

**REPORT OF THE  
INTERNATIONAL  
COMMISSION OF INQUIRY  
ON SYSTEMIC RACIST  
POLICE VIOLENCE  
AGAINST PEOPLE OF  
AFRICAN DESCENT  
IN THE UNITED STATES**

**MARCH 2021**



National Conference of Black Lawyers



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# EXECUTIVE SUMMARY

1. The purpose of the Commission of Inquiry on Systemic Racist Police Violence (Commission) is to examine whether widespread and systematic racist violence in policing against people of African descent in the United States of America (U.S.) has resulted in a continuing pattern of gross and reliably attested violations of human rights and fundamental freedoms. The Commissioners find a pattern and practice of racist police violence in the U.S. in the context of a history of oppression dating back to the extermination of First Nations peoples, the enslavement of Africans, the militarization of U.S. society, and the continued perpetuation of structural racism.
2. The Commission was established in the wake of the public execution of George Floyd, after millions of people saw him tortured and choked to death by police officer Derek Chauvin. Massive protests against police violence towards people of African descent erupted throughout the U.S. and around the world. The families of Mr. Floyd, Breonna Taylor, Michael Brown and Philando Castile joined 600 rights groups and petitioned the United Nations (UN) Human Rights Council (HRC) to appoint a UN Commission of Inquiry to investigate systemic racist police violence and attendant human rights violations against people of African descent in the U.S. After succumbing to enormous pressure by the U.S. and its allies, the HRC instead directed the Office of the High Commissioner of Human Rights to prepare a report on systemic racism and violations of international human rights by police against Africans and people of African descent throughout the world.



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surveilled, brutalized, maimed and killed by  
law enforcement officers with impunity

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3. The International Association of Democratic Lawyers, National Conference of Black Lawyers, and National Lawyers Guild then launched this Commission of Inquiry to examine systemic racist police violence against people of African descent in the U.S. The twelve Commissioners—judges, lawyers, professors and experts from Pakistan, South Africa, Barbados, Japan, India, Nigeria, France, Costa Rica, Antigua and Barbuda, the United Kingdom, and Jamaica—held public hearings from January 18 to February 6, 2021.
4. All cases selected for the hearings involved the egregious and unjustified killing or maiming of individuals of African descent in the U.S., including: (1) the killing of unarmed individuals who posed no threat of death or serious bodily harm; (2) the killing of individuals fleeing the police who posed no serious threat of death or serious bodily harm to the officers they were fleeing or others; (3) the use of, or threat to use, physical or psychological intimidation to extract confessions; and (4) the maiming of individuals fleeing the police and/or who posed no serious threat of death or serious bodily harm to others.
5. There has been a long-standing scourge of white supremacy and racial capitalism, as well as slavery and its legacy, in the U.S. in which two systems of law exist: one for white people and another for people of African descent. Under color of law, Black people are targeted, surveilled, brutalized, maimed and killed by law enforcement officers with impunity, as being Black is itself criminalized and devalued. Invariably, when a police killing of a person of African descent is known to have been unjustified, it is dismissed as merely the action or collective actions of “a few bad apples.” This excuse obscures the real problem, however, which is structural racism, embedded in the U.S. legal and policing systems.

6. The Commissioners conducted hearings into the cases of 44 Black people, all but one of whom was killed by police. The individual not killed was left paralyzed by police. Family members, attorneys, activists, and experts testified about the details of the killings, how the killings affected the families and communities of the victims, impediments and lack of access to remedies and the resulting impunity for perpetrators. After hearing the testimony and reviewing national data, the Commissioners conclude that both the relevant laws and police practices in the U.S. do not comply with the international human rights obligations of the U.S.

## SUMMARY OF FINDINGS AND RECOMMENDATIONS

7. The Commissioners find violations of the rights to: life, security, freedom from torture, freedom from discrimination, mental health, access to remedies for violations, fair trial and presumption of innocence, and to be treated with humanity and respect. The Commissioners find violations of the State's duty to provide medical care to detained persons; to ensure investigations of extrajudicial killings that are independent, competent, thorough and effective; and to provide prosecution of suspects and punishment of perpetrators to ensure that perpetrators are held accountable. The Commissioners find that U.S. laws and police practices do not comply with the international standards on the use of force, which require legal basis, legitimate objective, necessity, precautions, proportionality, protection of life, non-discrimination, and accountability.
8. The Commissioners find that, within the cases they examined, a disproportionate use of excessive force by police led to the deaths of the 43 Black people in the cases they examined. This unlawful disproportionate use of force included shooting and the use of restraints and Tasers. The Commissioners find a alarming, national pattern of disproportionate use of deadly force not only by firearms but also by Tasers against people of African descent. The Commissioners similarly find a pattern of unlawful and excessive force employed against people of African descent by chokeholds and compression asphyxiation, by kneeling or standing on the victim, by cuffing the victim face down and by applying pressure to the victim's head and neck.
9. The Commissioners find that the use of force against unarmed people of African descent during traffic and investigatory stops is driven by racial stereotypes and racial biases resulting in U.S. law enforcement agencies routinely targeting people of African descent for questioning, arrest and detention based on racist associations between Blackness and criminality. Because law enforcement authorities are constitutionally enabled to engage in pretextual stops, Black drivers are targeted by police officers who suspect them of crimes for no reason other than the color of their skin. The Commissioners find that pretextual traffic stops are a common precursor to police killings and uses of excessive force against people of African descent.
10. The Commissioners find that race-based street stops, otherwise known as "stop-and-frisk," are a form of "order maintenance" policing that drives not only racially disparate rates of arrests, but also often triggers the use of deadly force by police. These stops are frequently based on police officers' racial suspicion rather than reasonable suspicion. The continual harassment of Black people via stop-and-frisk is reminiscent of the socially accepted practice during the era of the slave patrols, when every white person had the right to control the movements and activities of Black people.
11. While the Fourth Amendment could serve as an important bulwark against police violence in Black communities, the Supreme Court has interpreted the Fourth Amendment in a manner that expands state

power to inflict violence against Black people. After the landmark Civil Rights legislation of the 1960's, the Court gave police nearly unfettered power, which they employ liberally to stop people whom they assume to be criminals, with little or no evidence.

12. Nevertheless, the Commissioners find a pattern of police violations of the Fourth Amendment rights of Black people to be secure in their persons, houses and effects from unreasonable searches and seizures. These violations include the securing of warrants that lacked probable cause due to reckless disregard for the truth of the allegations, including some based on information from unreliable informants. The Commissioners find a proliferation of the use of risky no-knock warrants. Police illegally entered the homes of many Black people without a valid warrant or exigent circumstances. And police repeatedly stopped Black people with no reasonable suspicion of criminal activity. These Fourth Amendment violations invariably led to the use of excessive force, and ultimately, to police killings of Black people.
13. The Commissioners find that cis- and transgender Black women, girls and femmes are disproportionately killed by police in the United States. Cis- and trans Black women are routinely subjected to humiliating treatment, disrespect and mis-gendering by police who have injured or even killed them. The Commissioners find that the War on Drugs is a significant driver of police violence against Black women and girls. Numerous studies have concluded that Black women are disproportionately subjected to pretextual traffic stops, a law enforcement tactic otherwise known as racial profiling.



Many Black people are killed in broad daylight to intimidate communities and because officers don't fear accountability

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14. The Commissioners find that after victims of racist police violence are killed, their families and communities remain devastated. Many Black people are killed in broad daylight to intimidate communities and because officers don't fear accountability. Spouses are widowed, children grow up without parents, and relatives suffer unimaginable pain. Generations of Black families are traumatized. Black people often suffer post-traumatic stress disorder and other forms of inter-generational psychological and emotional trauma from witnessing racist police violence. Distrustful of police, Black people refrain from calling the police.
15. In case after case, the Commissioners find evidence of an alarming pattern of destruction, loss and manipulation of evidence, coverups, obstruction of justice, and collusion between various arms of law enforcement in connection with the unjustified killings of unarmed persons of African descent. Police officers and their unions, prosecutors, coroners and "independent medical examiners" are accomplices in the service of impunity. The Commissioners also find a troubling pattern of creating false narratives and smear campaigns directed at victims and their families.
16. The Commissioners note the lack of independent and impartial review of police killings including the absence of judicial review of prosecutors' virtually unfettered discretion. The Commissioners further note that the failure to remedy police misconduct amounts to condoning repeated instances of brutality that ultimately culminate in use of deadly force. The Commissioners find the police defense of qualified immunity amounts to condoning brutal police violence against persons of African descent, and creates a culture of impunity whereby offenders are not held accountable and families are left without redress.

17. The Commissioners find that the brutalization of Black people is compounded by the impunity afforded to offending police officers, most of whom are never charged with a crime. Those who do face charges are regularly acquitted or escape time in custody. Since prosecutors rely on officers for investigation and testimony, they have an inherent conflict of interest when reviewing police misconduct. The grand jury is often complicit through doing the prosecutor's bidding and refusing to indict officers who then get away with murder.
18. Since the advent of the so-called Global War on Terror, the U.S. has prosecuted endless illegal and expensive wars, which enrich defense contractors. U.S. domestic police forces have benefited from these endless wars as well. Under Section 1033 of the National Defense Authorization Act, the Pentagon has distributed \$5.4 billion worth of military equipment to police agencies since the law was passed a generation ago. Of that amount, \$980 million—or 18 percent—was disbursed in 2014 alone. That was the year Michael Brown, Eric Garner, and others were killed and when the Black Lives Matter movement intensified its opposition to police killings.
19. The Commissioners find a *prima facie* case of Crimes against Humanity warranting an investigation by the International Criminal Court (ICC). The crimes under the Rome Statute include: Murder, Severe Deprivation of Physical Liberty, Torture, Persecution of people of African descent, and other Inhumane Acts, which occurred in the context of a widespread or systematic attack directed against the civilian population of Black people in the U.S.



The Commissioners find a *prima facie* case of Crimes against Humanity warranting an investigation by the International Criminal Court (ICC).

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20. The International Commission of Inquiry on Systemic Racist Police Violence Against People of African Descent in the United States draws attention of the UN High Commissioner for Human Rights to the findings and recommendations in its report and urges the High Commissioner to support the following in her report mandated by the Human Rights Council in its Resolution 43/1:
- a. Constitution by the UNHRC of an independent Commission of Inquiry mandated to conduct full investigation into incidents of police violence against people of African descent in the United States and to determine, in particular, whether the level of violence constitutes gross violation of human rights and whether crimes under international criminal law have been and continue to be committed;
  - b. In order to establish a continuous process to monitor systemic racist police violence in the United States, the appointment by the UNHRC of an Independent Expert on Systemic Racist Police Violence in the United States;
  - c. Call for the demilitarization of law enforcement throughout the United States; and
  - d. Call for an end to impunity and for accountability of police officials resorting to racist violence and unjustified force before independent civilian review boards and in criminal and civil proceedings of the justice system in the United States.

21. The Commissioners call on the Office of the Prosecutor of the International Criminal Court, upon receipt of the report of the Commission of Inquiry, to initiate an investigation into Crimes against Humanity (Article 7), pursuant to her/his powers under Rome Statute, Article 15.
22. The Commissioners call on the Executive Branch of the U.S. Government to:
- a. Accept the jurisdiction of the ICC in relation to the U.S. under Article 12 with respect to any and all Crimes against Humanity as defined in the Rome Statute;
  - b. Sign the Rome Statute of the ICC and transmit it to the U.S. Senate for consent to ratification;
  - c. Remove the non-self-executing language in the ratification of the International Covenant on Civil and Political Rights and/or pass full implementing legislation of this treaty, including the provisions in Article 20, which prohibits propaganda for war and speech that promotes hatred of racial or religious groups or incites discrimination or violence against people of racial or religious groups;
  - d. Fully enforce the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the U.S. has ratified.
  - e. Ratify all other international human rights treaties, as well as regional treaties;
  - f. Support legislation aimed at divesting federal resources from incarceration and policing as well as ending the criminal legal system-driven harms that have disproportionately criminalized Black and Brown communities, LGBTQIA people, Indigenous people, and disabled people, and instead, utilizing funding initiatives, and invest in new non-punitive and non-carceral approaches to community safety;
  - g. Create an effective and robust system of combating institutionalized racism within all law enforcement agencies, to be monitored by an independently elected body, in consultation with civil society organizations committed to principles of civil liberties and non-discrimination;
  - h. Remove the personal immunity that protects individual police officers from civil lawsuits filed by members of the public, and impose a clear duty on police officers to de-escalate all encounters before force is used; and
  - i. Develop policies and support for legislation to demilitarize policing throughout the United States and accomplish a complete overhaul of current policies and training practices including, but not limited to: (i) outlawing use of force except in conformity with UN Guidance on Less Lethal Weapons in Law Enforcement during arrest, custody and assembly based on: precaution, necessity, and proportionality; (ii) outlawing chokeholds and outlawing other subduing tactics that cut off breathing or blood circulation; (iii) outlawing excessive use of Tasers; (iv) prohibiting no-knock warrants; and (vi) outlawing use of force except in conformity with UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including, for example:
    - (a) Law enforcement officials, in carrying out their duty, shall, as much as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result; and
    - (b) Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (1) exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (2) minimize damage and injury, and respect and preserve human life; (3) ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment; and (4) ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

23. The Commissioners recommend that the U.S. executive and legislative branches acknowledge that the transatlantic trade in Africans, enslavement, colonization and colonialism were Crimes against Humanity and are among the major sources and manifestations of racism, racial discrimination, Afrophobia, xenophobia and related intolerance. Past injustices and crimes against people of African descent in the U.S. must be addressed with reparatory justice.
  
24. The Commissioners also recommend that the U.S. Congress establish a commission to examine enslavement and racial discrimination in the colonies and the U.S. from 1619 to the present and recommend appropriate remedies. The Commissioners urge the U.S. to consider seriously applying analogous elements contained in the Caribbean Community's Ten-Point Action Plan on Reparations, which includes a formal apology, health initiatives, educational opportunities, an African knowledge program, psychological rehabilitation, technology transfer, financial support, and debt cancellation.

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RECOMMENDATIONS  
OF THE COMMISSION  
OF INQUIRY

## RECOMMENDATIONS ADDRESSED TO THE HUMAN RIGHTS COUNCIL AND THE OFFICE OF THE HIGH COMMISSIONER:

1. The International Commission of Inquiry on Systemic Racist Police Violence Against People of African Descent in the United States draws attention of the UN High Commissioner for Human Rights to the findings and recommendations in its report and urges the High Commissioner to support the following in her report mandated by the Human Rights Council in its Resolution 43/1:
  - a. Constitution by the UNHRC of an independent Commission of Inquiry mandated to conduct full investigation into incidents of police violence against people of African descent in the United States and to determine, in particular, whether the level of violence constitutes gross violation of human rights and whether crimes under international criminal law have been and continue to be committed;
  - b. In order to establish a continuous process to monitor systemic racist police violence in the United States, the appointment by the UNHRC of an Independent Expert on Systemic Racist Police Violence in the United States;
  - c. Call for the demilitarization of law enforcement throughout the United States; and
  - d. Call for end to impunity and for accountability of police officials resorting to racist violence and unjustified force before independent civilian review boards and in criminal and civil proceedings of the justice system in the United States.

## RECOMMENDATIONS ADDRESSED TO THE OFFICE OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT:

2. The Prosecutor of the International Criminal Court should, upon receipt of the report of the Commission of Inquiry, initiate an investigation into Crimes against Humanity (Article 7), pursuant to her/his powers under Rome Statute, Article 15.<sup>1</sup>

## RECOMMENDATIONS ADDRESSED TO STATES PARTIES TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT:

3. The States Parties to the Rome Statute should initiate investigations of and, where appropriate, prosecutions of U.S. officials for Crimes against Humanity under *universal jurisdiction*, as described in Section 7.

## RECOMMENDATIONS ADDRESSED TO THE EXECUTIVE BRANCH OF THE UNITED STATES GOVERNMENT:

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<sup>1</sup> Rome Statute Article 7 crimes would include, without limitation: (a) Murder; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (h) Persecution; and (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health, when committed in the United States by law enforcement officers acting under color of law.

## A. INSTITUTIONAL MEASURES

4. Support the BREATHE Act, specifically those provisions aimed at divesting federal resources from incarceration and policing, and ending the criminal legal system harms that have disproportionately criminalized Black and Brown communities, LGBTQIA people, Indigenous peoples, mentally ill individuals, and disabled people, and instead invest in new non-punitive and non-carceral approaches to community safety utilizing funding incentives.
5. Respect and accept the jurisdiction of the International Criminal Court (ICC) in relation to the United States under Article 12 with respect to any and all Crimes against Humanity as defined in the Rome Statute.<sup>2</sup> Sign the Rome Statute of the ICC and transmit it to the U.S. Senate for consent to ratification.
6. Enforce the implementation of provisions of the Constitution of the United States of Amendments IV, V, VIII, IX, and XIV by all police agencies, prosecutors, and all authorities and personnel in Jail, Detention and Probation facilities, and all other institutions and bodies concerned with law enforcement, investigation, and prosecution of cases;
7. Enforce provisions of the Violent Crime Control and Law Enforcement Act 1994 not implemented by successive administrations, mandating that the Attorney General acquire data on the use of excessive force from 18,000 state and local law enforcement policing agencies across the nation and publish an annual summary of the data acquired. Police agencies not in compliance shall be de-funded by the Federal government and legal proceedings filed against those in non-compliance;
8. Review discriminatory laws, law enforcement strategy, and sentencing relating to the ‘War on Drugs’ disproportionately targeting and racially profiling people of African descent;
9. Reinforce the ‘BREATHE Act’ by enacting, “The People of African-Americans Descent and Indigenous American (Protection Against Racist Police Violence and Torture Act),” to provide comprehensive protection, and impose civil and criminal liability on individual police officials and in states, cities, and counties violating the Act;
10. Create an effective and robust system of combating institutionalized racism within all law enforcement agencies to be monitored by an independently elected body, in consultation with civil society organizations committed to principles of civil liberties and non-discrimination;
11. Create an independent National Federal Law Enforcement Oversight Commission, with power to monitor and regulate the performance of all 18,000 police departments in the U.S., implementing a “zero tolerance” policy for instances of police brutality and use of excessive and deadly force;
12. Issue an annual report to be produced by the U.S. Department of Justice to be presented to the House Judiciary Committee, and to the United Nations Special Rapporteur on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment on the implementation of the strategies adopted above;
13. Remove the qualified immunity that protects individual police officers from civil suits filed by members of the public, and to impose a clear duty on police officers to de-escalate all encounters before force is used;

## B. LEGAL AND POLICY MEASURES

<sup>2</sup> *Id.*

14. Develop policies and support for legislation in line with the George Floyd Justice in Policing Bill, in relation to hiring or retaining law enforcement officers that would:
- a. Create a National Registry of Incidents of Use of Force, including all incidents of lethal and less than lethal means, and including racial statistics of victims and perpetrators;
  - b. Make the histories of law enforcement officers' use of force transparent to the public for use in hiring or other personnel decisions by law enforcement departments and in civil actions against law enforcement officers;
  - c. Adopt the civil standard of proof to vet and discipline law enforcement officers, who can be suspended from active duty or removed from the police force;
  - d. Disqualify any applicants for law enforcement positions who have histories of any involvement in white nationalist, white supremacist, militias, or other similar organizations, and require vetting of such applicants in order to screen out any with such backgrounds; and
  - e. Develop an early warning system to monitor those law enforcement officers who are developing a record of use of force, including but not limited to racially disparate records of use of force, to discipline or remove them from the police force.

## C. ADDRESSING USE OF FORCE PRACTICES

15. Develop policies and support for legislation to demilitarize policing throughout the United States and accomplish a complete overhaul of current policies and training practices including, but not limited to, the following:
- a. Outlaw chokeholds or other tactics for subduing that cut off breathing or blood circulation;
  - b. Outlaw the use of Tasers/stun guns at the stage of de-escalation, in cases where the person is not armed, and in cases of mental health episodes. The use of Tasers is to be strictly regulated and notified in consultation with medical experts, and only as a weapon of last resort used in a manner which does not endanger the life, limb, or safety of the individual. The use of Tasers during peaceful demonstrations must be strictly prohibited.
  - c. Prohibit no-knock warrants;
  - d. Outlaw use of force except in conformity with UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, strictly in accordance with the mandated principles of legality, necessity, proportionality, and accountability, including for example:
    - i. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
    - ii. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
      1. Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

2. Minimize damage and injury, and respect and preserve human life;
  3. Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
  4. Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment; and
- e. Outlaw use of force except in conformity with UN Guidance on Less Lethal Weapons in Law Enforcement in arrest, custodial and assembly based on:
- i. Precaution
  - ii. Necessity
  - iii. Proportionality
- f. Outlaw cavity searches.

## **FURTHER RECOMMENDATIONS TO THE EXECUTIVE BRANCH OF THE UNITED STATES GOVERNMENT:**

16. Develop policies and support legislation to hold law enforcement officers accountable for their actions. The following recommendations are aimed at addressing impunity and promoting accountability:
- a. Independent investigations and prosecutions must be required, including independent medical examiners being involved in determining causes of death/injury;
  - b. Develop legislation to enable private prosecutions of officers to be brought by victims/ and families of victims;
  - c. Eliminate qualified immunity;
  - d. Create mandatory civilian review boards with subpoena power and power to impose discipline at State and Federal levels;
  - e. Institute mechanisms to protect and incentivize police officers to report abuse by other officers.
  - f. Require mandatory use of body cameras and order that videos and all other evidence relating to an incident be made public immediately after incidents involving the use of force and killings by law enforcement to ensure transparency, accountability and public oversight;
  - g. Failure to use body cameras and/or attempts to conceal identification badges of officers shall constitute rebuttable presumptions against the truthfulness of their evidence;
  - h. Decertify and disband any police union overtly or covertly interfering with investigations of police killings or use of force by the police department, prosecutor, or any other board or investigation appointed for this purpose;
  - i. Re-open investigations of cases which did not have independent investigations, prosecutors, or medical examiners available; and
  - j. Reinstate pattern and practice investigations by the Department of Justice to develop consent decrees where necessary with ability to reopen cases where evidence suggests failures to properly investigate or prosecute offending police officers.

17. Develop policies and support legislation consistent with the goals of the BREATHE Act to create civilian forces with expertise to address community needs which are not appropriate for police intervention such as:
  - a. incidents involving people in mental health crises; and
  - b. Incidents involving people who are homeless.

## RECOMMENDATIONS TO THE U.S. CONGRESS

The Commission of Inquiry recommends that the U.S. Congress:

18. Pass the BREATHE Act, including those provisions which end such programs as the Department of Defense 1033 program, and other programs aimed at divesting federal resources from incarceration and policing and ending the criminal legal system harms, and instead investing in new approaches to Community safety utilizing funding incentives;
19. Pass the *George Floyd Justice in Policing Act* passed by House of Representatives but stalled in the Senate;
20. Pass legislation in addition to the George Floyd Policing Act in relation to hiring or retaining law enforcement officers that would:
  - a. Create a National Registry of Incidents of Use of Force, including all incidents of lethal and less than lethal means, and including racial statistics of victims and perpetrators;
  - b. Make the histories of law enforcement officers' use of force transparent to the public for use in hiring or other personnel decisions by law enforcement departments and in civil actions against law enforcement officers;
  - c. Disqualify any applicant for law enforcement positions who have histories of any involvement in white nationalist, white supremacist, militias, or other similar organizations, and require vetting of such applicants in order to screen out any with such backgrounds; and
  - d. Develop an early warning system to monitor those law enforcement officers who are developing a record of use of force, including, but not limited to racially disparate records of use of force, to remove them from the police force.
21. Develop policies and support for legislation to demilitarize policing throughout the United States and to accomplish a complete overhaul of current policies and training practices, including but not limited to doing the following:
  - a. Outlaw chokeholds or other tactics for subduing that cut off breathing or blood circulation;
  - b. Outlaw excessive use of Tasers/stun guns;
  - c. Prohibit no-knock warrants; and
  - d. Outlaw use of force except in conformity with UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials: e.g.
    - i. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
    - ii. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials

shall:

1. Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
  2. Minimize damage and injury, and respect and preserve human life;
  3. Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
  4. Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment; and
- e. Outlaw use of force except in conformity with UN Guidance on Less Lethal Weapons in Law Enforcement in arrest, custodial and assembly based on:
- i. Precaution
  - ii. Necessity
  - iii. Proportionality

22. Pass legislation to hold law enforcement officers accountable for their actions:

- a. The Commissioners identified some of the main barriers to tackling impunity for killings by law enforcement as:
- i. the lack of independence of the initial investigations, which in the majority of cases are conducted by the same law enforcement department as that of which that the alleged perpetrator is a member;
  - ii. the wide discretion of prosecutors to determine when and how to present charges;
  - iii. the fact that some federal, state and county practices are not in line with international standards regarding the use of force as noted above;
  - iv. The existence of qualified immunity to shield officers from liability for their actions; and
  - v. police organizations, such as police unions, which pressure officers to withhold cooperation with investigations. Officers should know they will be punished by their peers if they show integrity by breaking what is known as the “blue wall of silence.”
- b. The following recommendations are aimed at legislation which would overcome impunity and promote accountability:
- i. Independent investigations and prosecutions must be required, including independent medical examiners being involved in determining causes of death/injury.
  - ii. Develop legislation to enable private prosecutions of officers to be brought by victims/ and families of victims
  - iii. Eliminate qualified immunity
  - iv. Mandatory creation of civilian review boards with subpoena power and power to impose discipline;
  - v. Mechanisms to protect and incentivize law enforcement officers to report abuse by other officers.
  - vi. Require use of body cameras and order that videos to be made public immediately after incidents of law enforcement killings to ensure public oversight;
  - vii. Failure to use body cameras and/or attempts to conceal identification badges of officers shall constitute rebuttable presumptions against the truthfulness of their evidence;
  - viii. Decertification of police unions which punish officers for cooperating with investigations of police killings;
  - ix. Re-open investigations of cases which did not have independent investigations, prosecu-

- tors, or medical examiners available;
  - x. Reinstate pattern and practice investigations by the Department of Justice to develop consent decrees, where necessary, with ability to reopen cases where evidence suggests failures to properly investigate or prosecute offending police officers;
  - xi. Pass legislation to implement the recommendations of the President’s Task Force on 21<sup>st</sup> Century policing.
23. Pass legislation consistent with the goals of the BREATHE Act to create civilian forces with expertise to address community needs which are not appropriate for police intervention such as:
- a. People in mental health crises;
  - b. People who are homeless;

## RECOMMENDATIONS TO STATE AND LOCAL GOVERNMENTS OF THE UNITED STATES

24. To the extent the Federal government does not have jurisdiction, or there are constitutional constraints to regulating the 18,000 local law enforcement forces in the United States,<sup>3</sup> each state or local government should implement the Commissioners’ recommendations regarding vetting, monitoring, training, collecting data, and holding law enforcement accountable for killing civilians, specifically those of African descent and Indigenous peoples. In particular, the Commissioners recommend that States, municipalities, and local government should further operate to bring all 18,000 law enforcement forces within the purview of constitutional policing and compliance, should develop civilian review boards and oversight, and should develop response teams comprised of qualified, unarmed civilian staff separate from law enforcement departments to respond to emergencies involving mental health, homelessness, and other non-criminal emergencies.

## RECOMMENDATIONS FOR REPARATIONS

25. The U.S. government’s Executive and Legislative branches should acknowledge that the transatlantic trade in Africans, enslavement, colonization and colonialism, and neocolonialism constituted a Crime against Humanity and are among the major sources and manifestations of racism, racial discrimination, Afrophobia, xenophobia and related intolerance. Past injustices and crimes against people of African descent must be addressed with reparatory justice.
26. The U.S. Congress should pass H.R. 40 — the Commission to Study Reparation Proposals for African-Americans Act to establish a commission to examine enslavement and racial discrimination in the colonies and the United States from 1619 to the present and to recommend appropriate remedies. The Commissioners urge the U.S. to consider seriously applying analogous elements contained in the Caribbean Community’s Ten-Point Action Plan on Reparations, which includes a formal apology, health initiatives, educational opportunities, an African knowledge program, psychological rehabilitation, technology transfer and financial support, and debt cancellation.
27. Enact “*The People of African-Americans Descent and Indigenous Americans (Atonement, Reparation and Justice) Act*, with the objective of correcting structural racism in U.S. society which cannot be overcome without this legislation; to facilitate mandatory representation in legislatures and public employment of these com-

<sup>3</sup> U.S. Department of Justice, Bureau of Justice Statistics, Law enforcement in the United States is made up of about 18,000 federal, state, county, and local agencies. Each agency has varying legal and geographic jurisdictions, ranging from single-officer police departments to those with more than 30,000 officers (2016), <https://www.bjs.gov/content/pub/pdf/nsleed.pdf>.

munities in proportion to the percentage of their population; to ensure their access to housing, nutrition, education, health care, social services, and other services; to atone for genocide and the seizure of their resources, and the Crimes against Humanity committed by those who operated and benefitted from the slave trade and subsequent human enslavement which contributed to enormous capital accumulation and to subhuman status and acute disparities, which continues to adversely impact millions in the U.S., fragmenting society along racial lines.

28. Appoint a Commission of racially diverse historians and eminent persons, with representation of academics of African descent, Indigenous peoples, and Immigrants from the Caribbean, Central, and South America among others, to review and recommend an objective presentation of the history of the United States, of events and peoples' movements, of the injustices and holocaust against people of African descent over several centuries; of the genocide of Indigenous peoples, and the contribution of all races to the building of a society and nation.
29. Establish museums and libraries that include accurate films and videos recording the early history of the U.S., the narrative of the slave trade and enslavement, the holocaust of people of African descent in the U.S. for four centuries, the history of the struggle for emancipation, the Underground Railroad, the Civil Rights struggle led by Dr. Martin Luther King Jr. and others, and the contribution of the people of African descent, among other migrants of color, to the U.S.; including museums and libraries recording the history, life and culture of Indigenous peoples and the genocide and injustices perpetrated against them. It is by knowledge and understanding that racial profiling and violence will cease.

## **RECOMMENDATIONS FOR THE UNITED STATES TO RATIFY AND IMPLEMENT INTERNATIONAL HUMAN RIGHTS NORMS**

30. The U.S. government should immediately ratify the core international human rights treaties and regional human rights treaties to which the United States is still not a party, with a view to removing any gaps in the protection and full enjoyment of rights therein. Furthermore, the U.S. should remove reservations related to the treaties that it has signed or ratified, including those stating that these treaties are non-self-executing.
31. Specifically, Congress should remove the non-self-executing language in the ratification of the International Covenant on Civil and Political Rights and/or pass full implementing legislation of this treaty, including the provisions of Article 20 thereof, which prohibits propaganda for war and speech that promotes hatred of racial or religious groups or incites discrimination or violence against people of racial or religious groups.
32. The U.S. should fully implement, monitor, and enforce its obligations emanating from the International Convention on the Elimination of all Forms of Racial Discrimination, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the U.S. has ratified.
33. The U.S. should also ratify all other international human rights treaties, as well as regional treaties. To this end, an inter-agency body should be created, composed of high-level officials from the executive, legislature, and judicial branches at both the federal and the state levels, to take steps to effectuate the decisions, resolutions, views, observations, and recommendations of United Nations human rights bodies such as the Human Rights Council, the treaty bodies and special procedures, and regional human rights bodies.

## RECOMMENDATIONS TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

34. The Commission of Inquiry takes note of the important work already undertaken by the IACHR, notably in its November 26, 2018 report *Police Violence Against Afro-Descendants in the United States*<sup>4</sup> and in its August 2020 call on the United States “to implement structural reforms in the institutional systems of security and justice to counter historical racial discrimination and institutional racism.”<sup>5</sup>
35. The Commission of Inquiry respectfully requests the IACHR to incorporate the Commission’s findings and recommendations into the IACHR’s ongoing monitoring and fact-finding and to continue to press for and articulate the urgent need for such structural reforms.
36. The Commission of Inquiry respectfully urges the IACHR to continue to actively support the cry for justice of the people of African descent in the United States, who have a similar early history of enslavement and discrimination as the people of African descent of the Caribbean, Central and South America.

## RECOMMENDATIONS TO THE MEMBER STATES OF THE AFRICAN UNION

37. The Commission of Inquiry takes note of the powerful concerns expressed by the Chairperson of the African Union, the Hon. Moussa Faki Mahamat,<sup>6</sup> the Hon. Kwesi Quartey, Deputy Chairperson of the African Union Commission, the African Group of Members of the UN Human Rights Council, and participants in the HRC’s urgent debate following the murder of George Floyd.<sup>7</sup> Several speakers in that debate endorsed the idea of creating an independent commission of inquiry, and urged the HRC to take action and not become a passive observer. Several people urged the United States to take action to resolve the structural issues and economic inequality that led to the recent events.<sup>8</sup>
38. We heard the call for an independent commission of inquiry and we have acted upon it. We respectfully urge the African Union, the UN Working Group of Experts on People of African Descent, the UN Special Rapporteur on racism, racial discrimination, xenophobia and related forms of intolerance, and all relevant Special Procedures mandate holders to pay the closest attention to the voices of people of African descent in the United States, including victims, survivors, jurists, and academics whose evidence of gross and well-attested patterns of human rights violations we have documented and put before you.
39. We urge you to continue to raise your voices, and if necessary your votes, in the Human Rights Council to defeat any attempt to sidetrack world attention or to minimize or excuse concern for the people of African descent in the United States.

4 *Police Violence Against Afro-descendants in the United States*, *supra* n. 22.

5 Press Release, Int-Am. Comm’n H.R., IACHR calls on the United States to implement structural reforms in the institutional systems of security and justice to counter historical racial discrimination and institutional racism, Press Release No. 196/20 (Aug. 8, 2020), [http://www.oas.org/en/iachr/media\\_center/PReleases/2020/196.asp](http://www.oas.org/en/iachr/media_center/PReleases/2020/196.asp).

6 See Anita Powell, *Africa Rises in Rage over George Floyd Death in U.S.*, Voice of America News, (June 2, 2020), <https://www.voanews.com/africa/africa-rises-rage-over-george-floyd-death-us>; See also Robbie Gramer, *African Leaders, joined by U.S. Embassies, condemn Police Killings in Minneapolis*, Foreign Policy (May 29, 2020), <https://foreignpolicy.com/2020/05/29/africa-countries-condemn-george-floyd-minneapolis-killing-diplomatic-fallout-racial-injustice-police-violence/>.

7 See Press Release, U.N. H.R. Office of the High Commissioner, *Human Rights Council holds an urgent debate on current racially inspired human rights violations, systemic racism, police brutality and violence against peaceful protests* (June 17, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25971&LangID=E>.

8 *Id.*

INTERNATIONAL COMMISSION OF INQUIRY  
ON SYSTEMIC RACIST POLICE VIOLENCE  
AGAINST PEOPLE OF AFRICAN DESCENT IN  
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