**Racial Discrimination and Domestic Implementation of Human Rights:**

**The Responsibility of the U.S. Government to Investigate Cases of Fatal Police Shootings to Ensure Due Process and Equal Protection Under the Law**

A Submission to the United Nations, Human Rights Council, Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement by the Coalition for the Peoples Agenda

Pursuant to paragraph 15 of the Human Rights Council Resolution 47/21.

**Submitted by:**

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The mission of the Coalition for the Peoples Agenda is to improve the quality of governance, help create a more informed and active electorate, and have responsive and accountable elected officials.

**Executive Summary and Introduction**

As recent cases confirm, fatal police shootings pose some of the most important and vexing law enforcement challenges facing our nation. For far too long, racially motivated violence divided communities and terrorized African American citizens.

These violent and discriminatory crimes tear at the fabric of our democracy. The Fourteenth Amendment guarantees equal protection under the law. The Federal Government has traditionally been the guardian of last resort for our nation's most vulnerable inhabitants.

[The Washington Post’s Fatal Force database](https://www.washingtonpost.com/graphics/investigations/police-shootings-database/?itid=lk_inline_enhanced-template) shows officers have shot and killed more people every year since 2015, reaching a record high in the past 12 months with 1,135 deaths. The FBI database contains only about one-third of the 7,000 fatal police shootings during this time.

As fatal police shootings increase, more go unreported. Flawed FBI data has left thousands of deaths uncounted and complicates efforts to hold troubled police departments accountable.

These crimes were committed not just against the victims but against our society.

Data collection is intended to serve as a tool for communities to confront past wrongs, determine guilt, and seek to acknowledge responsibility, as well as impose a penalty commensurate with the wrongdoing. With such acts comes the possibility of healing, accountability, and restorative justice. African Americans seek justice to begin the process of reconciliation.

However, there is no comprehensive government data set of police killings.

Numerous projects arose to fill the gap after the police shooting of Michael Brown in Ferguson, Missouri, U.S.A.,in 2014, primarily by aggregating media reports of police killings. The *Washington Post* began an effort in 2015; other undertakings include Fatal Encounters<https://fatalencounters.org/>, Mapping Police Violence<https://mappingpoliceviolence.org/>, and a two-year effort from *The Guardian*. <https://www.theguardian.com/us-news/series/counted-us-police-killings>

Police killings have increased by over 100% in the past two decades. As fatal police shootings increased, reporting decreased. Officers have shot and killed more people every year from 2013 to 2024. There are large racial differences in officer-involved shootings that are evidence of racial bias; approximately ¼ of those killed are black. This is roughly double the black share of the overall population. (“Fatal Police Shootings and Race: A Review of the Evidence and ...”) Blacks had an even higher percentage of unarmed civilians shot and killed by police (34%) (Manhattan Institute). <https://manhattan.institute/>

“Young black men were nine times more likely than other Americans to be killed by a police officer in 2015. Although black males aged 15 – 34 make up 2% of the population, they tragically comprised 15 percent of all deaths at the hands of police.”

The Guardian’s 2015 The Counted.

Likewise, African Americans were more likely to be shot during an encounter that began with a traffic or pedestrian stop. The U.S. Policy Database estimates that the probability of a black man being unarmed and shot by police is 3.5 times larger than the probability of an unarmed white man being shot by police.

Sadly, the trend of fatal police shootings in the United States seems only to be increasing, with a total of 178 civilians having been shot, 32 of whom were Black, as of March 5, 2024.

<https://www.statista.com/statistics/585152/people-shot-to-death-by-us-police-by-race/>

VICE <https://www.vice.com/en/article/xwvv3a/shot-by-cops> reports two-thirds of those shot by police survived. The suffering of approximately 3000 victims of non-fatal shootings by police annually and their families must be included in our assessment of the overall impact of police shootings. Too often, the suffering of human beings resulting from police shootings is ignored.

While the numbers have crept up, the circumstances that preceded the killings have remained consistent.

In 2022, 132 killings (11%) were cases in which no offense was alleged; 104 cases (9%) were mental health or welfare checks; 98 (8%) involved traffic violations; and 207 (18%) involved other allegations of nonviolent offenses. There were also 93 cases (8%) involving claims of a domestic disturbance and 128 (11%) where the person was allegedly seen with a weapon. Only 370 (31%) involved a potentially more serious situation, with an alleged violent crime.

“These are routine police encounters that escalate to a killing,” said Samuel Sinyangwe, a data scientist and policy analyst who founded Mapping Police Violence <https://mappingpoliceviolence.org/> and provided 2022 data to the Guardian.

“The reduction in the conversation around police violence does not mean that this issue is going away. “What’s clear is that it’s continuing to get worse and that it’s deeply systemic.”

What’s more, in 32% of cases last year, the person was fleeing before they were killed, generally running or driving off – cases in which experts say lethal force is unwarranted and also endangers the public.

The racial disparities have also persisted: Black people were 24% of those killed last year while making up only 13% of the population. From 2013 to 2022, Black residents were three times more likely to be killed by US police than white people.

The inequality is particularly severe in some cities, including Minneapolis, where police have killed Black residents at a rate 28 times higher than white residents, and Chicago, where the rate was 25 times higher, Mapping Police Violence reported.

**Intro/Current Conditions**

**Article 2: Universal Declaration of Human Rights**

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

**Article 7: Universal Declaration of Human Rights**

“All are equal before the law and are entitled, without any discrimination, to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

 United Nations (UN), The Universal Declaration of Human Rights, Article 2 (Dec. 10, 1948), http://www.un.org/en/documents/udhr/index.shtml (accessed Jan. 24, 2011).

Adopt effective measures and an anti-discrimination act to address racial problems.

**The Constitution of the United States of America, the Fourteenth Amendment,** guarantees equal protection under the law**.** However, its attempt to guarantee civil rights was circumvented for many decades by the post-Reconstruction-era [black codes,](http://www.britannica.com/EBchecked/topic/67722/black-code) [Jim Crow laws,](http://www.britannica.com/EBchecked/topic/303897/Jim-Crow-law) and the “separate but equal” ruling of [*Plessy* v. *Ferguson*](http://www.britannica.com/EBchecked/topic/464679/Plessy-v-Ferguson) (1896).

**Obstacles Regarding the Thorough and Expeditious Investigation of Lethal Police Shootings**

When an incident involving the use of force and/or police killing occurs, qualified immunity often comes into play to determine liability even beyond criminality. Qualified immunity is a legal doctrine that courts invented to make it more difficult to sue police and other government officials who have been alleged to have violated somebody’s rights. We believe this doctrine needs to be removed. States also have a role to play here. The Law Enforcement Bill of Rights further doubles down on a lack of accountability for bad apples.

A recent You-Gov and Cato Institute poll <https://www.cato.org/survey-reports/poll-63-americans-favor-eliminating-qualified-immunity-police>

found that over 63 percent of Americans oppose the current policy of erasing historical records of officer misconduct. (“Reimagining Policing in America - Clark Neily, 2021 - SAGE Journals”)

From 2015 to 2019, U.S. municipalities spent over $2 billion in civil payouts for police misconduct. These funds mostly come from general funds rather than the police department budget. So, not only is the officer absolved from civil or financial culpability, but the police department faces no financial liability. Instead, the financial burden falls onto the municipality. This money could be going toward education, work, and infrastructure. (“Reimagining Policing in America - Clark Neily, 2021 - SAGE Journals”)

There needs to be a shift for civilian payouts away from tax money and to police department insurance policies.

With over 18,000 law enforcement agencies, reallocating police funding requires accurate data for an agency-specific evidence-based analysis. At least some agencies in the US are problematic. We must know where they are to target reforms.

 **Legislation**

In that, the Fourteenth Amendment guarantees equal protection under the law.

Recommendations:

We call upon the U.S. Attorney General to including but not limited to:

* Legislate reforms of qualified immunity requiring liability insurance coverage of all police officers.
* Prohibit the practice of erasing historical records of police misconduct.
* Immediately establish task forces of federal and state law enforcement to investigate expeditiously and thoroughly, not just review, lethal police killings since 2015.
* Immediately seek allocation of resources from the Congressional Appropriations Committee for the necessary appropriations funds.
* Advocate for monetary support and involvement of local law enforcement agencies and civil rights groups in the attempts to identify and investigate these uses of lethal police force.
* Provide unedited files to the families of all closed cases through expedited Freedom of Information Act (FOIA) requests.

* Appoint an independent federal prosecutor to coordinate the full accounting, investigation, and prosecution of the use of lethal police force, deaths of lethal force of people in police custody, and shooting deaths by off-duty police.
* Provide for oversight hearings by the appropriate congressional committees on the activities of the United States Department of Justice and FBI in fulfilling the mandate of instituting uniform, mandatory federal standards of policing.

**Concrete Steps**

These standards will include guidelines for:

* Safely restraining and subduing people using federal rules on applying force.
* Facedown restraint,
* The safe use of Tasers or stun guns.
* Policies that limit the force used against someone handcuffed.
* Limiting the deployment of SWAT teams.
* Ending stop-and-frisk.
* Reforming stand-your-ground laws.
* Banning no-knock warrants.
* Requiring body-worn cameras and their use during all interactions with the public.
* Requiring the quarterly counseling of police officers.
* Ending police officer indemnification and requiring liability insurance.
* Ending over-policing.
* Instituting community policing.
* Rewarding the achievement of community safety goals.
* Implementing and maintaining a staff of federally certified trainers to work in states, counties, cities, and towns to teach the mandatory federal policing standards emphasizing de-escalation.
* Appointing a Presidential Commission of affected families and communities, Civil Rights Leaders, academics, certified trainers, and the National Association of Trial Defense Lawyers to investigate new federal standards and present and past failures to implement reforms.
* Extending the investigations to include the role of serious mental illness in fatal law enforcement encounters.
* Establishing a mental illness treatment system that addresses mental illness effectively, so that behavior does not result in an interaction with law enforcement.

**Successes**

“Police’s ability to be judge, jury, and executioner has been taken to another level. No matter how much we insist that it is wrong, society allows it to take place,” said Jacob Blake Sr, whose son was shot by Kenosha police and left paralyzed in 2020. Blake Sr and Austin run a group called Families United <https://www.thefamiliesunited.org/> that assists people whose loved ones have been killed by police.

Families United is an organization supporting African American families who are experiencing social injustice and police brutality. Born out of the collective cry across America for decades, we are establishing ourselves as the Voice of the Voiceless, giving families the opportunity to tell their stories and stand against the ongoing issue of racial injustice.

Provide families and victims with access to the services of the National Association of Criminal Defense Lawyers (NACDL), https://www.nacdl.org/, a network of criminal justice lawyers and advocates who value fairness, reforming flaws and inequities in the criminal justice system, and redressing systemic racism.

We call upon the U.S. Attorney General to establish and fully implement this federal mandatory and uniform police training policy, inter alia the following:

1. Immediately establish task forces of federal and state law enforcement to *investigate expeditiously and thoroughly*, not just review, lethal police shootings since 2015.

1. Immediately seek allocation of resources from the Congressional Appropriations Committee for the necessary appropriations funds required to implement the standardized, federally mandated, mandatory policies.

1. Advocate for monetary support and involvement of local law enforcement agencies in implementing the federal police standards policies.
2. Provide unedited files to the families of all closed cases through expedited Freedom of Information Act (FOIA) requests.

1. Appoint an independent federal prosecutor to coordinate the full accounting, investigation, and prosecution of cases.

1. Provide for oversight hearings by the appropriate Congressional committees on the ongoing activities of the United States Department of Justice and FBI in fulfilling the mandate.

Despite the national increase in killings, there are some local signs of progress Sinyangwe noted:

* A Denver program where clinicians and medics have responded to thousands of mental health calls, instead of police, and have not had to call police for backup.
* Some cities have restricted traffic stops for minor violations. California has decriminalized jaywalking and other minor infractions that have no relation to public safety but are used to profile certain communities.

“These are routine police encounters that escalate to a killing ... What’s clear is that it’s continuing to get worse … For each of these types of routine encounters, there are solutions and alternative responses that are already being piloted, showing they are dramatically more effective than police,” Samuel Sinyangwe said.

There are also some local jurisdictions and states that have seen reductions in lethal force. Such as California, the most populous state, has experienced a 29% drop in killings since 2013, according to Mapping Police Violence

**Conclusion**

The consistent numbers year after year make clear that “broad systemic change” is necessary to prevent these killings,” said Dr. Elizabeth Jordie Davies, a Johns Hopkins postdoctoral fellow and expert on social movements.

“While there have been growing calls to reallocate police resources, she said, leaders of both political parties have advocated the opposite—pushing for the expansion of law enforcement.

“There’s a continual commitment to using violence to control people and manage problems in this country. And as we keep giving police more money and power, we’ll continue to see more police violence.”

14 January 2023 Mapping Police Violence

The collection of data on fatal police shootings is intended to serve as a tool for communities to confront past wrongs, determine guilt, and seek to acknowledge responsibility, as well as impose a penalty commensurate with the wrongdoing. With such acts comes the possibility of healing, accountability, and restorative justice. African Americans seek justice to begin the process of reconciliation.

Reforms are needed for police accountability, training, and adoption of a police culture that protects citizens.