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Court Rules that Presidential Law Enforcement Commission Violated Federal Law

Today, the United States District Court for the District of Columbia ruled that the Presidential Commission on Law Enforcement and the Administration of Justice (Commission) has violated multiple requirements of the Federal Advisory Committee Act (FACA), a statute designed to ensure that federal advisory committees are accountable to Congress and the American public. Under the court's ruling, all further Commission operations must immediately be halted until the Commission is brought into compliance with the law.

The Commission, established by Attorney General William Barr at the direction of President Trump, is tasked with studying the relationship between law enforcement and local communities and making recommendations to the president about federal policy affecting law enforcement. But, despite the attorney general's acknowledgment that a diversity of stakeholders, including civil rights groups, is necessary to consider these issues, the Commission is composed exclusively of law enforcement officials. In April, the NAACP Legal Defense and Educational Fund, Inc. (LDF) filed suit, arguing that this skewed composition violates FACA, which requires that federal advisory committees include a fair balance of viewpoints. The suit also contended that the Commission violated FACA's requirements concerning public access by refusing to provide advance notice of its meetings and failing to make Commission documents available to the public.

In an opinion granting summary judgment to LDF on all its claims, the court ordered that "Commission proceedings be halted — and no work product released — until the requirements of FACA are satisfied." In doing so, the court recognized the concrete harms LDF, as well as members of the public, suffer from the Commission's secrecy and bias. "Especially in 2020, when racial justice and civil rights issues involving law enforcement have erupted across the nation, one may legitimately question whether it is sound policy to have a group with little diversity of experience examine, behind closed doors, the sensitive issues facing law enforcement and the criminal justice system in America today," the court wrote.

"Today's decision establishing that the Presidential Commission on Law Enforcement and the Administration of Justice violated multiple provisions of the Federal Advisory Committee Act constitutes an important step in the right direction," said Sherrilyn Ifill, LDF's President and Director-Counsel. "The country has been demanding accountability for police misconduct and violence, and clamoring for a reimagined notion of public safety for many months following the police killings of George Floyd, Breonna Taylor, and countless other Black people. Any federal committee designed to make recommendations about law enforcement must include representation from people and communities impacted by police violence, civil rights organizations, the criminal defense bar, and other stakeholders."

“The Federal Advisory Committee Act was created to ensure that federal advisory committees are held publicly accountable for their actions. The Commission’s disregard of nearly all of FACA’s requirements was an egregious violation of federal law, and we are pleased that the court recognized this,” said Natasha Merle, Senior Counsel at LDF. “Amid a national policing crisis, we need to focus more attention than ever on reshaping how this country approaches public safety. This requires meaningful engagement with the public, and with all interested stakeholders. Today’s ruling ensures that the government will not be able to evade the law to pursue a skewed agenda.”

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF. Follow LDF on [Twitter](#), [Instagram](#) and [Facebook](#)

