



USA: LOSING THE PEACE

U.S. POLICE FAILURES TO PROTECT PROTESTERS FROM VIOLENCE

AMNESTY
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Cover photo: Women stand in the street recording as members of an armed group march to a Black Lives Matter protest at Jefferson Square Park in Louisville, Kentucky, on 5 September 2020.
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TABLE OF CONTENTS

1. EXECUTIVE SUMMARY	4
2. HUMAN RIGHTS STANDARDS ON POLICING OF PROTESTS AND COUNTER-PROTESTS	9
3. PROTECTION OF PROTESTS AND COUNTER-PROTESTS FROM VIOLENCE	12
3.1 POLICE PRESENCE AND COMMUNICATION WITH PROTESTERS	12
3.2 DE-ESCALATION BY SEPARATION OF PROTESTERS AND COUNTER-PROTESTERS	15
3.3 HALTING ACTS OF VIOLENCE BETWEEN PROTESTERS AND COUNTER-PROTESTERS	16
3.4 PREVENTION OF VIOLENCE BY ARMED GROUPS AGAINST PROTESTS	21
3.5 NON-DISCRIMINATION IN POLICE RESPONSE TO VIOLENCE	29
4. RECOMMENDATIONS	30

1. EXECUTIVE SUMMARY

“Our goal is to *not* make any arrests, to keep the peace, and to have our mere presence as peacekeepers allow for people to gather and express themselves.”

-Multnomah County Sheriff, Oregon State¹

“It appears the [Portland] police have admitted that they will actually not intervene to break up fights between protesters and counter-protesters, because they basically have an antipathy toward the protesters after 100 days of nonstop protests.”

-Lecturer at Portland State University, Oregon State²

“I believe our police are important. [...] They’re the peacekeepers, and without them, this would be a bloodbath right now.”

-Protester in Shelton, Washington State³

Amnesty International has closely monitored the surge of political protests and counter-protests across the USA in 2020, including numerous public assemblies where acts of violence were committed – by police, protesters, and counter-protesters alike.

Among hundreds of incidents documented by Amnesty International, over a dozen protests and counter-protests erupted in violence with police either mostly or entirely absent from the scene. A frequent catalyst for violent confrontations between protesters and counter-protesters was the presence of bias-motivated vigilante armed groups. The Trump administration’s rhetoric, policies, and practices have appeared to encourage the prevalence of armed groups unlawfully assaulting protesters and counter-protesters around the country.

Since May 2020, US law enforcement agencies have often negligently failed to protect protesters from violent attacks by third-party actors – whether those actors are counter-protesters, vigilante armed groups, or violent individuals within otherwise peaceful protests.

Amnesty International has documented and verified violent confrontations between approximately 200 different protests and counter-protests from May to September 2020. Those violent encounters occurred in approximately 75% (37) of all US states. In almost half of all US states (23), Amnesty International also confirmed cases of police forces demonstrably failing to keep assemblies peaceful and to protect participants from violent confrontations between protests.

1. News conference on Portland rally and counter-protests (25 September 2020): <https://www.youtube.com/watch?v=J7l33OuJkzk>.

2. Phone interview with Amnesty International (25 September 2020).

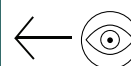
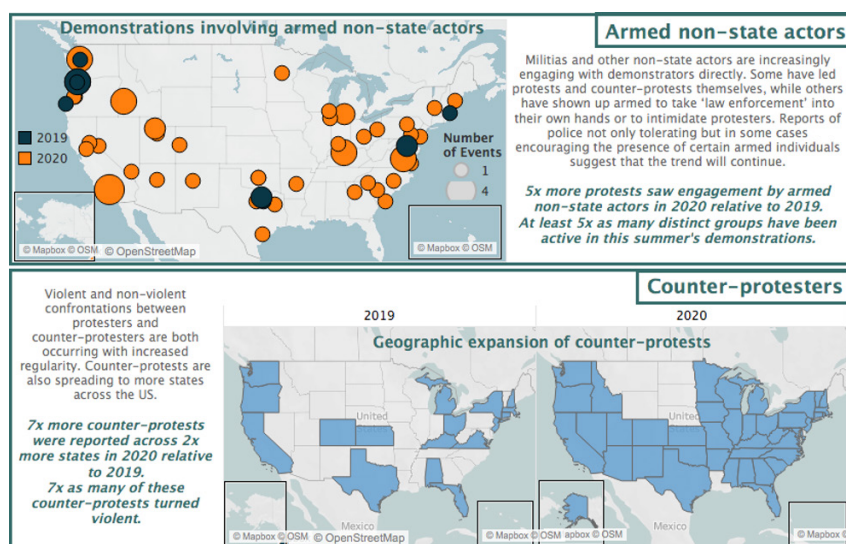
3. KOMO News, “Black Lives Matter, pro-police rallies face off in Shelton” (6 September 2020): <https://komonews.com/news/local/black-lives-matter-pro-police-rallies-held-in-shelton>.

Where violence occurred between participants in conflicting protests, Amnesty International found that police forces frequently failed to fulfil their positive obligation to protect participants in several recurring ways, contrary to international standards. In particular:

- Police *did not take preventive measures* to avoid the disruption of peaceful assemblies, and specifically failed to:
 1. Deploy appropriately trained police in adequate numbers to address any potential violence between protesters and counter-protesters;
 2. Separate protests and counter-protests to prevent and de-escalate tensions, when necessary to avoid violent confrontations; and
 3. Prohibit and prevent threats of violence by armed groups and individuals at peaceful assemblies.
- Police also *did not protect protesters* from violent attacks when they did occur, and specifically failed to:
 1. Halt acts of violence by intervening in disputes between protesters and counter-protesters; and
 2. Differentiate between violent and nonviolent actors in law enforcement responses to violent incidents, including by avoiding the dispersal of assemblies when they remained otherwise generally peaceful.

Amnesty International has also identified numerous cases in which police forces appeared to have discriminatorily restricted peaceful assemblies – such as through dispersal orders, or the enforcement of curfews – based on the content of groups’ messages expressed, rather than on the lawfulness of their conduct.

Since the killing of George Floyd by Minneapolis police on 25 May 2020, there have been more than 12,000 political protests in the USA – most of them calling for urgent remedies to systemic racism, police violence, and other civil rights abuses. The vast majority of those protests (93% to 97%) have reportedly been peaceful.⁴ Hundreds of those demonstrations were met by counter-protests, most of which were likewise peaceful. In total, there are estimated to have been more than seven times as many counter-protests from May to September 2020 (compared to the same period in 2019), and in twice as many US states. Yet despite the fact that the majority of those counter-protests were peaceful, they have still reportedly resulted in a proportionate increase of 600% in violent encounters.⁵



Graphic: Roudabeh Kishi, ACLED, "Demonstration Trends in the United States" (24 September 2020): <https://acleddata.com/2020/09/23/demonstration-trends-in-the-united-states/>.

4. Armed Conflict Location & Event Data Project (ACLED), US Crisis Monitor (24 May to 10 October 2020): <https://acleddata.com/special-projects/us-crisis-monitor/> (last visited 17 October 2020). See also, Crowd Counting Consortium: <https://sites.google.com/view/crowdcountingconsortium/home>.

5. Roudabeh Kishi, ACLED Director of Research & Innovation, "Demonstration Trends in the United States" (24 September 2020): <https://acleddata.com/2020/09/23/demonstration-trends-in-the-united-states/>.

Law enforcement agencies at all levels of government (federal, state, county, and municipal) are required under both US law and international law to facilitate and protect people's freedoms of peaceful assembly and expression, without undue restrictions or discrimination of any kind.

In the hundreds of incidents reviewed by Amnesty International, however, serious violence between protests and counter-protests was often only avoided due to efforts of demonstrators themselves to de-escalate violent confrontations – with law enforcement officials failing to intervene and sometimes nowhere in sight.

“The patriots [armed group members] are surrounding us to force confrontation. We are surrounded by guns and people talking about shooting us loudly. [...] Where are the police, Chief? This is ridiculous. We are being abused. Where are y’all [...] Y’all abandoned us Chief. You abandoned us. You let us get dragged and attacked while you did nothing.”

- Protest organizer in text message to police chief in Weatherford, Texas (25 July 2020)

When they were willing to fulfil their obligations, US police forces have in most instances shown their capacity to prevent violence at peaceful assemblies, as well as to protect protesters and counter-protesters from violence when it broke out between members of their groups.

Recent rises of bias-motivated violent attacks on protesters require law enforcement agencies to adopt new policies, strategies, and tactics to facilitate and protect peaceful protests, and prevent their disruption by armed groups or other violent actors. This is especially urgent as the US general elections rapidly approach, and political leaders warn of increased partisan conflict and volatility.

The US Federal Bureau of Investigation (FBI) has already documented political violence at public assemblies across the country by extremist armed groups with ties to white nationalism. In its annual threat assessment, the US Department of Homeland Security also warned in October 2020 that what they call “domestic violent extremists” – particularly white supremacist armed groups – could target elections-related protests and mass gatherings with political violence.

During and following the US general elections in November 2020, there are likely to be dramatic increases in political protests, as well as violent disruptions of peaceful assemblies by people with opposing views. The bipartisan Transition Integrity Project predicted that the 2020 general elections would likely result in both a political standoff and widespread street-level violence.⁶

It is essential that US government and law enforcement authorities at all levels fulfil their positive obligation to facilitate people's freedom of peaceful assembly, including by protecting from violence all those who wish to participate in public assemblies in order to have their voices heard. There is little room for error by law enforcement authorities in the prevention of political violence and protection of peaceful assemblies in a moment of such heightened social and political controversy. Nonetheless, US police forces across the country have in numerous cases failed to fulfil those duties.

Executive branches of city and state governments must urgently reform their police forces' policies and practices to better respect and protect the rights of protesters. They should also fill the US federal government's leadership vacuum, by taking decisive actions to prevent ominous predictions of political violence from coming to fruition.

6. Transition Integrity Project (TIP), “Preventing a Disrupted Presidential Election and Transition” (3 August 2020): <https://assets.documentcloud.org/documents/7013152/Preventing-a-Disrupted-Presidential-Election-and.pdf>.

Among other actions, local-level governments can emulate the good practices of some jurisdictions that have safeguarded protests and election-related gatherings from violence – including by issuing temporary executive orders to restrict the presence of weapons in municipal properties, parks, polling stations, and protests; and by instructing their law enforcement agencies to prevent armed individuals and armed groups from disrupting peaceful protests and civic activities during the elections period.

Police forces at the city, county, state, and federal levels should all immediately reform their conduct through specialized trainings on the facilitation and protection of freedom of peaceful assembly, in line with their obligations under the US Constitution, international human rights standards, and good practices in the policing of assemblies.

METHODOLOGY NOTE

In early June 2020, Amnesty International began tracking videos and reports of conflicts between protests and counter-protests around the USA. In September 2020, Amnesty International collated the counter-protests it identified and crosschecked its data with that shared by: (1) the Armed Conflict Location and Event Data Project (ACLED) and the Bridging Divides Initiative (BDI) at Princeton University;⁷ and (2) Political Research Associates (PRA) and the Institute for Research and Education on Human Rights (IREHR), in collaboration with Alexander Reid Ross, a lecturer at Portland State University.⁸

Through its monitoring and analysis from June to September, Amnesty International identified approximately 200 violent confrontations between protesters and counter-protesters during that period. The structure of this report mirrors the key trends identified in the policing of those protests and counter-protests, based on analysis and verification of videos, official statements, and other primary and secondary documentation.

Each sub-section of this report includes examples from various US localities of specific good practices, challenges, and human rights violations in the facilitation and protection of protests and counter-protests. These examples are *illustrative*, rather than *exhaustive*, including since they are based largely on multiple videos and reports of demonstrations across the country, which are not available for all protests and may offer limited views on the entire course of respective assemblies. Whether a specific US jurisdiction is mentioned – or *not* mentioned – is intended neither to indicate the full scope of protection provided by law enforcement agencies in that locality, nor all of the human rights abuses that protesters and counter-protesters may have encountered and continue to experience there.

7. ACLED, US Crisis Monitor: <https://acleddata.com/special-projects/us-crisis-monitor/>.

8. PRA/IREHR, "Mapping Paramilitary and Far-Right Threats to Racial Justice" (11 August 2020): <https://www.politicalresearch.org/2020/06/19/mapping-paramilitary-and-far-right-threats-racial-justice>. See also, Alexander Reid Ross, incident mapping (25 September 2020): <http://web.pdx.edu/~aross/incidents/incidents.html>.

2. HUMAN RIGHTS STANDARDS ON POLICING OF PROTESTS AND COUNTER-PROTESTS

Under the US Constitution and international human rights law,¹⁰ police forces are legally obligated to respect, protect and facilitate peaceful protests and counter-protests alike.

As with any other assembly, law enforcement authorities must ensure the rights of counter-protesters to voice their opposition to the messages of peaceful protests, within sight and sound, while minimizing any disruption of either protest. In that regard, counter-protests may be planned in advance, or form as spontaneous assemblies, but there is always a legal presumption in favor of allowing peaceful assemblies to gather.¹¹

Prevention Of Violence Against Protesters

To facilitate the peaceful expression of conflicting views, law enforcement authorities must prevent participants in protests and counter-protests, and other third-party actors, from engaging in threats or acts of violence toward one another.

The US government has recognized its obligation to prevent and prohibit acts of intimidation and violent threats against protesters,¹² including those by armed groups or other individuals. In February 2020, the US government acknowledged to the UN Human Rights Committee (which oversees US performance of its human rights obligations) that it is required to prevent and protect protesters from “genuine, intentional threats of violence or intimidation” and “incitement to imminent violence, or to imminent hostile acts.”¹³

For the same reason, law enforcement authorities must prevent armed groups and individuals from intimidating and threatening or perpetrating violence against participants in peaceful assemblies.

Use-Of-Force Standards In Policing Of Protests And Counter-Protests

Since May 2020, Amnesty International has documented the routine use of excessive force by US law enforcement personnel against participants in numerous peaceful protests across the USA.¹⁴

Since law enforcement authorities’ main objective and positive obligation in policing demonstrations is always to effectively facilitate peaceful assemblies, police should always aim to avoid using force.¹⁵

Before police resort to the use of force, they must first use non-violent means and tactics to de-escalate potentially violent conflicts, such as through persuasion, negotiation, or mediation.¹⁶ Any restrictions of assemblies – including through use of force against demonstrators – must never be discriminatory toward any race, ethnicity, political ideology, or other social group.¹⁷

9. First Amendment to the United States Constitution: <https://constitution.congress.gov/constitution/amendment-1/>.

10. Article 21 of the International Covenant on Civil and Political Rights (ICCPR), UN Doc. A/6316 (1966), 999 UNTS 171: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

11. UN Human Rights Committee, General Comment No. 37 on Article 21 of the ICCPR (Right to freedom of peaceful assembly), UN Doc. CCPR/C/GC/37, adopted 23 July 2020, at paras. 14, 17, 26, 85. Available at: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/GCArticle21.aspx>.

12. Ibid, para. 24.

13. Observations of the USA on the UN Human Rights Committee’s Draft General Comment No. 37 on Article 21 (14 February 2020), at para. 13: https://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle21/STATE_USA.docx.

14. See below in Section 3.3, at n. 61 and n. 62.

15. UN Human Rights Committee, General Comment No. 37, at n. 11 above, para. 79.

16. Ibid, para. 78.

When law enforcement personnel are unable to prevent violence against protesters by third-party actors – whether by counter-protesters, armed groups, or other violent individuals – police are only permitted to use the minimum level of force that is necessary and proportionate to achieve a legitimate law enforcement objective, in accordance with the law.¹⁸ Once the need for any use of force has passed, such as when a violent individual is safely apprehended, no further resort to force is permissible. Police can only use firearms when there is an imminent threat to life or of serious injury, and even then only in a fashion that minimizes injury and is followed by the provision of medical assistance.¹⁹

Even when allowed to use force, authorities must strictly distinguish between peaceful demonstrators or bystanders, and any individual or group who is actively engaged in violence.²⁰ The violent acts of an individual never justify the disproportionate generalized use of force against peaceful protesters or an entire assembly, and force is only justified until the immediate threat of violence toward others is contained.²¹ Isolated acts of violence by protesters and third-party actors, or the use of force by authorities against those individuals, do not render an assembly “non-peaceful.”²²

Any decision to disperse an assembly should be taken only as a last resort and carefully in line with the principles of necessity and proportionality, using the least intrusive means of achieving the legitimate objective being pursued by the authorities. It will never be proportionate to use less-lethal weapons that affect an entire area – such as tear gas and water cannons – in response to isolated acts of violence by specific individuals in a protest or counter protest.²³

In order to prevent impunity and the repetition of abuses, law enforcement authorities must investigate, prosecute, and punish the unlawful use of force by police or others, and facilitate full reparations to the victims of such violence.

Training Requirements For Police Facilitating Protests And Counter-Protests

The U.N. Human Rights Committee recently underscored that, “Only law enforcement officials trained in the policing of assemblies, including on the relevant human rights standards, should be deployed for that purpose.”²⁴

The range of violations documented in this report underscore the need and obligation for police departments to provide human rights-compliant trainings for their personnel on how to facilitate the right to freedom of peaceful assembly, without discrimination.

Many police departments already train their personnel on a range of common good practices that police use to facilitate peaceful assemblies and prevent violence, especially in urban settings that are frequently the sites of protests and counter-protests.²⁵ Those good practices include, among others:

- Liaising with organizers in advance and/or on-site at protests and counter-protests, where possible, in order to establish trust and responsive communications channels, in order to facilitate both groups’ freedom of peaceful assembly;²⁶
- Deploying an appropriate number of properly trained police to respond to any risk of violence, without escalating tensions between conflicting groups;
- Separating protesters and counter-protesters, if necessary to de-escalate and minimize confrontations;
- Prohibiting weapons at public assemblies; and
- Preventing vigilante armed groups from instigating violence or usurping police control.

17. Ibid, paras. 8, 22, 35.

18. Ibid, paras. 24, 79.

19. Articles 5 and 9, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, UN Doc. A/CONF.144/28/Rev.1 (1990): <https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>.

20. Ibid, paras. 17-19.

21. Ibid.

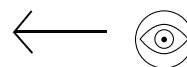
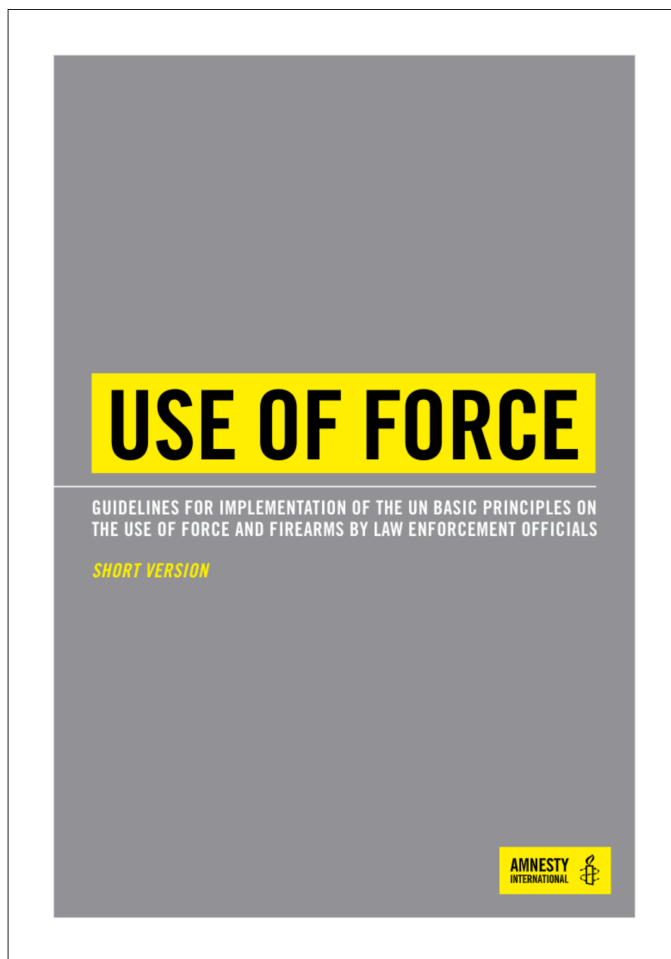
22. Ibid.

23. Ibid, para. 87.

24. Ibid, para. 80.

25. See, e.g., Police Executive Research Forum, “The Police Response to Mass Demonstrations: Promising Practices and Lessons Learned” (2018): <https://www.policeforum.org/assets/PoliceResponseMassDemonstrations.pdf>. See also, UK National Policing Improvement Agency, Manual of Guidance on Keeping the Peace (2010): <https://www.statelawwatch.org/media/documents/news/2012/jan/uk-manual-public-order-2010.pdf>.

26. Amnesty International acknowledges that relationships are damaged between police and some of the communities they are policing; and while those causes are outside the scope of this report, Amnesty International recognizes the need for remediations to be made before these objective recommendations are practically feasible.



*Amnesty International's
specialized "Police and
Human Rights Resources"*

Amnesty International has produced a summary of good practices on the policing of assemblies,²⁷ and has published guidelines on the use of force by law enforcement personnel intended to orient law enforcement agencies in the effective implementation of applicable human rights rules and standards.²⁸ A wide range of additional resources are also available on Amnesty International's specialized "Police and Human Rights Resources" website.²⁹

The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation (OSCE), in which the USA is a participating State, has also published a *Human Rights Handbook on Policing Assemblies*.³⁰

27. Amnesty International Dutch Section, Police and Human Rights Program, Short paper series No. 1, "Policing Assemblies" (December 2013): https://www.amnesty.nl/content/uploads/2017/01/policing_assemblies_26022015_light.pdf?x56589.
28. Amnesty International Dutch Section, Police and Human Rights Program, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (August 2015): https://www.amnesty.org.uk/files/use_of_force.pdf. A shortened version of the Use of Force Guidelines is also available at: https://www.amnesty.nl/content/uploads/2017/01/ainl_guidelines_use_of_force_short_version_0.pdf?x79902.
29. Amnesty International, Police and Human Rights Resources website: <https://policehumanrightsresources.org/>.
30. OSCE-ODIHR, Human Rights Handbook on Policing Assemblies (March 2016): <https://www.osce.org/odihr/226981>.

3. PROTECTION OF PROTESTS AND COUNTER-PROTESTS FROM VIOLENCE

3.1 POLICE PRESENCE AND COMMUNICATION WITH PROTESTERS

Amnesty International has documented over a dozen recent protests and counter-protests that erupted in violence with police either mostly or entirely absent from the scene. In some cases, police appeared to be derelict in their duty, due to inadequate planning and communications with protest organizers and participants, and subsequently sought to shift blame to the protesters themselves for police failures to intervene in violent altercations. In other cases, police departments have themselves issued public statements in response to high-profile clashes between protesters and counter-protesters, observing that they had deployed insufficient personnel to safely intervene and protect demonstrators from violence.³¹

International standards on policing of assemblies provide that police forces should routinely deploy adequate numbers of police to protect protests and counter-protests alike, and facilitate all parties' right to freedom of peaceful assembly, without escalating conflicts through aggressive crowd-control tactics or resorting to excessive force.³² Where possible, law enforcement officials should also establish channels of communication with the organizers and participants of assemblies, ideally in advance of demonstrations if they are planned rather than spontaneous. This is essential to maintain situational awareness, de-escalate tensions between protesters and counter-protesters, and prevent and respond to violent confrontations.³³

Communications By Police With Protest Organizers And Participants



"The patriots [armed group members] are surrounding us to force confrontation. We are surrounded by guns and people talking about shooting us loudly. [...] Where are the police, Chief? This is ridiculous. We are being abused. Where are y'all [...] Y'all abandoned us Chief. You abandoned us. You let us get dragged and attacked while you did nothing."³⁴

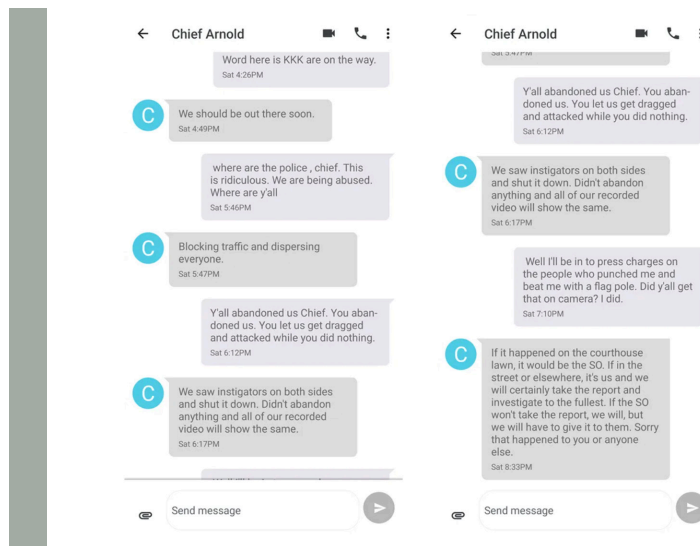
-Protest organizer Tony Crawford in text message to police chief in Weatherford, Texas (25 July 2020)

On 25 July in Weatherford, Texas, law enforcement officers were largely absent as approximately 75 anti-racism protesters calling for the removal of a Confederate civil war statue were pushed and punched by counter-protesters, including some armed with assault rifles and knives. One woman who was video-recording the violence appeared to be assaulted – and claimed to be stabbed – by one counter-protester armed with an assault rifle and brandishing a knife. Despite the organizer of the anti-racism protest Tony Crawford having repeatedly requested urgent help from the Weatherford police chief by text message, the chief was largely dismissive for around two hours, and then blamed the ensuing violent confrontations on both sides.³⁵ Following public outcry, however, Crawford told Amnesty International that he and the police chief had improved their coordination to better protect protesters: "People could have gotten killed that day. [...] Now when we have big protests there, they cordon us off. I communicate with him every time we go down there."³⁶

31. See below at nn. 42 and 84.

32. OSCE-ODIHR, Human Rights Handbook on Policing of Assemblies, n. 30 above, pp. 16-17.

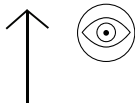
33. UN Human Rights Committee, General Comment No. 37, at n. 11 above, paras. 75 and 78.



As a good practice, on 1 August 2020 in California, the then-chief of the La Mesa Police Department proactively reached out to peaceful protesters at a Black Lives Matter protest in La Mesa. After trying to establish contact with protest organizers beforehand, in order to prevent a violent conflict with armed counter-protesters as had happened at previous demonstrations,³⁷ police officers separated the estimated 200 Black Lives Matter (“BLM”) protesters from members of an armed group who were counter-protesting. When members of armed groups violently attacked the BLM protesters, La Mesa police officers were quickly able to intervene, and arrested one counter-protester for assault with a deadly weapon, as well as vandalism and a parole violation.³⁸

Police Presence To Prevent And Respond To Violence

Amnesty International reviewed and verified numerous videos of police forces' being either completely absent when violence broke out between protesters and counter-protesters, or having deployed inadequate numbers of officers relative to the size of the protest to effectively facilitate and protect public assemblies when they came under attack. In several cases, this was all-the-more alarming since the protests or counter-protests included armed groups, or were taking place outside of police stations, city halls, state capitols, or other government properties, where law enforcement officers are typically already stationed.



Outside police headquarters in West Valley City, Utah, a man assaults and deploys pepper spray against two armed protesters. Police are not present, and take about six minutes to respond. (Image from video by Carl Moore.)

On 16 September 2020, at a BLM protest directly outside of the police headquarters in West Valley City, Utah, a counter-protester in tactical gear physically assaulted and used pepper spray against two anti-racism protesters, who were also armed. The armed protesters and counter-protester then engaged in a standoff as both sides threatened to draw their firearms. No police were present, and it took about six minutes for police officers to respond, although the dispute was only a few meters from the police headquarters.³⁹ Police ultimately arrested and charged the counter-protester on four counts of assault and one count of disorderly conduct, yet witnesses complained to news media of the slow and inadequate police response, even when presented immediately with video evidence of the assaults from multiple witnesses.⁴⁰

34. Living Blue in Texas blog, “Violent Racists Swarm Protest in Weatherford” (26 July 2020): <https://livingbluetx.com/2020/07/violent-racists-swarm-protest-in-weatherford-graphic/>.
35. Ibid. See also: Fort Worth Star-Telegram, “Weatherford protest turns violent as hundreds show up to defend Confederate statue” (26 July 2020) at <https://www.star-telegram.com/news/local/article244506187.html>; CBS-DFW, “Organizers Say Police In Two Texas Cities Did Not Protect Protesters” (28 July 2020) at <https://dfw.cbslocal.com/2020/07/28/organizers-police-two-texas-cities-did-not-protect-protesters/>; and H24 News video tweet (26 July 2020) at <https://twitter.com/H24News/status/1287397471585435649>.
36. Phone interview with Amnesty International (12 October 2020).
37. Times of San Diego video report, “La Mesa protesters, defenders [militia] and police chief reaching out” (3 August 2020): <https://www.youtube.com/watch?v=pR7XhXKJdgw>. See also, Times of San Diego, “La Mesa Counterprotest Leader Won’t Shun Guns: ‘Defender Our Way of Life’” (31 July 2020): <https://timesofsandiego.com/politics/2020/07/31/la-mesa-counterprotest-leader-wont-shun-guns-defend-our-way-of-life/>.
38. Ibid. See also, Times of San Diego, “Taunted by ‘Defenders,’ 300 March in La Mesa to Demand Justice” (1 August 2020): <https://timesofsandiego.com/politics/2020/08/01/taunted-by-defenders-300-march-in-la-mesa-to-demand-justice/>; and Times of San Diego video report, “Defend East County members clash with La Mesa protesters” (2 August 2020): <https://www.youtube.com/watch?v=x-uST9TZxr8>; and San Diego Union Tribune, “Heavy police presence, anti-rioting rules kept crowd of 200 to 300 separated and mostly safe” (1 August 2020): <https://www.sandiegouniontribune.com/top-stories/story/2020-08-01/amid-tight-security-and-opposition-la-mesa-anti-police-protest-is-peaceful>.
39. Salt Lake City Tribune, “Man cited for allegedly pepper spraying protesters at Black Lives Matter rally in West Valley City” (17 September 2020): <https://www.sltrib.com/news/2020/09/17/counterprotester-arrested/>.
40. Ibid. See also, West Valley City Police Department news release (17 September 2020): <https://twitter.com/WVCPD/status/1306706536912224257>. See also, ABC-4, “Man faces assault charges after allegedly brandishing gun at Black Lives Matter Utah protesters” (18 September 2020): <https://www.abc4.com/news/top-stories/man-faces-assault-charges-after-allegedly-brandishing-gun-at-black-lives-matter-utah-protesters/>.

On 30 June 2020 in Boise, Idaho, counter-protesters overwhelmed and assaulted participants in a BLM protest outside of the city hall during negotiations over diverting some funds from the police department to other social services.⁴¹ Police were slow to intervene to protect BLM protesters from multiple assaults, and justified their lack of intervention based on not having deployed police in sufficient numbers, stating subsequently in a Twitter thread: “the amount of confrontation that we saw last night was unprecedented here in Boise. [...] Based on resources available at the scene, we did not make physical custody arrests last night.”⁴² The police union blamed both protesters and counter-protesters for the violence, though three weeks later Boise police only arrested one of the counter-protesters captured on video assaulting BLM protesters.⁴³ In a video of one of the confrontations, a protester can be heard loudly shouting, “Where are the [...] police when you need them?” as she looked for law enforcement officers to help halt the fighting.



↑  *Fight breaks out between pro-police protesters and anti-racism counter-protesters in Fort Collins, Colorado (Images on Instagram by anonymous.)*

On 8 August 2020 in Fort Collins, Colorado, hundreds of protesters gathered for a “Back the Blue” pro-police demonstration outside the Fort Collins Police Services building, which was met by a small group of black-clad counter-protesters. In videos posted online, dozens of pro-police demonstrators appeared to forcibly drive away the small group of counter-protesters, and then followed and brutally beat several of them in a nearby drainage ditch. Police were entirely absent from the pursuit and subsequent beating for about 10 minutes, and upon arrival appeared to arrest counter-protesters who were trying to escape, rather than those who attacked them. In a statement in response to public criticism, the police placed blame on all parties and later announced arrests of demonstrators from both sides.⁴⁴ However, police did not explain why they failed to maintain order outside the police station, or why it took them so long to respond as counter-protesters were being chased and beaten.

41. Mayor Lauren McLean, “Statement on July 1 Protest at City Hall” (1 July 2020): <https://www.cityofboise.org/news/mayor/2020/july/mayor-lauren-mclean-statement-on-july-1-protest-at-city-hall/>. See also, KTVB-7, “Hundreds of protesters gather at Boise City Hall over the city’s budget for police” (30 June 2020): <https://www.ktvb.com/article/news/local/hundreds-of-protesters-gather-at-boise-city-hall-over-the-citys-budget-for-police/277-46d3bcee-a473-4d2d-843d-082435298667>. For videos of the incidents, see: <https://www.dailymail.co.uk/news/article-8506271/Video-shows-violence-erupts-Black-Lives-Matter-rally-Idaho.html>; and <https://www.idahostatesman.com/news/local/community/boise/article243965552.html/video-embed>.
42. Boise Police Department, “Statement about last night’s protests” (1 July 2020): <https://twitter.com/BoisePD/status/1278374640356745217>. See also, KTVB-7, “Boise Police union, Fraternal Order of Police dispute counter-protesters at fault for rally clashes” (2 July 2020): <https://www.ktvb.com/article/news/local/black-lives-matter-rally-counter-protest-boise-police-union-fraternal-order/277-ef25d4cf-f45b-4401-aca8-3ddc67b95e6>.
43. Ibid. See also, Boise Police Department statement, “Official charges filed following June 30 protest at City Hall” (20 July 2020): <https://www.cityofboise.org/news/police/2020/july/official-charges-filed-following-june-30-protest-at-city-hall/>.
44. Fort Collins Police Services statement, “Police Investigate Violence at Demonstration, Seek Community’s Help Released on Sunday” (9 August 2020): <https://www.fcgov.com/news/?id=7823>. See also, Raw Story, “‘Back the Blue’ members beat BLM protesters in Colorado ditch: ‘Keep punching each other in the face’” (9 August 2020): <https://www.rawstory.com/2020/08/back-the-blue-members-beat-blm-protesters-in-colorado-ditch-keep-punching-each-other-in-the-face/>. See also, CBS-4, “Police Chief Decries ‘Cowardly Acts’ After Dueling Rallies Turn Violent In Fort Collins” (10 August 2020): <https://denver.cbslocal.com/2020/08/10/fort-collins-violence-police-rallies-counter-protesters/>. Full video of “Fort Collins Back the Blue Rally”: https://www.youtube.com/watch?v=mv_KTpbwUwI.

3.2 DE-ESCALATION BY SEPARATION OF PROTESTERS AND COUNTER-PROTESTERS

When police forces properly deploy their officers to facilitate peaceful assemblies, one of the most common and effective ways for them to prevent threats of violence between opposing groups is to separate protesters and counter-protesters. Police often use physical barriers for planned protests and counter-protests, or simply position police officers in a line formation between the groups of protesters, even during spontaneous assemblies. If such tactics are necessary, separating the opposing parties can help to de-escalate tensions and minimize confrontations, both before assemblies begin and once violent confrontations start to occur.

Amnesty International has verified numerous instances of police forces across the USA failing to act according to those standards, including by allowing protesters and counter-protesters to engage in violent attacks against each other, whether unilaterally or reciprocally.⁴⁵ In some cases, the parties instigating such violence have included vigilante armed groups and other armed individuals. In contrast, Amnesty International has also identified many positive examples of when police have properly separated protests and counter-protests, demonstrating that simple training and tactics can keep the peace and often prevent confrontations from escalating into harmful violent conflicts between protesters.

One particular challenge multiple police departments have encountered is the separation of protesters and counter-protesters when the assemblies are mobile rather than static.

On 29 July in Springfield, Oregon, the police department failed entirely to separate protesters and counter-protesters after it blocked a BLM march of approximately 200 peaceful protesters with barricades and riot police, in order to prevent them from continuing onto an arterial road. Under international standards, the short-term potential obstruction of vehicular traffic is unlikely to constitute a reasonable justification to restrict a peaceful assembly or declare it unlawful. After escalating the situation with the deployment of riot police and barricades on an otherwise empty residential street, police began beating protesters when they tried to cross through the barricades or screamed at officers, and arrested eight protesters in the scuffle that ensued. The police forced BLM protesters back in the direction that they came from, without a police escort, which pushed the BLM march into a clash with counter-protesters who had arrived behind them in vehicles. Multiple BLM protesters said in videos of the encounter that the counter-protesters were affiliated with the Proud Boys, a self-proclaimed “Western chauvinist” armed group which is active in the region. The counter-protesters appeared in videos to harass the BLM march, and assaulted several of its participants, including one woman who required medical attention and was taken away in an ambulance.⁴⁶

While separating protesters in some instances is necessary to prevent violence and protect peaceful assemblies, law enforcement authorities are also required under international standards to allow counter-protests to express themselves within “sight and sound” of those whose message they are seeking to counter. Police must also facilitate protests and counter-protests without discrimination based on the perceived race or ethnicity, political opinion, or other protected characteristics of participants or the messages they are seeking to express.

On 30 August 2020, California Highway Patrol appeared to separate protesters in a fashion that was discriminatory and failed to facilitate the counter-protesters’ right to freedom of assembly. An estimated 150 to 200 pro-Trump demonstrators were granted a permit to march across the Golden Gate Bridge in San Francisco, California, in order to call for Democratic Party members to switch to the Republican Party.⁴⁷ A few dozen BLM counter-protesters followed behind spontaneously, but police excessively restricted their movement and prohibited them from crossing the bridge, while allowing other non-protesters to do so freely. Police reportedly also used excessive force in arresting two counter-protesters who then required medical treatment, after one of them threw a traffic cone at a protest organizer who was shouting racist statements with a bullhorn in the faces of counter-protesters.⁴⁸

45. See Section 3.3 below.

46. See, KEZI-9, “Protesters, police divided over who escalated Thurston protest” (30 July 2020): <https://www.kezi.com/content/news/Police-identify-suspects-arrested-in-Thurston-protest-571962341.html>. See also, Twitter thread of @RNGDave (30 July 2020): <https://twitter.com/RNGDave/status/1288686387944808448>.

47. See, ABC-7 videos, “‘Extreme hypocrisy’: Counter-protesters question why they weren’t allowed to cross Golden Gate Bridge during pro-Trump rally” (1 September 2020): <https://abc7news.com/trump-protest-san-francisco-walk-away-movement-golden-gate-bridge-today-rally-sf/6397638/>; and <https://www.msn.com/en-us/news/us/extreme-hypocrisy-counter-protesters-question-why-they-weren-t-allowed-to-cross-golden-gate-bridge-during-pro-trump-rally/ar-BB18zpnv>.

48. Police arrested four people at the counter-protest for allegedly assaulting protest participants, though the only visible violence in the video was the throwing of a rubber traffic cone at the organizer of the protest as he shouted racist accusations through a bullhorn at the BLM protesters who were standing on the wall between the walkway and traffic lanes with their fists raised in silent opposition. IndyMedia posted videos of one crying woman whose face was bleeding badly as she was handcuffed and arrested by police, who reportedly threw her face to the pavement after she threw the traffic cone. The police were also recorded arresting a street medic with the BLM counter-protesters for unknown reasons. *Ibid.* See also, IndyBay, “Police Violence Against BLM Activists at Golden Gate Bridge” (31 August 2020): <https://www.indybay.org/newsitems/2020/08/31/18836340.php>.

In addition to there being no permit requirement for protests of under 50 people – and a presumption of counter-protesting within “sight and sound” – witnesses alleged to journalists at the scene that police were also racially profiling as they decided who was allowed to cross the bridge during the protest, in what would be a clear violation of the obligation of non-discrimination in facilitating and protecting the right to freedom of peaceful assembly. Had the police facilitated the counter-protest in a fashion that separated the groups, but allowed them to protest within sight and sound of each other, they may have been able to avoid the ensuing altercation and equally protect both groups’ rights to freedom of peaceful assembly.

3.3 HALTING ACTS OF VIOLENCE BETWEEN PROTESTERS AND COUNTER-PROTESTERS

Police have a positive obligation to intervene and halt acts of violence against protesters – as well as hold those responsible to account – whether committed by counter-protesters, armed groups, or other violent individuals. In some instances, Amnesty International has documented police officers’ quick interventions to separate clashing parties, protect those being attacked, or arrest and detain the perpetrators.

Yet in numerous violent incidents, Amnesty International also identified situations in which police failed to intervene, thereby allowing violence to continue to be committed against peaceful protesters, and potentially escalating that violence. In some cases, police witnessed assaults against protesters from just a few feet away, but still chose not to intervene, constituting a clear human rights violation by police through their omission.



In Bethel, Ohio, a young man was punched in the head in front of two police officers, who did nothing to hold the attacker responsible. (Video on Twitter by anonymous, 15 June 2020)

On 14 June in the small town of Bethel, Ohio, a peaceful assembly of 50 to 100 anti-racism protesters was mobbed by a group of approximately 700 people opposing the demonstration, some of whom brandished assault rifles, pistols and knives. According to the government of Bethel, those opposing the demonstration included “several motorcycle gangs, back the blue groups, and second amendment advocates.” Having been notified of the anti-racism protest in advance by organizers, all of the town’s police officers were present according to the government, and watched on without intervening as the motorcycle gangs attacked several of the peaceful protesters. Some witnesses told journalists they believed the police were discriminatorily favouring the perpetrators of the violence.

49. *Washington Post*, “A tiny Ohio town’s Black Lives Matter event was overrun by armed counterprotesters” (16 June 2020): <https://www.washingtonpost.com/nation/2020/06/16/bethel-ohio-black-lives-counterprotest/>.

50. Local-12, “Tensions high at Bethel protest, at least one assault” (14 June 2020): <https://local12.com/news/local/fights-break-out-at-protest-in-bethel>.

51. Village of Bethel, Statement on protest (15 June 2020): <https://www.facebook.com/BethelOhio/posts/1514780272034666>. See also, Second Amendment to the US Constitution (right to bear arms), available at: <https://constitutioncenter.org/interactive-constitution/amendment/amendment-ii>.

52. Local-12, “Tensions high at Bethel protest, at least one assault” (14 June 2020): <https://local12.com/news/local/fights-break-out-at-protest-in-bethel>.

After one young woman was assaulted, three police officers appeared to direct her to leave the area, as those who attacked her with impunity also shouted for her to leave. A person identifying as her relative posted a video of the incident, and commented:

“My niece getting pummelled by bikers [...]. For context: the counter ‘demonstrators’ showed up to ‘protect local businesses from thugs from out of town’ and a bunch of the people in that town are celebrating them. It was a peaceful demonstration of 50 people. The opposition was 200 angry locals and their biker friends. According to the Official press release there were around 800 people.”⁵³

After trying to move away from the mob of screaming bikers, a young man was punched in the head in front of two police officers, who also did nothing to hold the attacker responsible. The protester addressed one of the officers, “Sir, I just got punched in the back of the head. [...] Where am I allowed to demonstrate?”⁵⁴ Again, the police officer seemed to suggest he should leave the area. The county prosecutor reportedly defended the police’s lack of response, telling the *Columbus Free Press*, “There was nothing that I can tell was improper from that incident.”⁵⁵



Sherrod Brown  @SenSherrodBrown · Jun 16

A peaceful protester in Bethel, Ohio was sucker-punched in the head right in front of police officers – and they did nothing about it.

These officers’ inaction is shameful. This is why we need the Justice in Policing Act – to hold police accountable.



From **Josh Martinez**

 579

 2.2K

 5.1K



53. Video posted on Twitter (15 June 2020): <https://twitter.com/haynus3rectus/status/1272379330694430721?s=20>.

54. Video posted on Twitter (14 June 2020): <https://twitter.com/YoJoshMartinez/status/1272377516347580416>.

55. *Columbus Free Press*, “Peaceful protesters assaulted by four different biker clubs, police allegedly investigating” (16 June 2020): <https://columbusfreepress.com/article/peaceful-protesters-assaulted-four-different-biker-clubs-police-allegedly-investigating>.



↑  *Police stand by and watch as pro-police protesters and anti-racism counter-protesters violently assaulted each other in Beverly Gardens Park on 22 August 2020. (Video on Twitter by Josie Huang, 22 August 2020.)*

On 22 August 2020 in Beverly Hills, California, approximately 200 demonstrators staged a “Freedom Rally” in Beverly Gardens Park in support of law enforcement. Several dozen demonstrators staged a counter-protest supporting the Black Lives Matter movement. As violence broke out and members of the two groups began shoving and punching each other, police stood by and watched, restraining each other from intervening to halt the violence. After the violence stopped, police then designated both assemblies as unlawful and used less-lethal weapons to disperse the groups after having allowed the violence to escalate.⁵⁶

On 9 August 2020 in Nevada City, California, police officers were present and watched on as approximately 20 counter-protesters violently attacked a peaceful pro-BLM demonstration.⁵⁷ The police failed to intervene as pro-police counter-protesters injured multiple peaceful demonstrators, though arrested three counter-protesters in the weeks that followed after sustained public outcry.⁵⁸

Graham Hayes, a local resident who is seen in one video being attacked and thrown to the ground by a counter-protester as he walked by, told a reporter that the police’s inaction seemed to be willful and escalated the violence:

“The police could have de-escalated and spoken to an individual, arrested an individual for actual violence at any point. And the police in my opinion chose not to at that point. And I think that choice led to actually greater violence and people actually being hurt.”⁵⁹

The Nevada City Police Chief defended the officers’ inaction in the media, claiming that the officers were not trained in policing of moving demonstrations or counter-protests.⁶⁰ Amnesty International twice contacted the Nevada City Manager by email to request information from the internal investigation, but did not receive a response.

56. See video and Twitter thread by NPR reporter Josie Huang, available at: https://twitter.com/josie_huang/status/1297611422025658368.

57. CBS-13, “Video Captures Violence During Nevada City BLM Protest; Police Investigating Clash” (11 August 2020): <https://sacramento.cbslocal.com/2020/08/11/violence-nevada-city-blm-protest-police-investigating/>. ABC-10, “I was both appalled and disappointed: Nevada City police investigating violence from weekend protests” (10 August 2020): <https://www.abc10.com/article/news/crime/nevada-city-police-investigating-protest-violence/103-3a732028-6d26-49b2-be31-fc242ec364b4>.

58. *The Union*, “Two more suspects charged after Nevada City protest turned violent” (28 August 2020): <https://www.theunion.com/news/2-charged-in-nevada-city-counter-protest/>.



Pro-police counter-protesters attack a Black Lives Matter protest – punching, pushing, yelling, and ripping signs – as police watch on without responding.

Differentiation Of Violent And Non-Violent Protesters

In June⁶¹ and August 2020,⁶² Amnesty International issued public reports documenting how US law enforcement agencies have routinely used excessive force against mostly peaceful protesters since May 2020, contrary to US and international law.

In responding to violent confrontations by counter-protests, law enforcement personnel have an obligation to differentiate between those who are perpetrating violence, and peaceful protesters whom they are attacking. Differentiating between violent and non-violent protesters is critical for police to effectively protect peaceful protesters from violent counter-protesters.

On 31 July 2020, a pro-police protest and an anti-racism counter-protest, each of approximately 20 to 30 people, demonstrated against each other from opposite sides of the street in the Sunland-Tujunga neighborhood in Los Angeles, California. Police arrested one counter-protester accused of shining a laser pointer in the eyes of pro-police protesters (which the counter-protests denied), and a young woman who crossed a police line as he was arrested. Though the two demonstrations were already separated, police repeatedly used excessive force against anti-racism protesters and citizen journalists recording that violence, beating and pushing them to the ground, following which two of them were reportedly hospitalized – including the young woman, who is seen on video being taken away in an ambulance after her arrest. The excessive use of force reportedly escalated the confrontations between the two groups, with pro-police protesters repeatedly threatening anti-racism protesters thereafter.⁶³

59. KCRA-3, "Groups of protesters clash in Nevada City" (11 August 2020): <https://www.youtube.com/watch?v=p0xsZV1KWKQ>.

60. *The Union*, "Investigations probe alleged Nevada City police misconduct, inaction" (24 August 2020): <https://www.theunion.com/news/investigations-probe-alleged-nevada-city-police-misconduct-inaction/>.

61. Amnesty International interactive map of incidents of police violence in the USA (23 June 2020): <https://www.amnesty.org/en/latest/news/2020/06/usa-end-unlawful-police-violence-against-black-lives-matter-protests/>.

62. Among the report's findings, Amnesty International USA documented how police and counter-protesters in some cases targeted for violence the street medics who were trying to protect and treat injured protesters. Amnesty International USA report, *The World Is Watching: Mass Violations by US Police of Black Lives Matter Protesters' Rights* (4 August 2020): <https://www.amnestyusa.org/wp-content/uploads/2020/07/WorldIsWatchingFullReport080220.pdf>.

63. Rise Images, "Antifa and BLM protesters arrested at Blue Lives Matter rally" (31 July 2020): <https://www.youtube.com/watch?v=5EVFcRxMkCI>. See also, Twitter thread by Chad Loder (31 July 2020) at <https://twitter.com/chadloder/status/1289370054723698690>; and Instagram post by Sean Beckner-Carmichel (1 August 2020) at <https://www.instagram.com/p/CDVzqCfHDyd/?igshid=dp06edih12q1>.

Violence Between Protests In Kalamazoo, Michigan (15 August 2020)



Kalamazoo police were absent when the Proud Boys armed group arrived at the site of a permitted counter-protest, and violent clashes broke out between the two groups. (Video on Twitter by Samuel J. Robinson, 15 August 2020.)

"The question remains why KDPS [Kalamazoo Department of Public Safety] let a group from outside Kalamazoo, which it claims to have known was violent, march straight into a group of their own local residents that were gathered in a permitted rally for the explicit purpose of challenging the values of that outside group? To claim violence was unforeseeable is a per se admission of law enforcement incompetence, in my estimation. And if KDPS acknowledges it was foreseeable, what's the job of 'Kalamazoo Department of *Public Safety*'?"

- Joshua Hilgart, Executive Director of Kalamazoo Defender

On 15 August 2020, members of the Proud Boys group travelled to the city of Kalamazoo, Michigan, to hold an un-permitted rally in support of police. The Kalamazoo police force's handling of the rally – and its failure to protect the permitted counter-protest that gathered to oppose the Proud Boys – are exemplary of all of the failures in policing of assemblies that Amnesty International documents in this report.

The police were absent when the Proud Boys rally arrived at the site of the permitted counter-protest, so were unable to prevent members of the two groups from clashing or protect peaceful bystanders. Then the police failed to differentiate between peaceful protesters and violent actors – arriving only as the clashes ended and the Proud Boys were leaving – and unnecessarily dispersed remaining protesters who were not engaged in violence. Riot police then proceeded to arrest multiple peaceful protesters who were not engaged in violence, as well as a legal observer and a journalist.⁶⁵

In videos reviewed by Amnesty International – and confirmed by legal observers from Kalamazoo Defender and the National Lawyers Guild who monitored the protest⁶⁶ – there were no police visible at the Arcadia Creek Festival Site in downtown Kalamazoo, when the un-permitted Proud Boys group arrived there and confronted the permitted anti-racism counter-protest in the park.

64. Joshua Hilgart, Executive Director of Kalamazoo Defender, Email to Amnesty International (30 September 2020).

65. See WWMT-3, "Timeline: Protesters clash with Proud Boys, things turn violent in downtown Kalamazoo" (16 August 2020): <https://wwmt.com/news/local/timeline-protesters-clash-with-proud-boys-things-turn-violent-in-downtown-kalamazoo>.

66. Kalamazoo Defender, "Statement on August 15 protests and arrests" (20 August 2020): https://www.facebook.com/permalink.php?story_fbid=1456474067871812&id=1037471396438750.

The Proud Boys and counter-protesters immediately broke into clashes on two streets adjacent to the permitted protest in the park, and attacked each other with weapons including pepper spray, bats, street signs, bottles and their fists – injuring several people badly, who can be seen bleeding and falling to the ground in videos of the incidents.⁶⁷ Participants in both the protest and the counter-protest reportedly had firearms – including armed local residents who established a perimeter around the park⁶⁸ – though fortunately “no firearms were discharged,” according to a statement issued by the legal observers.⁶⁹

Only seven to ten minutes after clashes broke out – as the Proud Boys were already leaving down a side street to return to their vehicles – riot police arrived from the Kalamazoo Department of Public Safety (KDPS), the Kalamazoo County Sheriff, and Michigan State Police, and threatened the remaining counter-protesters with arrest if they failed to leave the park site of their permitted assembly. Broadcast journalists and the legal observers reported nine arrests following the clashes, including of a legal observer and a member of the press who was broadcasting live as police detained counter-protesters standing on the street.⁷⁰

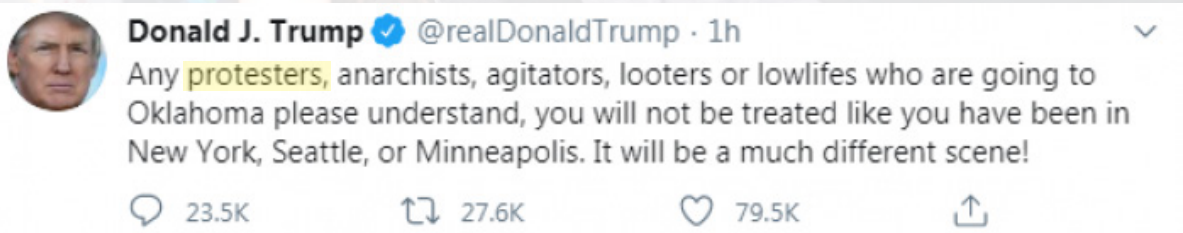
Following the series of failures and abusive practices by law enforcement authorities, Kalamazoo city authorities failed to hold law enforcement authorities accountable,⁷¹ or to invite legal observers to participate in August and September meetings of the City Council to present the findings and recommendations from their monitoring of police conduct during the events.⁷²

3.4 PREVENTION OF VIOLENCE BY ARMED GROUPS AGAINST PROTESTS

Emotional confrontations between protesters and counter-protesters have frequently boiled over into recent episodes of physical violence, resulting in dozens of shootings⁷³ and the gun deaths of at least four individuals at counter-protests in July and August 2020 alone.⁷⁴ Even those isolated cases of fatalities have intensified already-explosive political discourse, which risks further escalating recent political violence across the country.

In the incidents documented in this report, Amnesty International identified armed groups as some of the most dangerous catalysts for violent confrontations between protests and counter-protests.

US law enforcement agencies have an obligation to urgently rein in armed groups – especially when they deploy as vigilante armed groups – and prevent those groups from either conducting violence, or undermining the role of police forces to protect public assemblies. It is clear that human rights violations frequently occur when such groups mobilize. Vigilante law enforcement by armed groups is already a criminal offense in all 50 US states and the District of Columbia, such that police are required to prevent and respond to vigilante violence by enforcing those laws.⁷⁵



67. WWMT, “Proud Boys moves through downtown Kalamazoo on Saturday amid counter-protests” (15 August 2020): <https://wwmt.com/news/local/proud-boys-group-plans-to-rally-saturday-kalamazoo-church-plans-counter-protest>. MLive, “Rally turns violent as Proud Boys met by counter-protesters in downtown Kalamazoo” (15 August 2020): <https://www.mlive.com/news/kalamazoo/2020/08/rally-turns-violent-as-proud-boys-met-by-counter-protesters-in-downtown-kalamazoo.html>.

68. Samuel J. Robinson, Tweet from Proud Boys rally (15 August 2020): <https://twitter.com/samueljrob/status/1294676859154767873>.

69. Kalamazoo Defender statement (20 August 2020): https://www.facebook.com/permalink.php?story_fbid=1456474067871812&id=1037471396438750.

70. MLive, “MLive reporter arrested while covering violent Proud Boys rally released from police custody” (15 August 2020): <https://www.mlive.com/news/kalamazoo/2020/08/mlive-reporter-arrested-while-covering-violent-proud-boys-rally-released-from-police-custody.html>. Video: “Police arrest MLive reporter filming a Proud Boys rally in Kalamazoo, Michigan” (15 August 2020): https://www.youtube.com/watch?v=aYe66-fEEcs&feature=emb_logo.

71. City Manager of Kalamazoo, Letter with Preliminary Sub-Committee Report (28 August 2020): <https://www.kalamazoocity.org/docman/kdps-transparency/6743-protest-policy-report-august-28-2020/file>.

72. Joshua Hilgart, Executive Director of Kalamazoo Defender, Email to Amnesty International (30 September 2020).

73. VICE News identified 70 incidents of gun violence at protests since 25 May 2020 – including 33 perpetrated against BLM protesters, and 12 against counter-protesters to BLM demonstrations – which resulted in at least 22 deaths at BLM protests. See, VICE News, “We Tracked the Shocking Amount of Gun Violence at U.S. Protests” (1 October 2020): <https://www.vice.com/en/article/v7gwm3/we-tracked-the-shocking-amount-of-gun-violence-at-us-protests>.

74. Those fatal incidents include violence between protesters and counter-protests in Austin in July 2020, and Portland and Kenosha in August 2020.

75. Georgetown Law, Institute for Constitutional Advocacy and Protection, State Fact Sheets: <https://www.law.georgetown.edu/icap/our-work/addressing-the-rise-of-unlawful-private-paramilitaries/state-fact-sheets/>.

The Trump administration's rhetoric, policies, and practices have appeared to encourage, and may have increased, the frequency of instances of vigilante armed groups unlawfully assaulting protesters around the country.

An oversight committee of the US House of Representatives has denounced the Trump administration's apparently discriminatory use of force and criminal investigations against anti-fascist and anti-racist protesters based on their political opinions, while the administration has simultaneously failed to adequately address political violence instigated by armed groups including "white supremacists [...] and right-wing militias."⁷⁷

On 29 September 2020, in the first presidential debate of the 2020 general elections, the moderator invited President Trump to condemn violent white nationalist and armed groups and call on them to "stand down" in order not to escalate recent political violence sweeping the nation. Trump instead responded by directing the violent armed group Proud Boys to "stand back and stand by" during the elections period, while also urging his supporters to assemble at polling stations during the US elections in order to monitor his political opponents. Leaders of the Proud Boys, a self-proclaimed "Western chauvinist" group, publicly welcomed President Trump's apparent endorsement of their violent activities, adding his quote verbatim to their logo as they reportedly anticipated increased recruitment activities as a result.⁷⁸

"Proud Boys — stand back and stand by."

- President Trump, during the presidential debate on 30 September 2020

Trump ultimately denounced the group two days later following public outcry. The US Federal Bureau of Investigation (FBI) has categorized the Proud Boys as an extremist group with ties to white nationalism, which has contributed to political violence at public assemblies across the country.⁷⁹

In its annual threat assessment in October 2020, the US Department of Homeland Security (DHS) warned that domestic violent extremists (DVEs) could target elections-related protests and mass gatherings for political violence during and after the November 2020 general elections, and specifically warned of those with discriminatory ideologies: "Among DVEs, racially and ethnically motivated violent extremists—specifically white supremacist extremists (WSEs)—will remain the most persistent and lethal threat in the Homeland."⁸⁰

"It appears the [Portland] police have admitted that they will actually not intervene to break up fights between protesters and counter-protesters, because they basically have an antipathy toward the protesters after 100 days of nonstop protests."

- Alexander Reid Ross, Lecturer at Portland State University in Oregon.

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76. President Trump, Twitter post before his campaign rally in Tulsa, Oklahoma, on Juneteenth (19 June 2020): <https://twitter.com/realDonaldTrump/status/1273972301156016130>. Juneteenth is a holiday celebrating the emancipation of Black people who were enslaved in the United States.
77. House Committee on Oversight and Reform, Statement on letters to the Department of Justice and the Department of Homeland Security, "Oversight Committee Chairs Demand Trump Administration Investigate White Supremacist Activity at Protests" (15 June 2020): <https://oversight.house.gov/news/press-releases/oversight-committee-chairs-demand-trump-administration-investigate-white>.
78. *New York Times*, "Proud Boys celebrate Trump's mention of them at the debate" (29 September 2020): <https://www.nytimes.com/2020/09/29/us/trump-proud-boys-biden.html>. *Washington Post*, "Trump's 'stand by' remark puts the Proud Boys in the spotlight" (30 September 2020): <https://www.washingtonpost.com/nation/2020/09/30/proud-boys1001/>. CBS News, "Trump encourages supporters to independently monitor polling places – a federal crime" (30 September 2020): <https://www.cbsnews.com/news/president-trump-encourages-supporters-to-monitor-polling-places-a-federal-crime/>.
79. Clark County Sheriff (Vancouver, Washington State), Internal affairs memorandum of 10 August 2018: <https://propertyofthepeople.org/document-detail/?doc-id=5189588-Clark-County-Sheriff-s-Memo>.
80. DHS, Homeland Threat Assessment (October 2020), at pp. 17-18: https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf.

VIOLENCE BETWEEN PROTESTS IN PORTLAND, OREGON (22 AUGUST 2020)



Photo by Nathan Howard - Getty Images

On 22 August 2020, a group of more than 100 members of armed groups including the Proud Boys and the nativist extremist group Patriot Coalition held an armed and violent pro-police rally in front of the besieged federal courthouse in Portland, Oregon. Armed with paintball guns, firearms, pepper spray, bear mace, metal rods, aluminium bats, and other weapons and armour, the pro-police armed groups confronted more than 200 anti-fascism (“Antifa”) and anti-racism protesters, some of whom wielded fireworks, rocks, and chemical irritants, and also engaged in fighting.

In videos verified by Amnesty International, and confirmed by accounts of journalists who witnessed the confrontation, federal and municipal police allowed the two groups to attack and injure each other for approximately two hours without intervening to prevent or halt the violence.⁸¹ Several pro-police demonstrators fired paintball guns and pepper spray at counter-protesters, and one was recorded on video pointing a handgun at protesters, while others walked through the crowd with assault rifles.⁸²

After the pro-police armed groups had already left the scene, DHS federal police officers then used excessive force to clear non-violent protesters from the park in front of the courthouse, pushing some peaceful protesters to the ground and threatening others with less-lethal projectile weapons at almost point-blank range.⁸³

The Portland Police Bureau (PPB) issued a statement following the violent clashes, justifying its decision not to separate the protesters or intervene to halt violence between them – claiming that PPB had not deployed sufficient personnel, that those subjected to violence were “willing participants”, and that the two hours of violence consisted of “physical confrontations for short durations.”⁸⁴ Only five weeks later on 30 September did police arrest the Proud Boys member who threatened protesters with a firearm, filing 12 charges against him in relation to that incident and multiple other assaults.⁸⁵

81. Sergio Olmos, Twitter thread from protest (22 August 2020): <https://twitter.com/MrOlmos/status/1297259691160944640>. Washington Post, “Portland police stand by as Proud Boys and far-right militias flash guns and brawl with antifa counter-protesters” (22 August 2020): <https://www.washingtonpost.com/nation/2020/08/22/portland-police-far-right-protest/>.

82. Ibid. Twitter post of Sergio Olmos with video of Proud Boys member brandishing and pointing a pistol at counter-protesters (22 August 2020): <https://twitter.com/MrOlmos/status/1297273640052912128>.

83. Twitter post of Sergio Olmos with video from protest (22 August 2020): <https://twitter.com/MrOlmos/status/1297292359210643456>.

84. Portland Police Bureau, “Several Skirmishes Occur Between Opposing Groups During Mass Gatherings in Downtown Portland Saturday Afternoon” (22 August 2020): <https://www.portlandoregon.gov/police/news/read.cfm?id=261125>.

85. KIRO-7, “Proud Boys member Alan Swinney arrested in Oregon on 12 charges” (30 September 2020): <https://www.kiro7.com/news/trending/proud-boys-member-alan-swinney-arrested-oregon-12-charges/655GFPEDPNDMBJ4CROU23YJRPA/>.

Ross Caldwell, the director of the Independent Police Review body in Portland, told Amnesty International:

“What the police have not done a good job of is building cases against violent individuals in the crowd. The stuff that these people are shooting is incredibly dangerous – probably even more so to the people in the crowd. [...] If you can’t build cases against them, then are you just going to ‘bull rush’ people there? I think they don’t do a great job at pulling out individuals. Instead they wait for things to die down. I wish that they’d be a little more proactive, and use a statute to pre-emptively arrest people who are coming in armed groups. Treat the Proud Boys like you treat a gang. [...] Try to build cases.”⁸⁶

In an investigation based on leaked logs of online chats by members of Patriot Coalition, the open-source intelligence organization Bellingcat exposed how the pro-police armed groups planned their assaults on 22 August. Among other tactics, members reportedly loaded their paintball guns with rubber balls and frozen paintballs to inflict maximum physical damage upon counter-protesters.⁸⁷ One user wrote in advance of the 22 August violence: “I’m waiting for the presidential ‘go’ to start open firing[sic].” Multiple members of the Patriot Coalition also discussed possible plans to disrupt voting in Oregon State during the general elections, in favor of President Trump, including by locating and “guarding” ballot collection stations.⁸⁸

When the unchecked violence in Portland escalated a week later, culminating in the deadly shooting of a Patriot Prayer activist by an anti-fascism activist, President Trump justified the preceding violence by the armed groups with paintball guns and other weapons as a reasonable response to police inaction: “Paint is a defensive mechanism. Paint is not bullets. [...] These people, they protested peacefully, they went in very peacefully.”⁸⁹ Trump later praised police deputized as US Marshalls for what may have constituted an extrajudicial execution of the activist alleged to have perpetrated the fatal shooting in Portland: “We got him. They knew who he was and didn’t want to arrest him, and 15 minutes, that ended.”⁹⁰

Inadequate Law Enforcement Responses To Armed Groups

On 26 July 2020 in Tyler, Texas, police were entirely absent as a peaceful protest expressing solidarity with BLM protesters in Portland was overwhelmed by an armed group of hundreds of “Back the Blue” counter-protesters. Those pro-police counter-protesters, many of them armed with assault rifles, physically assaulted three people at the demonstration, including the campaign manager of a Democratic congressional candidate who was speaking at the event. In a video of the confrontation, protesters are seen carrying assault rifles, including several acting as vigilante security around the perimeter of the public park. CBS News reported that the police were driving idly around the area, but were not present in the park to intervene and halt the violence. Police were likewise nowhere to be seen as physical violence broke out, which could easily have escalated further given the presence of armed counter-protesters.⁹⁴

86. Phone interview with Ross Caldwell (25 September 2020).

87. Bellingcat, “Patriot Coalition: Leaked Messages Show Far-Right Group’s Plans for Portland Violence” (23 September 2020): <https://www.bellingcat.com/news/2020/09/23/patriot-coalition-far-right-chat-logs-violence/>.

88. Ibid.

89. *Oregonian*, “Trump says ‘Portland has been burning for decades,’ excuses supporters who fired paintballs at counter-protesters” (1 September 2020): <https://www.oregonlive.com/portland/2020/09/trump-says-portland-has-been-burning-for-decades-excuses-supporters-who-fired-paintballs-at-counterprotesters.html>.

90. MSNBC commentary by Hayes Brown, “Trump’s praise for extrajudicial killings cancels out his ‘law and order’ message” (16 October 2020): <https://www.msnbc.com/opinion/trump-s-praise-extrajudicial-killings-cancels-out-his-law-order-n1243591>.

91. *Tyler Morning Telegraph*, “Protests turn violent in Tyler” (26 July 2020): https://tylerpaper.com/news/local/protests-turn-violent-in-tyler/article_bacea5a8-cf9e-11ea-8247-bf8f79705511.html. See also, *Tyler Morning Telegraph*, “Tyler protests: New video of assault” (30 July 2020) at https://tylerpaper.com/news/local/tyler-protests-new-video-of-assault/article_053530b4-d1f0-11ea-8816-03b4d3981501.html; and *Washington Post*, “U.S. political divide becomes increasingly violent, rattling activists and police” (27 August 2020) at: https://www.washingtonpost.com/national/protests-violence/2020/08/27/3f232e66-e578-11ea-970a-64c73a1c2392_story.html.

On 15 August 2020, several dozen heavily armed members of the anti-government paramilitary group called the Three Percenters (“11%ers”) held a demonstration in support of President Trump in Stone Mountain, Georgia, which is the site of the largest Confederate monuments in the USA. Anti-racist and anti-fascist (Antifa) counter-protesters also wielded firearms, baseball bats, and other weapons. The protesters and counter-protesters intermixed and escalated tensions, until they erupted into brawls of fistfights and pepper-sprayed each other. Riot police and Georgia National Guard⁹⁵ troops, who had not separated the groups prior to the violence, then intervened and dispersed the demonstrators after the armed groups were already fighting for several minutes.⁹⁶



↑  *Brawls erupt between armed anti-racism and anti-fascist counter-protesters on one side and, on the other, armed groups demonstrating in support of President Trump in Stone Mountain, Georgia. (Video on Twitter by Ford Fischer, 15 August 2020)*

On 5 September 2020 in Louisville, Kentucky, law enforcement officials illustrated the potential dangers of not moving quickly to prevent armed groups from escalating tensions between protesters and counter-protesters. On the day of the annual Kentucky Derby horse race, hundreds of members of a heavily armed pro-police, armed group calling themselves “Patriots” – led by a man who referred to himself as the “Angry Viking” – converged on a BLM protest group at Jefferson Square Park, outside the city government building in downtown Louisville.⁹⁷

The pro-police group confronted the BLM protest at the park, which also included some heavily armed participants, to show its opposition to the pro-BLM armed group “Not Fucking Around Coalition” (NFAC) that was in Louisville to demonstrate at the Kentucky Derby later in the day. Though police officials were aware of both armed groups converging on the city, they allowed the pro-police armed group to confront the BLM protest at the park, claiming later that it was unsafe for the police to intervene and keep the two groups apart.⁹⁸ Videos of the confrontation show that, despite dangerous gun-handling and several instances of physical violence between protesters, members of the two groups de-escalated several fights themselves, without police intervention, and no serious violence broke out.⁹⁹ Riot police then moved in to clear the park once the pro-police armed group had almost entirely left already.

92. Ibid. See also, Associated Press, “Texas organizers say local police did not protect protesters” (27 July 2020): <https://apnews.com/article/weatherford-texas-courts-Oba37004902d0ebe433b3ca867582185>.

93. CBS-19, “Conflicting rallies, fights shake up downtown Tyler” (26 July 2020): <https://www.cbs19.tv/article/news/local/conflicting-rallies-fights-shake-up-downtown-tyler/501-9e9722d8-93e7-4b1e-9ff4-8c0054b09d99>.

94. Hank Gilbert, “Video Showing Hank Gilbert’s Campaign Manager Being Assaulted” (29 July 2020): https://www.youtube.com/watch?v=lgZX-CjDpo8&feature=emb_logo.

95. With regard to the presence of National Guard troops, military personnel should generally not be deployed for law enforcement purposes; however, in any cases when they are deployed to police assemblies, they must act under the same law enforcement standards, rules and policies, and be under the strategic and operational command of the police.

96. Ford Fischer, “Part 2: Armed Confederate Activists Face Off With Armed Antifa At Stone Mountain” (15 August 2020): <https://www.pscp.tv/w/1YqxoRWzYmjJv>.

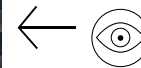
97. Louisville Courier Journal, “‘Like sitting ducks’: Where were Louisville police as 2 groups of protesters collided?” (5 September 2020): <https://www.courier-journal.com/story/news/2020/09/05/where-were-louisville-police-as-two-groups-of-protesters-collided/5729899002/>. See also, Louisville Courier Journal, “3 arrests made during early protests, none during march to Churchill Downs” (5 September 2020): <https://www.courier-journal.com/story/news/local/breonna-taylor/2020/09/04/breonna-taylor-louisville-protest-updates-kentucky-derby-weekend/3454576001/>.

98. Louisville Metro Police Department statement (5 September 2020): <https://www.facebook.com/LMPD.ky/posts/10159183792867269>.

99. Armed individuals’ lack of safety in how they held and pointed their firearms could easily have escalated conflicts into violence, or resulted in accidental violence by unintended discharge of their weapons. See, Ford Fischer video, “Militia groups rally against the ‘NFAC’ in Louisville, Kentucky” (5 September 2020): <https://twitter.com/FordFischer/status/1302293727738642433>.

A metro columnist for the *Louisville Courier Journal* denounced the police for its failure to intervene between the two heavily armed groups:

“Had they been following *The Courier Journal’s* Matt Glowicki on Twitter, they would have had 82 minutes notice to move officers into place to stop the two sides from confronting each other – which we know can be deadly from similar clashes in Kenosha, Wisconsin, and Portland, Oregon. Instead, they allowed the heavily armed Trump supporters to advance on the park and then only moved officers in after most of the Trump-supporting militia members had retreated and the ones who remained were outnumbered by BLM protesters.”¹⁰⁰



Women stand in the street recording as members of an armed group march to a Black Lives Matter protest at Jefferson Square Park in Louisville, Kentucky, on 5 September 2020. © Photo by Brandon Bell – Getty Images

On 25 August 2020, one of the most emblematic clashes of armed groups and individuals was the alleged killing of two individuals by a 17-year-old named Kyle Rittenhouse in Kenosha, Wisconsin. Rittenhouse and other vigilante armed individuals had travelled to Kenosha to protect local businesses, allegedly in response to a post on Facebook calling for “patriots willing to take up arms and defend” Kenosha following the police shooting of a Black man named Jason Blake.¹⁰¹ While neither Rittenhouse nor those he allegedly killed or injured were participating in conventional peaceful assemblies, their violent clash clearly illustrated the high risks of confrontations between politically opposed armed groups or individuals, especially in the lead-up to already polarized general elections, and in some cases traveling across jurisdictions for the fight.¹⁰²

100. Joseph Gerth, “LMPD showed at Kentucky Derby it is tone deaf when policing peaceful Black people” (6 September 2020): <https://www.courier-journal.com/story/opinion/columnists/gerth/2020/09/06/louisville-protest-lmpd-response-kentucky-derby-protests-tone-deaf/5734781002/>.

As a minor, Rittenhouse was unlawfully in possession of a firearm under Wisconsin law.¹⁰³ Yet when police encountered Rittenhouse and other vigilante armed group members approximately 15 minutes before the shooting deaths of two people, the police thanked Rittenhouse and other vigilante actors for their presence and supplied them with water, instead of enforcing the legal prohibition on his bearing a firearm in Kenosha after traveling there from out of state.¹⁰⁴ In a video of the exchange, police are heard delivering a dispersal order to other individuals on the street, suggesting that police were also discriminatorily applying the 8 p.m. curfew, following which the shootings by Rittenhouse took place and he was then allowed by police freely to leave the scene of the shootings with his assault rifle visible. Rittenhouse has since been charged with homicide, recklessly endangering safety, and unlawful possession of a firearm.¹⁰⁵

Temporary Special Measures To Prevent Violence By Armed Groups

The “open carry” gun laws in states across the USA often increase the likelihood of armed individuals being present at protests and spontaneous assemblies, including at polling stations, which undermines the ability of police to control crowds safely.

In its annual threat assessment in October 2020, DHS identified public assemblies and polling stations as some of the most likely targets of violent extremist armed groups: “Open-air, publicly accessible parts of physical election infrastructure, such as campaign-associated mass gatherings, polling places, and voter registration events, would be the most likely flashpoints for potential violence.”¹⁰⁶

By imposing time, place, and use restrictions on the carrying of loaded firearms at public assemblies and polling stations, government authorities can lessen this risk.

On 6 October 2020, Amnesty International called upon US governors to issue executive orders prohibiting non-state actors from possessing firearms at or near polling places during the 2020 general elections.¹⁰⁷ Six states already prohibit guns at polling places: Arizona, California, Florida, Georgia, Louisiana, and Texas.¹⁰⁸ Four states prohibit the concealed carrying of guns at polling places: Mississippi, Missouri, Nebraska, and South Carolina.

On 20 October 2020, Amnesty International also issued a joint letter with Human Rights Watch and Physicians for Human Rights, calling on US municipal governments to adopt temporary special measures to prevent armed individuals or groups from intimidating or threatening protesters or voters during and following the elections.¹⁰⁹

Several US municipalities and states have already adopted good practices by placing temporary restrictions on the presence of firearms or other weapons at assemblies, though in some cases have applied those weapons bans discriminatorily depending on the group. Applied consistently, such measures are important tools to facilitate peaceful assemblies, while preventing confrontations between protesters from escalating into violence, and spinning out of control, as in some of the aforementioned cases. Such restrictions on the bearing of firearms at public assemblies are consistent with international standards.¹¹⁰

101. *The Intercept*, “Trump Supporters Rush to Defend One of Their Own Who Killed Protesters in Kenosha” (27 August 2020): <https://theintercept.com/2020/08/27/tucker-carlson-defends-kenosha-shooter/>. *The Intercept*, “The Thin Blue Line Between Violent Pro-Trump Militias and Police” (28 August 2020): <https://theintercept.com/2020/08/28/kyle-rittenhouse-violent-pro-trump-militias-police/>.

102. *The Guardian*, “Kenosha: teen charged with murder after two Black Lives Matter protesters killed” (26 August 2020): <https://www.theguardian.com/us-news/2020/aug/26/jacob-blake-shooting-gun-battle-in-kenosha-on-third-night-of-unrest>.

103. Wisconsin state law 948.60(2)(a) states: “Any person under 18 years of age who possesses or goes armed with a dangerous weapon is guilty of a Class A misdemeanor.” Available at: <https://docs.legis.wisconsin.gov/statutes/statutes/948/55>.

104. *USA Today*, “Claim: ‘Video showed police thank (Kyle Rittenhouse) & give him water prior to the killings.’ [Fact check: True]” (29 August 2020): <https://www.usatoday.com/story/news/factcheck/2020/08/29/fact-check-video-police-thanked-kyle-rittenhouse-gave-him-water/5661804002/>.

105. *Wisconsin State Journal*, “4 file federal lawsuit against Facebook, Kyle Rittenhouse, militia groups in wake of Kenosha protest shootings” (24 September 2020): https://madison.com/wsj/news/local/crime-and-courts/4-file-federal-lawsuit-against-facebook-kyle-rittenhouse-militia-groups-in-wake-of-kenosha-protest/article_646089ba-dbec-5972-9e8b-acc9ddac2559.html. Criminal complaint against Kyle H. Rittenhouse: <https://bloximages.chicago2.vip.townnews.com/kenoshanews.com/content/tncms/assets/v3/editorial/5/a0/5a0c1d12-d35e-5458-b6ef-0873becce41e/5f5d2cb6d5eab.pdf.pdf>.

106. DHS, Homeland Threat Assessment, at n. 80 above.

107. Amnesty International USA, “Pre-election Advisory: Ban Guns at and Near Polling Places” (6 October 2020): <https://www.amnestyusa.org/press-releases/pre-election-advisory-ban-guns-at-and-near-polling-places/>.

108. Giffords Law Center, “Preventing Armed Voter Intimidation: A State-by-State Analysis” (25 September 2020): <https://giffords.org/lawcenter/report/preventing-armed-voter-intimidation-a-state-by-state-analysis/>.

109. See, joint letter to US mayors and city councils from Amnesty International, Human Rights Watch, Human Rights First, and Physicians for Human Rights (20 October 2020): https://www.amnestyusa.org/wp-content/uploads/2020/10/letter_to_mayors_FINAL_Oct20-1.pdf. See also, joint letter to US governors from Amnesty International, Human Rights Watch, Human Rights First, and Physicians for Human Rights (20 October 2020): https://www.amnestyusa.org/wp-content/uploads/2020/10/Letter-to-governors_FINAL_Oct20-2.pdf.

On the first weekend in August 2020, the City of La Mesa, California, instituted a temporary executive order during planned protests. The order prohibited weapons, spray paint, and other destructive items within a two-block downtown zone around public buildings and civic infrastructure, and temporarily shut down highway ramps to decrease traffic to the area.¹¹¹

On 1 July 2020, the mayor of the Town of Pembroke in North Carolina declared a state of emergency in response to violent assaults on 150 peaceful protesters by a smaller group of counter-protesters, some of whom appeared to be intoxicated and were armed with rifles.¹¹² The declaration of a state of emergency prohibited the “possession, public display, or use of dangerous weapons in the Town of Pembroke during this emergency declaration.”¹¹³ However, the declaration also unlawfully suspended the right to freedom of peaceful assembly “on public ways or any public property,” contrary to international standards.¹¹⁴ Police notably formed a line to physically separate the violent counter-protesters, and arrested and charged one of them for assault during the 26 June demonstration.¹¹⁵

On 15 June 2020 in Albuquerque, a former mayoral candidate allegedly assaulted a woman at an anti-racism protest that had gathered to pull down a statue of a conquistador in a public park, where armed counter-protesters from the New Mexico Civil Guard armed group were also present. As protesters chased and assaulted the alleged perpetrator, he then pulled out a firearm and shot one of those pursuing him.¹¹⁶ The Albuquerque Police Department (APD) quickly responded and arrested the alleged shooter, then disarmed and detained members of the New Mexico Civil Guard, and cleared protesters from the park with smoke and less-lethal weapons, the dispersal of whom appeared to constitute excessive force against mostly peaceful protesters.¹¹⁷



↑  *Albuquerque Police Department (APD) officers disarm members of an armed group called the New Mexico Civil Guard, as they respond to a live shooting by a counter-protester of an anti-racism who had been chasing him. (APD body camera footage, 15 June 2020.)*

110. At the end of his country visit to the USA in 2016, the former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai asserted that the peacefulness of assemblies and the bearing of firearms by protesters are not compatible with each other: “Fear should not define the parameters of organizing or managing protests. Under international law, the peaceful character of a protest is largely determined by the intent of the organizers and participants. There is no need for peaceful protesters to carry intimidating guns.” See, Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the United States of America (27 July 2016): <https://www.ohchr.org/en/newsevents/pages/DisplayNews.aspx?NewsID=20317&LangID=E>.
111. San Diego Union Tribune, “Heavy police presence, anti-rioting rules kept crowd of 200 to 300 separated and mostly safe” (1 August 2020): <https://www.sandiegouniontribune.com/top-stories/story/2020-08-01/amid-tight-security-and-opposition-la-mesa-anti-police-protest-is-peaceful>. Times of San Diego, “Taunted by ‘Defenders,’ 300 March in La Mesa to Demand Justice” (1 August 2020): <https://timesofsandiego.com/politics/2020/08/01/taunted-by-defenders-300-march-in-la-mesa-to-demand-justice/>.
112. ABC-15 News, “Robeson County town gripped by mistreatment of people during peaceful protests” (27 June 2020): <https://wpde.com/news/local/roberson-county-town-grieved-by-mistreatment-of-people-during-peaceful-protests>. Video available at: <https://twitter.com/LynePierce/status/1277420560696463361>.
113. Town of Pembroke, Declaration issuing a state of emergency (1 July 2020), available at: <https://www.facebook.com/townofpembrokeNC/photos/pcb.2683304565238386/2683303438571832/>.
114. Ibid.
115. WBTW, “Man facing multiple violent charges following Pembroke protest” (17 July 2020): <https://www.wbtw.com/news/man-facing-multiple-violent-charges-following-pembroke-protest/>.
116. Videos posted on Twitter by journalist Megan Abundis with KOB-4 (15 June 2020): <https://twitter.com/meganrabundis/status/1272735796949213184?s=12>.
117. APD, “APD Releases Videos of Response to Old Town Shooting” (22 June 2020): <https://www.krqe.com/wp-content/uploads/sites/12/2020/06/apd-onate-timeline.pdf>. To view the body-cam footage released by APD, which does not show widespread violence being perpetrated by protesters, see: KRQE, “APD releases videos of police response at Onate statue protest, shooting” (22 June 2020): <https://www.krqe.com/news/albuquerque-metro/apd-to-release-videos-of-police-response-to-shooting-at-onate-statue-protest/>.

Following that violent confrontation in Albuquerque, the city government adopted a ban on firearms and other deadly weapons in all city parks, property, and facilities.¹¹⁸ In their implementation of the ban, however, police were accused of discriminatorily applying the emergency order more aggressively to an anti-racism protest than they did to mostly white anti-mask protesters on the same day in July 2020.¹¹⁹ Prior to that allegation of discriminatory enforcement of the weapons ban in the park, the APD also had to distance itself in a public statement from some of its officers' private participation in meetings of a vigilante armed group opposing the BLM movement, noting: "APD opposes vigilante actions and attempts by civilians to intervene in planned, peaceful protests. We also discourage the presence of armed civilians at protests, which has the potential to escalate violence, not prevent."¹²⁰

3.5 NON-DISCRIMINATION IN POLICE RESPONSE TO VIOLENCE

In several of the aforementioned incidents, protesters alleged that police forces not only failed to facilitate and protect their peaceful assemblies, but also were discriminatory in doing so – invariably against anti-racism protesters – on account of the perceived race or ethnicity of demonstrators, or their perceived political opinions.¹²¹

Police officers have often also appeared reluctant to engage and hold accountable members of armed groups when they perpetrate violence against protesters.¹²² Allegedly discriminatory conduct of law enforcement officials has been more overt in some instances.

On 15 July in New York City, law enforcement officials escorted a pro-police march across the Brooklyn Bridge, while arresting peaceful counter-protesters who waited in its path.¹²³ Upon its arrival at a protest site on the Manhattan side of the bridge, a police commander spoke as a participant at the pro-police rally in uniform, which counter-protesters denounced as undermining the police force's impartiality in policing the two opposed demonstrations.¹²⁴

On 18 July in Placerville, California, an anti-racism demonstration in front of the El Dorado County courthouse was confronted by violent counter-protesters, who shouted racial slurs and threatened demonstrators with violence. One of the protest organizers claimed that police had informed her before the anti-racism protest that they were not going to be present to protect the protesters from violence: "We have some police law enforcement here, and they had already told us ahead of time that they were not going to be here in support of us [and] to keep us safe, but they were going to be on the streets. So who knows what that really even means?"¹²⁵ Amnesty International verified a video showing that a police officer ultimately did intervene soon after the violent confrontation began.

In some cases, however, there were also examples of good practices by police forces in response to discriminatory violence against protesters. In California, Oregon and Wisconsin, law enforcement officials responded to bias-motivated violence against protesters by conducting investigations and issuing arrest warrants for suspected perpetrators, including on charges of aggravated assault and battery with bias motivation¹²⁶ or as hate crimes.¹²⁷

118. City of Albuquerque order banning guns in parks (19 June 2020), available at: <https://www.scribd.com/document/466510524/City-of-Albuquerque-order-banning-guns-in-parks-6-19-20>.

119. KOB-4, "APD arrests, pepper sprays protesters during Sunday demonstration" (19 July 2020): <https://www.kob.com/albuquerque-news/apd-arrests-pepper-sprays-counter-protesters-during-sunday-demonstration/5799796/>.

120. Albuquerque Police Department, Statement on Twitter (2 June 2020): <https://twitter.com/ABQPOLICE/status/1268008172167368704>.

121. See above at nn. 35, 44, 49, 57, 102, and 116.

122. See above at Section 3.4.

123. Twitter thread with video, posted by Jake Offenhartz (15 July 2020): <https://twitter.com/jangeloo/status/1283402197389250560>.

124. Twitter thread with video, posted by Jake Offenhartz (15 July 2020): <https://twitter.com/jangeloo/status/1283426204729606145>.

125. Black Zebra Productions, "Take a Stand against Hate" (17 July 2020), at 1:22:00: https://www.facebook.com/watch/live/?v=621062655192084&ref=watch_permalink.

126. Salem Statesman Journal, "Two men arrested for allegedly attacking counterprotesters at pro-Trump rally at Capitol" (8 September 2020): <https://www.statesmanjournal.com/story/news/2020/09/08/police-arrest-counter-protesters-pro-trump-rally-oregon-capitol/5744838002/>.

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4. RECOMMENDATIONS

TO MUNICIPAL GOVERNMENTS, MAYORS, AND GOVERNORS:

- Issue executive orders, emergency orders, or other temporary special measures to prohibit firearms at or near polling places during the 2020 general elections.
- Issue executive orders, emergency orders, or other temporary special measures to prevent armed individuals or groups from intimidating or threatening protesters or voters during and following the elections.
- Direct municipal, county, and state police forces to adopt the following recommendations in their policies and practices.

TO ALL LAW ENFORCEMENT AGENCIES AT THE MUNICIPAL, COUNTY, STATE, AND FEDERAL LEVELS:

- **Maintain impartiality** toward all protesters.
- **Protect** the rights of all peaceful protesters from disruption or violence by third-party actors.
- **Prohibit and prevent vigilantism** by armed groups, including the intimidation of protesters, voters, or others seeking to engage in civic activities.
- **Communicate** expectations of conduct and law-enforcement actions to both sides, in order to **de-escalate** conflicts by adopting a policy of “no surprises”.
- **Differentiate** between violent and non-violent actors, and target for law enforcement action only violent actors committing criminal actions, particularly those who are undermining others’ right to freedom of peaceful assembly.
- **De-escalate** conflict and prevent violent disruption of otherwise peaceful protests, if necessary, by physical **separation** of protesters and counter-protesters to facilitate both groups’ right to freedom of peaceful assembly.
- **Fulfill the duty to protect** any protester being physically attacked, through adequate deployment of police forces, as well as timely and human rights-compliant interventions to prevent and stop violence from occurring.
- **Intervene** to halt violence, but use tactics that are targeted only at violent individuals, employing the principle of differentiation. For instance, *do not* use crowd control weapons of **wide area impact** (such as tear gas, water cannons, or others) to respond to acts of violence by only a few individuals.
- **Do not declare whole assemblies** to be riots or unlawful due to isolated instances of violence by individuals, or **unnecessarily disperse** them otherwise.
- **Review and revise training programs** provided to law enforcement officials, ensuring that they include thorough training on the lawful use of force and firearms and the policing of protests and counter-protests in compliance with international human rights standards.
- **Adopt trainings** on international standards related to facilitation of the right to freedom of peaceful assembly, including strict adherence to the principles of *legality*, *necessity* and *proportionality* in any limitation on freedom of assembly.
- **Investigate and prosecute violence and threats of violence** against protesters, including to deter future disruptions of freedom of peaceful assembly.
- **Investigate and hold accountable** police for failure to facilitate and protect protests and counter-protests from violence.
- Expand certifications and protections for **legal observers** to monitor the policing of protests and counter-protests, without fear of intimidation, arrest or violence.

TO THE US PRESIDENT:

- Do not deploy military personnel to participate in the policing of assemblies or polling stations, as they are not adequately trained in domestic law enforcement or the human rights-compliant policing of public assemblies. If military personnel are ever deployed for law enforcement purposes, they must act under the same law enforcement standards, rules and policies, and be under the strategic and operational command of the police.

TO THE US CONGRESS:

- End the use of the 1033 program to provide for the transfer of surplus military equipment to local law enforcement. In policing protests, such equipment is generally unnecessary and may escalate violence.
- Hold investigations and oversight on the escalation of violent extremism, including against protests by Black Lives Matter supporters.

TO THE US DEPARTMENT OF JUSTICE:

- Investigate and prosecute unlawful detentions, use of force, and other vigilantism by armed groups.
- Expand the use of pattern-and-practice investigations and consent decrees, with the goal of decreasing excessive use of force by law enforcement personnel and other acts of misconduct.
- Direct the FBI to continue to monitor and publish reports on the actions of Domestic Violent Extremists.
- Review and revise DOJ guidelines to law enforcement agencies on the policing of protests, in conformity with international human rights standards on policing.
- Provide urgent training for law enforcement agencies on how to facilitate freedom of peaceful assembly, without discrimination, particularly in the context of volatile counter-protest situations.
- Provide urgent trainings to law enforcement agencies on the lawful use of force, particularly in public assemblies, in line with international standards on legality, necessity and proportionality.
- Enforce and expand the use of consent decrees, with the goal of decreasing excessive use of force by law enforcement personnel.

TO THE US DEPARTMENT OF HOMELAND SECURITY:

- Do not deploy law enforcement personnel from DHS agencies to participate in the policing of assemblies or polling stations, as they are not adequately trained in the human rights-compliant policing of public assemblies.
- Continue to monitor and publish reports on the actions of Domestic Violent Extremists.

TO THE US DEPARTMENT OF STATE:

- Extend invitations for US country visits to the special rapporteurs and independent experts of the United Nations and the Organization of American States, particularly those with specialized mandates on freedom of expression, freedom of assembly, freedom of association, and the conduct of law enforcement officials.
- Extend invitations for US country visits to human rights monitors of the OSCE Office for Democratic Institutions and Human Rights, particularly to conduct monitoring and/or trainings of US law enforcement officials on human rights-compliant policing of assemblies.

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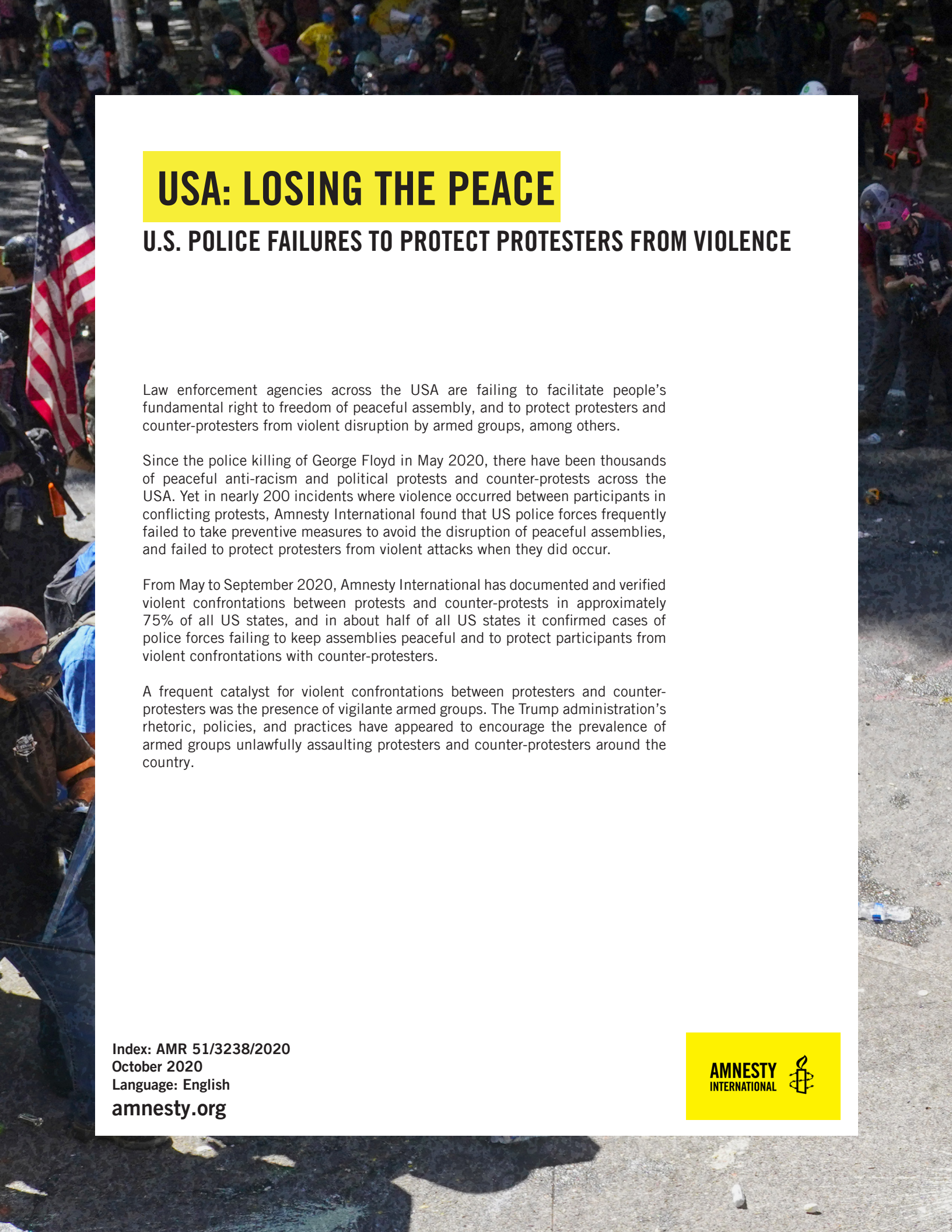
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A background image showing a protest scene. On the left, a person holds an American flag. In the center and right, there are police officers in riot gear and protesters. The scene is outdoors on a street.

USA: LOSING THE PEACE

U.S. POLICE FAILURES TO PROTECT PROTESTERS FROM VIOLENCE

Law enforcement agencies across the USA are failing to facilitate people's fundamental right to freedom of peaceful assembly, and to protect protesters and counter-protesters from violent disruption by armed groups, among others.

Since the police killing of George Floyd in May 2020, there have been thousands of peaceful anti-racism and political protests and counter-protests across the USA. Yet in nearly 200 incidents where violence occurred between participants in conflicting protests, Amnesty International found that US police forces frequently failed to take preventive measures to avoid the disruption of peaceful assemblies, and failed to protect protesters from violent attacks when they did occur.

From May to September 2020, Amnesty International has documented and verified violent confrontations between protests and counter-protests in approximately 75% of all US states, and in about half of all US states it confirmed cases of police forces failing to keep assemblies peaceful and to protect participants from violent confrontations with counter-protesters.

A frequent catalyst for violent confrontations between protesters and counter-protesters was the presence of vigilante armed groups. The Trump administration's rhetoric, policies, and practices have appeared to encourage the prevalence of armed groups unlawfully assaulting protesters and counter-protesters around the country.

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