



**Written Submission of the American Civil Liberties Union (ACLU)
To the Office of the United Nations High Commissioner for Human Rights (OHCHR)**

Pursuant to Human Rights Council resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”

December 15, 2020

The ACLU welcomes this opportunity to provide input for the preparation of the report of the United Nations High Commissioner for Human Rights to be presented at the 47th session of the Human Rights Council. This submission focuses on police violence and structural racism in the United States and proposes concrete recommendations to work towards the effective implementation of Human Rights Council [resolution 43/1](#). This submission puts forth a set of recommendations not only to dramatically transform use-of-force laws and improve training and oversight, but also to reduce police departments’ role, presence, responsibilities, and funding, and instead reinvest into community-based services that are better suited to respond to actual community needs. These measures can lead to a reduction in police interactions, and in turn, help put an end to racist police violence.

These four key recommendations are the most urgent, impactful steps we can take to protect people of African descent and other communities of color from police harm and to ensure that the United States complies with its international obligations:

- Prohibiting police from enforcing a range of non-serious offenses, including issuing fines and making arrests for non-dangerous behaviors, thus eliminating many of the unnecessary interactions between the police and community members that have led to so much violence and so many deaths;
- Addressing systemic racism more broadly, especially economic injustices, and reinvesting savings from the current policing budgets into life-affirming alternatives to policing that will keep local communities safe and help them thrive;
- Implementing enforceable legal constraints so that there will be only rare instances in which police officers can legally use force against community members; and
- Creating independent oversight structures with teeth that ensure that when officers use force in violation of the law, policies, or training, they are held accountable.

Fatal Police Violence in the United States

The killing of George Floyd—an unarmed black man who pleaded for his life while Minneapolis police officer Derek Chauvin kept his knee on his neck for eight minutes and 46 seconds—on May 25, 2020 was horrific, but it was not unusual. Fatal shootings by police are routine in the United States, like the killing of Breonna Taylor, a 26-year-old unarmed Black woman who was shot eight times and killed by Louisville, Kentucky police officers in her own apartment on March 13, 2020,¹ and Tony McDade, a black trans man killed on May 27, 2020 in Tallahassee, Florida where witnesses said they never heard any warnings, “I never heard, ‘Get down, freeze, I’m an officer.’ I never heard nothing. I just heard gunshots.”²

Police in the United States kill nearly 1,000 people every year.³ The actual number is not known because the data is not tracked, reported, collected, or analyzed in a systematic fashion. At minimum, we know that at least 1,093 people have been shot and killed by law enforcement officers in 2020 alone, while more than 7,626 were killed from 2013 through 2019.⁴ Despite unprecedented stay-at-home orders and social distancing requirements due to the COVID-19 pandemic, the ACLU’s research found that the rate of fatal police shootings has remained the same nationally since the onset of the coronavirus pandemic, and has even increased in some states.⁵ Even these conservative figures far exceed the number of people killed by police in other wealthy countries.⁶ For perspective, police in America kill people at least three times the rate of their law enforcement counterparts in Canada, a wealthy country with the next highest rate of killing, and at least 16 times the rates of Germany and England.⁷

Racial Disparities in Police Use of Deadly Force

The epidemic of police violence has been directly and disproportionately targeted at Black people. Just as police are more likely to stop, frisk, arrest, and jail Black people than white people,⁸ they are more likely to shoot and kill Black people. One study found that young unarmed male victims of deadly force by police are 13 times more likely to be Black than white.⁹ At current levels of risk, Black men face about a one in 1,000 chance of being killed by police over the course of their lives. Stunningly, for young men of color, police use of force is now among the leading causes of death.¹⁰ While there is a dearth of research examining racial disparities in police killings among non-male and nonbinary populations, some data indicates that although women are less likely than men to be killed by police overall, Black women and Native American/Indigenous women are more likely to be killed by police than white women.¹¹ Furthermore, while police killings are higher in high-poverty areas than low-poverty areas for all racial groups, Black people who live in more affluent areas are almost as likely to be killed by police as white people who live in the poorest areas.¹²

Native American/Indigenous people and Black people experience the highest rates of fatal police shootings, followed by Latinx people. For example, in 2019, Black and Native American/Indigenous people were approximately three times more likely than white people to be fatally shot by police.¹³ Compared to white men, Black men are almost three times as likely, and Latinx men are almost twice as likely, to be killed by police use of force.¹⁴ Decades of research suggest that these racial disparities stem from racial disparities in whom police stop¹⁵ and arrest,¹⁶

as well as disparities in citizen complaints,¹⁷ crime reporting,¹⁸ 911 calls,¹⁹ access to trauma care,²⁰ and neighborhood context.²¹ Disparities in fatal police shootings are likely also a partial function of racist tropes and stereotypes resulting in misperceptions of Black people as inherently dangerous or threatening.²² These factors stem from the individual, structural, and systemic racism deeply embedded into our culture and our institutions.²³

Racial Disparities in Arrests and Punishment

Black people are also arrested at far higher rates than white people, in large part because broken-windows-style policing targets minor misconduct in low-income Black and Latinx communities that would escape police attention in wealthier white communities. In New York City, for example, between 2001 and 2013, 51 percent of the city's population over age 16 was Black or Latinx. However, 82 percent of those arrested for misdemeanors and 81 percent of those who received summonses for administrative code violations were Black and Latinx.²⁴ This is a product of racially disparate police enforcement patterns rather than race-based differences in the underlying conduct. For example, in 2020, the ACLU conducted a nationwide study that found that Black people were 3.6 times more likely to be arrested for marijuana possession than white people, even though both groups use marijuana at comparable rates.²⁵ These individual trends add up to shocking racial disparities in arrests: although Black people comprise just 13 percent of the nation's population, their arrests account for 27 percent of the nation's total arrests.²⁶

The shocking racial disparities do not end with arrests. There are significant racial disparities in sentencing decisions in the United States. Sentences imposed on Black men and boys in the federal system are nearly 20 percent longer than those imposed on white males convicted of similar crimes.²⁷ Black and Latinx defendants sentenced in state and federal courts face significantly greater odds of incarceration than similarly situated white defendants and receive longer sentences than their white counterparts in some jurisdictions.²⁸ Black male federal defendants receive longer sentences than whites arrested for the same offenses and with comparable criminal histories.²⁹ Research has also shown that race plays a significant role in the determination of which homicide cases result in death sentences.³⁰ These racial disparities result from disparate treatment of Black people at every stage of the criminal justice process, including stops and searches, arrests, prosecutions and plea negotiations, trials, and sentencing.³¹ Race matters at all phases and aspects of the criminal legal process, including the quality of representation, the charging phase, the availability of plea agreements, and in probation and parole supervision and its enforcement.³²

Lack of Accountability and the Need for More Stringent Use of Force Standards

In the United States, police are emboldened to use unnecessary and disproportionate force without fear of repercussions. Police officers who use force are rarely held to account by police departments, prosecutors, or juries, let alone answer directly to the communities they police. Federal and state laws and jurisprudence make it extremely difficult for police officers to be held accountable for abuse—giving police officers special treatment within the legal system and often effectively placing them above the law.

Although exact statistics are difficult to find, more often than not, officers are not investigated or prosecuted for the killings of civilians. 98.3 percent of killings by police from 2013-2020 have not resulted in officers being charged with a crime.³³ Between 2005 and 2015, only 54 officers were charged after police-involved killings, despite the thousands of such incidences that occurred over the same time period.³⁴

A central, contributing factor to this impunity is the legal standard by which police officers' use of deadly force is evaluated: the United States Supreme Court has established the Constitutional boundary to be one of "reasonableness," which in practice creates a wide breadth of discretion for police action and "justified" use of force, while making it difficult to hold officers accountable through the criminal legal system.³⁵

Beyond the failings of the legal framework, each of the primary avenues for accountability available to victims of police misconduct are plagued by institutional deficiencies, procedural obstacles, and high rates of acquittal. Prosecutors are less likely to file charges against police officers than civilian suspects.³⁶ Even in the rare instances when an investigation leads to possible charges being filed, presiding juries and grand juries frequently demonstrate bias in favor of the police.³⁷ When trials do take place, police are held to a less stringent legal standard for their use of deadly force than their civilian counterparts, making it more difficult for prosecutors to prove a violation of the law.

The legal doctrine of qualified immunity often shields officers from liability for many constitutional violations, including fatal use of force. Under this judicially-created legal defense, an officer who has violated the Constitution cannot be held liable for damages unless the violation was so "clearly established" in the law that any reasonable officer would have known that their actions were unlawful. The U.S. Supreme Court has developed an absurdly narrow definition of what counts as "clearly established" law: to meet the "clearly established" standard, the burden is now on the victim to find a previous case with facts nearly identical to their own. The Supreme Court has instructed lower courts to use this immunity broadly to protect any officer except for "the plainly incompetent or those who knowingly violate the law."³⁸

There are straightforward reforms that would curb impunity in the United States, including increased oversight, ending police-protective doctrines like qualified immunity, and electing truly independent prosecutors. Use-of-force statutes must also be dramatically reformed so that deadly force is only allowed if necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, and only after all other alternatives to lethal force have been exhausted. Whether such force is necessary should involve consideration of an officer's conduct and decisions leading up to the use of deadly force, including decisions that create unnecessary risks or ignore reasonable and available alternatives to such force.

Suppression of Protests Opposing Police Violence

George Floyd's horrific murder and the killings of other Black people by law enforcement officers—the overwhelming majority of whom are never charged, let alone convicted, for using

fatal force—have sparked protests in at least 140 cities across the United States and in over 40 countries around the world. These Black Lives Matter movement (BLM) demonstrators have called for federal, state and local governments to seriously address structural racism and white supremacy and enact sweeping changes including divestment from police departments.

Federal, state, and local governments have failed to protect First Amendment rights to protest and assemble and instead resorted to excessive and indiscriminate use of force, arrests, and attacks on BLM protesters.³⁹ The ACLU and other groups have documented and brought legal challenges to end serious violations of the right to assemble in the context of BLM protests.⁴⁰ Since May 26, 2020, there have been over 400 instances of journalists being detained, assaulted, or otherwise prevented from performing their duties by police.⁴¹ Protesters have experienced injuries, and sometimes death,⁴² from tear gas, pepper spray, rubber bullets, and other crowd control tactics used by the police. Over 17,000 protesters were arrested in the first two weeks following George Floyd's murder alone.⁴³

People assembling in mass gatherings and exercising their First Amendment rights to protest are all too often met with militarized police force, unlawful arrests, unfounded charges, and rough physical handling. Attorney General Barr has authorized the deploying of hundreds of heavily armed riot police and unmarked federal officers in military-style uniforms who engaged in the suppression of anti-police violence protests.⁴⁴

Militarized policing's propensity to escalate violence was witnessed during the national protests against police violence and the outcry from the extrajudicial killings of George Floyd and Breonna Taylor, among others. Military weaponry and tactics were also used during the winter of 2016, at the Dakota's Standing Rock Indian Reservation where law enforcement met protesters with armored vehicles, automatic rifles, concussion grenades, sound cannons, and beanbag bullets.⁴⁵ In July 2016, those organizing around the fatal police shooting of Alton Sterling in Baton Rouge, Louisiana were met with militarization and excessive force.⁴⁶ And in August 2014, after a white police officer fatally shot unarmed Black teenager Michael Brown in Ferguson, Missouri, the predominately white local, county, and state police responded to ensuing protests in the overwhelmingly Black community with an aggressive militarized response and show of force that included the indiscriminate use of vast amounts of less-lethal weapons against protesters and press.⁴⁷ These high-profile militarized incidents continued this year when federal agents were deployed around the country and used extraordinarily brutal tactics to allegedly protect federal property.⁴⁸

The United States has a history of suppressing protests, especially when protesters are expressing grievances about racial injustice. As the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association found during the 2016 visit to the United States,⁴⁹ assemblies organized by African Americans, Indigenous peoples,⁵⁰ and other people of color⁵¹ are managed differently by law enforcement. Protesters of color are more often met with disproportionate force: police are more likely to be militarized and aggressive, Black people are detained longer after arrests; they face heightened charges, more intimidation, and more disrespect.

The detailed recommendations that were made to the U.S. government by the former Special Rapporteur Maina Kiai remain largely unimplemented.

Police response to protests and other mass assemblies should not involve militarized displays or mass violence by the government, and law enforcement should never deploy indiscriminate weapons, such as tear gas and stun grenades, on any mass gathering or assembly. In addition to posing serious risks to people's health and safety, such weapons almost by definition violate our right to due process and will seldom, if ever, constitute the least restrictive means available to regulate unlawful conduct in the context of a protest or mass assembly. The harms caused by the extensive use of less-lethal weapons are compounded by the fact that the United States is one of the worst-hit countries of the global pandemic. Health experts have warned that the use of tear gas may place individuals at a higher risk of contracting a respiratory illness and can have long-term effects on respiratory function. We are also concerned that mass arrests and detention of protesters will only exacerbate the risk of infection in jails that are already an epicenter of the COVID-19 pandemic in the United States.⁵²

Police use of violence against protesters is rarely investigated and officials are not held accountable for excessive use of force against protesters, journalists, medical workers, bystanders, and legal observers.⁵³ During mass assemblies, just as they are at any other point, police officers are subject to the U.S. Constitution and must comply with U.S. treaty obligations including the International Covenant on Civil and Political Rights. That means the police cannot use pepper spray or mace against protesters, arrest people without individualized probable cause, use excessive or disproportionate force, arrest protesters for criticizing them, or rely on illegal profiling factors like race or ethnicity. Instead, the most successful law enforcement approach to unlawful conduct at a mass assembly focuses on de-escalation, effective communication, and crowd management, not crowd control.

Federal Programs That Promote Police Militarization

As the ACLU's report, *War Comes Home: The Excessive Militarization of American Policing* found, militarized policing increases the risk of violence and harm to both law enforcement and civilians.⁵⁴ Based on our findings, the ACLU in 2014 called for oversight of and limits on the federal programs that incentive militarized policing, including the Department of Defense's 1033 program.⁵⁵ Although the Obama administration responded by adopting greater oversight of 1033 transfers, this oversight was short-lived and has been described by one researcher as mostly "symbolic."⁵⁶ Since 2017 the Department of Defense's 1033 program has facilitated the transfer of over \$760 million worth of military equipment to local law enforcement agencies.⁵⁷ Department of Defense 1033 transfers continue even in the face of nationwide protests and calls for further demilitarization. Militarized policing is not "effective policing,"⁵⁸ as it does not deescalate, reduce bias, or improve police-community relations.

The continued militarization of police, rollbacks on safeguards and the escalating of nationwide police violence against protesters has sparked a number of proposals from Members of Congress, including legislation from Representative Nydia M. Velázquez, H.R. 7143,⁵⁹ that

would end the 1033 program.⁶⁰ The only way to fix the brutality and violence of police in America is to divest from it as an institution, which is why Congress must stop providing federal dollars and resources, like the 1033 program, that perpetuate police militarization.

The Role of the Federal Government in Conducting Oversight and Enforcement of Police Misconduct Laws

The U.S. Department of Justice (DOJ) has authority to oversee and enforce laws prohibiting civil and human rights violations, especially in the context of abusive and racist policing. It is the responsibility of the Attorney General and the Department of Justice (DOJ) to actively enforce all U.S. laws, including 42 U.S.C. § 14141, which gives the DOJ the authority to investigate police departments with a pattern or practice of police misconduct, and 18 U.S.C. § 241 and § 242, which requires the DOJ to prosecute those, including law enforcement, who deprive a person of his or her civil rights and liberties.⁶¹ This responsibility is a critical tool for reforming the police departments that are the most persistent abusers of the communities they are supposed to protect. Since 2009, the DOJ opened 25 investigations into law enforcement agencies and has been enforcing 14 consent decrees.⁶² Some of the DOJ's investigations, such as the investigation of the Ferguson Police Department in Missouri, have also addressed related systemic racism that fuels biased policing including the municipal court system's practice of compelling payment of fines and fees that impose a disproportionate economic burden on communities of color.⁶³

Despite this obligation, the Trump Administration's DOJ has refused to use Section 14141 (now codified at 34 U.S.C. § 12601) to mandate reforms and prevent police killings.⁶⁴ Since Trump took office, the DOJ has not sought to enter into any consent decrees for unconstitutional policing⁶⁵ and under Attorney General Barr's leadership has brought just one pattern or practice investigation.⁶⁶ Even after the killing of George Floyd, Attorney General Barr refused to allow a pattern-and-practice investigation into the Minneapolis Police Department for systemic racial discrimination.⁶⁷ Moreover, the DOJ's actions suggest that the Trump Administration has sought to modify or undo existing consent decrees that were hard-fought by previous administrations, and refused to hold law enforcement officers accountable to rampant constitutional violations reported and litigated in court by the DOJ itself.

The DOJ must immediately resume oversight and enforcement of police misconduct laws, as it has a critical role to play to ensure that law enforcement across the country are following the Constitution and that reforms are implemented effectively and efficiently under existing consent decrees. Consent decrees can remedy these violations at a systemic level, with implementation overseen by a court-appointed monitor until the agency has successfully carried out the required reforms.

With regards to certain police departments, it is critically important to have the independent and well-resourced oversight that comes from a DOJ investigation in order to achieve systemic reform of policing. It is equally important to have court oversight of the consent decrees that typically follow these investigations, to ensure that both the DOJ and the local law enforcement

agencies are accountable to an independent entity—the judge—for the reforms they have promised to undertake, despite changes in administration over time.

Reimagining the Role of Police

The underlying problem with policing is not just the lack of oversight policies, more training, and better procedures. While radically changing these three areas remains essential for harm reduction, the problem itself is more insidious. The core problem is modern policing itself. The original sin of policing in the United States is its attachment to the nation’s first and most devastating sin: chattel slavery. Modern police forces in this country can be traced back to slave patrols used in Charleston, South Carolina. From their inception, police have been tasked with protecting power and privilege by exerting social control over Black people.

Built upon Jim Crow-era racist constructs, spurious social science, and sprawling legal codes, law enforcement has sought to control Black and Brown people through racialized targeting and the criminalization of Black people generally. Since inception, police in the United States have been empowered to act as an occupying force in low-income communities and communities of color across the country, funded by astronomical sums of taxpayer dollars.⁶⁸

Every three seconds a person is arrested in the United States. According to the FBI, of the 10.3 million arrests a year, only 5 percent are for offenses involving violence. All other arrests are for non-violent offenses—these include many relatively minor infractions like money forgery, the alleged crime that the police officers who killed George Floyd arrived to investigate; or selling single cigarettes without a tax stamp, the “crime” Eric Garner lost his life for; or for marijuana or other drug possession.

There is a different world, one in which people need not be arrested for many of these offenses or be otherwise racially targeted and criminalized. We can shrink outsized and misused police power and responsibilities, along with their budgets, and strive to ensure they do not come into regular, unnecessary contact with community members.

We know this is possible because this different world exists today, for communities that are largely white. The harsh reality is that policing in communities of color looks very different than it does in wealthy, white communities. In the latter communities, police are often only present when responding to specific serious disruptions to the community, rather than just constantly intruding on people’s everyday lives. To understand the impact of this difference, one only has to look at the approach to policing marijuana—which is used at almost equal rates by Black and white people, though Black people are still arrested at a rate that is almost four times that of white people.⁶⁹ Racialized policing is the best way to understand this disparity.

White communities are also more likely to see significant investment in community resources that are purposefully and programmatically used to maintain safety, health, and stability, all without police intervention. The lived reality that white communities already enjoy and take for granted is what we are demanding for communities across the country—an end to systemic

racism that fuels biased policing, an end to over-policing, an end to constant surveillance and harassment, an end to enforcement of non-serious offenses, and an end to the targeting of people of color.

The Path Forward: Divestment

We need to fundamentally change the role of police in the United States, and that role has to be smaller, more circumscribed, and less funded with taxpayer dollars. Money saved from reducing the size and scope of police departments must be reinvested into community-based services that are better suited to respond to actual community needs. Doing so will foster improved safety and health outcomes, and present opportunities in Black communities, where decades of racial discrimination and underinvestment in everything except police has helped fuel a mass incarceration crisis.

Current police budgets are enormous, totaling more than \$115 billion per year, collectively in the United States. Spending on police and the criminal legal system has dramatically outpaced expenditures in community-based services that help people build stable, safe communities. The United States should change this paradigm and support efforts in Black and Brown communities to develop and build community-controlled institutions and interventions that have been proven to improve public safety and health more effectively than oppressive, terrifying, ineffectual, and deadly modern policing.

Reducing funding to police departments and reinvesting those funds into Black and Brown communities are necessary steps to prevent further harm and to restore the promise of the U.S. Constitution and human rights treaties for all people. It is time to embrace alternatives like civilian-led crisis intervention teams composed of highly trained professionals, including nurses, doctors, psychiatrists, and social workers, to respond to incidents with people who are in mental health crises. It is time to put more counselors and more teachers—not police—into our schools. It is time to stop criminalizing families experiencing homelessness.

Recommendations

It is essential to reimagine an effective and far more limited role for police in the United States; implement the following recommended changes that will save lives, advance human rights and safeguard liberties; and create the conditions to start repairing decades of harm and violence inflicted on overpoliced communities of color. We call on OHCHR to recommend that the United States:

- Divest from current policing budgets and reinvest in life-affirming alternatives to policing that will keep communities safe. Significantly fewer police, with a significantly reduced role in communities' everyday lives, will result in fewer police-community interactions, which will reduce incidents of police violence.
- Prohibit police from enforcing a range of non-serious offenses, including nonserious traffic and minor offenses, which should be addressed through mechanisms outside the criminal

legal system. Eighty percent of arrests in the United States are for misdemeanors, and we have witnessed many police killings—Philando Castile, Eric Garner, George Floyd, and more—that arose from enforcement of petty offenses. Eliminating unnecessary interactions between the police and community members will reduce violence and deaths.

- Dramatically transform use-of-force statutes so that police officers' use of force against community members is rare. Deadly force should only be allowed if necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, and only after all other alternatives to lethal force have been exhausted. Whether such force is necessary should involve consideration of an officer's conduct and decisions leading up to the use of deadly force, including decisions that create unnecessary risks or ignore reasonable and available alternatives to such force.
- Abolish qualified immunity, which often shields officers from liability for many constitutional violations, including fatal use of force, and denies victims access to effective remedy.
- Establish alternatives to police response for people in crisis. People who are experiencing behavioral health crises should not have to communicate with law enforcement as first responders. Instead, the response to such crises should be sufficiently staffed, culturally competent mental health services.
- End the militarization of police. Police must be demilitarized, which requires a reduction in access to and use of militarized weapons designed for the battlefield of war, including assault rifles, grenade launchers, incendiary devices, and armored vehicles. This includes ending the U.S. Department of Defense's 1033 program, which provides military weapons to state and local governments.
- Federal, state and local governments should work with communities to enact programs to mediate conflicts that rely on people who are not police officers, who do not carry weapons, and who work collaboratively within the communities they serve.
- Create independent oversight structures with teeth that ensure that when officers use force in violation of the law, policies, or training, they are held accountable. Records of misconduct and ensuing accountability must be made available to the public and other police departments, so as not to allow officers who engage in police violence to easily move from one department to another.
- Ensure training reflects improved statutes and policies. Training may be required to effectively implement policies that prioritize de-escalation and limit use of force. However, the need for such training should not function as a backdoor means of increasing police budgets. Training content and methods used should be scientifically evaluated, and selection criteria should be based on empirical evidence of efficacy. Additionally, the

provision of such training is meaningless if it is not supported by clear, enforceable policies.

- Collect and disseminate comprehensive, publicly available data about police shootings and all law enforcement uses of force, disaggregated by race, ethnicity, gender, self-reported LGBTQ status, and disability. This includes enforcement of the Death in Custody Reporting Act to obtain and publish data on deadly police force.
- Put in place accountability measures to address police violence against protesters and journalists including a ban on the use of tear gas against mass gatherings, independent investigations of incidents of excessive use of police force, and the de-militarization of police.
- Adopt H.R. 40, which would establish a commission to examine the institution of slavery and its impact and make recommendations for reparations to Congress.

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² EJ Dickson, *Another Black Man, Tony McDade, Was Shot and Killed by Police Last Week*, Rolling Stone (June 1, 2020), <https://www.rollingstone.com/culture/culture-news/tony-mcdade-shooting-death-tallahassee-1008433/>.

³ Fatal Force, Wash. Post (July 2020), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> (last visited Dec. 14, 2020). *The counted: People killed by the police in the U.S. recorded by The Guardian with your help*, The Guardian, <https://www.theguardian.com/us-news/series/counted-us-police-killings> (last visited Dec. 14, 2020).

⁴ *Police Violence Map*, Mapping Police Violence, <https://mappingpoliceviolence.org/> (last visited Dec. 14, 2020).

⁵ ACLU, *The Other Epidemic: Fatal Police Shootings in the Time of COVID-19* (Aug. 2020), available at https://www.aclu.org/sites/default/files/field_document/aclu_the_other_epidemic_fatal_police_shootings_2020.pdf.

⁶ Alex Jones and Wendy Sawyer, *Not Just "a few Bad Apples": U.S. Police Kill Civilians at Much Higher Rates than Other Countries*, Prison Policy Institute (June 2020), <https://www.prisonpolicy.org/blog/2020/06/05/policekillings/>.

⁷ *Id.*

⁸ Elizabeth Davis, Anthony Whyde, and Lynn Langton, *Contacts between Police and the Public, 2015*, Bureau of Justice Statistics (Oct. 2018), <https://www.bjs.gov/content/pub/pdf/cpp15.pdf>; Alexi Jones and Wendy Sawyer, *Arrest, Release, Repeat: How Police and Jails Are Misused to Respond to Social Problems*, Prison Policy Inst. (Aug. 2019), <https://www.prisonpolicy.org/reports/repeatarrests.html>; Zhen Zeng, *Jail Inmates in 2016*, Bureau of Justice Statistics (Feb. 2018), <https://www.bjs.gov/content/pub/pdf/ji16.pdf>.

⁹ Ulrich Schimmack and Rickard Carlsson, "Young Unarmed Nonsuicidal Male Victims of Fatal Use of Force Are 13 Times More Likely to Be Black Than White," 117 Proceedings of the Nat'l Acad. of Sci. 1263, 1263 (Jan. 2020), <https://doi.org/10.1073/pnas.1917915117>.

¹⁰ Frank Edwards, Hedwig Lee, and Michael Esposito, "Risk of Being Killed by Police Use of Force in the United States by Age, Race-Ethnicity, and Sex," 116 Proceedings of the Nat'l Acad. of Sci. 16793, 16793-98 (Aug. 2019), <https://doi.org/10.1073/pnas.1821204116>.

¹¹ *Supra* Edwards, note 10; Matthew Harvey, *Fatal Encounters Between Native Americans and the Police*, The Ctr. for Indian Country Dev. (March 2020), https://www.minneapolisfed.org/~media/assets/articles/2020/fatal-encounters-between-native-americans-and-the-police/fatal-encounters-between-native-americans-and-the-police_march-2020.pdf?la=en%20%20. See also Kimberlé Crenshaw, Andrea J. Ritchie, Rachel Anspach, Rachel

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¹² Justin Feldman, *Police Killings in the U.S.: Inequalities by Race/ Ethnicity and Socioeconomic Position*, People's Policy Project (June 2020), <https://www.peoplespolicyproject.org/2020/06/23/class-and-racial-inequalities-in-police-killings/>.

¹³ *Supra* ACLU, note 5, at 4.

¹⁴ James W. Buehler, "Racial/Ethnic Disparities in the Use of Lethal Force by US Police, 2010–2014", 107 Am. J. of Pub. Health 295 (2017), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5227943/pdf/AJPH.2016.303575.pdf>.

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