



**Ten Key Issues and
Recommendations to the
OHCHR for Addressing Police
Brutality and Racism**

**Conflict Scholars Collective
for Healing and Racial
Reconciliation**

December 4, 2020

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and Racial Reconciliation**

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Introduction

These ten issues and recommendations have been identified to contribute to the OHCHR's timely report on systemic racism and police brutality. The evidence that Africans and people of African descent are disproportionately brutalized by police in the United States is irrefutable. However, the presentation of the data is often disjointed, and this leaves the reporting to individual organizations that research police violence at the federal, state, and local level and to present that data through independent data sources. That independent data reveals a startling trend: Black people are three times more likely to be killed by police than white people.¹

While some cases of police violence capture national and local attention and while some spur the population into protests, many cases go unnoticed by the public at large. Because there are so many police killings (998 between January 1 and November 18, 2020), these few cases that grab national and/or local attention become representative of all police violence. It is important to recognize that there are many more cases that never become household names. Along with this lack of information on police-related deaths, there is a lack of awareness of other kinds of police brutality that don't result in deaths as illustrated below.

Rape

Black women (and girls) are often the victims of sexual assault by police officers and because of the nature of sexual crimes, their names are often not known to protect them. Their invisibility does not eliminate the very real reality that black women are being sexually assaulted by on duty police officers. Matthew Stinson, an ex-police officer who keeps a database of police officers arrested across the country, reports 21 officers were arrested between 2012 and 2015 for sex related crimes against Black women and girls.²

Maleatra Montanez spoke out in 2015 after an on-duty police officer who coerced her into having sex after she called the police for help.³ Jamie Liggins came forward and revealed her name after being violently assaulted by Daniel Holtzclaw while he was an on duty police officer in Oklahoma. She was one of at least 13 women assaulted by the police officer while he was on duty, one victim as young as 17.⁴ While there are interspersed evidence of individual cases of sexual assault against Black women, collecting data on allegations is difficult, and it is well known that many rapes go unreported. The National Police Misconduct Reporting Project determined that sexual assault and sex related crimes ranked second in police misconduct allegations only behind the use of excessive force.⁵

¹ "Mapping Police Violence," accessed 11/11/2020, www.mappingpoliceviolence.or.

² Stinson, Philip, "The Henry A. Wallace Police Crime Database, 2020. <https://policecrime.bgsu.edu/>

³ Baker, Chris, "Cop accused of raping women on the job will cost Syracuse another \$400,000," *Syracuse.com* (Syracuse, NY), Sept. 23, 2020.

⁴ Martinez, Michael and Mullen, Jethro, "victims Describe assaults by convicted ex-oklahoma city cop Daniel Holtzclaw," *CNN* (Oklahoma), Dec. 11, 2015.

⁵ David Packman, NPMSRP 2009 Semi-Annual Police Misconduct Statistics Report, POLICEMISCONDUCT.NET (Oct. 8, 2009), <https://www.policemisconduct.net/npmsrp-2009-semi-annual-police-misconduct-statistics-report> [http://perma.cc/A7JZ-YKX7].

Excessive Force

Yunek Morre wrote about her experience with excessive force for the ACLU. She shares how she, as a 17 year old Black woman, was beaten by police officers resulting in serious injuries after the Peoria Police department came to break up a party she was attending. The only charge was resisting arrest.⁶ Amaurie Johnson, a 23-year-old Black man, was arrested for assaulting an officer and resisting arrest on May 27, 2020. However, bodycam footage showed

he did not resist arrest nor assault the arresting officer; rather, Amaurie was subjected to excessive force.⁷ Roderick Walker was held to the ground and beaten in front of his five-year-old

son in Clayton County, Georgia following a routine traffic stop. He suffered fractures to his skull and had to be monitored in the jail hospital following his arrest.⁸ While these cases speak to the lived experiences of these people, countless others have been at the receiving end of excessive force by police. In the 2015 the Bureau of Justice Statistics on police encounters, reported two percent of the residents who had any contact with police were subjected to non-fatal use of force by police, as determined by police. The fact remains that the data is not available on the

amount of non-lethal force used in the United States nor of how much of that force was excessive or unwarranted

Police shootings

While the use of force includes shootings by officers against people, police shootings both lethal and non-lethal continue to be a focus of worldwide attention. According to the Washington Post police shooting database, there have been 1,372 police shootings resulting in death involving Black people. Of those 1,372 shootings, 48 have been women and 1,348 have been men. There is no data on how many of the shootings involve transgendered or gender nonconforming individuals.⁹ An alarming number of these shootings involved the victim playing with a toy gun. Many times these toy guns leave the victim listed as “armed.” Jimmell Cannon, a 13-year-old Black boy in Chicago, was non-lethally shot in 2011 while playing with BB gun¹⁰. Police officers fired six shots at him. This was mirrored in the well known case of Tamir Rice, a 12-year-old Black boy who was fatally shot in Cleveland, Ohio while playing with a BB gun.¹¹

10 Key Recommendations to Address Police Brutality and Racism

1. Address sentencing laws and decriminalize marijuana: With more than

⁶ Morre, Yunek, “Being black is not a crime: Yanek’s story of police brutality,” ACLU, Sept. 11, 2019.

<https://www.aclu.org/blog/criminal-law-reform/reforming-police/being-black-not-crime-yuneks-story-police-brutality>

⁷ Hong, Joe, “Charges dropped against Black man in controversial arrest in La Mesa,” KPBS, June, 5, 2020.
<https://www.kpbs.org/news/2020/jun/05/charges-dropped-against-black-man-la-mesas-controv/>

⁸ Hutchinson, Bill, “White Georgia sheriff’s deputy seen beating Black man in viral video fired, ABC news, Sept. 13, 2020.
[https://abcnews.go.com/US/white-georgia-](https://abcnews.go.com/US/white-georgia-sheriffs-deputy-beating-black-man-viral/story?id=72981224)

[sheriffs-deputy-beating-black-man-viral/story?id=72981224](https://www.aclu.org/blog/criminal-law-reform/reforming-police/being-black-not-crime-yuneks-story-police-brutality)

⁹ “Fatal Force.” The Washington Post. November 18, 2020.
<https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>

¹⁰ Haggerty, Ryan; Lee, William; and Gerner, Jeremy. “McCarthy defends officers in shootings.” *Chicago Tribune* (Chicago, IL). July 26, 2011

¹¹ Shaffer, Corey. “Cleveland police officer shoots 12-year-old boy caring BB gun.” Jan. 12, 2019.
https://www.cleveland.com/metro/2014/11/cleveland-police-officer-shoot_6.html

Issues and Recommendations to the OHCHR for Addressing Police Brutality and Racism

2.1 million prisoners in lockup, the USA stands as the country with the highest incarceration rate in the world¹². The U.S. justice system holds 1,833 state prisons, 110 federal prisons, 1,772 juvenile correctional facilities, 3,134 local jails, 218 immigration detention facilities, and 80 Indian Country jails as well as in military prisons, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories¹³. These incarcerations bear startling disparities among minorities and White Americans. In 2017, blacks represented 12% of the U.S. adult population but 33% of the sentenced prison population. Whites accounted for 64% of adults but 30% of prisoners. This disparity has been perpetuated due to unfair sentencing laws and access to justice.

The crackdown on crime politics throughout the 80s and 90s led to an increase in incarceration rates. This included development of unfair sentencing laws, especially when it came to drugs. The penalty for getting caught selling crack cocaine which was largely sold in low income black and other minority neighborhoods was significantly higher than selling powdered cocaine, which is more expensive and sold to wealthier whites. These laws persisted until 2010 when congress passed the Fair Sentencing Act, which reduced the disparity between the amount of crack cocaine and powder cocaine needed to trigger certain federal criminal penalties from a 100:1 weight ratio to an 18:1 weight ratio and eliminated the five-year mandatory minimum sentence for simple possession of crack cocaine, among other provisions¹⁴.

In addition to unfair sentencing laws, many have been subject of wrongful convictions, which still persists through unfair arrests and stops by law enforcement due to racial profiling. According to the Innocence Project, a nonprofit which works to exonerate people based on DNA evidence found that the majority (63%) of those freed through DNA evidence are African American. Many have spent years in prison after being misidentified or being in the wrong place at the wrong time.

According to a recent Bureau of Justice Statistics (BJS) report, imprisonment rates have declined across racial and ethnic groups – especially among black Americans. There were 1,501 black prisoners for every 100,000 black adults at the end of 2018, according to a new report from the Bureau of Justice Statistics (BJS), the statistical agency of the U.S. Justice Department¹⁵. That was down sharply from 2,261 black inmates per 100,000 black adults at the end of 2006, according to an earlier BJS study. While their rate of incarceration has decreased the most in recent years, black Americans remain far more likely than their Hispanic and white counterparts to be in prison. The black imprisonment rate at the end of 2018 was nearly twice the rate among Hispanics (797 per 100,000) and more than five times the rate among whites (268 per 100,000)¹⁶.

The effects of mass incarceration have had devastating effects on individuals, families, and communities. Many of the formerly incarcerated also suffer from a loss of their rights. In 34 states, people who are on parole or probation cannot vote¹⁷. In 12

12 https://www.prisonstudies.org/sites/default/files/resources/downloads/wppl_12.pdf

13 <https://www.prisonpolicy.org/reports/pie2020.html#:~:text=The%20American%20criminal%20justice%20system,civil%20commitment%20centers%2C%20state%20psychiatric>

14 <https://globalpublicpolicywatch.wordpress.com/2015/10/23/mass-incarceration->

<americans-21st-century-human-rights-blunder/>

15 <https://www.pewresearch.org/fact-tank/2020/05/06/share-of-black-white-hispanic-americans-in-prison-2018-vs-2006/>

16 <https://www.pewresearch.org/fact-tank/2020/05/06/share-of-black-white-hispanic-americans-in-prison-2018-vs-2006/>

17 <https://www.naacp.org/criminal-justice-fact-sheet/>

states, a felony conviction means never voting again. It's a common notion that once a person has been released from prison they've paid their debt to society, preventing someone from voting renews that debt again and again¹⁸. Laws banning former convicts from voting not only removes their human and civil right to suffrage, it also has impacts on communities as a whole, as these individuals also make up part of a constituency that can't vote or have any say in the political direction of their communities.

The solution to mass incarceration and its disparities is to have a complete revision of sentencing laws. Because so many people are incarcerated for marijuana charges, it makes sense to decriminalize marijuana on a national scale. The rate of arrests is nearly 4 times that for a black person compared to a white person for possession of marijuana, and in one study, the results showed that 89% of people who are incarcerated for marijuana are Black.¹⁹ By reevaluating sentencing laws and decriminalizing marijuana, the United States can begin to end the systemic racism inherent in the court system.

2. End Qualified Immunity: Qualified immunity is a practice that protects police officers from being held personally liable for violations of the law. This has led to a culture of protecting police officers in cases of police violence. The police must be held accountable for their actions. Ending qualified immunity will mean that police officers are not viewed as an amalgamous department but are instead seen as individuals who are accountable for their actions. Accountability leads to more awareness and a higher commitment to doing their jobs.

However, qualified immunity has been used to shield police officers from any accountability. Qualified immunity has made

it nearly impossible to charge police officers and less than a third of those charged are convicted. Elected officials find comfort in hiding behind qualified immunity. Like in the Breonna Taylor case, politicians can tell their constituents that they would like for an investigation to move forward and to hold the officers accountable. Meanwhile, there is no real effort to hold anyone accountable.

Despite the shield of qualified immunity, just like the rest of society, it is not equally applied. In 2017, Justine Diamond was fatally shot by Police Officer Mohammed Noor. He said he shot her because he feared for his life. This is a line that police officers often use and use effectively to circumvent any responsibility. However, Officer Noor's declaration of fearing for his life fell on deaf ears. He was arrested, charged, convicted, and sentenced to 12.5 in the blink of an eye. This case is anecdotal but points to the larger issue of how race impacts both sides of policing. Officer Noor is a Somali American, black male and Justine Diamond was a white Australian American woman. Officer Noor should have been charged, convicted, and sentenced for the murder of an unarmed person, but the officers that killed Tamir Rice, George Floyd, Rashard Brooks, John Crawford, Breonna Taylor, Aura Rosser, Stephon Clark, Alton Sterling, and the countless other black men and women who's names and cases that never make the news should be held accountable also. In the absence of punishment and accountability, there will continue to be unjustified, extrajudicial executions on the streets of America of unarmed black people.

Many other public serving professions do not have qualified immunity. For example, teachers are not seen as a whole with their school and can be held personally liable for their actions taken in the classroom. This same level of accountability needs to be

¹⁸ <https://www.naacp.org/criminal-justice-fact-sheet/>

¹⁹ Racial disparity in marijuana arrests. Accessed from <https://norml.org/marijuana/fact-sheets/racial-disparity-in-marijuana-arrests/>

Issues and Recommendations to the OHCHR for Addressing Police Brutality and Racism

applied to police officers. The outcome will be police officers being more mindful of their actions and the relationship of those actions to them personally. Victims of police violence will also have an avenue to seek and receive justice.

3. Create a national reporting mechanism for police interaction and violence including a national registry for police officer complaints:

The first step in creating a national database is to have a comprehensive audit of every current law enforcement professional in the United States. This data can serve as the start of a reporting mechanism. There are many other professions that have national or easily accessible state databases for infractions of the law by professionals. For example, lawyers who are disbarred or censured can easily be located in databases. This impacts their ability to perform legal duties in other jurisdictions. Teachers who have their license revoked can easily be found in state held databases. However, finding this information is not easily accessible for law enforcement professionals. In order to keep the sanctity of the law enforcement profession and to ensure the public is safe, these records must be collected and housed in an easily accessible format.

The Bureau of Justice Statistics collects data on police brutality and police interactions in the United States; however, the most current data available is from 2015 and is largely self-reported in a survey conducted every three to four years. The lack of current data regarding police interactions makes defining, categorizing, and discerning current trends in police brutality on a nationwide level difficult. Not only that, but the data collected only examines interactions with people 16 years and older. While the data is disaggregated by gender, race, and ethnicity, it is difficult or impossible to see the intersectionality of the data (for example, it is not easy to identify black women with interactions with police).

In an attempt to collect more accurate data, the FBI launched the National Use of Force Data Collection in 2015. In 2019, they began collecting data on the use of force from 5,030 federal, state, local, and tribal law enforcement agencies. This data is self reported from these agencies. However, the FBI will not release disaggregated data until 80% of the total officer population is represented by data.

Besides data regarding police interactions with individuals, there is not an easily accessible national database on police records. This inhibits other police departments and the public from accessing information about specific police and their track record of conduct. In 2019, USA today underwent a meticulous examination of police violations and found 85,000 police officers who had been investigated for misconduct or about 12% of the police officers in the United States.

However, even according to the report in the USA Today, this may not be a full accounting because Police Unions have worked to ensure that information is not kept in a centrally located database and is difficult to access by the public and other police departments. This means if a police officer is dismissed for misconduct, a neighboring police force may then hire that officer with no knowledge of their track record. Additionally, when investigating misconduct, patterns may not be identifiable because the data is not accessible. More than 12% of the US police force having misconduct investigations is alarming and not discussed in the public sphere.

The Bureau of Justice Statistics collects data on prison populations, parolees, people on probation. However, the data is a survey of federal, state, and local jurisdictions and does not include private prisons. Other data collected regarding prison populations and sentencing is collected and disseminated by the private organization, The Sentencing Project. Additionally, none of the data collected on

prison populations, former prisoners, or police interactions includes socio-economic status.

4. Create a national data reporting mechanism for both privately and publicly owned prisons, parolees, and those on probation that is kept updated with disaggregated data including data on race, gender, ethnicity, socio-economic status, crime, and sentence length: The outcome of police work is arrests, sentencing, and incarceration. In order to fully understand the scope of systemic racism, data on incarceration must be easily accessible. The current data that is easily available is collected and disseminated by private organizations, non-profit organizations, and individuals. Additionally, since the rise of private prisons, data on their populations is not available. In order to understand the outcomes of the legal system and their relationship to systemic racism, the data must be available. We have the technology to create data sets that show the correlation between race and sentencing and incarceration and poverty. By creating a system that shows the data nationwide, we can start to address the underlying issues behind our current incarceration rates.

5. Conduct a national study to determine the impact of systematic racism on the enjoyment of Human Rights of people of African descent :Systematic racism has major impacts on the enjoyment of basic human rights for African Americans in the U.S. Disparities continue to persist in almost every aspect of life from equal income, education, housing, policing and access to justice, as well as adequate access to healthcare. When exploring the inequalities of policing and access to justice, it can be said that many black people don't think of police as an institution that serves and protects. According to the National Advancement for Colored People's (NAACP) Criminal Justice Fact Sheet, 87% of Black adults say the U.S. criminal justice system is more unjust towards Black people;

61% of white adults agree. Police have been weaponized against Black people. The police are called for issues outside of the realm of legal conflict such as using coupons, bird watching, lemonade stands, along with an exhaustive list.

The threat of harassing black people with the police for simply living their everyday lives is nothing new. The prevalence and frequency of these incidents are now being captured on social media and broadcasted to the world. These incidences continue to be traumatic for black people, as encounters with the police can have a fatal result, as 1 in 1,000 Black men and boys can be expected to be killed by police at some point in their lifetime; that Black males are 2.5 times more likely to be killed by police than white males; and that dying at the hands of law enforcement is a leading cause of death among young African American men. This has led to the need for developing systems of self preservation that impact "normal" experiences like play, clothing choices, interaction with others. African American men in particular have had to adopt practices that make them seem less "criminal" in the eyes of larger white society, including police and other justice institutions.

For instance, Black parents notoriously must have a conversation with their teenage sons about proper conduct when dealing with the police, in order not to be beaten, wounded, or murdered. It's the same in regards to how Black parents let their children play. Since black males are often seen as inherently suspicious, criminal or violent by law enforcement, parents aim to mitigate the risk of becoming a victim of police brutality by limiting what toys their kids can and can't play with, such replica guns, knives, etc. To underscore this fear, look no further than the case of Tamir Rice, a 12-year old African-American boy, was killed in Cleveland, Ohio, by Timothy Loehmann, a 26-year-old white police officer. Rice was carrying a replica toy gun; when a white police officer, Timothy Loehmann responded to calls that a black

Issues and Recommendations to the OHCHR for Addressing Police Brutality and Racism

male had a gun, upon arriving on the scene he shot rice almost immediately.

These instances continue to rob African Americans of their basic human rights including the right to life, liberty and security, freedom of expression, humanity and respect.

6. Strengthen legal Mechanisms to Address Police Brutality:

There are federal laws that address police misconduct covering the actions of State, county, and local officers, and include both criminal and civil statutes. Additionally, there are several laws that apply to Federal law enforcement officers. The foundation of this is in the 18 U.S.C. §§ 241, 242 which states that it is a crime for one or more persons acting under color of law willfully to deprive or conspire to deprive another person of any right protected by the Constitution or laws of the United States (US Department of Justice) . "Under color of law" refers to the person operating under the power given to him/her by the local, State or Federal government. Some of the types of law enforcement misconduct covered by these laws include the use of excessive force, intentional false arrests, sexual assault, intentional fabrication of evidence that results in a loss of liberty to another, theft etc. The US Department of Justice (DOJ) states that "Enforcement of these provisions does not require that any racial, religious, or other discriminatory motive existed", however, it has been more than obvious that much of the police brutality across the United States highlighted in this paper is grounded in racial, religious, and other discriminatory motives.

"Police Misconduct Provision" is the law that makes it "unlawful for State or local law enforcement officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or laws of the United States" (34 U.S.C. § 12601). The types of conduct covered by this law include, among others, excessive force, discriminatory harassment, false arrests, coercive sexual conduct, and

unlawful stops, searches, or arrests. The misconduct must constitute a "pattern or practice" and cannot simply be an isolated incident. The DOJ must be able to show in court that the agency has an unlawful policy or that the incidents constituted a pattern of unlawful conduct .

However, unlike the other civil laws discussed above, DOJ does not have to show that discrimination has occurred in order to prove a pattern or practice of misconduct. This is problematic in its foundation because much of the police brutality (reported and unreported) that we discussed in this paper, does follow a pattern and is grounded in discrimination, racism and prejudice of certain officers acting "under the color of law." Access to justice to remedy this problem and legal barriers are numerous but grounded in two realities that minority groups in the US experience, 1) perceiving the justice system as inherently unjust toward them, and 2) having past negative experiences with the justice system.

In addition, cost, time, effort, general knowledge of legal procedures creates structural barriers to minority groups' access to legal justice. The remedies available under these laws also serve as a negative reinforcement, i.e. they do not provide for individual monetary relief for the victims, and there is no private right of action under this law. Only DOJ may file suit for violations of the Police Misconduct and if won, the law provides injunctive relief, such as orders to end the misconduct and changes in the agency's policies and procedures that may have resulted in or allowed the misconduct . The reality of such changes systematically taking place are scarce. In other words, while this legal provision exists, its effectiveness is minimal to actually remedy the problem of many individuals and groups who have been the victims of police misconduct.

Title VI of the Civil Rights Act of 1964 and the "OJP Program Statute" are two laws together prohibit discrimination on the basis of race, color, national origin,

sex, and religion by State and local law enforcement agencies that receive financial assistance from DOJ (42 U.S.C. § 2000d, et seq. and 34 U.S.C. § 10228) . They prohibit both individual instances and patterns, or practices of discriminatory misconduct, such as treating a person differently because of race, color, national origin, sex, or religion. The misconduct covered by Title VI and the OJP (Office of Justice Programs) Program Statute includes, among others, harassment or use of racial slurs, discriminatory arrests, discriminatory traffic stops, coercive sexual conduct, retaliation for filing a complaint with DOJ or participating in the investigation, discriminatory use of force, or refusal by the agency to respond to complaints alleging discriminatory treatment by its officers.

Like the previous law, DOJ may seek changes in the policies and procedures of the agency to remedy violations of these laws and, if appropriate, also seek individual remedial relief for the victim(s). In this case however, individuals, in certain circumstances under Title VI and OJP Program statute, may have a private right of action. However, they must first exhaust all administrative remedies by filing a complaint with DOJ if they wish to file in Federal Court under the OJP Program Statute. As noted earlier, the process and bureaucratic burden may prevent an individual from taking action, finding the right legal representation or believe that anything can actually be done to remedy the injustice.

7. Access to higher quality public defenders by increasing Public Defender training, increasing the number of Public Defenders, and Reducing Public Defender caseloads: A recent survey by the Bureau of Justice Statistics sites Public Defenders nationwide have a caseload of between 50 and 590 cases. The result of these caseloads is that 71% of defendants plead guilty and 87% of people in the lowest socio-economic status plead guilty. If Public Defenders spend just 1 hour on a case per week, they will not have enough working hours to devote any

time or effort to individual cases. The solution must be to increase the number of Public Defenders and reduce Public Defender caseload. This will ensure a higher quality of legal defense to all people--a right protected by the constitution.

8. Address Disparities in Expressions of Freedom in the Form of Protests: The first Black Lives Matter (BLM) protest took place in Minneapolis on May 26, 2020, the day following the wrongful death of George Floyd. It was soon followed by protests in large cities nationwide. By June 16, about 286 of the 315 cities documented to have a municipal population of at least 100,000 witnessed protests, many of them (72 percent) lasting for more than 3 days; about one-third of these consisted of a minimum of 1000 protesters.

Between May and August, there were more than 10,600 demonstration events across the country. Over 10,100 of these — or nearly 95% — involve peaceful protesters. Fewer than 570 — or approximately 5% — involve demonstrators engaging in violence. Across America, cities and states responded in three ways: by setting curfews, bringing in National Guard troops, and declaring states of emergency. At least 200 cities imposed evening curfews in at least 27 states, affecting more than 60 million US residents, per The Washington Post. The National Guard was activated in 23 states and DC.

While the majority of protests were peaceful, enough included violent incidents such as looting and arson to get the attention of the Trump Administration. Of the 286 cities with protests, 134 cities (46.9 percent) had a protest that was accompanied by reports of violence, including Chicago, New York City, Minneapolis and Los Angeles. There were also instances of violent retaliatory responses by police against protesters, including pepper spray, tear gas, and rubber bullets, especially after citywide curfews were enacted in some of these cities in response to the protests.

Traditionally, black protesters draw more attention from the police than do white

Issues and Recommendations to the OHCHR for Addressing Police Brutality and Racism

protesters. For example, in 1967, 70 percent of African American events had police present at them, while only 42 percent of white events did. The disparity did not cease over time. A decade later, in 1977, nearly 75 percent of African American events drew police presence, while only a quarter of white events did so.

In 2020, two very different sets of protests emerged: coronavirus protests, mainly by white, over the coronavirus mask mandates and social distancing rules imposed by Governors in some states; the protests were encouraged by tweets specifically targeting Democratic Governors such as Gretchen Whitmer in Michigan and Ralph Northrup in Virginia.

BLM protests in the wake of the George Floyd killing were carefully monitored by local police forces; however, before, during and after this period, there were protests for other reasons, some of them attended by heavily armed white men. These protests, over the mask mandates, government shutdowns and social distancing orders by state governments, did not draw the wrath of the government in the way that did the George Floyd protests.

The objective of these protests, often organized by conservative groups, was to reverse the economic and social impacts of stay-at-home orders, business closures, and restricted personal movement and association, along with demands that their respective states be "re-opened" for normal business and personal activity.

This was the case in Lansing, Michigan after Governor Gretchen Whitmer extended the stay at home order; "Operation Gridlock" was created by the Michigan Freedom Fund and the Michigan Conservative Coalition, funded in part by the DeVos family. The first protest (4/15) in Michigan drew several thousand, including anti-vaxxers, far-right domestic terrorist groups including Proud Boys and other armed "militia" members. Most protestors remained in their vehicles, content to jam the streets around the capitol building, although

around 150 individuals, some heavily armed, protested on the capitol lawn. These protests were monitored by a large police presence that did not challenge or confront protesters but seemed to welcome them as like-minded company. At one point, the protesters bearing arms forced their way into the statehouse in the company of law officers from state and local police.

A second protest occurred on April 30. This was organized by the conservative group American Patriot Council and, while smaller than the April 15 protest, had a more menacing tone as hundreds of protesters, many carrying firearms, gathered at the Michigan Capitol. Many protesters forced their way into the capitol building. The Michigan Legislature closed its scheduled session to avoid the possibility of another armed confrontation inside the chamber.

A threat to kidnap Governor Whitmer was thwarted and revealed, the perpetrators arrested. Subsequent protests were increasingly peaceful and non-confrontational. Several hairdressers were arrested for cutting hair on the capital steps. It is hard to imagine the police taking such a laissez-faire approach with protests involving African-Americans. For example, in Detroit the police response was not nearly as muted as it had been in Lansing. Protests over George Floyd's death in Detroit continued for more than 120 days. Over those four months, eight protests resulted in violence, which included incidents instigated by outside agitators, fringe members of Black Lives Matter, police, and counter-protest groups such as the Proud Boys. With these examples in mind, the U.S. at all levels should address inequities concerning their rights of all citizens to express themselves in the form of protest.

Developing a unified standard operating procedure for policing protests and for interceding in protests would help to eliminate this disparity in response. Additionally, by demilitarizing police responses, the harm incurred during police intrusions into protests would be minimal.

We must immediately ban the use of chemical agents in protests. We have seen that these chemical agents are disproportionately used against People of Color and the last impacts of these agents is widely known. The de-escalation of conflict should be a first line response and chemical agents have no place in the World. It is also important that there are clearly established rules for all protest responses that are equally applied to any protest or gathering regardless of the topic of the protest.

9. Establish Reparative Justice Programs for Victims of Police Brutality: Local, State, and Federal authorities should create reparative justice programs that compensate both direct and indirect victims of police brutality and violence. Currently, victims may be compensated if they win a civil case against a particular police department and that's only if the police are found negligent. Reparative justice programs should also have mechanisms to help with victims and families who must deal with trauma and/or grief in the wake of police brutality or violence.

10. Review Racist Educational Policies that can leave a lifelong Impact: The education system in 2002, the No Child Left Behind Act (NCLB) ushered in a new era of education. The law was designed to increase accountability in education and led to high stakes accountability for schools. Included in the act were mandated school accountability frameworks based on high stakes standardized testing. Schools were penalized for not meeting expected proficiency.

In 2015, NCLB expired and a new law--The Every Student Succeeds Act (ESSA)--was adopted to replace NCLB and address some of the failures of NCLB. However, ESSA was formulated inside the framework established by NCLB and its

accountability measures. In fact, ESSA is so similar to NCLB that most practitioners still refer to the high stakes accountability system as No Child Left Behind. It has entered the general lexicon as synonymous for school accountability. One of the main drivers of NCLB and ESSA is high stakes testing that grades a school on its ability to meet a proficiency standard.

Under ESSA, states now control the accountability system rather than the federal government; and, while there are some differences in the accountability measures individual states take, they are largely the same across the nation. When a school fails to meet its proficiency goal, the school is placed on an accountability clock, commonly referred to as "Turn Around." Because each state has a different accountability framework, the data is not comparable across the United States and there is not always a clearly uniform measure of school success from one state to another. Additionally, there is no nationwide data source for demographics of schools on an accountability clock. This means it is difficult on a nationwide level to evaluate how many schools are schools composed primarily of students of color.

The School Turnaround Field Guide cites that five percent of the nation's schools are chronically failing.²⁰ However, even in their comprehensive report on Turnaround Schools, they only cite minorities once, acknowledging that in one school district a majority of students in Turnaround schools are students of color. Malen and Rice found in their research that a disproportionate number of students in failing schools are comprised of African American students--between 65 and 95%. That means between one and nine of every 10 students in a turnaround school is Black.²¹ In essence failing schools are schools that serve students

²⁰ Kutash, Jeff, et. al, "The School Turnaround Field Guide." FSG Social Impact Advisors. September 2010.

²¹ Malen, B. and Rice, J. "A framework for assessing the impact of education reforms on

school capacity: Insights from high-stakes accountability initiatives." Education Policy, 18, 631-660.

Issues and Recommendations to the OHCHR for Addressing Police Brutality and Racism

of color. This is a fact that cannot be overlooked and leads to the question--"Why are failing schools composed of students of color?" The answer is because the system is inherently racist.

The NCLB led to the creation of the Common Core standards. It made sense. If schools were to be graded and held to a standard, then the standard needed to be uniform across all states. A committee was formed in 2009 and created common learning standards across English and Math, the most heavily tested subject areas. They also created supporting standards for Social Studies and Science. The lack of unified standards for Social Studies and Science and the lack of testing in these areas led to decreased classroom time devoted in these areas. Because "turnaround" schools which are under more scrutiny and pressure to perform on tests serve primarily students of color and because turnaround schools are pressured to focus on English and Math, students of color get less instruction in Science and Social Studies than their white peers. This leads to students of color not entering the field of science in higher education and dropping out of the field at nearly three times the rate of white students.²²

The common core standards were also written with White Upper-class values in mind. The result has been that there is a large gap between the way students of color and white students perform on tests set to measure their use and knowledge of the common core standards. More than 70% of Black students score in the "well below" category in common core aligned testing. And this high stake testing matters. There is a financial incentive for schools to score in the well below for private industry and it is disenfranchising for students of color. If a

school is placed in turnaround, the school then is a candidate for private interventions from privately held companies in order to help bring the school out of turn around. Additionally, if the school cannot turn around, it is a candidate for state takeover or to become a charter school--both lucrative options for the state or private companies.²³ Students are placed in high stakes environments, then told they cannot measure up, and then have their community and neighborhood schools taken over for the benefit of a private company. For example, in Pueblo, Colorado, the only middle school on the Eastside of town which serves 95% students of color and has a 100% free and reduced lunch (an important economic indicator) has been on the Colorado state accountability clock since the clock was created in 2009. In 2018, the state threatened to take over the school but opted to have a private company, MGT, come in and attempt to turn the school around. The school district closed another middle school and combined the two schools to afford the \$500,000 price tag for MGT. In return, the school got monthly coaching and spent an additional \$400,000 sending their leaders to a special charter school led leadership school.²⁴ The school did not turn around and continue to face the threat of becoming a charter school. This happens all over the nation directly impacting students of color and their communities.

Finally, there is discrimination in schools through the support of the commonly called school to prison pipeline. Police officers in schools are called School Resource Officers. In nearly every school and especially schools who serve communities of color, police officers in uniform help maintain order in the school. Because a police

²² Riegle-Crumb, Catherine; King, Barbara; and Irzarry, Yasmilyn. "Does STEM stand out? Examining Racial/Ethnic gaps in persistence across postsecondary fields. Educational Researcher. February 21, 2019.

²³ Strauss, Valerie. "The myth of common core equity." *The Washington Post*. March 10, 2014.

²⁴ Pompeii, John. "Consultant names team leading Risley takeover in Pueblo D60. *The Pueblo Chieftain*. April 15, 2019

officer is always at hand, schools often use ticketing for students as young as 10 and have police officers intervene in routine behavior issues that would normally be handled by a teacher or administrator. Police officers in schools have not significantly reduced school shooting, but they have significantly increased the number of students pushed into the legal system. Instead of police in the schools, we need additional therapists, social workers, and restorative justice experts who can work to address the root causes of behavior issues in school and serve to build skills and community with students rather than fear.