLICE DISCRIMINATION CRIME*

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