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Subject: Federal Insider: What happens now to Justice Dept.'s civil rights enforcement?

What happens now to Justice Dept.'s civil rights enforcement?

By Joe Davidson

Deputy Assistant Attorney General Vanita Gupta, head of the Justice Department's civil rights division, speaks during a news conference in Baltimore in August 2016. (Win McNamee/Getty Images)

Vanita Gupta came to national prominence by leading a successful NAACP Legal Defense Fund fight on behalf of 38 people who had been railroaded on drug charges in Tulia, Tex.

She took that same passion to the Justice Department, when she was chosen to lead its civil rights division in 2014. Now, with the end of President Obama's tenure, she has moved on and soon the agency will be in much different hands.

The civil rights division, central to voting rights, policing and other critical issues, will fall under the leadership of Sen. Jeff Sessions (R-Ala.), if he is confirmed by the Senate. He was nominated to be attorney general by Donald Trump, a man nominated to be president by a Republican convention where [less than 1 percent of the delegates was African American](#) and rejected overwhelmingly by black and brown voters. Their reputations generate wide distrust among people of color, leaving for many a worrisome question mark over the future of the division that has fought hard to make justice a reality.

We spoke with Gupta on Wednesday morning, the last day in her fifth-floor Justice Department office, where pictures of Robert F. Kennedy and Frederick Douglass hung over her desk. The conversation started with the fight to protect voting rights, an issue with long roots in American racism, as Obama indicated in his last news conference as president on Wednesday afternoon.

We shouldn't be shy discussing that "ugly history," he told reporters.

"The reason that we are the only country among advanced democracies that makes it harder to vote is it traces directly back to Jim Crow and the legacy of slavery," Obama added. "And it became sort of acceptable to restrict the franchise. And that's not who we are. That shouldn't be who we are. That's not when America works best."

But that is the way America works, especially after the Supreme Court's *Shelby County v. Holder* decision that largely emasculated the Voting Rights Act of 1965.

That ruling "dealt the Department of Justice a pretty devastating blow," Gupta said. "It took away a critically important tool that we had to ensure that voting changes big and small were thoroughly evaluated in jurisdictions that had a history of discrimination. ... We can't stop discriminatory laws before they go into effect anymore."

But even with the Supreme Court-imposed obstacle, the civil rights division scored limited victories. One federal court decision nailed the racist intent of voting restrictions, as cited in [the agency's exit memo](#): "In July 2016, the U.S. Court of Appeals for the Fourth Circuit struck down a North Carolina law that the court described in its ruling as one of the largest restrictions of the franchise in modern North Carolina history with provisions that 'target African Americans with almost surgical precision.'"

"We need to continue to ask ourselves why we are making it harder and not easier for people to vote, especially in light of the lack of any real evidence that voter fraud exists," Gupta said.

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The Obama administration's initiatives were notably visible in cases involving police in Baltimore, Chicago and Ferguson, Mo., among other places.

"During this administration, the division has opened 25 civil pattern-or-practice investigations into local law enforcement agencies to investigate allegations of misconduct, including excessive force; unlawful stops, searches and arrests; and discriminatory policing, among others," according to the memo. Twenty-four resulted in negotiated agreements.

Much of the division's work requires "culture change in institutions or requires change, sustained change over a term of years," Gupta said. Consent decrees place that responsibility with federal judges and in many cases independent monitors "who can ensure the implementation of what has been a negotiated document."

To combat "unconstitutional policing," the exit memo said the division "charged more than 580 law enforcement officials for committing willful violations of civil rights and related crimes." Justice officials could not say how many were convicted.

Gupta admitted "I have anxieties" about how the division's work will fare under Trump, while acknowledging "it is entirely appropriate that new administrations are going to bring new priorities."

"I don't know what will happen," she said, "but my hope is that the core essence of the division, which is very resilient, is going to continue to move forward."

Friday marks the first day of the Trump administration and the Federal Insider is seeking the thoughts of federal employees, retirees and contractors. Trump has promised to "drain the swamp" in Washington and [pledged to impose a federal hiring freeze](#) within his first 100 days. House Republicans have reinstated the [Holman Rule](#) that allows Congress to cut individual federal employee pay with no mention of civil service due process protections. One Republican congressman plans to reintroduce legislation permitting political appointees to [fire civil servants for "no cause at all."](#) Trade associations want Trump to reverse certain of Obama's executive actions protecting [individual government contractors](#).

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