



USA: THE WORLD IS WATCHING

MASS VIOLATIONS BY U.S. POLICE OF BLACK LIVES MATTER
PROTESTERS' RIGHTS

AMNESTY
INTERNATIONAL



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ABBREVIATIONS

WORD	DESCRIPTION
BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS	UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
DICRA	Death in Custody Reporting Act (2014)
FBI	Federal Bureau of Investigation
GAO	US Government Accountability Office
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination
MPD	Minneapolis Police Department
NGO	Non-governmental organization
NLG	National Lawyers Guild
NYPD	New York Police Department
SWAT	Special Weapons and Tactics

TERMINOLOGY

In this report, the terms “lethal force” and “deadly force” are used to refer to the use of force that is or has the potential to result in death. As any use of firearms has the potential to be lethal, the term lethal force should be read to include the use of firearms but does not exclude other forms of force that may also cause death.

Amnesty International recognizes the complexity and diversity of racial and ethnic identities and strives to use language that respects the wishes of individuals or communities. Understanding that no single term is universally accepted, and that terminology may change over time, current standards at the time this report was developed have been used, although other terms may be used in studies cited. In this report, Amnesty International uses the term “Black” when referring to communities or individuals of African-American or African heritage, although we occasionally use “African American” or “people of colour” when citing studies that use these terms. It should also be noted that “people of colour” may include diverse communities of colour, unless stated otherwise.

EXECUTIVE SUMMARY

On 25 May 2020, George Floyd was detained, tortured and extrajudicially executed by Minneapolis Police Department officers who restrained and suffocated him by holding him on the ground and kneeling on his neck for almost nine minutes. His death sparked widespread protests across the USA and the world and a long-overdue conversation about systemic racism and policing. Recent events have also raised longstanding concerns about violations of human rights, including the rights to life, to security of the person, to equal protection of the law, to freedom from discrimination and to freedom of expression and peaceful assembly.¹

More than 1,000 people are killed each year by police in the USA; because the US government does not collect data on these deaths, the exact number of people killed by police annually is unknown. The data that does exist shows that Black people are disproportionately impacted by police killings. While Black people represent 13.2% of the US population, they represent 24.2% of deaths from police use of firearms. The use of lethal force against people of colour in the USA should be understood as part of the wider pattern of racially discriminatory treatment by law enforcement officers, including unjustified stops and searches, excessive use of force and racial profiling. Such treatment violates international human rights law which strictly prohibits all forms of discrimination.

One of a state's most fundamental duties is to protect life and police officers, as agents of the state, have a responsibility to uphold this in carrying out their law enforcement duties. International law allows police officers to use lethal force only as a last resort to protect themselves or others from death or serious injury. Furthermore, international law enforcement standards require that force of any kind be used only when no other means are available that are likely to achieve the legitimate objective. If the use of force is unavoidable it must be no more than is necessary and proportionate to achieve the objective and law enforcement must use it in a manner designed to minimize damage or injury and must respect and preserve human life.²

Amnesty International has previously documented serious and egregious violations of human rights in the use of lethal force by law enforcement in the USA. Following the killing of Michael Brown, an 18-year-old Black teenager, by a police officer in Ferguson, Missouri, on 9 August 2014, Amnesty International issued a report on the laws governing use of lethal force by police, *Deadly force: Police use of lethal force in the United States*. This research found that:

- All **50 states and Washington, D.C.** fail to comply with international law and standards on the use of lethal force by law enforcement officers.
- **None of the state statutes** require that the use of lethal force be used only as a last resort and that non-violent and less harmful means be tried first.
- **No state** limits the use of lethal force to only those situations where there is an imminent threat to life or serious injury to the officer or to others.

This report shows that there has been a disturbing lack of progress over the past five years in ensuring that police officers use lethal force only when there is an imminent risk of death or serious injury to themselves or others. Just three states – California, Washington and Missouri – have taken important but incremental steps, such as by bringing their state laws on lethal force into compliance with US constitutional standards.

¹ The USA signed and ratified the International Covenant on Civil and Political Rights in 1992 and the International Convention on the Elimination of All Forms of Racial Discrimination in 1994.

² UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

In the context of the policing of the protests sparked by the killing of George Floyd, Amnesty International has documented serious human rights concerns in relation to the use of excessive force. On 23 June 2020, Amnesty International launched an interactive digital project, *“Black Lives Matter Protests: Mapping Police Violence Across the USA”*. This found that police forces across the USA committed widespread and egregious human rights violations in response to largely peaceful assemblies protesting systemic racism and police violence.

Amnesty International documented 125 separate incidents of police violence against protesters in 40 states and the District of Columbia between 26 May and 5 June 2020. These acts of excessive force were committed by members of state and local police departments, as well as by National Guard troops and security force personnel from several federal agencies. Among the abuses documented were beatings, the misuse of tear gas and pepper spray, and the inappropriate and at times indiscriminate firing of “less lethal” projectiles, such as sponge rounds and rubber bullets.

In city after city, Amnesty International documented incidents of unnecessary and excessive use of force by law enforcement agencies while policing Black Lives Matter protests. The unnecessary and excessive use of specific weapons, such as chemical irritants and kinetic impact projectiles, is ultimately a symptom of the very issue that started these protests: unaccountable police violence.

In many cities law enforcement confronted protesters while wearing riot gear as a first level of response, rather than in response to any particular acts of violence. Again, and again, law enforcement used physical force, chemical irritants, kinetic impact projectiles, and arbitrary arrest and detention as a first resort against largely peaceful demonstrations. In several cities, law enforcement resorted to physical force against largely peaceful protesters to enforce hastily rolled out curfews. Between 26 May and 5 June 2020, Amnesty International documented at least six incidents of police using batons and 13 instances of the unnecessary use of kinetic impact projectiles in 13 cities across the country.

Amnesty International documented the use of tear gas and pepper spray in dozens of incidents across the country. In many cases, these were used against people non-violently protesting, rather than as a necessary and proportionate response to widespread violence or a perceived threat. Between 25 May and 5 June, Amnesty International documented 89 specific instances of the unnecessary use of tear gas in cities in 34 states and 21 incidents of the unlawful use of pepper spray in 15 states and Washington, DC. In many of the documented incidents, chemical irritants were used as a first resort to disperse a peacefully assembled crowd or in response to non-compliance with some specific order.

In some instances, the use of chemical irritants can constitute torture or other ill-treatment. Furthermore, their widespread, unnecessary and excessive use against largely peaceful protesters raises additional concerns during a pandemic involving a respiratory illness such as COVID-19. The natural response by people when exposed to these chemicals is to remove their masks in order to flush their eyes, noses and mouths and expectorate the chemicals from their mouths and lungs, potentially spreading the virus.

In numerous incidents across the USA, law enforcement personnel targeted media representatives with chemical irritants, kinetic impact projectiles and arrest and detention. Amnesty International has documented cases in several states where journalists sustained serious injuries resulting from kinetic impact projectiles and/or were detained and arrested without proper access to medical care. Amnesty International has also documented the use of excessive force against and arbitrary arrests of legal observers as they monitored protests. Street medics were also targeted. In some cases, law enforcement destroyed clearly identified medic stations and subjected clearly identified street medics to excessive force, such as physical assault, pepper spray and rubber projectiles, and arrest.

This report draws on more than 50 interviews conducted by Amnesty International over several weeks in June 2020 about people’s experiences in the context of the protests sparked by the killing of George Floyd. It highlights the shocking failure to limit the use of force by law enforcement to situations where it is necessary and proportionate to an actual threat and details how protesters, journalists, legal observers and street medics were met with police violence. The report ends with a series of recommendations to federal, state and local authorities to ensure accountability for these violations and to address the urgent need for police reform, including the policing of protests, in the USA.

KEY RECOMMENDATIONS

Amnesty International is calling on federal, state and local officials to enact systemic reform that protect and respect Black lives, the development of national guidelines on respecting and facilitating the right to peaceful

protest and for all law enforcement agencies to review their policies and the equipment used in the policing of demonstrations.

LIMIT THE USE OF DEADLY FORCE BY LAW ENFORCEMENT

- Federal, state and local authorities must urgently take decisive action to address systemic racism and systemic misuse of force in the US policing and criminal justice system, including by launching independent investigations and ensuring accountability in all cases of unlawful lethal use of force by police.
- All state legislatures should introduce or amend statutes that authorize the use of lethal force to ensure that they are in line with international law and standards by limiting the use of lethal force by law enforcement officials to those instances in which it is necessary and proportional to protect against an imminent threat of death or serious injury
- The US Congress should pass the George Floyd Justice in Policing Act of 2020 (HR 7120), including the Police Exercising Absolute Care with Everyone ("PEACE Act") which would bar federal law enforcement from using deadly force unless necessary as a last resort to prevent imminent death or serious bodily injury and prevent states from receiving federal funding unless they enact a similarly restrictive state use of force law.

POLICING OF PROTESTS

- Federal, state and local authorities must ensure that everyone under their jurisdiction can enjoy their human rights to peaceful assembly and freedom of expression.
- All law enforcements agencies must revise their policies and practices for the policing of protests. Law enforcement agencies must comply at all times with international human rights standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which must be the guiding principles underpinning all operations before, during and after demonstrations.
- The Department of Justice and all state Attorney Generals should investigate, effectively, impartially and promptly, all allegations of human rights violations by police officials during public assemblies, including unlawful use of force, and bring all those found responsible, including commanding officers, to account through criminal or disciplinary proceedings as appropriate, and provide full redress to victims.

METHODOLOGY

The first part of this report provides an update to Amnesty International's 2015 report, *Deadly force: Police use of lethal force in the United States* which reviewed state use of lethal force laws in all 50 states and Washington DC. That report focused on three issues:

- Does that state have a statute governing the use of lethal force?
- Does the statute comply with international law and standards on the use of lethal force?
- Does the statute comply with the lower US constitutional standards on the use of lethal force, as established in the 1985 US Supreme Court decision in *Tennessee v. Garner*, (471 US 1), which are less stringent and do not meet international law and standards?

Amnesty International has tracked progress made over the last five years to establish what steps have been taken to revise state statutes governing the use of lethal force and the documentation of those killed by police. In coalition with community led, policing reform and civil rights organizations and legislators Amnesty International worked to get legislation introduced in several key states and at the federal level. It monitored and responded to individual cases across the country by reaching out regularly to individual law enforcement agencies, where feasible, about the legality of use of lethal force during specific incidents. Lastly, Amnesty International, in coalition with partner organizations, continued to track developments in the implementation of a national system to document and report on deaths resulting from the use of lethal force at the federal level.

The second part of the report focuses on the policing of protests that have occurred in cities across the USA since the death of George Floyd in Minneapolis, Minnesota, on 25 May 2020. Amnesty International reviewed over 500 videos of protests for its interactive project “Black Lives Matter Protests: Mapping Police Violence in the United States” and documented 125 separate incidents of police violence against protesters in 40 states and the District of Columbia between 26 May and 5 June 2020. In addition, this report draws on Amnesty International’s interviews with 50 individuals, including protesters, journalists, legal observers and street medics and a review of media reports, medical reports, photos and videos. All of those who were interviewed and whose accounts appear in this report gave their informed consent for their stories to be shared. However, some asked that their names be withheld because of their concerns about their safety. In such cases a pseudonym has been used and marked with an “*”.

Amnesty International would like to thank all of those who came forward to share their experiences, photographs and videos for this report.

Content warning: some may find the material and images included in this report difficult.

POLICE USE OF DEADLY FORCE

In June 2015, Amnesty International released the report *Deadly force: Police use of lethal force in the United States*.³ This set out an analysis of the statutes of each state and Washington, DC, on the use of lethal force in relation to international law and standards. This found that all of the laws reviewed are overly broad and allow for police to justifiably use force in a wide range of circumstances with impunity and so fell short of international standards. According to statistics that existed at that time, Black people constituted a disproportionate number of those killed by law enforcement using firearms. However, the federal government failed to accurately track these numbers with any degree of detail. Amnesty International's 2015 report raised serious human rights issues, that the US government has an obligation to address under internationally recognized human rights standards. The following provides an update on developments since 2015.

GEORGE FLOYD MINNEAPOLIS, MINNESOTA 25 MAY 2020



A woman holds a sign stating "George Floyd's Life Mattered" during a protest outside the Cup Foods in Minneapolis, Minnesota.
Credit: Stephen Maturen/Getty Images

On the evening of 25 May 2020, George Floyd was detained and restrained and suffocated by officers who pinned him to the ground and knelt on his neck for almost nine minutes. His treatment by officers of the Minneapolis Police Department (MPD) constituted torture resulting in his extrajudicial execution.

³ Amnesty International, *Deadly Force: Police use of lethal force in the United States*, 2015, www.amnestyusa.org/wp-content/uploads/2015/06/aiusa_deadlyforcereportjune2015-1.pdf

At approximately 8pm, two MPD officers, Thomas Lane and J.A. Kueng, responded to a call from a convenience store employee regarding the use of a possibly counterfeit US \$20 bill. The officers learned from the employee that the person was parked in a car around the corner from the store. The officers approached the car; George Floyd was in the driver's seat and two other adults were in the car. Officer Lane drew his firearm and ordered George Floyd to put his hands on the steering wheel. Officer Lane then directed George Floyd to get out of the car and immediately placed him in handcuffs, which were placed behind his back, and brought him to the curb for further questioning. The officer informed George Floyd that he was being arrested for passing counterfeit currency. When the officers made several attempts to place George Floyd in the back of the police vehicle, he stiffened and dropped to the ground, stating that he was claustrophobic. In the meantime, a second police vehicle arrived with two additional MPD officers, Officers Derek Chauvin and Tou Thoa.

For approximately five minutes the officers made several attempts to place George Floyd in the back of the police vehicle, to no avail. During this time, George Floyd stated repeatedly that he could not breathe and that he was in distress. Following the last attempt, he was pulled out of the police vehicle and fell to the ground face first, with his hands still restrained behind his back. Officers Kueng and Lane held George Floyd down by his back and legs respectively, while Officer Chauvin knelt on his neck and head. George Floyd stated several times: "I can't breathe". He repeatedly called out for his deceased mother saying "please", to which the officers replied: "you are talking fine". After approximately six minutes of being held in this prone position and saying that he could not breathe, it appears George Floyd stopped moving and ceased breathing or speaking. Officer Thoa, who was not holding him down, proceeded to check George Floyd's wrist for a pulse and stated he could not find one. In total, 8:46 minutes passed before the officers released their hold when an ambulance arrived, nearly three minutes after George Floyd was last responsive. George Floyd was pronounced dead at the Hennepin County Medical Center.

George Floyd's death was captured on video by bystanders at the scene, security cameras of a nearby business and the officers' body cameras. All four officers were fired from the MPD the next day. Officer Chauvin was arrested and charged with third degree murder on 29 May, which was upgraded several days later to second degree murder. The other three officers involved were also then charged with aiding and abetting second degree murder. On 31 May, the state Attorney General's Office was appointed by the State Governor to be the lead prosecutor in the case, taking over from the local prosecutor's office.⁴

⁴ *State of Minnesota v. Derek Michael Chauvin*, Complaint, 29 May 2020, www.documentcloud.org/documents/6933328-27-CR-20-12646-Complaint.html#document/p2; E. Hill, et al, *8 Minutes and 46 Seconds: How George Floyd was killed in police custody*, The New York Times, 31 May 2020, www.nytimes.com/2020/05/31/us/george-floyd-investigation.html; A. Johnson, *Minnesota attorney general to take over prosecutions in George Floyd's death*, NBC News, 31 May 2020, www.nbcnews.com/news/us-news/minnesota-attorney-general-take-over-prosecutions-george-floyd-s-death-n1220636; B. Shammass, *Murder charges filed against all four officers in George Floyd's death as protests against biased policing continue*, The Washington Post, 3 June 2020, www.washingtonpost.com/nation/2020/06/03/george-floyd-police-officers-charges/; E.C. McLaughlin, *Three videos piece together the final moments of George Floyd's life*, CNN, 23 June 2020, www.cnn.com/2020/06/01/us/george-floyd-three-videos-minneapolis/index.html; UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], entered into force June 26, 1987.; Art. 6 (1 & 2), International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

BREONNA TAYLOR
LOUISVILLE, KENTUCKY
13 MARCH 2020



A demonstrator holds up a handmade sign with a printed photograph of Breonna Taylor.

Credit: Jason Connolly/Getty Images

Breonna Taylor, a 26-year-old Black woman who worked as an Emergency Medical Technician and was an aspiring nurse, was shot and killed in her own home on 13 March 2020 by officers of the Louisville Metropolitan Police Department (LMPD).

Shortly after midnight on 13 March, Breonna Taylor and her boyfriend, Kenneth Walker, were asleep in their apartment, when three plainclothes LMPD officers arrived, executing a narcotics search warrant which included a “no knock” provision. In their lawsuit against the officers, Breonna Taylor’s family state that the individual the officers were seeking had been apprehended by the LMPD earlier that morning at his own home.

The LMPD insists they “knocked on the door several times and announced their presence as police who were there with a search warrant.” Kenneth Walker has stated that the officers never identified themselves before breaching the front door; his statement has been supported by witness statements from neighbours contained in the family’s lawsuit. Without knowing who was breaking into their apartment, Kenneth Walker, a licensed firearm owner, fired a shot in self-defence and struck an officer in the leg. In response, police opened fire, shooting more than 20 rounds throughout the home; at least one bullet found in an adjacent apartment.

Breonna Taylor was struck eight times. According to her family, she was alive for several minutes following the shooting, but officers failed to administer first aid and she died from her injuries. Kenneth Walker was arrested and charged with attempted murder and assaulting an officer. The charges were eventually dropped after the Federal Bureau of Investigation (FBI) announced on 21 May that it had opened an investigation into the incident.

The officers involved in the shooting were placed on administrative reassignment during the FBI investigation. None of the officers was wearing a body camera during the incident. At the time this report was published, no charges had been filed against any of the three officers and the only disciplinary action taken was the termination of the contract of one of the officers on 23 June 2020 for violating standard operating procedure as it was determined that his “actions displayed an extreme indifference to the value of human life” when he “wantonly and blindly fired ten (10) rounds” into the apartment.

The Kentucky Attorney General took over the investigation as a special prosecutor in the case on 14 May. In response to Breonna Taylor’s death, on 11 June, the Louisville City Council voted unanimously in favour of a ban on “no-knock” search warrants like the one officers used to break into Breonna Taylor’s home. The ordinance was named “Breonna’s Law.” The measure also mandates the use of body cameras, which must be activated no later than five minutes prior to all searches and remain on for five minutes after.⁵

⁵ Tamika Palmer v. Brett Hankison, Myles Cosgrove and Jonathan Mattingly, Complaint, 20-CI-002694, 27 April 2020, htv-prod-media.s3.amazonaws.com/files/taylor-family-lawsuit-pdf-1589240098.pdf; C.Carrega and S. Ghebremedhin,

FAILURE TO TRACK HOW MANY PEOPLE ARE KILLED BY POLICE IN THE USA

The deaths of George Floyd, Breonna Taylor and others have spurred a national reckoning regarding the police use of lethal force and the disproportionate impact on Black people in the USA.

The US government does not document how many people die as a result of police use of force, so the exact number is unknown. In response to the failure of government agencies to collect reliable and complete data, several non-governmental organizations (NGOs) have stepped into the void to document the number of police killings. They estimate that approximately 1,000 people are shot and killed by police each year, and hundreds more are killed using other forms of force.

For instance, according to *The Washington Post's* Fatal Force database, 4,931 people died between 2015 and 2019 as a result of police use of firearms alone. *The Washington Post's* data also shows that Black people are disproportionately impacted by this use of lethal force. Although they account for less than 13% of the US population, Black people comprise approximately a quarter of deaths (24.2%) from police use of firearms and are killed by police at more than twice the rate of white people.⁶ Similar databases which include deaths resulting from law enforcement use of other forms of force as well as firearms, such as Mapping Police Violence and the Fatal Encounters database, show that annual numbers are likely much higher when other uses of force are included. They also indicate that the racial disparities persist when other forms of violence are included in the data.⁷ The government has an obligation to document and provide this data, consistent with the enactment of federal law requiring it to do so. The US government, however, still does not comply with this obligation.

In December 2014, Congress passed the Death in Custody Reporting Act (DiCRA).⁸ This requires states that receive federal criminal justice funding to gather and report data to the US Attorney General on how many individuals die each year while in police custody or during arrest. States had 120 days from the date DiCRA was passed to begin reporting. If states refuse to comply, the Attorney General has the power to fine them by reducing criminal justice funding. DiCRA also requires that the Attorney General analyse the information and evaluate ways to reduce the number of deaths and submit a report to Congress by December 2016.⁹

For years the US Department of Justice (DOJ) has delayed full implementation and enforcement of DiCRA. In 2018, the Inspector General of the DOJ issued a report on the DOJ's failure to implement the law and provided recommendations to ensure compliance.¹⁰ On 27 January 2020, two members of the US Congress – the chairman of the House Judiciary Committee, Jerrold Nadler of New York, and the chairwoman of the House Subcommittee on Crime, Terrorism and Homeland Security, Karen Bass of California – wrote to the Inspector General of the DOJ requesting an investigation into the DOJ's failure to implement the data collection and reporting of deaths under the DiCRA.¹¹ However, at the time this report was published, the Office of the Inspector General had yet to respond to the inquiry and nearly six years after the law was

Timeline: Inside the investigation of Breonna Taylor's killing and its aftermath, ABC News, 20 June 2020, abcnews.go.com/US/timeline-inside-investigation-breonna-taylor-killing-aftermath/story?id=71217247; T. Waldrop, R. Sanchez and E. Joseph, *Officer fired in shooting death of Breonna Taylor, Louisville police say*, CNN, 23 June 2020, www.cnn.com/2020/06/23/us/breonna-taylor-shooting-officer-fired/index.html; Louisville Metropolitan Police Department, Twitter Account, 23 June 2020, twitter.com/LMPD/status/1275559612410888193; R. Callimachi, *Breonna Taylor's family claims she was alive after shooting but given no first aid*, The New York Times, 6 July 2020, www.nytimes.com/2020/07/06/us/breonna-taylor-lawsuit-claims.html

⁶ The Washington Post, *Fatal Force Database*, www.washingtonpost.com/graphics/investigations/police-shootings-database/

⁷ Mapping Police Violence, mappingpoliceviolence.org/; Fatal Encounters, fatalencounters.org/

⁸ Death in Custody Reporting Act of 2013, Public Law No: 113-242, 128 Stat. 2860 (2013)

⁹ US Department of Justice, *Report of the Attorney General to Congress Pursuant to The Death in Custody Reporting Act*, 16 December 2016,

www.justice.gov/archives/page/file/918846/download#:~:text=The%20Death%20in%20Custody%20Reporting%20Act%20enacted%20in%20December%202014,officers%20or%20while%20in%20custody

¹⁰ Office of the Inspector General, US Department of Justice, *Review of the Department of Justice's Implementation of the Death in Custody Reporting Act of 2013*, December 2018, <https://oig.justice.gov/reports/2018/e1901.pdf>

¹¹ Representatives Jerrold Nadler and Karen Bass, Letter to Inspector General Michael Horowitz, US Department of Justice, regarding the implementation of the Death in Custody Reporting Act, 27 January 2020, judiciary.house.gov/uploadedfiles/2020-01-27_letter_to_horowitz_dcra_failure_to_report_letter_with_rep._bass.pdf?utm_campaign=1415-519

passed, it had still not been implemented.¹² A voluntary reporting programme established under a 1994 law has persistently presented only partial data and does not provide a clear picture of how many people die each year due to police use of force, including firearms.¹³

The DOJ must implement the data collection programme as required by DiCRA in order to appropriately address the issue of deaths resulting from police use of force, pinpoint specific agencies or states where reform is most needed and make recommendations to prevent these deaths from happening.

DISCRIMINATORY POLICING AND THE DISPROPORTIONATE IMPACT OF POLICE USE OF FORCE ON BLACK PEOPLE

The use of lethal force against people of colour in the USA should be seen in the context of a wider pattern of racially discriminatory treatment by law enforcement officers, including unjustified stops and searches and racial profiling. For example, according to the DOJ's Bureau of Justice Statistics, despite comprising just 13% of the population, Black people were more likely to be stopped by police, both in traffic stops and street stops, than white or Hispanic people in 2015, the most recent year for which national data from the government is available.¹⁴ Black and Hispanic people were also more likely to have multiple contacts with police than white people, especially in the contexts of traffic and street stops. More than one in six Black people who were pulled over in a traffic stop or stopped on the street had similar interactions with police multiple times over the course of the year. State and local data demonstrate similar trends.¹⁵

Amnesty International has previously raised concerns about racial profiling, including the failure of the federal government to pass the End Racial Profiling Act, which would prohibit any law enforcement agent or agency from engaging in racial profiling.¹⁶

The 1994 Law Enforcement Misconduct Act, which authorizes the US Attorney General to investigate and litigate cases involving a "pattern or practice" of conduct by law enforcement officers, provides for mechanisms through which the US could hold police departments accountable for racial profiling and violations of civil rights.¹⁷ "Pattern or practice" investigations and consent decrees initiated by the DOJ have been one of the key effective tools used to bring accountability to police forces engaged in systemic racism.¹⁸ During the Obama Administration from 2009-2017, 25 "pattern or practice" investigations of

¹² Office of Inspector General, US Department of Justice, Press Releases for 2020, oig.justice.gov/press/; Representative Bobby Scott, Press Release, *Scott presses Attorney General Barr to enforce law to record deaths in police custody*, 9 June 2020, bobbyscott.house.gov/media-center/press-releases/scott-presses-attorney-general-barr-to-enforce-law-to-record-deaths-in

¹³ The Department of Justice has been required to ensure the collection and publication of nationwide statistics on police use of force (including all police fatal shootings) since the passage of the Violent Crime Control and Enforcement Act (1994); however, it has failed to do so. The Uniform Crime Reports are official data on crime in the United States, including "justifiable homicides" by law enforcement, and is published by the Federal Bureau of Investigation.

¹⁴ US Department of Justice, Office of Justice Programs, *Contacts Between Police and the Public, 2015*, Bureau of Justice Statistics Special Report, www.bjs.gov/content/pub/pdf/cpp15.pdf. Appendix Table 4: *Number and percent of U.S. residents age 16 or older with police-initiated contact, by type of contact and demographic characteristics, 2015* (Percentage of whites arrested .03%; percentage of Blacks arrested .09%.)

¹⁵ Emma Pierson et al., *A large-scale analysis of racial disparities in police stops across the United States*, Nature Research, October 2018, [5harad.com/papers/100M-stops.pdf](https://www.nature.com/articles/s41561-018-0200-0); see also A.J. Willingham, *Researchers studied nearly 100 million traffic stops and found black motorists are more likely to be pulled over*, CNN, 21 March 2019, www.cnn.com/2019/03/21/us/police-stops-race-stanford-study-trnd/index.html.

¹⁶ Racial Profiling refers to the discriminatory practice by law enforcement officials of targeting individuals for suspicion of crime based on the individual's race, ethnicity, religion or national origin. For Amnesty International's previous work on racial profiling see, Rights For All (October 1998, AI Index AMR 51/35/98); Race, Rights and Police Brutality (September 1999, AI Index AMR 51/147/99); Threat and Humiliation: Racial Profiling, Domestic Security, and Human Rights in the United States, September 2004, www.amnestyusa.org/pdfs/rp_report.pdf; In Hostile Terrain: human rights violations in immigration enforcement in the US Southwest, 2012, AMR 51/018/2012, www.amnestyusa.org/sites/default/files/ai_inhostileterrain_final031412.pdf.

¹⁷ § 14141. Cause of action (re-codified at 34 U.S.C. 12601); www.justice.gov/crt/law-enforcement-misconduct-statute-42-usc-14141.

¹⁸ US Department of Justice, Civil Rights Division, *The US Civil Rights Division "Pattern or Practice" Police Reform Work 1994-Present*, January 2017, www.justice.gov/crt/file/922421/download.

police departments were initiated with 14 consent decrees enforced.¹⁹ In contrast, there has been only one narrow “pattern or practice” investigation and no consent decrees entered into since 2017 under the Trump Administration.²⁰

People of colour are also disproportionately subjected to harsh treatment and use of force by police. As US government data indicates, in contacts initiated by the police, Black and Hispanic people were twice as likely to be subjected to the threat or use of physical force by police, than white people.²¹

Following the police killing of Michael Brown in 2014, examination of a DOJ study revealed that 88% of all cases in which a Ferguson Police Department officer reported using force between 2010 and August 2014 involved African Americans, even though they comprised only 67% of Ferguson’s population.²² The study further concluded that: “at each point in the enforcement process there is a higher likelihood that an African American will be subjected to harsher treatment”²³ and that “statistical analysis shows that African Americans are...more likely to have force used against them”.²⁴

In Minneapolis, Minnesota, where George Floyd was killed by police on 25 May 2020, police use of force data indicates possible evidence of racial bias: between 1 January 2008 and 8 June 2020, 18,659 cases of use of force by a police officer took place, 62% of which involved a Black person.²⁵ Black people make up just 19.4% of the population of Minneapolis.²⁶ Despite calls from community members and legislators, the DOJ has yet to announce an investigation into the “pattern or practice” of discriminatory policing and use of force by MPD officers.²⁷

International law strictly prohibits all forms of discrimination.²⁸ Under the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), the prohibition of discrimination encompasses not only policies and practices that are discriminatory in purpose, but also those that are discriminatory in effect.²⁹ However, in most cases, federal courts in the USA only protect against discrimination that can be shown to arise from discriminatory intent. The USA’s approach has been rejected by the UN Committee on the Elimination of Racial

¹⁹ *Justice Department Releases Report on Civil Rights Division’s Pattern and Practice Police Reform Work*, US Department of Justice, Press Release, 4 January 2017, www.justice.gov/opa/pr/justice-department-releases-report-civil-rights-division-s-pattern-and-practice-police-reform.

Since 2009, the Civil Rights Division of the DOJ has opened 25 investigations into law enforcement agencies and is currently enforcing 19 agreements, including 14 consent decrees and one post-judgment order.

²⁰ *Justice Department Announces Findings of Investigation into Narcotics Bureau of Springfield, Massachusetts Police Department*, US Department of Justice Press Release, 8 July 2020, www.justice.gov/opa/pr/justice-department-announces-findings-investigation-narcotics-bureau-springfield; see also Former US Attorney General Jeff Sessions ordered a review of the consent decree process in a March 2018 memorandum and effectively dismantled consent decrees in a November 2018 memorandum that followed. See US Attorney General memorandum, 31 March 2017, www.documentcloud.org/documents/3535148-Consentdecreebaltimore.html; US Attorney General memorandum, 7 November 2018, www.justice.gov/opa/press-release/file/1109681/download

²¹ *Contacts Between Police and the Public, 2015*, US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Special Report, October 2018, www.bjs.gov/content/pub/pdf/cpp15.pdf.

²² US Department of Justice, Civil Rights Division, *Investigation of the Ferguson Police Department*, 4 March 2015, p. 5, www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

²³ US Department of Justice, Civil Rights Division, *Investigation of the Ferguson Police Department*, 4 March 2015, p. 63, www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

²⁴ US Department of Justice, Civil Rights Division, *Investigation of the Ferguson Police Department*, 4 March 2015, p. 71, www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

²⁵ *Minneapolis Use of Force Incident Information*, tableau.minneapolismn.gov/views/MPDUseofForceOpenData/UseofForceDashboard?:isGuestRedirectFromVizportal=y&embed=yhttps://tableau.minneapolismn.gov/views/MPDUseofForceOpenData/UseofForceDashboard?:isGuestRedirectFromVizportal=y&embed=y

²⁶ US Census Bureau, *Quick Facts Minneapolis City, Minnesota*, www.census.gov/quickfacts/minneapoliscityminnesota

²⁷ Letter to Attorney General Barr, 29 May 2020, www.documentcloud.org/documents/6941616-Sens-Amy-Klobuchar-Tina-Smith-urge-Attorney.html; Letter to Attorney General Barr, 4 June 4, 2020, civilrightsdocs.info/pdf/policy/letters/2020/George_Floyd_Letter_FINAL_6_4_20.pdf.

²⁸ Art. 2(1), Art. 26 International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976; Art. 2(1), International Convention on the Elimination of All Forms of Racial Discrimination, G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force Jan. 4, 1969.

²⁹ UN Human Rights Committee, General Comment No.18: Non-discrimination, 10/11/1989, HRI/ GEN/1/Rev.6 at 146. ICERD Art. 1. Committee on the Elimination of Racial Discrimination, General Recommendation XIV on article 1, paragraph 1, of the Convention. See also, T. Meron, *The Meaning and Reach of the International Convention on the Elimination of All Forms of Racial Discrimination*, American Journal of International Law, Vol.79, 1985, pp.287–8

Discrimination, which called on the USA to review the legal definition of racial discrimination to ensure it prohibits discrimination in all its forms, including practices and legislation that may be discriminatory in their effect. It has also urged the US Congress to pass the End Racial Profiling Act.³⁰

Following the killing of George Floyd in May 2020, the UN Human Rights Council called for an urgent debate on “current racially inspired human rights violations, systemic racism, police brutality and violence against peaceful protests” and 28 UN experts called on the US government to take decisive action to address systemic racism and racial bias in the country’s criminal justice system by launching independent investigations and ensuring accountability in all cases of excessive use of force by police.³¹ At the time of the publication of this report, the US government had not responded to these calls.

LACK OF PROGRESS ON LAWS GOVERNING USE OF LETHAL FORCE BY POLICE OFFICERS

In its 2015 report, Amnesty International analyzed state statutes on the use of lethal force and found that they are far too permissive and do not meet international standards, violating the right to life, the right to security of the person, the right to freedom from discrimination and the right to equal protection of the law. The USA has a legal obligation to respect, protect and fulfil these human rights and has ratified ICCPR and ICERD, which, taken together, explicitly protect these rights.³² However, Amnesty International documented that the US government was failing to meet these obligations in that:

- All **50 states and Washington, DC** fail to comply with international law and standards on the use of lethal force by law enforcement officers.
- **None** of the state statutes require that the use of lethal force be used only as a last resort and that non-violent and less harmful means be tried first.
- **No state** limits the use of lethal force solely to those situations where there is an imminent threat to life or serious injury to the officer or to others.
- Nine states and Washington, DC have no laws on use of lethal force by law enforcement officers: **Maryland, Massachusetts, Michigan, Ohio, South Carolina, Virginia, West Virginia, Wisconsin, Wyoming** and the **District of Columbia**.
- Eleven states³³ have laws that do not comply even with the standards set by US constitutional law on the use of lethal force by law enforcement officers³⁴, which are less stringent than international law and standards: **Alabama, Delaware, Florida, Mississippi, Montana, New Jersey, New York, Oregon, Rhode Island, South Dakota** and **Vermont**.

³⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination, 8 May 2008, CERD/C/USA/CO/6, paras.10, 14

³¹ UN Office of the High Commissioner for Human Rights, *Human Rights Council holds an urgent debate on current racially inspired human rights violations, systemic racism, police brutality and violence against peaceful protests*, Press Release, 17 June 2020, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25971&LangID=E; UN Office of the High Commissioner for Human Rights, *UN Experts Condemn Modern-Day Racial Terror Lynchings in US and Call for Systemic Reform and Justice*, Press Release, 5 June 2020, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25933&LangID=E

³² The USA ratified the ICCPR in 1992 and CERD in 1994. Articles 6 and 9 of the ICCPR protect the right to life and security of person respectively. States parties to the ICCPR are obliged to ensure these and other rights set out in the ICCPR to everyone within their jurisdiction without discrimination and Article 26 of the ICCPR underlines that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. Article 5 of the CERD underlines the state obligation to respect and protect the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution, and Article 6 underlines the state obligation to assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate their human rights.

³³ When the 2015 Deadly Force report was first released, California’s and Missouri’s use of lethal force statutes did not meet the constitutional threshold as held by the US Supreme Court in *Tennessee v. Garner*, 471 US 1, (1985), which held that it is not permissible for the police to use deadly force to prevent the escape of an unarmed suspected felon who does not present a threat to the officer; deadly force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officers or others.

³⁴ *Tennessee v. Garner*, 471 US1 (1985)

- Nine states allow for the use of lethal force to suppress a riot: **Arizona, Delaware, Idaho, Mississippi, Nebraska, Pennsylvania, South Dakota, Vermont and Washington.**
- Only nine states require that any warning be given (where feasible) before lethal force is used: **California, Connecticut, Florida, Indiana, Nevada, New Mexico, Tennessee, Utah and Washington.** However, no state meets the requirements of international standards regarding issuing a warning before using lethal force.
- Only two states provide by statute for training on the use of lethal force: **Georgia and Tennessee.**
- **None of the states “use of lethal force” statutes include accountability mechanisms**, including, for example, obligatory reporting of the use of force and firearms by law enforcement officers.

One of a nation state’s most fundamental duties, with which police officers, as agents of the state, must comply in carrying out their law enforcement duties, is to protect life. International law only permits the use of lethal force by police officers as a last resort in order to protect themselves or others from death or serious injury. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles on the Use of Force and Firearms) provide that law enforcement officials shall not use firearms against persons except as a last resort, in self-defence or the defence of others against the imminent threat of death or serious injury.³⁵ Furthermore, international standards establish that force of any kind may be used only when there are no other means available that are likely to achieve the legitimate objective.³⁶ If the force is unavoidable it must be no more than is necessary and proportionate to achieve the objective and law enforcement must use it in a manner designed to minimize damage or injury, must respect and preserve human life and ensure medical aid is provided as soon as possible to those injured or affected.³⁷

Officers may need to act at a moment’s notice to defend the lives of themselves or others. However, even in instances where an officer’s actions are controversial or appear unlawful, few cases end up in a courtroom or lead to convictions. Charges against officers are rare, and convictions even rarer. Since 2005, 110 state and local law enforcement officers in the USA have been charged with murder or manslaughter for shooting someone on duty, according to documentation by Professor Philip Stinson at Bowling Green State University. According to the documentation of these cases, these led to 32 convictions: five for murder,³⁸ five for homicide³⁹ and 22 for manslaughter.⁴⁰ Several other cases remained pending at the time of the publication of this report.⁴¹ However, the permissive language of state statutes on the use of deadly force is a key reason why so few officers are held accountable for their use of lethal force.

While little has changed since 2015 regarding the state statutes on the use of lethal force, some progress can be noted. For instance, California enacted a law in 2019 that revised its use of lethal force statute in order to bring it in line with US constitutional standards.⁴² The law now requires law enforcement to use lethal force only as a “necessary” response to a threat – not merely when it would be “objectively reasonable” – in defence of human life. It also requires that the use of deadly force in each situation be viewed through the totality of the circumstances, including the conduct of the officer leading up to the incident, a standard which goes beyond current US constitutional requirements which uses the “reasonable officer” standard by which a jury is to judge the officer’s actions.⁴³ Lastly, the law establishes that lethal force

³⁵ United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, Principle 9

³⁶ United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, Principle. 4

³⁷ United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, Principles 4 and 5.

³⁸ Each state has slightly different definitions of these crimes and the definition and degree can vary from state to state. However, “murder” is generally defined as: The unlawful killing of a human being with malice aforethought. Depending on the state, this can be differentiated between first degree (with intent or involving other circumstances, such as the commission of a separate crime) and second degree (without intent or other extenuating circumstances).

³⁹ “Homicide” is generally defined as: The killing of one person by another. Depending on the state, this can be differentiated between criminal homicide, excusable homicide, justifiable homicide, negligent homicide, reckless homicide, and vehicular homicide.

⁴⁰ “Manslaughter” is generally defined as: The unlawful killing of a human being without malice aforethought. Depending on the state, this can be differentiated between involuntary manslaughter and voluntary manslaughter.

⁴¹ A. Thomson-Deveaux, et al, *Why it’s so rare for police officers to face legal consequences*, Fivethirtyeight, 4 June 2020, fivethirtyeight.com/features/why-its-still-so-rare-for-police-officers-to-face-legal-consequences-for-misconduct/

⁴² See, *Tennessee v. Garner*, 471 US 1 (1985), which holds that it is not permissible for the police to use deadly force to prevent the escape of an unarmed suspected felon who does not present a threat to the officer; deadly force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officers or others.

⁴³ In a 1989 decision, the US Supreme Court established the standard by which a jury is to judge an officer’s actions in the use of force – namely whether an officer’s actions were “objectively reasonable in light of the facts and circumstances

is not justified when the person poses a threat only to themselves.⁴⁴ The legislation was proposed in response to the 2018 death of Stephon Clark, a 22-year-old Black man, who was shot and killed in his grandmother's backyard by Sacramento Police Department officers on the night of 22 March 2018. The officers in that shooting claimed they believed Stephon Clark had a gun when all he was holding was a phone. They fired 20 shots at Stephon Clark, hitting him at least seven times and did not provide any aid as he lay dying for nearly five minutes. In March 2019, prosecutors determined that the officers would not face criminal charges.⁴⁵

In Washington, state residents passed a ballot initiative in 2018 and the state legislature passed a clarification bill in 2019 which removed the "malice" standard needed to demonstrate that an officer used force unlawfully, an impossibly high standard to reach. The initiative and the bill replaced the language with an objective "good faith" standard which considers all of the facts, circumstances and information known to the officer at the time of the incident to determine whether a similarly situated reasonable officer would have believed that the use of lethal force was necessary. The legislation also requires that first aid be provided at the scene; an investigation into any use of lethal force resulting in death or substantial or serious bodily harm carried out by a completely separate agency from the one involved; and training on de-escalation, mental health and rendering first aid for all officers.⁴⁶

The death of Michael Brown in Ferguson, Missouri, in 2014 and the failure to indict the officer responsible brought national attention to the state's use of lethal force statute, which did not comply with the constitutional standard set by the US Supreme Court in *Tennessee v. Garner*.⁴⁷ The Missouri legislature passed a bill, signed into law in 2016, which brought the state statute into line with the constitutional standard.⁴⁸ However, the constitutional standard falls short of international law and standards on the use of force and firearms.⁴⁹

At the federal level, Police Exercising Absolute Care with Everyone (HR 4359), also known as PEACE Act, was introduced in Congress in 2019. If enacted, this would bar federal law enforcement officers from using deadly force unless necessary as a last resort to prevent imminent death or serious bodily injury, and only after reasonable alternatives have been exhausted.⁵⁰ This language is more stringent than that of any state statute on police use of lethal force and the current federal standard under US Supreme Court precedent. The PEACE Act would also require consideration of the actions of the individual and officer leading up to a use of force encounter, as California's recently enacted law does. It would also require that less than lethal force only be used when necessary and proportional, and only after reasonable alternatives have been exhausted and a warning has been given, where feasible. Lastly, states that receive federal funding from the DOJ under the Edward Byrne Memorial Justice Assistance Grant Program⁵¹ must enact a state use of force law consistent with the standards outlined in this legislation in order to continue receiving those funds, at the

confronting them" and that the "reasonableness" of a particular use of force must be judged from the perspective of a "reasonable officer on the scene." *Graham v. Connor*, 490 US 386 (1989).

⁴⁴ California Act to Save Lives, AB 392, Chapter 170 (2019), amending California Penal Code §§196 & 835(a), leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=20190200AB392

⁴⁵ C. Hagan, et al, *No criminal charges for Sacramento police officers who fatally shot Stephon Clark*, NPR, 2 March 2019, www.npr.org/2019/03/02/699719214/officers-in-stephon-clark-shooting-wont-be-charged-says-sacramento-da

⁴⁶ Washington State Legislature, HB 1064, app.leg.wa.gov/billssummary?BillNumber=1064&Year=2019&Initiative=false; T. James, *Governor Inslee signs update to Washington deadly force initiative*, Associated Press, 4 February 2019, www.king5.com/article/news/politics/governor-inslee-signs-update-to-washington-deadly-force-initiative/281-a4bb499d-6505-47d8-87c3-036594815fd4

⁴⁷ Amnesty International, *On the streets of America: Human rights abuses in Ferguson*, 2014, www.amnestyusa.org/wp-content/uploads/2017/04/onthestreetsofamericaamnestyinternational.pdf

⁴⁸ V.A.M.S. 563.046, Law enforcement officer's use of force in making an arrest, <https://revisor.mo.gov/main/OneSection.aspx?section=563.046&bid=33817&hl=:> T. Zimpfer, *Nixon signs bill to update Missouri's use-of-force statute*, The Missouri Times, 13 July 2016, themissouritimes.com/nixon-signs-bill-to-update-missouris-use-of-force-statute/

⁴⁹ *Tennessee v. Garner*, 471 US 1 (1985) sets a lower standard than that required by international law and standards, in particular, with regards to the type of harm threatened by the individual fleeing (the decision notes death/serious injury and serious physical harm interchangeably in the opinion) and also because it allows for police to use deadly force to prevent the escape of a person who is reasonably believed at some time in the past to have committed a crime involving the infliction or threatened infliction of serious physical harm. See Amnesty International, *Deadly Force: Police use of lethal force in the United States*, 2015, at 17-18, www.amnestyusa.org/wp-content/uploads/2015/06/aiusa_deadlyforcereportjune2015-1.pdf

⁵⁰ HR 4359, 116th Congress, www.congress.gov/bills/116th-congress/house-bill/4359

⁵¹ 34 U.S.C. 10151 et seq

discretion of the US Attorney General. At the time of the publication of this report, the PEACE Act, as a standalone bill, was still pending in the US House of Representatives.⁵²

One of a nation state's most fundamental duties is to protect life.

THE GEORGE FLOYD JUSTICE IN POLICING ACT OF 2020

On 25 June 2020, the US House of Representatives passed the George Floyd Justice in Policing Act of 2020 (HR 7120). Civil society and police reform organizations are urging the US Senate to improve upon and pass the George Floyd Justice in Policing Act, and ensure that it includes the following eight priorities in order to be a first step of meaningful reform of policing in the USA:

- Create a federal standard that the use of deadly force be reserved for only when necessary to protect life, as a last resort after exhausting reasonable alternatives, and call on states to implement this standard or risk losing federal funding; and require the use of de-escalation techniques and that officers warn subjects before resorting to force, as in the PEACE Act.
- Prohibit racial and religious profiling with robust data collection on police-community encounters and law enforcement activities. Data should capture all demographic categories⁵³ and be disaggregated.
- Eliminate the federal 1033 Program that facilitates the transfer of military equipment to law enforcement.
- Prohibit the use of “no-knock” warrants, especially for narcotics operations.
- Change the *mens rea* (intention) requirement under Section 242 of Title 18 of the US Code,⁵⁴ the federal civil rights statute regarding the deprivation of rights under the “color of law”. Changing this requirement from wilfulness to recklessness would enable prosecutors to successfully hold law enforcement officers accountable for depriving people of their civil rights and civil liberties.
- Prohibit all manoeuvres that restrict the flow of blood or oxygen to the brain, including neck holds, chokeholds and similar excessive force, and deem the use of such force a criminal violation under federal civil rights law.
- Develop a national public database of police disciplinary actions that is accessible to all and covers all police agencies in the USA and its territories.
- End the “qualified immunity” doctrine⁵⁵ that prevents police from being held financially liable if they violate people’s constitutional rights and enact a similar mechanism for holding federal law enforcement officers liable.

⁵² HR 4359, Police Exercising Absolute Care With Everyone Act of 2019, www.congress.gov/bills/116/congress/house-bills/4359/actions

⁵³ Including on actual or perceived race, ethnicity, national origin, religion, gender, gender identity, or sexual orientation.

⁵⁴ 18 USC § 242, makes it a federal crime for a person acting under “color of any law” to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. For the purpose of Section 242, acts under “color of law” include acts not only by federal, state, or local officials within their lawful authority, but also acts beyond the bounds of that official’s lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under “color of law” within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, colour, religion, sex, handicap, familial status or national origin of the victim. The offence is punishable by a range of imprisonment up to a life term, or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any.

⁵⁵ Qualified immunity is a judicially created doctrine that shields government officials from being held personally liable for constitutional violations – like the right to be free from excessive police force – for money damages under federal law so

In response to the ongoing protests in the USA seeking systemic policing reform, on 25 June 2020 the US House of Representatives took an important step by passing the George Floyd Justice in Policing Act, which includes the specific language of the PEACE Act.⁵⁶ While other provisions of the bill need to be strengthened, if passed in the US Senate, the George Floyd Justice in Policing Act would bring the use of deadly force more into line with international human rights standards. Passage of the PEACE Act, either as a standalone bill or as part of the George Floyd Justice in Policing Act, would limit the use of force and lethal force at the federal level and bring the disparate state laws more in line with international law and standards on the use of lethal force and state obligations to protect the right to life, security of the person, freedom from discrimination and equal protection of the law.

RECOMMENDATIONS ON POLICE USE OF LETHAL FORCE

TO THE US SENATE

- Pass the George Floyd Justice in Policing Act of 2020 (HR 7120), including the Police Exercising Absolute Care with Everyone or PEACE Act (HR 4359). This would bar federal law enforcement from using deadly force unless necessary as a last resort to prevent imminent death or serious bodily injury and only after reasonable alternatives have been exhausted and also prevent states from receiving federal funding unless they enact a state use of force law consistent with the standards outlined in the Act.

TO THE US DEPARTMENT OF JUSTICE

- Implement the collection and publication of nationwide statistics on police use of lethal force, in accordance with the Death in Custody Reporting Act of 2013. The data collected should be disaggregated on the basis of race, gender, age, nationality, sexual orientation, gender identity and Indigenous status.
- Review and revise all federal policies on the use of lethal force, including the Department of Justice's guidance on the use of deadly force by law enforcement officials to ensure compliance with international law and standards, including the UN Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms.
- Review and revise the Department of Justice's guidance for federal law enforcement agencies regarding the use of race, ethnicity, gender, national origin, religion sexual orientation or gender identity to include a comprehensive ban on racial profiling by federal and state law enforcement agencies.
- The Civil Rights Division of the Department of Justice should pursue "pattern and practice" investigations into police agencies nationwide that are found to commit widespread abuses, including use of lethal force, particularly against communities of colour and, where applicable, bring civil rights charges against officers who violate US civil rights law.

long as the officials did not violate "clearly established" law. Both 42 U.S.C. § 1983 and the Supreme Court's decision in *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics* (1971) allow individuals to sue government officials for money damages when they violate their constitutional rights. Section 1983 applies to state officials, while *Bivens* applies to federal officials. If qualified immunity applies, money damages aren't available against the government employee or official even if a constitutional violation has occurred. If qualified immunity doesn't apply, while the government employee or official technically is responsible for money damages, the government entity virtually always pays. So qualified immunity protects federal, state and local governments from having to pay money damages for actions not yet deemed unconstitutional by a court. The qualified immunity doctrine is very favourable to states and local governments. "Clearly established" means that, at the time of the official's conduct, the law was sufficiently clear that every reasonable official would understand that what he or she is doing is unconstitutional. According to the Supreme Court, qualified immunity protects all except the plainly incompetent or those who knowingly violate the law.

⁵⁶ HR 7120, George Floyd Justice in Police Act of 2020, www.congress.gov/bills/116/congress/house/bills/7120?q=%7B%22search%22%3A%5B%22HR7120%22%5D%7D&s=2&r=1

TO STATE GOVERNMENTS

- Ensure legislatures introduce or review and amend statutes that authorize the use of lethal force so that they are in line with international law and standards by limiting the use of lethal force by law enforcement to those instances in which it is necessary and proportional to protect against an imminent threat of death or serious injury and oblige law enforcement officials to use firearms only where there is no other way of achieving this aim. The statutes should:
 - contain specific provisions requiring a system of reporting whenever law enforcement officers use firearms in the performance of their duty;
 - comply with the UN Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms; and
 - emphasize the obligation of law enforcement officials to carry out their duty and to exercise the power to use force and firearms without discrimination on any ground, including race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (ICCPR, Article 26).
- Require, by law, that police departments publish regular statistics on the number of people shot and killed or injured by police officers. This data should be disaggregated on the basis of race, gender, age, nationality, sexual orientation⁵⁷ gender identity and Indigenous status. All states should report data to the federal government through the system set out by the Death in Custody Reporting Act (2014).

⁵⁷ Note though that people should not be compelled to provide this data to the police, especially sexual orientation. Accordingly, while custody paperwork may contain an option for a detainee to indicate their sexual orientation this must be clearly marked as optional.

HUMAN RIGHTS VIOLATIONS IN THE POLICING OF PROTESTS

Several widely reported killings of Black people in various parts of the country sparked mass movements across the USA in 2020 as people took to the streets to demand accountability for unlawful killings as well as long overdue reforms to state and local policing and criminal justice systems. These cases that fuelled the protests included the video-taped extrajudicial execution of George Floyd in Minneapolis, Minnesota, on 25 May 2020, and the deaths of Breonna Taylor, who was shot and killed by police in Louisville, Kentucky, and Ahmaud Arbery, who was chased, shot and killed by three white men, including a former law enforcement officer, while jogging in a neighbourhood near Brunswick, Georgia.⁵⁸

In their response to these protests police across the country have failed in their obligations under international law to respect and facilitate the right to freedom of peaceful assembly. In fact, policing of the protests has exacerbated tense situations and potentially endangered the lives of protesters.

Amnesty International has documented incidents of unnecessary and excessive force by law enforcement agencies while policing these protests in cities across the country. The unnecessary and excessive use of specific weapons, such as chemical irritants and kinetic impact projectiles, is ultimately a symptom of the very issue that started these protests: unaccountable police violence. In some instances, the excessive use of force that causes severe pain or suffering may constitute torture or other ill-treatment, in violation of international law.

⁵⁸ On 23 February 2020, Ahmaud Arbery, a 25-year-old Black man, was chased by three white men, one of whom shot and killed him, when he was jogging through their neighbourhood. All three men remained free while two separate law enforcement agencies failed to bring charges due to conflicts of interest based on previous professional or personal relationships with one of the men, Gregory McMichael. A third District Attorney's office was continuing its investigation of the case when a short cell phone video of the encounter was publicly released on 5 May 2020. Shortly after the release of the video, Gregory and his son Travis McMichael, who fired the shots that killed Ahmaud Arbery, were arrested on 7 May. The third man, William "Roddy" Brian, was arrested a short time later on 21 May. All three were formerly indicted on 24 June, each with nine counts of malice murder, four counts of felony murder, two counts of aggravated assault, false imprisonment and criminal attempt to commit false imprisonment.

R. Fausset, *Suspects in Ahmaud Arbery's killing are indicted on murder charges*, The New York Times, 24 June 2020, www.nytimes.com/2020/06/24/us/ahmaud-arbery-shooting-murder-indictment.html; *Ahmaud Arbery: What do we know about the case?*, BBC, 5 June 2020, www.bbc.com/news/world-us-canada-52623151; Georgia Bureau of Investigation, *Ahmaud Arbery Murder Investigation*, gbi.georgia.gov/press-releases/2020-05-21/ahmaud-arbery-murder-investigation On 18 May 2020, Amnesty International USA wrote a letter to Georgia Governor Brian Kemp and Director D. Victor Reynolds of the Georgia Bureau of Investigation (GBI), calling for the Governor to work with the state legislature to repeal the state's Stand Your Ground and Citizen's Arrest laws, which were used as justification to initially not pursue indictments against the McMichaels, as they are incompatible with international law and standards, and calling on the GBI to conduct a thorough, transparent and impartial examination of all the circumstances of this case along with the actions of local prosecutors, and to keep the Arbery family informed of any developments throughout the investigation. Letter is on file with Amnesty International USA.

AUBREANNA INDA
SEATTLE, WASHINGTON
7 JUNE 2020



Aubreanna Inda sits for a portrait on 10 June 2020, at a park along Lake Washington in Seattle
Credit: Megan Farmer/KUOW Photo

On 7 June 2020, Aubreanna Inda, a 26-year-old student, was struck in the chest by a flash grenade as she was kneeling down approximately 20 feet in front of the Seattle police. She and her friends had been distributing food that evening to protesters. As police sought to push protesters back, threatening to deploy their weapons to forcibly move them if they did not disperse, she moved to the front to talk with the police to de-escalate the tension. Shortly after talking with the officers, Aubreanna Inda was hit with a flash grenade.

Danielle Meehan, an intensive care nurse who was standing at the aid station behind the protesters, said she could smell pepper spray and hear what sounded like bombs exploding everywhere as people started rushing toward the aid station. She was treating four different people – flushing chemical irritants from their eyes and treating welts on their arms and legs from being hit with flash grenades. As she was treating them, someone started screaming: “She’s been hit in the chest, she’s been hit in the chest.” Yet, even as Danielle and other street medics scrambled to treat Aubreanna Inda, police continued to fire tear gas, flash grenades and rubber bullets at them and the aid station. Police then advanced on the aid station, firing flash grenades and pepper balls inside. The station was clearly marked with identifying signs and red crosses and filled with tables stacked with water bottles and first aid supplies.

As Danielle and another medic rushed Aubreanna Inda on a makeshift stretcher out of the aid station, Danielle’s medic partner was hit on his calf with a flash grenade. They rushed Aubreanna Inda to a safe space four blocks away, where Danielle resuscitated Aubreanna Inda several separate times. At one point, Aubreanna Inda said to Danielle, “I feel like I am dying.” Danielle Meehan explained, “[She] lost her pulse 3-4 times after my medic partners and I started treating her. We resuscitated her each time with [cardiopulmonary resuscitation].”

They transported Aubreanna Inda in a private car to the hospital because no ambulance would come to them.⁵⁹ She was told by doctors at the hospital that she died three times that night. In fact, she had suffered multiple cardiac arrests after being hit with the flash grenade and was subsequently diagnosed with a concussion and whiplash. She left the hospital the next day. In the days following the incident, she described how easily she tires and confirmed that she has difficulty breathing when standing, “I feel like someone is stepping on my chest.”⁶⁰ At the time this report was published, Aubreanna Inda was resting at home, slowly trying to recover from her injuries.

On 23 June 2020, Amnesty International, released an interactive map of 125 incidents that occurred in 40 states and Washington, DC between 26 May and 5 June 2020, a period when hundreds of thousands of people in the USA and around the world protested against racism and police violence and to demand

⁵⁹ Amnesty International interview with Aubreanna Inda, Seattle, Washington, 27 June 2020; Amnesty International interview with Danielle Meehan, Seattle, Washington, 21 June 2020.

⁶⁰ L. Jones and I. Raftery, *This woman ‘died three times’ after Seattle Police hit her with a blast ball*, KUOW Public Radio, 10 June 2020, www.kuow.org/stories/this-26-year-old-died-three-times-after-police-hit-her-with-a-blast-ball

accountability for the unlawful killing of Black people by law enforcement personnel.⁶¹ The response by law enforcement to multi-racial protests against police violence was in marked contrast to the law enforcement response to much smaller, but largely white, and sometimes armed, protests against government policies to address the COVID-19 pandemic at state capitols in Lansing, Michigan and St. Paul, Minnesota, several weeks earlier.⁶² This is not to suggest more force should have been used in policing protests against the COVID-19 lockdowns, but to highlight the uneven response and the willingness of police to resort to violence when policing protests involving people of colour demonstrating against police violence.

Law enforcement authorities are required to act in accordance with international human rights standards and the US Constitution when policing protests. Specifically, it is the role of government and law enforcement to facilitate peaceful assemblies. Therefore, law enforcement must ensure that any decision to disperse an assembly is taken only as a last resort and strictly in line with the principles of necessity and proportionality; that is, only when there are no other means available to protect a legitimate aim and when the level or threat of violence outweighs the right of people to assemble. The violence of a small number of people should not result in peaceful protesters' right to assemble being violated.

However, law enforcement agencies in cities across the country consistently violated human rights instead of protecting and facilitating the rights to freedom of peaceful assembly and association. These violations occurred as a result of a militarized police response; the unlawful use of force, including in the use of batons, kinetic impact projectiles and chemical irritants such as tear gas (CS) and pepper spray (OC); and the targeting of activists, journalists, legal observers and street medics.

INTIMIDATION OF PROTESTERS: MILITARIZED RESPONSE AND EQUIPMENT

“They were really geared up to go to war almost, and against people who were using umbrellas to protect ourselves [from pepper spray].”

Amnesty International interview with Aubreanna Inda, describing police in riot gear in Seattle, Washington

In the days and nights following George Floyd's death, thousands of protesters in Minneapolis, Minnesota, took to the streets calling for accountability for the unlawful killing of Black people and for systemic policing reform. As the protests spread to cities and regions all across the country, how those protesters were met by law enforcement depended on the individual law enforcement agencies involved in policing those demonstrations. Police officials in cities such as Newark, New Jersey; Flint, Michigan; and Camden, New Jersey, met and marched with protesters through their respective cities' streets.⁶³

The protests were reported to be largely peaceful, although there were some violent incidents involving smaller groups, often late at night. The response to the protesters by police in many cities was to confront them wearing riot gear (helmets and vests) and carrying shields and batons as a first level of response, rather than in response to any particular act of violence. Some were armed with semi-automatic rifles and some had police dogs.⁶⁴

⁶¹ Amnesty International, Amnesty International Documents Widespread Police Violence Against Protesters for Black Lives, June 2020, www.amnestyusa.org/protest-map/

⁶² L. Zhou and K. Amaria, *These photos capture the stark contrast in police response to the George Floyd protests and the anti-lockdown protests*, Vox, 27 May 2020, www.vox.com/2020/5/27/21271811/george-floyd-protests-minneapolis-lockdown-protests

⁶³ A. Rao, *Police marching with protesters: how some cities got it right and others didn't*, The Guardian, 2 June 2020, www.theguardian.com/us-news/2020/jun/02/police-marching-with-protesters-george-floyd-reform

⁶⁴ D. Borenstein, *Bay Area police sicced biting dog on black George Floyd protester*, The Mercury News, 4 June 2020, www.mercurynews.com/2020/06/04/borenstein-police-siccing-dog-on-black-george-floyd-protester-excessive/; B. Davis,

Officers moved among the protesters using armoured vehicles more appropriate for a conflict zone than the streets of US cities and towns. Amnesty International has verified hundreds of videos of police in military grade equipment being deployed during the protests. Victor Blue, working on assignment as a photojournalist for a national newspaper covering the protests in Minneapolis, Minnesota, told Amnesty International that he saw Minnesota State Police wearing military gear and observed a few more officers tactically equipped as Special Weapons and Tactics (SWAT) officers policing the protests during the weekend of 28-31 May. His first impression was that they were active duty military personnel, but when he saw their insignia identifying them as also being State Troopers, he wondered, “Why were they dressed like they were going to drop into Waziristan [Afghanistan]?”⁶⁵

Using heavy-duty riot gear and military-grade weapons and equipment to police largely peaceful demonstrations intimidates protesters exercising their right to peaceful assembly. Equipping officers in a manner more appropriate for a battlefield may put them in the mindset that confrontation and conflict are inevitable rather than possible and may escalate tensions between protesters and police. Any police presence at demonstrations needs to be proportionate to the situation. Police deployed in larger numbers than appears necessary or wearing protective clothing or riot gear where this is not necessary can be confrontational and intimidating. As seen in many countries, inappropriate or excessive police interventions can actually lead to violence and disorder rather than reducing tensions. Indeed, police will have a propensity to use the weaponry they are deployed with and so should not be deployed with weapons that are inherently inappropriate for the operation they are conducting.

The show of force and militarized police against peaceful protesters was demonstrated most clearly in Washington, DC on 1 June 2020 and the days immediately after.



WASHINGTON, DISTRICT OF COLUMBIA

1 JUNE 2020

On 1 June 2020 at approximately 5pm, a crowd of people gathered along H Street along the edge of Lafayette Square in Washington, DC which lies in front of the White House. Lafayette Square had been closed to the public due to previous ongoing protests. At approximately 6pm, personnel from multiple law enforcement agencies including the DC National Guard, the Secret Service, the US Park Police and the Federal Bureau of Prisons Special Operations Response Team gathered along the edge of Lafayette Square dressed in riot gear and with shields and batons. Three orders to disperse were given within minutes of each other; even at the front of the crowd, the orders were not entirely audible as evidenced on multiple recordings from the incident. One person who was at the protest reported to Amnesty International that they never heard an order to disperse before police resorted to using force to clear the area.

At approximately 6.30pm, law enforcement officers, including police on horses, advanced, forcefully pushing the crowd west along H Street and north along 16th Street NW. One US Park Police officer told a member of the crowd: “You better back up, or you’re going down.” Park Police officers struck a news camera operator with a shield and beat a reporter in the back with a baton as they ran away from police. The officers misused a variety of crowd control agents and threw US-manufactured Stinger Ball grenades, which contain pepper spray and explode in a concussive “flash-bang” effect, throwing rubber pellets indiscriminately in all directions. Bureau of Prisons personnel also deployed pepper balls against retreating protesters. Mary Small, who was at the protest, described the scene to Amnesty International:

***“The police started firing little pellets... One of them hit my leg... It hissed and some kind of gas was coming off [it]. Later as I was trying to get away, I felt my foot burning; it felt like there was acid in my shoe. I took my shoe off and a small piece of [a pellet] fell out... They started the second round of tear gas. I got hit in the head with something... [the impact] snapped my head back and my glasses flew off my face, but I do not know what it was... I saw people lowering a man to the ground... He had trouble breathing. He said, ‘I got hit, I went down.’... He was on the ground and they were still shooting at him... [his breathing] made this horrible*”**

APD uses tear gas against protesters after George Floyd demonstration, The Daily Lobo, 1 June 2020, www.dailylobo.com/article/2020/06/apd-uses-tear-gas-against-protesters-after-george-floyd-demonstration

⁶⁵ Amnesty International interview with Victor Blue, Brooklyn, New York, 13 June 2020.

gurgling, hissing sound and he had a huge bump, like a goose egg, on his head. He said he couldn't see... I did not see any violence by protesters [leading up to the forced dispersal]."

Police detained individual members of the crowd and used excessive force in clearing the area near Lafayette Square. Eventually, law enforcement pushed the crowd west along H Street to the intersection of H Street and 17th Street and then south down 17th Street, effectively clearing a path between the White House and St John's Church.

The action started several minutes before President Trump was to give a speech in the Rose Garden of the White House calling on mayors and governors to establish "an overwhelming law enforcement presence until the violence has been quelled", stating that if they did not, he would "deploy the United States Military, and quickly solve the problem for them" and invoking the rarely used Insurrection Act of 1807.⁶⁶ Minutes after the path was cleared, President Trump, Attorney General William Barr, Secretary of Defense Mark Esper, Chairman of the Joint Chiefs of Staff General Mark Milley and other administration officials, walked from the White House across the street to St John's Church, where President Trump posed in front of St John's Church for a photo opportunity.⁶⁷

In his speech on 1 June, President Trump threatened to invoke the Insurrection Act of 1807, which gives the president the power to send military forces to states to quell widespread public unrest and to support civilian law enforcement. In situations where stability is not restored, the president may then issue an executive order to deploy troops to quell the violence.⁶⁸

Two days earlier, reports had emerged that soldiers from Fort Bragg in North Carolina and Fort Drum in New York were ordered to be ready to deploy within four hours if called, while soldiers in Fort Carson in Colorado and Fort Riley in Kansas were told to be ready within 24 hours.⁶⁹ Reports later confirmed that on 2 June, approximately 700 members of the 82nd Airborne Division from Fort Bragg in North Carolina were sent to two military bases near the District Capitol Area, joining the 3rd US Infantry Regiment, which is based in Washington, DC. According to a 22 June 2020 letter from Chairman of the Joint Chiefs of Staff General Mark A. Milley to two US Congressional representatives, neither the 82nd Airborne nor the 3rd US Infantry Regiment were ever called off base or into the city to respond to protests. The 82nd Airborne Division was sent back to Fort Bragg on 4 June.⁷⁰

At approximately 10pm on 1 June 2020, Army National Guard helicopters, which had been flying overhead to track the movements of protesters still out on the street, swooped down low over protesters in Washington DC. This action occurred about three hours after the clearing of Lafayette Square and the imposition of a hastily ordered 7pm curfew earlier that evening. According to analysis and estimates by *The Washington Post*, the two helicopters flew below the height of the tallest nearby buildings and as low as approximately 45 feet above the ground, creating "rotor wash" which tore away protesters' and officers' face masks and blew torrents of branches and debris through the street before ascending. One of the helicopters was painted with the red cross of a medical evacuation aircraft.

Videos from the scene showed the helicopters sending debris flying across sidewalks, toppling part of a tree and even shattering storefront windows. The helicopter manoeuvres lasted for approximately 10 minutes in total as protesters ran for cover. Such shows of force are more commonly used to disperse civilians in war zones. In those situations, it is often a tactic used to incite fear and disperse crowds. In this case, it was reportedly ordered by military officials. The pilots were subsequently grounded pending the outcome of a DC

⁶⁶ C-Span, *President Trump delivers remarks on protests and civil unrest*, 1 June 2020, www.c-span.org/video/?472684-1/president-deploy-military-states-halt-violent-protests

⁶⁷ D. Bennett, et al, *The crackdown before Trump's photo op*, The Washington Post, 8 June 2020, www.washingtonpost.com/investigations/2020/06/08/timeline-trump-church-photo-op/?arc404=true; D. Zak, et al, 'This can't be happening': An oral history of 48 surreal, violent, biblical minutes in Washington, The Washington Post, 2 June 2020, www.washingtonpost.com/lifestyle/style/this-cant-be-happening-an-oral-history-of-48-surreal-violent-biblical-minutes-in-washington/2020/06/02/6683d36e-a4e3-11ea-b619-3f9133bbb482_story.html

⁶⁸ J.K. Elsea, *The Use of Federal Troops for Disaster Assistance: Legal Issues, Report for Congress*, Congressional Research Service, 14 August 2006, www.everycrsreport.com/files/20060814_RS22266_c6617a8c1fc8c51828f9ab4d4a42de8366358c24.pdf

⁶⁹ J. Laporta and R. Burns, *Pentagon ready to send troops to Minneapolis if state asks*, The Associated Press, 30 May 2020, apnews.com/cf9947a3ca9f3225f9645fd330403eae

⁷⁰ S.B. Morgan and J. Laporta, *Military Chief confirms some troops mobilized to D.C. protests were issued bayonets*, Time, 3 July 2020, time.com/5862755/dc-troops-issued-bayonets/

National Guard investigation into the event.⁷¹ The videos clearly show this to have been a reckless and dangerous manoeuvre used against protesters. It was an excessive use of force and a clear violation of international human rights law.

Leading up to the events described on 1 June in Washington, DC, rows of heavily armed riot police in drab military-style uniforms with no insignia, identifying emblems or name badges were seen guarding specific buildings or areas around the Federal District. The group, comprising nearly 3,000 law enforcement officers from the FBI, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the US Department of Homeland Security (DHS) and the Bureau of Prisons (BOP), was deployed on the orders and direction of Attorney General William Barr. BOP officers were further empowered with the authority to make arrests at the demonstrations.⁷²

This deployment was in addition to the nearly 3,000 National Guard troops that were called in to provide support to local law enforcement in the Federal District.⁷³ Across the country, National Guard troops were called up by Governors in more than 20 states to provide support to law enforcement in major cities.⁷⁴

In response to the destruction and removal of confederate⁷⁵ and other monuments throughout the country, President Trump issued an Executive Order on 26 June 2020, in part, calling on the DOJ to prosecute crimes related to the vandalism of federal property and monuments and those accused of incitement to violence leading to riots. It further called for the deployment of federal agents from a number of US agencies to assist in the protection of federal property and monuments.⁷⁶

On 1 July 2020, armed federal officers from several federal agencies adopted a more visible presence around federal properties in downtown Portland, Oregon, the scene of nightly protests since George Floyd's death. The federal agents were from the US Marshals Service and agencies of DHS, including Federal Protective Services officers and several paramilitary style units, including officers from US Customs and Protection's Border Patrol Tactical (BORTAC) unit,⁷⁷ a highly trained group normally tasked with investigating drug smuggling organizations, who are not trained in the policing of demonstrations in cities.⁷⁸ The deployment, dubbed "Operation Diligent Valor" was based upon the 26 June Executive Order and on the premise of protecting federal property in the city and was not supported by local and state officials.⁷⁹

The agents wore camouflage military fatigues with generic patches that say "POLICE" but had no other identifying information, such as nameplates, which would enable them to be identified. The presence of these agents has had the effect of inflaming tensions. Agents have used excessive force against protesters and used unmarked vehicles to arbitrarily detain people. Federal, state and local officials have questioned the agents' legal authority to police demonstrations and carry out arrests and called for their withdrawal from the city.⁸⁰

Military forces are generally not suitable for carrying out law enforcement tasks and should not be deployed to conduct law enforcement duties unless under exceptional and temporary circumstances, based on a clear needs assessment as to their added value in a concrete situation. In such a deployment, they are bound by the legal framework applicable to law enforcement, including international and domestic human rights law, and may carry out law enforcement functions only if they are properly instructed, equipped and trained to do so in a lawful, human rights compliant manner. They should be subject to civilian command, control and oversight at all times.

Amnesty International is concerned about the use of National Guard troops, federal agents and federal law enforcement officers and military personnel unless their deployment is to serve a legitimate objective. None of these groups, with the exception of DC Park Police, have any experience in crowd control manoeuvres and the policing of protests. In the present circumstances it is difficult to see how any use of such forces was justifiable, other than arguably to relieve law enforcement officers by conducting duties such as guarding infrastructure so that those law enforcement officials could be redeployed.

USE OF MILITARY EQUIPMENT IN LAW ENFORCEMENT AND THE 1033 PROGRAM

Under a US law passed on 23 September 1996, the Department of Defense is authorized to provide surplus property to local law enforcement agencies through the Law Enforcement Support Office Program (known as the 1033 Program).⁸¹ This allows military grade equipment, including vehicles and weapons, to be transferred to local law enforcement agencies, such as police and sheriffs' departments, and used in operations such as narcotics raids and the policing of demonstrations. Since the start of the 1033 Program, weapons and equipment worth more than US\$7.4 billion have been transferred to local law enforcement agencies across the country.⁸²

Following the 2014 Black Lives Matter protests calling for police accountability and systemic reform in Ferguson, Missouri, and other cities across the country, President Obama issued Executive Order 13688 on Federal Support for Local Law Enforcement Equipment Acquisition and established the Law Enforcement Equipment Working Group on 16 January 2015.⁸³ Executive Order 13688 applied to all federal government programmes providing law enforcement with property and support through grants and property transfers. The Working Group provided recommendations to the President in the areas of prohibited and controlled equipment lists; policies, training and protocols for controlled equipment; the acquisition process for controlled equipment; transfer, sale, return and disposal of controlled equipment; and oversight, compliance and implementation. The Working Group's recommendations were accepted by the President and became effective on 1 October 2015. Equipment on the prohibited list included tracked

⁷¹ A. Horton, *A low-flying 'show of force'*, The Washington Post, 23 June 2020, www.washingtonpost.com/graphics/2020/investigations/helicopter-protests-washington-dc-national-guard/; C. Dickstein, *Inquiry results into helicopter's show of force over DC protesters expected this week; Guard going home*, Stars and Stripes, 8 June 2020, www.stripes.com/news/us/inquiry-results-into-helicopter-s-show-of-force-over-dc-protesters-expected-this-week-guard-going-home-1.632907; T. Gibbons- Neff and E. Schmitt, *Pentagon ordered National Guard helicopters' aggressive response in D.C.*, The New York Times, 6 June 2020, www.nytimes.com/2020/06/06/us/politics/protests-trump-helicopters-national-guard.html

⁷² Z. Kanno-Youngs, *Unidentified Federal police prompt fears amid protests in Washington*, The Washington Post, 4 June 2020, www.nytimes.com/2020/06/04/us/politics/unidentified-police-protests.html?smid=tw-share; G.M. Graff, *The story behind Bill Barr's unmarked Federal agents*, Politico, 5 June 2020, www.politico.com/news/magazine/2020/06/05/protests-washington-dc-federal-agents-law-enforcement-302551

⁷³ A. Capaccio, *Federal plan to control DC protests taps 7,600 personnel*, Bloomberg, 4 June 2020, www.bloomberg.com/news/articles/2020-06-05/federal-plan-to-control-d-c-protests-has-7-600-personnel-tapped?srnd=premium

⁷⁴ J. Bote, et al, *Fires, a shooting, curfews, arrests: George Floyd protests turn to unrest across country*, USA Today, 30 May 2020, www.usatoday.com/story/news/nation/2020/05/30/george-floyd-protests-hundreds-arrested-national-guard-curfews/5291442002/; *A timeline of the George Floyd and anti-police brutality protests*, Al Jazeera, 11 June 2020, www.aljazeera.com/news/2020/06/timeline-george-floyd-protests-200610194807385.html

⁷⁵ Monuments that were erected of Confederate soldiers and leaders, mainly in the southern US states, after the US Civil War and predominantly during the early part of the 20th Century, in homage to the institution of slavery and as symbols of white supremacy.

⁷⁶ Executive Order, *Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence*, 26 June 2020, www.whitehouse.gov/presidential-actions/executive-order-protecting-american-monuments-memorials-statues-combating-recent-criminal-violence/; G. Borter, *Court documents reveal secretive federal unit deployed for 'Operation Diligent Valor' in Oregon*, Reuters, 22 July 2020, www.reuters.com/article/us-global-race-portland-valor-idUSKCN24N2SH

⁷⁷ Border Patrol Tactical Unit ("BORTAC"), US Customs and Border Protection, www.cbp.gov/sites/default/files/documents/Border%20Patrol%20Tactical%20Unit.pdf

⁷⁸ M. Hosenball, *U.S. Homeland Security confirms three units sent paramilitary officers to Portland*, Reuters, 21 July 2020, www.reuters.com/article/us-global-race-protests-agents/u-s-homeland-security-confirms-three-units-sent-paramilitary-officers-to-portland-idUSKCN24M2RL7fbclid=IwAR11QFoOoG9nIIBSQV6jxC4U8G5_CQ1slxwZaOMGCOKVd3DF6iBw2_gSaI

⁷⁹ Executive Order, *Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence*, 26 June 2020, www.whitehouse.gov/presidential-actions/executive-order-protecting-american-monuments-memorials-statues-combating-recent-criminal-violence/

⁸⁰ *Rosenblum v. John Does 1-10, et al*, Complaint 3:20-cv-01161-HZ, 17 July 2020, opb-imgserve-production.s3-website-us-west-2.amazonaws.com/original/ag_rosenblum_xxxx_updated_complaint_1595086491349.pdf; J. Campbell, *Neither side is backing down as federal agents and protesters clash in Portland*, CNN, 21 July 2020, www.cnn.com/2020/07/21/us/analysis-portland-protests-federal-agents/index.html; N. Crombie and R. Nguyen, *Federal officers use gas, force on hundreds gathered in downtown Portland Tuesday*, The Oregonian, 22 July 2020, www.oregonlive.com/weather/2020/07/portland-protests-continue-for-55th-day-tuesday-live-updates.html; J. Levinson, et al, *50 Days Of Protest In Portland. A Violent Police Response. This Is How We Got Here.*, Oregon Public Broadcasting, 19 July 2020, www.opb.org/news/article/police-violence-portland-protest-federal-officers/; Merkley, Wyden, Blumenauer, *Bonamici call for investigations into federal operatives in Portland*, Press release, Office of Senator Jeff Merkley, 17 July 2020, www.merkley.senate.gov/news/press-releases/merkley-wyden-blumenauer-bonamici-call-for-investigations-into-federal-operatives-in-portland-2020

⁸¹ 10 U.S.C.A. § 2576a (2014).

⁸² Law Enforcement Support Office, Defense Logistics Agency, www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement.aspx

⁸³ Executive Order 13688, *Federal Support for Local Law Enforcement Equipment Acquisition*, 16 January 2015, www.govinfo.gov/content/pkg/DCPD-201500033/pdf/DCPD-201500033.pdf

armoured vehicles; weaponized aircraft, vessels and vehicles; .50-caliber firearms and ammunition; bayonets; camouflage uniforms; and grenade launchers.⁸⁴

On 28 August 2017, President Trump issued a Presidential Executive Order on Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources which revoked Executive Order 13688 and directed all executive departments and agencies "to cease implementing those recommendations and, if necessary, to take prompt action to rescind any rules, regulations, guidelines, or policies implementing them." With the revocation of Executive Order 13688, excess tracked armoured vehicles and bayonets are no longer prohibited for transfer from the Law Enforcement Support Office through the 1033 Program to law enforcement agencies.⁸⁵

Several studies and investigations have highlighted problems with the 1033 Program and providing law enforcement agencies with military equipment and gear. For example, just months prior to President Trump's Executive Order related to the 1033 Program, the US Government Accountability Office (GAO) released a report on the issues. *The GAO created a fictitious federal agency to conduct independent testing of 1033 Program internal controls and the transfer of controlled property to law enforcement agencies. The GAO gained access to the Program and obtained more than 100 controlled items with an estimated value of US\$1.2 million, including night-vision goggles, simulated rifles and simulated pipe bombs.* The examination identified deficiencies in the processes for verification and approval of federal law enforcement agency applications and in the transfer of controlled property.⁸⁶

Studies of the 1033 Program have revealed the impact on the communities where the materials are sent. For instance, one study found that when law enforcement agencies receive military equipment, those agencies became increasingly militarized from material, cultural, organizational and operational perspectives and ultimately lead to more violent behaviour by those agencies.⁸⁷ Another study, conducted after the protests in Ferguson, demonstrated that militarized police units are more often deployed in communities with a large proportion of Black residents. The study concluded that such militarization does not enhance officer safety nor reduce local crime and may diminish the reputation of the police in the eyes of the local community and the general public.⁸⁸

Amnesty International does not condone violence or damage to property. In all situations, however, law enforcement officers have an obligation to engage in de-escalation to prevent the exacerbation of violence. Property damage is not as important as the protection of people's lives, which is where the focus must remain.

In order to protect the right to freedom of peaceful assembly, law enforcement officers should demilitarize their approach and engage in dialogue with protest organizers. Such dialogue will reduce tensions and may prevent, de-escalate or end violent interactions between officers and protesters.

Where a small group within a larger peaceful protest commit acts of violence and vandalism, communicating and working with protest organizers can help law enforcement identify those who are committing violent acts and targeting those individuals for those acts. This dialogue, both before and during demonstrations, can help to prevent problems and to find solutions to potential problems before they arise, such as determining the best possible routes for a march, finding an appropriate balance between conflicting interests of the demonstrators and others, such as taking account simultaneous events or traffic considerations.

⁸⁴ Law Enforcement Equipment Working Group, *Recommendations Pursuant to Executive Order 13688 Federal Support for Local Law Enforcement Equipment Acquisition*, May 2015, [bjaojp.gov/sites/g/files/xyckuh186/files/publications/LEEWG_Report_Final.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/publications/LEEWG_Report_Final.pdf)

⁸⁵ Executive Order, *Presidential Executive Order on Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources*, 28 August 2017, www.whitehouse.gov/presidential-actions/presidential-executive-order-restoring-state-tribal-local-law-enforcements-access-life-saving-equipment-resources/

⁸⁶ US Government Accountability Office, *Report to Congress: DOD EXCESS PROPERTY, Enhanced Controls Needed for Access to Excess Controlled Property*, July 2017, www.gao.gov/assets/690/685916.pdf

⁸⁷ C. Delahanty, et al, *Militarization and police violence: The case of the 1033 program*, Research and Politics, 14 June 2017, journals.sagepub.com/doi/full/10.1177/2053168017712885

⁸⁸ J. Mummolo, *Militarization fails to enhance police safety or reduce crime but may harm police reputation*, Proceedings of the National Academy of Science of the United States of America, 20 August 2018, www.pnas.org/content/115/37/9181

Respect for the right to freedom of peaceful assembly requires states to take a facilitative approach⁸⁹ and that protesters be able to have a real opportunity to peacefully convey their message to the right people, group or organization. Therefore, as recommended by the Special Rapporteur on the rights to freedom of peaceful assembly and association, assemblies should as a general rule be facilitated within the “sight and sound” of their target audience.⁹⁰

EXCESSIVE FORCE

During public assemblies, the police have the primary responsibility to protect the right to freedom of peaceful assembly and to ensure that public order is maintained in a reasonable manner. The policing of public assemblies is a particular activity that requires specific skills and abilities that are distinct from routine policing. It requires the balancing of competing interests and rights and it is, therefore, important that police officers are well trained in human rights compliant crowd management principles and practices and that they are appropriately equipped to provide protection and maintain order.

Police may resort to the use of force at public assemblies only when it is absolutely necessary and proportionate to achieve a legitimate law enforcement objective. On the use of force during the policing of assemblies, Article 3 of the UN Code of Conduct for Law Enforcement Officials states: “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.” If the use of force is unavoidable, law enforcement officials must exercise restraint in its use. Force should not be used to punish the (presumed or alleged) non-compliance with an order nor simply for participating in an assembly.

Even when force may legitimately be required, the authorities must rigorously distinguish between peaceful demonstrators or bystanders and any individual who is actively engaged in violence. The violent acts of an individual never justify the disproportionate use of force against peaceful protesters in general and force is only justified until the immediate threat of violence toward others has been contained.

The enforced dispersal of a public assembly should take place only as a measure of last resort, when widespread violence occurs or there is an imminent threat of violence. The police should not intervene aggressively and disperse a demonstration simply in response to the actions of a small number of participants. Assemblies are always diverse gatherings and participants do not lose their individual rights simply because a small number of people are behaving violently.

In the context of the 2020 protests across the USA, it is often unclear whether an order to disperse is conveyed to the protesters; whether that order is in fact lawful, that is, a last resort to address widespread violence or an imminent threat of violence; or whether law enforcement officials are sufficiently clear in their orders to the protesters before forcibly ending protests. The methods used by law enforcement in cities across the USA to disperse crowds often include the use of police in riot gear, equipped with helmets, vests and carrying shields and batons; the repeated use of chemical irritants (tear gas and pepper spray); kinetic impact projectiles (multi-projectile rubber bullets or individual projectiles like sponge rounds and rubber/plastic bullets); and physical force such as the use of batons.

CHEMICAL IRRITANTS

Amnesty International documented 89 specific instances of the unnecessary use of tear gas in cities in 34 states and 21 incidents of the unlawful use of pepper spray in 15 states and Washington, DC, between 25 May and 5 June. Often, these chemicals were used at the same time and in combination.⁹¹ Media reports documented several dozen instances of tear gas and/or pepper spray being used during the ongoing protests across the country since George Floyd’s death.⁹² In many of the documented incidents, these chemical

⁸⁹ *Derzhavtsev v Belarus*; UN Human Rights Committee, UN Doc. CCPR/C/115/D/2076/2011 (2015) para. 8.6; *Pugach v Belarus*, UN Human Rights Committee, UN Doc. CCPR/C/114/D/1984/2010 (2015) para 7.7; and *Evrezov v Belarus*, UN Human Rights Committee, UN Doc. CCPR/C/114/D/1988/2010 (2015) para 7.4.

⁹⁰ Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, UN Doc. A/HRC/20/27, (2012), para 40; OSCE/ODIHR and the Venice Commission, Guidelines on Freedom of Peaceful Assembly (2010), 3.5 and para.45; Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, UN Doc. A/HRC/31/66, para 24.

⁹¹ Amnesty International, *Amnesty International Documents Widespread Police Violence Against Protesters for Black Lives*, June 2020, www.amnestyusa.org/protest-map/

⁹² Documentation on file with Amnesty International USA.

irritants were used as a matter of first resort to disperse a peacefully assembled crowd or in response to non-compliance of some specific order, rather than as a last resort in response to widespread violence on the part of the protesters.

LIZZIE HORNE PHILADELPHIA, PENNSYLVANIA



Vine Street Expressway, Philadelphia, Pennsylvania
Credit: Mark Makela/Getty Images

On 1 June 2020, in central Philadelphia, state and city police used large amounts of tear gas and pepper spray to remove dozens of peaceful protesters from the Vine Street Expressway. One affected protester, Lizzie Horne, a Rabbinical student, told Amnesty International:

“Out of the blue, they started breezing pepper spray into the crowd. There was one officer on the median who was spraying as well. Then they started with tear gas. Someone who was right in the front – who had a tear gas canister hit his head and started running back. We were trying to help him, flushing his eyes and then he just fainted and started having a seizure. He came to pretty quickly. As we were finally lifting him up and getting him out of the way, they started launching more tear gas. That’s when people started to get really scared. They started gassing in a kettle formation – we were against a big fence that people had to jump over up a steep hill. The fence was maybe six feet tall.

People started putting their hands up – but the cops wouldn’t let up. It was can after can after can [of tear gas]. We were encapsulated in gas. We were drooling and coughing uncontrollably. Then the cops came from the other side of the fence and started gassing from that direction. After that the police started coming up the hill and... they were hitting and tackling people. They were dragging people down the hill and forcing them down on their knees, lining them up, kneeling on the median on the highway with their hands in zip ties – and pulling down their masks and spraying and gassing them again.”⁹³

Amnesty International research has shown that the excessive and inappropriate use of tear gas was not limited to the largest cities. Local police used tear gas against peaceful protesters in Louisville, Kentucky; Murfreesboro, Tennessee; Sioux Falls, South Dakota; and Albuquerque, New Mexico. In Fort Wayne, Indiana, on 30 May, a college student, who is also a local journalist, lost his eye when police shot him in the face with a tear gas grenade.⁹⁴

Tear gas grenades, projectiles and canisters should never be fired directly at individuals. When fired, these canisters become dangerous projectiles and direct impact can result in penetrating trauma or blindness, especially when fired at close range or targeted at specific parts of the body. Nor should they be fired skip-fire towards the ground as a rebound from the ground will pose the same risks as direct fire, but with greater unpredictability.

⁹³ Amnesty International interview with Lizzie Horne, Philadelphia, Pennsylvania, 11 June 2020.

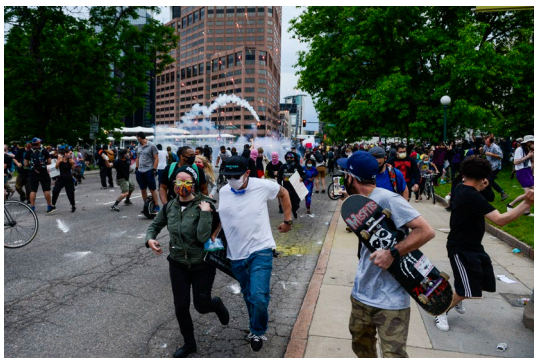
⁹⁴ A. Srikanth, *Indiana journalist loses eye to tear gas canister during demonstrations against George Floyd’s death*, The Hill, 1 June 2020, thehill.com/changing-america/respect/equality/500467-texas-journalist-loses-eye-to-tear-gas-canister-during

Exposure to tear gas causes a burning sensation and physical reactions including tears streaming from the eyes, coughing, tightening of the chest, difficulty breathing and skin irritation. In most cases, the effects wear off in 10 to 20 minutes. However, tear gas affects people differently and children, pregnant people and older people are particularly at risk of harmful effects. Prolonged contact can pose severe health risks. Toxicity levels can vary according to the product specifications, the quantity used and the environment in which it is used. Published research on the effects of these gases is limited and the full extent of their impact is, therefore, not yet known; further systematic studies are urgently needed.⁹⁵

There is a growing consensus among legal experts that some uses of tear gas can constitute torture or other ill-treatment. Torture is defined in international law as the intentional infliction of severe pain or suffering to elicit information or a confession or for the purpose of punishment, by state officials or with their consent or acquiescence.⁹⁶ Amnesty International has previously documented numerous cases of severe pain or suffering caused by the use of tear gas, such as severe burning, suffocation and long-term breathing problems, as well as instances in which its use was clearly punitive.⁹⁷ In such instances, Amnesty International believes the use of tear gas constitutes torture under international law.

Nils Melzer, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, has argued that if less lethal weapons such as tear gas are used “intentionally and purposefully to inflict pain or suffering on a powerless person” – for instance when tear gas is fired directly at an individual or used in confined spaces – this would amount to torture or other ill-treatment.⁹⁸ International law imposes specific obligations on states to prevent torture and other ill-treatment, to investigate instances where they occur, to criminalize complicity in such activities and to provide reparations to victims.⁹⁹

ELENA THOMAN
DENVER, COLORADO
MAY 2020



←  People run from chemical irritants next to the Colorado State Capitol amid Black Lives Matter protests in Denver, Colorado. Credit: Michael Ciaglo/Getty Images

Elena Thoman, aged 17, described to Amnesty International being tear gassed at two separate, peaceful protests on successive days on 29 and 30 May 2020, without warning, near the Capitol in Denver, Colorado:

“There was no order to disperse [on 29 May]. [The police] just started throwing tear gas and shooting flashbangs at the group. There was lots of smoke, so my friend and I ended up going up [the hill] on the Capitol to see and we could see cops throwing the canisters [where other people had congregated]. We could see the park below and we were just watching – no one was yelling and then, with no warning, the cops threw something into the middle of our group.”

The next afternoon, on 30 May, she returned to the area and was protesting for several hours.

⁹⁵ Amnesty International, *Teargas: An investigation*, June 2020, teargas.amnesty.org/#top

⁹⁶ Art. 1, UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], entered into force June 26, 1987.

⁹⁷ Amnesty International, *Teargas: An investigation*, June 2020, teargas.amnesty.org/#top

⁹⁸ Amnesty International, *Teargas: An investigation*, June 2020, teargas.amnesty.org/#top

⁹⁹ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], entered into force June 26, 1987.

"Then around 5.30pm, curfew was at 7pm, police started pulling up in SWAT cars. There were Denver police, Metro police, a SWAT team, armoured vehicles. Even though it was peaceful... there were around 200 people kneeling on the street with hands up, along Broadway. The police were trying to advance. There may have been an announcement to get off the street. But once people moved off the street, they threw tear gas onto the street, at least three [cannisters]."

She described the effects of the tear gas to Amnesty International:

"At first it feels like the feeling when you are chopping onions and then escalates to the point where your skin is burning – I had a lot of open skin and it was burning for an hour [afterwards]. It made me cough a lot – I had to take my mask off because the mask had tear gas in it... The tear gas got stuck under my mask and made it much worse. So even though there is COVID, I had to take my mask off."¹⁰⁰

Amnesty International spoke to a protester, who, on condition of anonymity, agreed to describe their experience, of being exposed to chemical irritants while attending and providing safety and security support at a protest in Columbus, Ohio on 30 May 2020:



**COLUMBUS, OHIO
30 MAY 2020**

"People gathered around the State House near Broad & High [streets], around 2pm. I have had some training in protests [and the use of] tear gas. I came later in the day and thought people might be dehydrated, so I would help."

[When] I arrived at the protest, everyone was really peaceful. I know there were around 7,000 registered on the event page, but don't have an estimate for the actual day. Police seemed on edge by the number of people who showed up. For the most part, people were sitting on the sidewalk, but I don't know what triggered [the use of chemical irritants by police]. I could tell the police were stressed."

What I thought was amazing was that there were people there, some of whom were at their first protest and they are being pepper sprayed. I mean it was mostly teenagers chanting peacefully. I didn't even see it go down. It was like people were running and the gas was coming with them. They must have released gas within ½ or ¼ block from where I was standing. I was close to it, but it was hard to discern where exactly coming from. I heard it was CS gas. It definitely seemed like two different things. Something was shot out of a gun and something else was rising in the air. People seemed to be shocked that police reacted so brutally."

By the time I got there that day, it seemed like people had been pepper sprayed at multiple times in the protest, their faces were red... I was handing out water bottles, flushing people's eyes. I had an N-95 mask and a bandana on – so I was able to stay for a long time. I have pretty severe asthma, and in the past when I had exposure to tear gas, [that] wasn't so bad, but this time I had to go get a nebulizer a few days after because my breathing was not normal. I feel like there was something different in this that is making my asthma condition way worse. I've never had such a bad reaction, it lasted for one to two days. I just wanted to witness [the protest]. I didn't think it would be dangerous."¹⁰¹

Tear gas should never be used against peaceful or largely peaceful public assemblies. Because of its indiscriminate effects and high potential for causing harm, it should only be used in situations of generalized violence for the purpose of dispersing a crowd when all other means have failed to contain the violence. Tear gas must not be used in confined spaces or in situations in which people have difficulty dispersing, such as football stadiums or shopping malls, buildings, underground stations, dead-end streets or where roads or other routes of escape are blocked. Exposure to tear gas in confined spaces with limited ventilation increases the detrimental effects of the active agent. In these circumstances, the pulmonary function problems can

¹⁰⁰ Amnesty International interview with Elena Thoman, Denver, Colorado, 11 June 2020.

¹⁰¹ Amnesty International interview with anonymous protester (information on file with Amnesty International USA), Columbus, Ohio, 10 June 2020.

persist for several hours, days, or months after exposure. In addition, when used in a confined space, people are unable to avoid the chemical agent and its use could cause a stampede and lead to people being trampled.



BREANNE ARMBRUST
RICHMOND, VIRGINIA
MAY 2020

Breanne Armbrust attended demonstrations on 29 and 31 May in Richmond, Virginia, and described witnessing two separate incidents when police used tear gas. As an activist in the area for 22 years she said: “I have never seen anything like what has been happening at these protests in terms of police response.”

On 29 May, Breanne Armbrust was marching with the crowd in downtown Richmond heading to the police precinct. During the march, she didn't see any officers standing on the streets as would normally be the case, only vehicles that followed the march or drove down parallel streets tracking the marchers and trying to get ahead of them to block the crowd, which just went around them. When they arrived at the precinct, police in riot gear came out from behind a nearby parking garage and swarmed the police precinct. Breanne Armbrust described how some protesters set an empty police vehicle on fire in front of the precinct, which the police stationed nearby did nothing to stop or put out as it smoked for approximately 15 minutes before bursting into flames. Instead, the police in riot gear manoeuvred around the crowd to surround protesters. Then, at approximately 9.30/10pm, the officers set off flashbangs near the crowd and, without warning, started firing tear gas canisters at close range.

“There were a lot of people in such a small space which caused a stampede... and it was so smoky and there was so much chaos. A State police helicopter was also flying over the crowd, low enough I could see the pilot, and they were doing it to spread the tear gas in the air. I have never had a helicopter fly that low. It was going just above the trees, shining its lights on protesters and following people as they ran to their cars.”

Breanne Armbrust said it appeared to her as though the helicopter was hunting the crowd “like we were in a war zone... They were approaching us like we were the enemy combatant. I have never seen this before. I mean we have had so many marches and protests here. There was never any response from police during and after MLK [Martin Luther King holiday] when Infowars and white supremacists were there.”¹⁰²

Two nights later, on 31 May, the first night of an 8pm curfew, Breanne was out near the Robert E. Lee Monument with a group of about 200 people before the curfew came into effect. The police nearby, who were in riot gear, announced the curfew through a loudspeaker at 7.25pm. People were confused because the curfew did not come into force for another 35 minutes. Five minutes later, the police started proceeding towards them and within two minutes, they used tear gas on the crowd.

“People were shocked. We were frozen. It was so confusing... It was so awful. There were around 200 people there, just gathering around the monument. There were people sitting on the ground on blankets, like a picnic atmosphere before curfew. It was still daylight, and no one expected it. There were children, people walking dogs, people who weren't even protesters and they just launched tear gas into the crowd. It was so traumatizing seeing people [and] families being gassed at a close range. [The police] threw 7-8 canisters early on, then maybe 35-40 officers were on foot just spraying people with pepper spray without any warning. I saw one or two people with umbrellas trying to shield people. Parents shielding their children, trying to cover their strollers and escape. I think there were at least 15 kids under the age of ten there.”¹⁰³

¹⁰² Breanne Armbrust was referring to an armed protest that took place in Richmond, Virginia by tens of thousands of gun rights protesters on 20 January 2020 in protest the enactment of new firearm restrictions by the Virginia State Legislature. Several white supremacists who intended to begin a “civil war” were arrested the week before the event. See, *Military-style rifles are a frequent sight as gun-rights activists crowd the streets around Virginia's Capitol building to protest plans to pass gun-control legislation*, The Associated Press, 20 January 2020, www.marketwatch.com/story/pro-gun-rally-in-richmond-va-in-full-swing-at-midday-monday-2020-01-20; M. Kunzelman, *Documents: White supremacists wanted rally to start civil war*, The Associated Press, 21 January 2020, www.nbc12.com/2020/01/22/documents-white-supremacists-wanted-rally-start-civil-war/

¹⁰³ Amnesty International interview with Breanne Armbrust, Richmond, Virginia, 18 June 2020.



REVERENDS HANNAH CAPALDI, ABBEY TENNIS AND MARK TYLER
PHILADELPHIA, PENNSYLVANIA
31 MAY 2020

In late May 2020, a network of local religious leaders issued a call to clergy in Philadelphia seeking clergy members who were willing to observe Movement for Black Lives and other protests in Philadelphia, to ensure that people were not hurt while exercising their right to peacefully protest. Three clergy members of the Unitarian Universalist Church in West Philadelphia, Pennsylvania, described to Amnesty International an incident that occurred between 51st and 52nd Streets, and Spruce and Market Streets on 31 May 2020 when they answered a call to monitor protests and ensure people were not hurt.

Reverend Hannah Capaldi was with Reverends Abbey Tennis and Mark Tyler on 31 May 2020 from approximately 4pm until approximately 7pm monitoring the protests taking place in West Philadelphia. All three clergy members were at the intersection of Chestnut Street and South 52nd Street. There was no audible order to disperse given before police shot tear gas and rubber bullets into the crowd. The officers appeared not to target any specific individuals but to shoot indiscriminately. Hannah Capaldi eventually fled to Malcolm X Park to recover from symptoms of chemical exposure.

“We saw kids, we saw elders, people on wheelchairs who couldn’t get away. I mean they were throwing tear gas in a residential area. I had inhaled tear gas and I went to Malcolm X park. I coughed and cried it out.”

Mark Tyler saw tear gas canisters sailing from over the tops of buildings which lined the south side of Chestnut Street, which led him to believe that police officers were firing tear gas from Sansom Street [behind the buildings] at the crowd which had gathered on Chestnut Street. He described the scene they witnessed as the evening progressed:

“There was property destruction happening and the police shot tear gas and rubber bullets down the side streets. There was no warning. I was in Ferguson and this was different. I saw them start shooting tear gas into the Foot Locker which had been looted and people were running out, coming out in waves. I mean, families were out on their stoops. One family was having a birthday party. And then canisters started coming up over the buildings, south of Chestnut. The police were shooting it out of the turret of this tank/armored vehicle without even knowing where it was going.”¹⁰⁴

Other witnesses described similar scenes of excessive amounts of pepper spray being used against protesters. For instance, one protester in Seattle, Washington, described how she attended protests from 31 May until 7 June 2020 and witnessed police using pepper spray against protesters without any cause or warning.

“Every single day and night they pepper sprayed – people didn’t even have to be holding a sign. If police feel like people are too close, they will come at people and do what they want... The police pepper sprayed us multiple times – like they were spraying a hose, like watering a lawn... [The pepper spray] hurts not only in the moment but also when you wake up and are coming out of shower, it’s coming out of your hair and coming into your eyes.”¹⁰⁵

¹⁰⁴ Amnesty International interview with Reverend Abbey Tennis, Reverend Hannah Capaldi, and Reverend Mark Tyler, Philadelphia, Pennsylvania, 11 June 2020.

¹⁰⁵ Amnesty International interview with Aubreanna Inda, Seattle, Washington, 27 June 2020.



DUCK BARDUS
COLUMBUS, OHIO
MAY 2020

A street medic in Columbus, Ohio, Duck Bardus, described to Amnesty International events that took place from 28 to 30 May 2020, when police repeatedly pepper sprayed protesters. On 28 May 2020, they witnessed police kettle a crowd of between 300 and 500 peaceful protesters and then pepper spray them repeatedly throughout the night. Duck Bardus, estimated that on average, police pepper sprayed the group every 10 minutes over six hours: "It was insane. I've never seen anything like that. I was appalled... Basically, it was chemical warfare."

Duck Bardus described how they treated the same man three times for three separate instances of the use of pepper spray. As soon as the protester got his vision back, they said he got right back up and into the protest. They had "never seen protesters take that much chemical exposure and not run away. It was hanging in the air, and by four to five hours, it was not necessary to spray any longer because it was hanging everywhere." Duck Bardus and fellow street medics ran out of disinfectants, wipes, and water and they told the protesters: "If you stay, we won't be able to be useful."

They described how, two days later on 30 May 2020, police liberally used chemical irritants and the danger it caused to the large number of protesters in Columbus, Ohio.

"Bike police were barricading people on the sidewalk – holding bikes with one hand and spraying people with the other hand. The sidewalks had layers of two to three deep rows of people. There were two to three thousand people and mini stampedes every time they got sprayed. We were treating chemical exposure and sprains and head injuries from people falling down and hitting things or hitting walls."¹⁰⁶

One witness who lived in the Capitol Hill neighbourhood of Denver, Colorado described what happened when he went out for a late evening walk and inadvertently wandered into the middle of a protest 28 May 2020.



THOMAS NAGLE
DENVER, COLORADO
28 MAY 2020

"At around 9pm [on 28 May 2020], I left my building for a walk, went down a side street and saw a bunch of police lights on the South End of the Capitol. I thought maybe it was an accident. Then I walked to the north side of the Capitol, saw more lights and I realized then that it was the protest. I saw hundreds of people and I wandered into the area. Police had started tear gassing people, so it was already tense in the air. I started walking back towards my apartment on a backstreet and then I got shot in my lower back with a pepper ball. I've gone paintballing before. It was worse than that, like getting punched with a knuckle. It stung immediately and was swollen. There was no announcement or anything, I just felt it."

[Then] the police just started tear gassing all of a sudden and everyone was leaving, and they started shooting at the crowd. I decided to go through the Civic Center Park, to avoid the police. The protests were loud, but not crazy. That is when the police line started to advance. There was no announcement to disperse, they just started shooting pepper balls and throwing tear gas."

I saw a group of girls on the south side of the Civic Center park, they were younger, like around 16-18... There were six of them. They were falling all over the place, crying and dry heaving. They were stumbling and moving slowly, seemed very distraught. I introduced myself and asked them if they needed help. They said

¹⁰⁶ Amnesty International with Duck Bardus, Columbus, Ohio, 24 June 2020.

'Yes, please help us.' So, I tried to guide them down a side street. I was guiding them, and my back was to where the police were coming from and the police line was still advancing – maybe about 10 feet away. I turned around, just my head, and I said, 'I need to administer first aid to these kids. Can we please go over there?' and I motioned to a bench on 13th and Broadway. The third time I tried to say it, I got shot with pepper balls three more times. Once in the leg, upper quad area, it grazed my skin and I felt the sting. Another in my upper back and then one on the right side of my face – by my temple. The base of my neck also swelled up.

I am 31 years old; I wasn't trying to antagonize the police; I was just trying to help people. After they shot me, and I saw that I hadn't fallen down – I pleaded again, 'Please can we go over there?' and they said ok. I went to the bench and I sat with the girls. I ended up finding my roommate and he had milk and we flushed their eyes. There were also sprinklers where people were washing out their eyes. Police were tear gassing and shooting pepper balls again. I spent the rest of that night at the back of the line trying to help people and then eventually went home.¹⁰⁷

Other instances of unnecessary and excessive police use of pepper spray were caught on video and distributed nationally by the media. On 31 May 2020, for example, protesters took over and shut down the I-35 highway in Minneapolis, Minnesota. According to the Minnesota Department of Public Safety, as police officers responded to a tanker truck that had previously driven through the crowd on the highway, videos revealed two police vehicles entering the highway dousing protesters with chemical irritants from their vehicles. The protesters were merely standing in the grassy area at the side of the ramp and the police vehicles did not stop, nor did the officers issue any specific directions except for a general order to clear the area.¹⁰⁸

Likewise, in New York City, on 30 May 2020, Andrew Smith had his hands in the air when a New York Police Department (NYPD) officer ripped off his mask and pepper sprayed him in the face. Smith said he did not say or do anything to the officer on the street that could have provoked the incident. He stated to the media that his experience as a Black man had taught him to be wary of sudden movements around police, so he kept his arms up, but was sprayed anyway.¹⁰⁹ The subsequent release of body camera footage of the incident captured the officer bragging about the incident to his colleagues just minutes afterwards. The officer was suspended without pay on 5 June 2020.¹¹⁰ Just days after this incident, on 1 June 2020, video caught an NYPD probationary officer running down East 57th Street in Manhattan and randomly spraying, without justification, a group of people standing against a building.¹¹¹

The widespread, unnecessary and excessive use of chemical irritants on largely peaceful protesters raises additional concerns during a pandemic involving a respiratory illness such as COVID-19. The natural response by people when exposed to these chemicals is to remove their masks in order to flush their eyes, noses and mouths and expectorate the chemicals from their mouths and lungs, potentially spreading the virus. It is unclear what the interplay is between exposure to tear gas and infection with the COVID-19 virus, but it is possible that tear gas has a detrimental impact.

Law enforcement agencies should not repeatedly expose the same targets to chemical irritants over a short period. In such situations the exposure to the toxic properties of the chemical agents can cause unnecessary harm and increase respiratory complaints. Human rights standards require that the use of such agents be restricted to what is necessary and proportionate to achieve a legitimate law enforcement objective, such as the dispersal of a crowd engaging in widespread violence. This requires constant re-assessment of the situation before any further rounds of chemical irritants are dispensed or fired. When deploying tear gas, police must always consider its indiscriminate nature and that it may affect bystanders not engaged in the violence or the surrounding community in dense urban areas.

¹⁰⁷ Amnesty International interview with Thomas Nagle, Denver, Colorado, 13 June 2020.

¹⁰⁸ Watch: Police drive-by pepper spray protesters standing on side of road, Bringmethenews.com, 31 May 2020, bringmethenews.com/minnesota-news/watch-police-drive-by-pepper-spray-protesters-standing-on-side-of-road

¹⁰⁹ E. Byfield, *Protester speaks out after mask ripped off by NYPD and pepper-sprayed in Brooklyn*, NBC News, 5 June 2020, www.nbcnewyork.com/news/local/protester-speaks-out-after-mask-ripped-off-by-nypd-and-pepper-sprayed-in-brooklyn/2448135/

¹¹⁰ I. Scher, *NYPD officer bragged about taking off protester's mask and pepper-spraying him, bodycam footage shows*, The Insider, 18 June 2020, www.insider.com/nypd-officer-bragged-removing-protester-mask-pepper-spraying-2020-6

¹¹¹ G. Rayman, *SEE IT: NYPD cop suspended for pepper spraying group of George Floyd protesters two weeks ago*, New York Daily News, 15 June 2020, www.nydailynews.com/new-york/nyc-crime/ny-cop-suspended-mace-protesters-20200615-wiacwkufszcbbipv35cmk74icy-story.html

KINETIC IMPACT PROJECTILES

“We weren’t allowed to use it [impact projectiles] against Afghans as a legitimate occupying force, but police in America are able to use it against protesters. It would be considered a war crime there.”

Jack* a legal observer in Chicago, Illinois, comparing his previous experience in the military and the use of rubber bullets by Chicago police officers during demonstrations.

Amnesty International documented the use of kinetic impact projectiles, including multi-projectile rubber bullets, stinger ball grenades, sponge rounds and marking rounds used in a way that poses a potential threat of serious injury. Between 25 May and 5 June 2020, Amnesty International specifically documented 13 instances of the unnecessary use of such projectiles in 13 cities across the country.¹¹² Media reports documented several dozen instances of this equipment being used during the ongoing protests since George Floyd’s death.

One protester, who wishes to remain anonymous, described the events leading up to being struck in the eye by a kinetic impact projectile on 31 May 2020. This incident occurred on the southbound interstate on 35W near the University Avenue Bridge in Minneapolis, Minnesota, during the last night of curfews in the city.



MINNEAPOLIS, MINNESOTA 31 MAY 2020

“It was around 6.30pm [on 31 May 2020] and there was an 8pm curfew. Me and a couple of friends went to the protest on the bridge. There were probably 60-75 people on the ramp and a couple hundred in the vicinity. We walked up and they were chanting ‘hands up don’t shoot’ as we got to the middle of the crowd. The protesters wanted to take over the bridge, stop traffic and occupy a central spot. Then the organizer called for white bodies to the front – we were on a ramp on the bridge and I went to the front. We were in a line and our arms were linked – it was like 20 people in each line.

There were police cars and police in front of us and officers in line on the ramp. There was a ‘Humvee’ behind us with lots of people in it and then on the bridge there were 26 or 27 police cars and buses. There were also police cars on the other side of the bridge... I did not see or hear any warnings or provocation. You could feel in the air that tension was increasing but [it] felt that way because more and more police were coming [and] were being menacing. There was no one provoking the officers or being violent – no bottles or rocks.

Then, police started throwing grenades which might have been flash bangs – at least 2-3. I was looking up and to the right at the grenades when I was shot with rubber bullets. I didn’t see where it came from, but video confirms they were shooting rubber bullets and I was hit, but I didn’t know what had happened. I was confused. My glasses fell into my hands off of my face and I remember that my fingers went through the glass frames, that’s how I knew the lenses popped out. I was holding my face, and when I touched it, my forehead, cheek, nose, eyes - everything was soft. I couldn’t feel any bone. I couldn’t feel my nose. I let go of the line, turned around and opened my other eye and I ran through the crowd. I didn’t even know I was bleeding at the time. I was sweating and I ran to the back of the protest where there were medics, nursing students. They cleaned my face with water, but the police were charging towards us and shooting tear gas. So, they picked me up and carried me to their car. Basically, what happened was that my eye exploded from the impact of the rubber bullet and my nose moved from where it should be to below the other eye.

¹¹² Amnesty International, *Amnesty International Documents Widespread Police Violence Against Protesters for Black Lives*, June 2020, www.amnestyusa.org/protest-map/

The first night I was in the hospital they gathered up the pieces of my eye and sewed it back together. Then they moved my nose back to where it should be and reshaped it. They put in a prosthetic eye – so I can only see out of my right eye now... It was way before the curfew. [The use of force] was unnecessary... extremely violent and excessive examples of violence. I have a lot of questions about how this medical stuff is going to be paid for. I'm fortunate to have a lot of support, but it is a lot and I just got on Medicaid. They gave me an estimate of US\$300,000 and I'm only 25 years old."¹¹³

A protester in Seattle, Washington, who wished to remain anonymous, spoke about how she was shot with a rubber bullet and pepper sprayed at close range. She was subsequently shot again with pepper balls in her legs and hit with pepper balls as she fled the area.

LUCIE*

SEATTLE, WASHINGTON

2 JUNE 2020



Lucie, showing contusions of the thigh sustained during protest in Seattle, Washington
Credit: Lucie*

On the night of 2 June 2020, Lucie attended a peaceful protest in the Capitol Hill neighbourhood of Seattle. She described to Amnesty International how she was standing by the barricade at the front of the protest near the police line, where people were taking videos, holding signs, and passing out umbrellas, which had become common during the protests to protect protesters from pepper spray. Someone would walk back and forth along the front and tell people to keep their umbrellas back or it will provoke the police. Shortly before midnight, Lucie heard a loud bang, and the police started charging the protesters.

"I didn't hear the police tell people to leave before they began their attack. I had an umbrella and was crouched down underneath it. I'd been holding a sign a minute before. A police officer pulled my umbrella from me, and I pulled it back because I didn't want to be exposed, and he pulled it back again. He sprayed me point blank and then shot me on the knee [with an impact projectile]. I got up and began to run away and was shot at least three more times when running. I was literally just a protester... I couldn't believe they were shooting. It was very clear it wasn't a defence; it was an attack."

Lucie sustained extensive bruising on her thigh, knee, and calf from being shot by the rubber bullets. Several weeks later, she said there was still a bump on her knee.¹¹⁴

Kinetic impact projectiles, should only be used where there is an immediate risk of serious injury or death and only after other methods have been tried and failed or would be unlikely to succeed if they were tried. They must not be fired randomly at the crowd but must be aimed exclusively at persons who are engaged in violence. They should never be skip fired (rebounding off the ground). They should only be fired at the lower extremities so as to minimize the risk of serious injury and, when possible, a warning should be issued

¹¹³ Amnesty International interview with anonymous protester (Information on file with Amnesty International USA), Minneapolis, Minnesota, 11 June 2020.

¹¹⁴ Amnesty International interview with anonymous protester (Information on file with Amnesty International USA), Seattle, Washington, 18 June 2020.

before use. Kinetic impact projectiles should not be launched at or near those in higher risk groups, such as older people, pregnant people and children.

PHYSICAL FORCE

In several cities, law enforcement has resorted to physical force against largely peaceful protesters, oftentimes to enforce hastily rolled out curfews. They have used batons, shields, bicycles or other equipment to force back or arrest protesters. Between 26 May and 5 June 2020, Amnesty International documented at least six incidents of police using batons in Walnut Creek and Los Angeles, California; Greenville, South Carolina; Boston, Massachusetts; and Lafayette Park in Washington, DC.¹¹⁵ Additional cases were documented by Amnesty International in different parts of New York City – the Bronx, Brooklyn and Manhattan – and Chicago, Illinois.

Jackie Spreadbury, a law student and legal observer in Chicago, Illinois, spoke to Amnesty International about one violent incident against a group of teenagers protesting that took place on 30 May 2020.



CHICAGO, ILLINOIS 30 MAY 2020

“I was monitoring a protest at the Wabash Bridge in downtown Chicago, where it seemed there were over a thousand protesters. They were trapped because they were on the bridge, surrounded by water, with a giant line of police in riot gear in front of them. Every five minutes or so, the police would start swinging their batons and hitting people and grabbing people in the front row and arresting them. These people were only standing on the bridge, protesting. The police were screaming, ‘Move!’, but there was no place to go. The people at the back of the group didn’t realize what was happening, while people in the front were getting hit with batons and bloodied. I saw police strike a boy in the face. He was probably 13 or 14 years old. They just grabbed him and threw him down and arrested him and beat him up. There were five to six police hitting him with batons. He was crying for his mom and I couldn’t even get his name. I don’t even know if he’s okay.”

As a legal observer, she was trying to document his name, which she thought was especially urgent because of his young age, but, as she told Amnesty International: “the police would not let me get his name. They started beating me. I wasn’t trying to impede the arrest. I was asking: ‘What’s your name?’ I looked to the officer and said, ‘I just need to get his name.’ Then they hit me with their batons.”

She estimates the police hit her half a dozen times on her right arm and then another officer hit her on the leg. About two minutes later, she told Amnesty International, “the police grabbed the person next to me who was wearing a backpack; they grabbed the bag’s shoulder straps and threw him down on the ground and beat him with batons. It was completely unprovoked; they were protesters just standing there. I wasn’t able to get his name. They beat him for a long time – a really long time.”¹¹⁶

The Mayor of New York City and Governor of New York jointly announced the imposition of a curfew on the night of Monday, 1 June 2020 which was to go into effect at 11pm that night and again on Tuesday, 2 June 2020 at 8pm.¹¹⁷ The curfew was eventually extended throughout the remainder of the week before it was lifted the morning of 7 June 2020.¹¹⁸ It was the first curfew in the city since 1945.¹¹⁹ The NYPD was inconsistent about when and where it enforced the curfew and when the curfew was enforced in different

¹¹⁵ Amnesty International, *Amnesty International Documents Widespread Police Violence Against Protesters for Black Lives*, June 2020, www.amnestyusa.org/protest-map/

¹¹⁶ Amnesty International interview with Jackie Spreadbury Chicago, Illinois, 24 June 2020.

¹¹⁷ D. Fougere and G. Pazmino, *NYC officially under curfew; second set for Tuesday night, de Blasio says*, Spectrum News NY1, 1 June 2020, www.ny1.com/nyc/all-boroughs/news/2020/06/01/new-york-city-curfew-protests

¹¹⁸ *De Blasio lifts NYC curfew one day early, says city will shift funding from NYPD to social services*, NBC News, 6 June 2020, www.nbcnewyork.com/news/local/tens-of-thousands-march-through-rainstorm-with-2-nights-left-of-nyc-curfew/2449850/

¹¹⁹ D. Rubinstein and J.C. Mays, *Here’s what led to N.Y.C.’s first curfew in 75 years*, The New York Times, 2 June 2020, www.nytimes.com/2020/06/02/nyregion/curfew-new-york-city.html#:~:text=I%20certainly%20have%20concerns.%E2%80%9D.La%20Guardia%20was%20mayor

parts of the city, brute physical force was used. On 1 June 2020, the first night of the curfew, protests continued to take place well after the 11pm curfew in Brooklyn and Manhattan.¹²⁰ As the week progressed, the NYPD changed the ways in which it enforced the curfew.

BROOKLYN, NEW YORK

3 JUNE 2020



←  A police officer looks at their own reflection in a mirror painted with the words “Look at yourself,” held by a protestor outside of the Barclays Center.
Credit: Erik McGregor/LightRocket/Getty Images

On 3 June 2020, protesters in Brooklyn marched throughout the borough. When the 8pm curfew went into effect, the NYPD blocked off the entranceway of both the Manhattan and Brooklyn Bridges, preventing roving groups of protesters from crossing in between the two boroughs, which had been common practice for the free flowing, Black Lives Matter protests in New York City over the previous six years. Instead, the protesters were hemmed in along Cadman Plaza in downtown Brooklyn by a wall of NYPD officers with batons and shields, as more officers continued to arrive. NYPD officers would then physically force the protesters from the area, using batons, shields¹²¹ and, in one instance, a protester's own bicycle, telling them to go home. This continued throughout the night as the protest extended throughout Brooklyn.¹²²

The next night in the Mott Haven section of the Bronx, minutes before the 8pm curfew went into effect, protesters marching down 136th Street were confronted by a wall of heavily armoured NYPD officers with bicycles. As those officers forced the protesters back, another group of police appeared at the end of the street, blocking any avenue for exit, pushing protesters into the line of officers with bikes. The second line of officers then began using pepper spray and hitting protesters with batons; no warning or justification was given. Those who attempted to flee were tackled to the ground and arrested. Police arrested approximately 260 people, including legal observers and street medics and one person who said he was just leaving his job when he got caught in the melee. Two people were seen being taken away on stretchers. The next day, NYPD Commissioner Dermot Shea claimed that the operation was “executed nearly flawlessly”.¹²³

¹²⁰ D. Fougere and G. Pazmino, *NYC officially under curfew; second set for Tuesday night, de Blasio says*, Spectrum News NY1, 1 June 2020, www.ny1.com/nyc/all-boroughs/news/2020/06/01/new-york-city-curfew-protests

¹²¹ twitter.com/ZachReports/status/1268351154980827137

¹²² K. Yi, *Seventh night of protests against police violence culminates in violent NYPD crackdown in Brooklyn*, Gothamist, 4 June 2020, gothamist.com/news/seventh-night-protests-against-police-violence-culminates-violent-nypd-crackdown-brooklyn; A. Watkins, *A peaceful march in Brooklyn turns to confrontation*, The New York Times, 3 June 2020, www.nytimes.com/interactive/2020/06/04/burst/brooklyn-protesters-police-confrontation.html#:~:text=In%20Brooklyn%2C%20a%20Peaceful%20March%20Turns%20to%20Confrontation%20After%20Curfew,By%20Ali%20Watkins&text=Last%20night%2C%20I%20followed%20a,avoiding%20the%20police%20after%20curfew.&text=They%20marched%20to%20Cadman%20and.one%20line%20of%20riot%20police

¹²³ J. Offenhart, et al, *NYPD's ambush of peaceful Bronx protesters was “executed nearly flawlessly,” city leaders, agree*, Gothamist, 5 June 2020, gothamist.com/news/nypds-ambush-of-peaceful-bronx-protesters-was-executed-nearly-flawlessly-city-leaders-agree; Written Testimony of the Bronx Defenders, Virtual Public Hearing on Police/General Public Interactions During Recent Protests, 17 June 2020, www.bronxdefenders.org/wp-content/uploads/2020/07/BxD-AG-Hearing-Testimony.Police-General-Public-Interactions-During-Recent-Protests.pdf

Amnesty International spoke with two New York City protesters who were hit with batons and pushed back by police using their bikes. They were protesting in Manhattan past curfew on the same night, 3 June 2020, and were later arrested.

“I remember them saying to get on the sidewalk and go home, but it was chaos. What are you supposed to do when someone is yelling at you to go away and detaining you at the same time by blocking you in? It was not clear that running away was safe. People were so close; our bodies were pressed together. There wasn’t a way out.”

Amnesty International interview with Camellia* and Jack Daves

Kettling consists of the use of police cordons to physically block people from leaving a certain area. While in some instances this technique was used to prevent violence spreading in the course of a larger event, in many instances it has been used to unlawfully prevent people from exercising their right to peaceful assembly and freedom of expression. Amnesty International interviewed Camellia* and Jack Daves, who described a kettling incident with the NYPD.

“I remember them saying to get on the sidewalk and go home, but it was chaos. What are you supposed to do when someone is yelling at you to go away and detaining you at the same time by blocking you in? It was not clear that running away was safe. People were so close; our bodies were pressed together. There wasn’t a way out.”

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CAMELLIA* AND JACK DAVES

3 JUNE 2020

On 3 June 2020, Camellia and Jack Daves joined a march for Black Lives. The march and protest were peaceful and the tone of the crowd seemed calm. Police were present and seemed to Camellia to be acting as escorts to the march, ensuring that protesters remained safe, even after the 8pm curfew took effect. Camellia and Jack Daves did not hear any order to disperse given by police and did not see any protesters engaged in violent behaviour during the march or after curfew.

Around 9.30pm, at the intersection of East 50th Street and 3rd Avenue, the march suddenly came to a halt. Jack Daves saw bicycle-mounted NYPD officers holding their bicycles horizontally by the handlebars and the seats, forming a barrier between themselves and protesters. Protesters were being kettled into one city block. There were people running and police were pulling people off of their bikes as they tried to leave the area. Camellia and Jack Daves had their bikes and were trying to navigate the crowd as people were running over each other.

During this chaos, Camellia saw police officers begin to chase individual protesters. When she chanted “The whole world is watching,” police officers approached her. She then described what happened next: “One cop grabs me and says: ‘What are you doing? You are getting arrested.’ Then he pulls me and throws me to the ground and throws my bike on top of me. Then he got on top of me, he had his knee on my back near my neck, my face was in the tire [of the bicycle]. Another cop was also on top of me, but I could not tell whose hands were where. They were both much bigger than me. I was screaming, ‘I can’t breathe,’ but they did not stop. They had my hands behind my back and they put the [zip]ties on.”

Jack Daves, after witnessing the incident and fearful that she could not breathe, tried to intervene, but several officers held him back. “I kept yelling to the officers to get off of her. I was saying, ‘You’re hurting her, you can kill her, what are you doing?! Get off of her.’ I mean it was terrifying.” Once Camellia’s hands were tied, one of the officers who detained her struck Jack Daves with a baton while he was being held back by other officers. The officer struck him with such force that Jack thought his ribs were cracked.

Both Camellia and Jack Daves were arrested along with at least 100 other protesters. They received no medical attention, no phone call, no recitation of their rights, and their masks had become displaced while arrested. Both were released by the early hours of 4 June 2020. Camellia had abrasions and bruises on her face and body and rashes on her wrists. Jack Daves had severe contusions on his ribs, which prevented him from sitting up straight and caused pain with every movement for several weeks after the incident.¹²⁴

As this case shows, kettling can be a highly problematic form of use of force as it carries a number of risks. These risks include penning in people engaged in violence with those wishing to peacefully protest or bystanders and inhibiting people in need of assistance accessing help. The crowded situation caused by the containment may create an atmosphere of claustrophobia and panic, provoking uncontrolled reactions which can result in damage and injury. Flawed implementation of the technique by police has often exacerbated these risks. This may include containment for excessively long periods of time; lack of communication to explain the purpose of the containment (within the law enforcement agency itself as well as with the people being contained); lack of opportunities to leave the assembly for those who wish to; and lack of assistance to people in need.

Amnesty International considers that the only potentially legitimate use of containment tactics would be to contain violence to enable the rest of the assembly to continue peacefully. It should not be used as a means to prevent people from participating in an assembly – even if the assembly is considered unlawful and it should not be carried out as a preventive measure based on prior information that some people might engage in violence. Any use of force may be used only when there are no other less harmful means available that are likely to achieve the legitimate objective.¹²⁵ If use of force is unavoidable, it must be no more than is necessary and proportionate to achieve the objective and used in a manner designed to minimize damage or injury.¹²⁶ Where baton use is unavoidable, law enforcement officers must have clear orders to avoid causing serious injury and that vital parts of the body are excluded as target zones.

TARGETING OF JOURNALISTS

Members of the media have an important role in protecting the right to freedom of peaceful assembly. Their presence and freedom to move among protesters and police and document what is happening during demonstrations, oftentimes long into the night, ensure the dissemination of the situation on the ground to the public during widespread and national protests. In order to ensure the right to freedom of expression, journalists and members of the media have a right to attend and report on peaceful assemblies and law enforcement officials have a responsibility not to prevent or obstruct their work.

¹²⁴ Amnesty International interview with Camellia (pseudonym; name on file with Amnesty International USA) and Jack Daves, New York, New York, 12 June 2020. An Amnesty International USA researcher happened to be at the same protest and can independently confirm the police use of kettling of the protesters, the use of force against those protesters and the resulting chaos as officers tried to prevent protesters from leaving.

¹²⁵ United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, Principle. 4

¹²⁶ United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, Principles 4 and 5.

The right to freedom of opinion and expression is enshrined in Article 19 of the ICCPR.¹²⁷ As the UN Human Rights Committee has stated: “A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights.”¹²⁸ The harassment, intimidation, arrest and detention of individuals such as journalists therefore violates the right to freedom of opinion and expression. The right to freedom of expression and protections are also found in the First Amendment to the US Constitution and are a bedrock of US constitutional law. Various media are challenging their treatment as violating several constitutional rights.¹²⁹

In numerous incidents across the country, law enforcement personnel targeted media representatives with chemical irritants, kinetic impact projectiles, and arrest and detention. Several members of the media were blinded by the use of kinetic impact projectiles in a series of incidents. Amnesty International documented cases in Minneapolis, Minnesota; Columbus, Ohio; Des Moines, Iowa; and Raleigh, North Carolina, where members of the media at protests were affected by the deployment of tear gas, suffered serious injuries resulting from kinetic impact projectiles, and/or were detained and arrested without proper access to medical care and disclosure of rights.



Minneapolis, Minnesota
Credit: Victor Blue

MINNEAPOLIS, MINNESOTA

Amnesty International interviewed multiple photojournalists who were targeted by police in Minneapolis, Minnesota, during demonstrations occurring the week after George Floyd’s death.

“I had covered Ferguson – I thought it would be amongst the worst. I did not have a reasonable expectation of getting hit in the face at close range when not in a scrum.”

Amnesty International interview with Linda Tirado

¹²⁷ Article 19 of the ICCPR safeguards the right to Freedoms of opinion and expression. See also, *Pranevich v. Belarus* (CCPR/C/124/D/2251/2013), para. 6.3 and 6.4; and *Zhagiparov v. Kazakhstan* CCPR/C/124/D/2441/2014, paras. 13.2–13.5.

¹²⁸ In their General Comment No. 34 on the right to freedoms of opinion and expression the UN Human Rights Committee states: “A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights “ (CCPR/C/GC/34 para 13).

¹²⁹ *Goyette v. City of Minneapolis*, Class Action Complaint, Case 0:20-cv-01302-WMW-DTS, 2 June 2020, www.aclu.org/legal-document/goyette-v-city-minneapolis

LINDA TIRADO
MINNEAPOLIS, MINNESOTA
30 MAY 2020



Linda Tirado, 4 June 2020
Courtesy of Linda Tirado

Linda Tirado, a freelance journalist and author, was blinded in one eye in the early hours of the morning on 30 May 2020 after police fired a kinetic impact projectile at her. The last photo she took from her camera was at 12.34am. She arrived at the hospital at 12.47am where she resumed taking pictures. During this 13-minute window, police shot at her multiple times while she was photographing law enforcement aiming 40mm projectiles directly at her. The pressure of the projectile hitting her goggles made them pop off, and she was exposed to tear gas at the same time. As a result of the impact and tear gas, her eyebrow was lacerated and bleeding, and she could not see. She cried out, “I’m press, I’m press.” She blindly followed a stranger who put her into a private van.

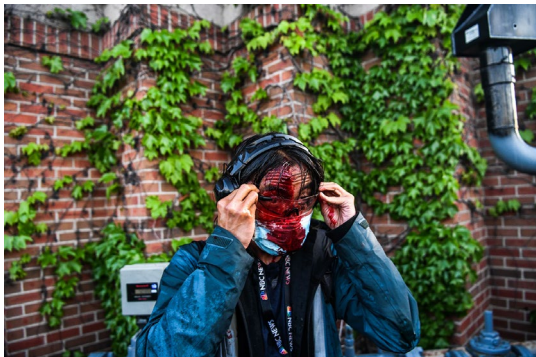
Linda Tirado was in surgery within the hour. At the hospital, she discovered her backpack was covered with a tracker of green fluorescent paint. At the time of the incident, Linda Tirado was clearly identified as press, with standard professional photojournalist equipment and a laminated and reflective lanyard hanging from her neck against a black shirt to better draw attention to the press badge. She was in position between the advancing police line and the protesters, retreating as law enforcement advanced. There were no protesters standing near her and she was continuously taking photographs of law enforcement. While she previously had been caught in crowd control measures and hit with bear spray (heavy duty pepper spray) in Ferguson, Missouri, she told Amnesty, “I’ve never been targeted to my knowledge by a projectile weapon or kinetic weapon. They 100% knew we were journalists.”¹³⁰

“There was no mistaking that we were anything but a group of journalists trying to stay out of the way.”

Amnesty International interview with Ed Ou

¹³⁰ Amnesty International interview with Linda Tirado, Nashville, Tennessee, 24 June 2020.

ED OU
MINNEAPOLIS, MINNESOTA
30 MAY 2020



Ed Ou, NBC News, Minneapolis, Minnesota
Credit: Chandan Khanna/AFP/Getty Images

On 30 May 2020, Ed Ou, a photojournalist with NBC News, was in a group of about 20 press and photojournalists covering the Minneapolis demonstrations. As they stood apart from protesters, police fired tear gas, pepper spray and percussion grenades at them and used batons while corralling them. The group was clustered together wearing press badges and carrying professional photojournalist gear and other equipment. Ed Ou was wearing a press badge with NBC and its logo visibly marked. He told Amnesty International that police had a clear line of sight of the media.

Officers approached the group specifically and escalated the situation by firing percussion grenades. One exploded directly in front of his face. As they got closer, they sprayed pepper spray at Ed Ou's face and camera. "They had enough time to shake the pepper spray and to spray it, despite me and others shouting, 'Press, press,' continually." The group was corralled back into a dead end with nowhere to escape as the officers used batons to beat them and discharged grenades, tear gas, and pepper spray on them. Eventually Ed Ou was able to stumble away, unable to see clearly due to the tear gas and pepper spray. His head was bleeding. Despite his repeatedly asking for help, several law enforcement officers walked past him offering no assistance. Ed Ou was treated at a nearby hospital, requiring four stitches for his head injury.

Ed Ou told Amnesty International,¹³¹ "I've literally spent most of my career in places where being a journalist was something I had to hide and something I had to be careful about sharing. And this is one place where I should be able to proudly proclaim this is what I do. I am a journalist, and I am attacked for it. I was banned from Turkey for my work, and now the Turkish government has spoken out about violations of press freedoms in the U.S. It is so ironic that the Turkish government, which has imprisoned more journalists than any other government in recent years, can now claim moral high ground. When American security forces can act with this kind of impunity targeting journalists, it sets a very dangerous precedent for press freedoms around the world."

"That's one thing I think everyone would agree on – in Minneapolis, if you had a camera on, they went for you."

Amnesty International interview with Victor Blue

¹³¹ Amnesty International interview with Ed Ou, Brooklyn, New York, 10 June 2020.

After curfew was enacted in Minneapolis on 29 May 2020, Victor Blue, working on assignment as a photojournalist for a national newspaper, was repeatedly targeted by law enforcement with tear gas, pepper spray and kinetic impact projectiles over a three-day period from 29-31 May.¹³²

In the early hours of the morning on 30 May 2020, as Victor Blue and another photojournalist covered the imposition of the city curfew outside the Minneapolis Police Department's 5th Precinct, they were targeted by law enforcement. Victor Blue was hit with kinetic impact projectiles on his left thigh, his left thigh and his helmet and subjected to a barrage of tear gas. He told Amnesty International that the next day, he was sore and limping and felt as if he had been in a car accident from the projectile hitting his helmet. His colleague was hit in the chest with what appeared to be a tear gas canister; his shirt was torn open and the entire upper left side of his body was bruised. During the incident, they were clearly identifiable as journalists with their technical equipment and press credential badges.

At approximately 8.30pm on Saturday, 30 May 2020, a line of clearly marked Minnesota State Troopers in riot gear began blocking a major avenue, Nicolette, backed up by an armoured vehicle, or "Bearcat" carrying additional clearly marked Minnesota State Patrol troopers. According to Victor Blue, they looked like special forces operators wearing camouflage uniforms [the official US military uniform]; operator style helmets – Kevlar helmets cut high on sides to accommodate communications equipment; body armour; and some carrying AR15 rifles with flash suppressors attached to the barrels. The officers unleashed a barrage of tear gas, smoke, and percussion grenades to push protesters as far back as possible.

Victor Blue described a scene of peaceful protest – no burning, no violence, merely protesters sitting down. He saw many journalists who were injured during the tactical assault, some severely. While photographing the tactical assault, a percussion grenade exploded between Victor Blue's elbow and hip, hurting his ears and mildly bruising one side of his arm. He said to Amnesty International, "This is the thing about Saturday night: it felt like the use of less than lethal ammunition and measures was unhinged. There seemed to be no command and control, no higher-ranking officers making decisions about what to use and when, it was like a barrage. It felt indiscriminate."

On Sunday night, 31 May 2020, covering a few hundred protesters who had marched on the I-35 Highway and were forced off onto a side street, Victor Blue was kettled along with other journalists and the protesters. As law enforcement began to contain everyone, they used pepper spray and kinetic impact projectiles on protesters. "There was no imminent threat of property damage or violence. It was just a curfew violation. Instead of choosing to disperse, they chose to assault and arrest." Victor Blue was pepper sprayed in the face and hands while photographing the protesters. He was clearly identified as press with his professional equipment, grouping with other journalists and clearly displayed press credentials.

As they began to kettle the protesters, officers offered to let journalists go if they left immediately. Five to six of them decided to document inside the cordoned areas while others documented outside. Victor Blue observed bystanders being targeted as well. As a group of young women in a sedan were trying to leave, they were violently pulled out of their car and pepper sprayed while a rifle was aimed at them. With approximately 150 protesters surrounded, the officers started slowly arresting them. They were all ordered to sit while law enforcement began processing people for arrest. One tall Black man who stood up to help someone was shot at close range (5m) with a kinetic impact projectile. "It was clear by the number of times I was assaulted, that if I had a camera and pointed it at their activities, I was targeted along with others exercising their constitutionally protected rights."

Although the Governor of Minnesota specifically exempted journalists from its curfew for Minneapolis and St. Paul,¹³³ multiple reporters were arrested for curfew violations that night.

"It was extremely frustrating for a journalist who is trying to tell this story...where I have a specific exemption to do my job. I wasn't supposed to be arrested in first place, what the hell is going to stop me from being arrested again?"

¹³² Amnesty International interview with Victor Blue, Brooklyn, New York, 13 June 2020.

¹³³ State of Minnesota, Emergency Executive Order 20-65, mn.gov/governor/assets/EO%20-65%20Final_tcm1055-434635.pdf; see Proclamation of the Mayor, Emergency Regulation 2020-2-1, www2.minneapolismn.gov/www/groups/public/@mpd/documents/webcontent/wcmsp-224728.pdf

On 30 May 2020 at approximately 9pm, Stephen Maturen, a freelance photojournalist working with Getty Images; Craig Lassig, a freelance photojournalist with European Pressphoto Agency (EPA); and EPA staff photojournalist Tannen Maury joined up near the Kmart to discuss their plans for the rest of the night.¹³⁴ As they were walking north, a van stopped and a number of officers poured out in gas masks, helmets, and body armour and immediately launched various projectiles at a group of approximately 10 protesters nearby.

The officers yelled that there was a curfew and they needed to move and rushed towards the journalists. The journalists identified themselves as press; all three were clearly identified with badges and professional camera equipment. Craig Lassig told Amnesty International: “We were all wearing media credentials and we’re all still photographers and have camera gear. We identified ourselves as media as they approached us. They had plenty of opportunity to see us, and if they had wanted, they could have examined our credentials.”

The officers told them to move back in the direction they were pushing them. Stephen Maturen recalls saying: “We’re doing that, got it, got it, we’re on the sidewalk, we’ll move back.” They had their hands up as they walked. Moments later someone called for them to be arrested and told them to get on the ground: “It went from being cool, we’re being pushed back, to we’re being arrested in a flip of a second.”

They were on the ground face down with their hands at their side and were cuffed behind their backs with zip-ties. They were arrested, taken to the police station, processed in what seemed to be a garage, and charged with curfew violations. They were in police custody for approximately two hours. Stephen Maturen described the close confines of being transported to the police garage for processing, “There were seven of us [in the police van]. [The police] took all of the gas masks and helmets off of people. They left my safety goggles and N95 on. When we were put in the [van], it felt like I couldn’t breathe. I’m 6’5” tall and I was crammed in. It was a tiny box with seven people exhaling the same air for an indeterminate amount of time. It was a good thing I had a N95 on. It was so hot and humid in there.” He later tested negative for COVID-19.

Once they arrived at the police station, they were not offered masks (even though some did not have them on). Most of the police officers were not wearing face coverings either. Someone individually talked to every person in the van before they got out – they had to go through a COVID-19 questionnaire; the people administering the test wore gloves, masks and goggles. Stephen Maturen and Craig Lassig told Amnesty International they were not read their rights or offered a phone call or lawyer. Not far from where the journalists were arrested, local station WCCO photojournalist Tom Aviles, a well-known journalist in Minneapolis, had been shot with a projectile and arrested a short time earlier, despite repeatedly identifying himself as press and while on the air.¹³⁵ Stephen Maturen and Craig Lassig saw Tom Aviles at the garage.¹³⁶

Similar incidents happened to members of the media in Columbus, Ohio; Des Moines, Iowa; and Raleigh, North Carolina.

¹³⁴ Amnesty International interview with Stephen Maturen and Craig Lassig, Minneapolis, Minnesota, 24 and 27 June 2020.

¹³⁵ T. Van Oot, *Media members injured, one arrested while covering unrest in Minnesota*, The Star Tribune, 31 May 2020, www.startribune.com/wcco-cameraman-arrested-on-video-while-covering-unrest-in-minnesota/570902742/

¹³⁶ Amnesty International interview with Stephen Maturen and Craig Lassig, Minneapolis, Minnesota, 24 and 27 June 2020.

COLUMBUS, OHIO



A bicycle-mounted law enforcement officer sprays a chemical irritant toward Monica in Columbus, Ohio. Credit: @julia1wasthere*

Monica,* a freelance journalist and graduate student in investigative journalism, was pepper sprayed and tear gassed by law enforcement while covering protests from 29 May to 31 May 2020.¹³⁷

On 29 May 2020, as Monica was walking to her car after police had ordered people to disperse, an officer on a bike approached her, yelling that she had to leave. She immediately raised her hands, with her camera still in hand, and said she was a journalist. “I am walking to my car, trying to get to my car, I’m a journalist,” she said while she had her hands up. He pepper sprayed her and as she started running away, he chased her on his bike and pepper sprayed her on the back of her neck. Her neck was burning. Monica turned into an alley and hid there for 20 minutes before she could walk down the other side of the street to get to her car without fear of the police pepper spraying her.

Two days later, on 31 May, Monica was standing with group of five to six journalists on the sidewalk. She said all were wearing jackets and vests labelled “press” as well as press badges: “I felt more security standing with a group of people with cameras and reporting equipment.” Yet, police tear gassed the journalists during the afternoon on the corner of Broad and High Streets in downtown Columbus, with few protesters nearby. The police had ordered protesters to disperse; after four or five minutes, they began firing tear gas. She told Amnesty International: “Everyone dispersed and we were standing there and they fired tear gas at us. We were clearly journalists.”

Similarly, police targeted Sarah Szilagy, campus editor of *The Lantern* at Ohio State University, with pepper spray on the night of 1 June, despite she and her team repeatedly identifying themselves as press. In response to identifying themselves as press, an officer kept saying: “I don’t care if you are members of the media,” and “It’s past curfew” and “You’ll be arrested if you don’t leave.” Like Monica, Sarah Szilagy was pepper sprayed directly in the face and on the back of her neck as she ran away. She explained to Amnesty International, “We were on the sidewalk and doing everything correctly and there were no protests around us and we were still pepper sprayed. It was the most direct form of police targeting.” She added: “Spraying us after knowing we were press, seeing our press passes, felt like a direct form of censorship.”¹³⁸

DES MOINES, IOWA

On the evening of 31 May 2020, police pepper sprayed, arrested, and detained Andrea Sahouri, a journalist with the *Des Moines Register*, in the course of her reporting on a protest at the Merle Hay Mall in Des Moines, Iowa. She was with a fellow *Des Moines Register* journalist who was not arrested.

Andrea Sahouri told Amnesty International that after police in riot gear showed up and ordered the protesters to disperse, people began running in multiple directions. As the police fired tear gas, protesters ran into a busy commercial intersection. Andrea Sahouri and her colleague ran too. As they rounded the corner of a store, the police charged at them. Even as she kept yelling, “I’m press, I’m press, I’m press,” she was pepper sprayed on her arms and face twice at close range. “We dispersed, and they charged at us. It’s not

¹³⁷ Amnesty International interview with Monica (pseudonym; information on file with Amnesty International USA), Columbus, Ohio, 22 June 2020.

¹³⁸ Amnesty International interview with Sarah Szilagy, Columbus, Ohio, 27 June 2020.

tag.” The police arrested Andrea Sahouri, cuffed her in zip ties behind her back, and placed her in a van. Her face was covered in pepper spray, coating the face mask she was wearing; she said her entire face and eyes were burning and she was crying out in pain. While detained at the jail, she had to shower and change clothes due to the pepper spray. She was charged with failure to disperse and interference with official acts and released around 11.30pm that same night.¹³⁹

RALEIGH, NORTH CAROLINA

On 30 May 2020 in Raleigh, North Carolina, police targeted Charlie McGee, a freelance journalist who subsequently joined the staff at Bloomberg News, with tear gas while he was covering protests downtown.

Throughout the day, Charlie McGee was covering the protests wearing a laminated lanyard that said “PRESS” in large text. Approximately 20 minutes before police shot tear gas at him, he was speaking with a bystander who was complaining to an officer about pepper spraying and police chasing a man. The police knew who Charlie McGee was; he had just been trying to take a photograph on his phone of the officer while speaking to the bystander.

When police fired tear gas at him, he was standing in the street, next to a photojournalist who was carrying professional gear, in a completely non-violent section of the protest. There was no one within five to 10 feet of him except the photojournalist and a man who had been sitting on a bench for hours.

All of a sudden, a tear gas canister almost hit him by his right side and then another to his left. There was no curfew and there had been no order to disperse. Charlie McGee told Amnesty International: “It was a very surprising and shocking tear gas incident that didn’t seem to be directed to diffuse any property damage or protest action happening.” He added: “They knew I was a journalist.” He ran up the road to get away from the immediate impact and continued reporting, but at the end of the night, as he was driving home, he had to pull over to the side of the highway twice to vomit from the exposure.¹⁴⁰

US Press Freedom Tracker has verified dozens of other incidents of journalists being subjected to tear gas, pepper spray and kinetic impact projectiles and at least 44 arrests of journalists during the national Black Lives Matter protests between 26 May and 9 June 2020.¹⁴¹ Arrests occurred in cities from Los Angeles, California, to New York, New York, including Omaha, Nebraska; Dallas, Texas; Philadelphia, Pennsylvania; and Atlanta, Georgia.

International human rights law and standards state that the media should not be hindered in their reporting of events such as protests. Members of the media must, therefore, be allowed to carry out their work and report and document protests and the policing of protests. Additionally, law enforcement have a duty to investigate the targeting of journalists in the enforcement of curfews and orders to disperse and hold officers accountable for the excessive force used in such incidents.

TARGETING OF LEGAL OBSERVERS

Legal observers play an important role in ensuring that protesters’ rights during mass assemblies are protected. Legal monitors have a right to be present at public assemblies and can have a positive role to play in observing compliance with human rights, including those protected by the US Constitution. They also are a valuable resource by informing protesters about how to lawfully exercise their rights and answering questions about what conduct is lawful.

In a joint report, the UN special rapporteurs on the rights to freedom of peaceful assembly and of association and on extrajudicial, summary or arbitrary executions made clear that every person shall enjoy the right to observe, monitor and record assemblies and that the concept of monitoring encapsulates not only the act of observing an assembly, but also the active collection, verification and immediate use of information to address human rights problems.¹⁴²

As observers who might be looking to document constitutional and human rights violations at mass demonstrations, legal observers often are easily identifiable in brightly coloured clothing, such as the neon green hats of the National Lawyers Guild (NLG). Law enforcement officials have a responsibility to ensure they do not prevent or obstruct monitors’ work. However, during the recent Black Lives matter protests, law

¹³⁹ Amnesty International interview with Andrea Sahouri, Des Moines, Iowa, 24 June 2020.

¹⁴⁰ Amnesty International interview with Charlie McGee, Chapel Hill, North Carolina, 17 June 2020.

¹⁴¹ US Press Freedom Tracker, pressfreedomtracker.us/george-floyd-protests/.

¹⁴² Joint report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/31/66, paras 68-72.

enforcement across the country repeatedly obstructed legal observers from fulfilling their roles, subjecting them to excessive force and, at times, arresting and detaining them. Amnesty International documented excessive use of force against and arbitrary detentions of legal observers as they monitored protests in Chicago, Illinois, and Atlanta, Georgia.

“They didn’t say anything. I was on the sidewalk and they just sprayed me with pepper spray. When you are protesting police brutality and the thing you are met with is police brutality, what are you supposed to do?”

Amnesty International interview with Jackie Spreadbury, NLG legal observer



JACKIE SPREADBURY AND JACK*
CHICAGO, ILLINOIS
MAY 2020

Two volunteer legal observers with the NLG, Jackie Spreadbury and Jack,* described to Amnesty International how police used excessive force against them while they were serving as clearly identifiable legal observers during protests in Chicago, Illinois, on 30-31 May 2020. Police beat them both with batons; Jackie Spreadbury was additionally pepper sprayed and hit with a police bike, while Jack was arrested and detained.

On 31 May 2020, Jackie Spreadbury was volunteering as an NLG legal observer following a group of young peaceful protesters. When the group arrived at Wabash and Adams, there was what she described as a “SWAT-like tank” stationed there. She told Amnesty International: “Two officers in masks and full riot gear jumped out, ran up to people, and sprayed them with pepper spray.” She said there was no dispersal order given. “The teens were in the street, but they were never told once not to be in the street – not once in their 20 miles of marching. It was dusk, maybe like 7pm – well before curfew.” She was clearly identified as a legal observer, wearing a green NLG hat.

Jackie Spreadbury reported: “I saw them pepper spray three people, and then they sprayed me in the face and my left arm.” Afterward, the officers returned to their vehicle, which continued to occupy the intersection. She added: “They used a large cylinder container that squirted a liquid spray that burned. It looked like a mini fire extinguisher. It was red and had a handle that squeezed. It made me feel like my skin was on fire.” She was not able to use her N95 mask after this incident because it was covered in chemicals. The protesters turned a corner and started rinsing themselves off and then resumed marching towards another bridge. There were horse-mounted police and officers standing on the bridge as the teenagers walked across; they walked under the rail between the sidewalk and bridge to avoid the horses.

Jackie Spreadbury told Amnesty International: “It was like the police freaked out. They grabbed someone and started beating this person and the teenage protesters started screaming to let the person go and more police came and grabbed a second person. I was trying to get the name of the first person when I saw them beating the second person and punching them in the face repeatedly. I started screaming, ‘STOP’, and ‘What’s your name?’... A police officer threw his bike at me, and then he threw it on top of me.” She showed Amnesty International the still healing scar from where her left upper arm was sliced from the impact of the bike and the still visible bruise on her calf in the shape of a bike pedal. “The officer threw his bike on me because I shouted at him to stop abusing the protester and asked for the protester’s name.” She was unable to document the officer’s name or badge number because the Velcro placeholder for the name tag on his uniform was empty, and he was not wearing a badge. Jackie Spreadbury clarified to Amnesty International, “I don’t want exceptionalism for me as a legal observer. No one should have been targeted – no one should have been targeted as a human.”

Jack had two encounters with police on 30 May 2020 while serving as an NLG legal observer. Earlier in the afternoon, while monitoring a large group of protesters near Federal Plaza, he attempted to get the name of a protester who was being arrested. The police were arresting a number of protesters at the time. Even though he was clearly identified as a legal observer by his NLG hat and sought permission from other officers to get the person's name, an officer forcibly grabbed him, ripping the sleeve of his shirt. He felt like he had just escaped being arrested.

Shortly after that incident, Jack was observing protesters at Wabash Bridge by the Trump Tower in downtown Chicago. He told Amnesty International: "The police were effectively trapping people: as they pushed people back on the bridge, the people already on the bridge weren't moving. People at the front, where I was, were caught in a push." Jack did not hear police issue a dispersal order on the bridge before he saw, "[t]he police grabbed a young woman by the legs and pulled her down behind the line of police and were kicking her and hitting her with batons. Another protester jumped in to get them to stop. And the police started beating that person too."

Jack started yelling, "Name, Name," as an officer pushed him back. Other protesters started yelling, "Name, Name" too. As the officer shoved Jack back with a baton held between his raised hands, he hit Jack in the throat several times with his baton. When Jack put his hands up to protect his throat, another officer started hitting him with a baton, mostly in the head. He stumbled away. Jack reported that during this incident, at least three or four police officers hit him with their batons despite his being still clearly identified as a legal observer with his NLG hat. He told Amnesty International that immediately afterwards:

"Three to four more officers who were behind me pulled me up onto a concrete barrier and threw me over onto a wheelchair ramp. I landed on my back and lost my hat. I was looking around when three or four other officers started hitting me with batons. Another protester tried to stop the police, and they started hitting him. People were yelling 'legal observer' as it was happening. I was crouched, trying to protect myself, and telling them, 'I'm not resisting, I'm not resisting.'"

The police only stopped beating him after a more senior officer came over and said Jack was with the NLG. The police arrested him and held him in detention for 13 hours before releasing him without charge.¹⁴³

Amnesty International also spoke with two legal observers, Megan Harrison and Asia Parks, who were monitoring protests on 1 June 2020. They recalled a highly militarized police force on the streets during the third night of curfew in Atlanta, Georgia.

"I do think we were targeted as legal observers. I think there's no way they didn't know who we were. Police act differently when they know they are being watched. Similar to the arrest of journalists – at the end of day, we need people who can tell this story, collect this information, or the government can do whatever it wants."

Amnesty International interview with Megan Harrison, NLG legal observer

¹⁴³ Amnesty International interview with Jackie Spreadbury and Jack (pseudonym; name on file with Amnesty International USA), Chicago, Illinois, 24 June 2020.

MEGAN HARRISON AND ASIA PARKS

ATLANTA, GEORGIA

JUNE 2020



Atlanta Police Department officers arrest Asia Parks in Atlanta, Georgia, 1 June 2020
Credit: John Bazemore/AP Photo

Megan Harrison and Asia Parks, NLG legal observers in Atlanta, Georgia, were arrested and detained for over 16 hours. Within a few minutes of curfew on the evening of 1 June 2020, police separately arrested the two women as they were leaving a protest; they had been serving as legal observers, wearing their green NLG hats and collecting names from protesters.

Megan Harrison said that as she walked away from a line of protesters, she heard someone shout: “Get the girl in the green hat.” A policeman grabbed her by the shirt from behind, cuffed her wrists tightly with plastic zip ties behind her back, and arrested her. Asia Parks said that, as she walked from a protest in a different area, she also heard someone yell: “Get the girl in the green hat.” Three police officers grabbed her from behind and initially cuffed her wrists behind her back with zip ties; they later recuffed her wrists in front of her because of a metal pin in her arm. Megan Harrison and Asia Parks told Amnesty International they were neither advised of their rights nor told why they were arrested at that time. Asia Parks said an officer told her: “I don’t have to advise you of your rights because I’m not interrogating you.”

Police processed Megan Harrison and Asia Parks in a tented area by the CNN Center before officers put them on a bus. Even though they observed several empty buses parked nearby, police held them on a single bus with more than 50 other people from approximately 9.30pm until 12am, when they drove the protesters to the Atlanta City Detention Center. Asia Parks told Amnesty International, “A lot of people raised concerns about COVID because there were way too many people on the bus.” She asked the officers: “This isn’t safe for any of us, what is the plan?” She also pointed out the other empty nearby buses to them and asked: “Why are all of us on the bus?” They police did not answer. The windows and doors were kept closed when the police were not putting people on the bus. Police officers were wearing masks, but they were not handing them out to those detained on the bus. They took the temperatures of people when putting them on the bus, but took no other precautions around COVID-19.

Megan Harrison and Asia Parks were not released until early the next afternoon, after appearing in court for a bond hearing for curfew violations. From arrest to release, they had been detained for over 16 hours. Of the police violence in Atlanta, Megan added: “Being in Ferguson and the protests around Philando Castile’s death [in Minnesota in 2016], I’ve seen police do crazy things but nothing like this – absolutely unprovoked and on such a massive scale.”¹⁴⁴

Detentions and arrests of legal observers during the national protests against the killing of Black people were documented in other cities, including in Las Vegas, Nevada, where Las Vegas Metropolitan Police arrested six clearly identified legal observers during a demonstration on 13 June 2020 for obstructing a roadway.¹⁴⁵ In New York City, New York, on 4 June 2020, NYPD officers detained 11 legal observers during the course of a

¹⁴⁴ Amnesty International interview with Asia Parks and Megan Harrison, Atlanta, Georgia, 12 and 16 June 2020.

¹⁴⁵ M. Darrow, *Attorney, ACLU speak out after legal observers were arrested at protest*, News 3 Las Vegas, 15 June 2020, news3lv.com/news/local/attorney-aclu-speak-out-after-legal-observers-were-arrested-at-protest

particularly violent mass arrest of 260 people for curfew violations in the Mott Haven section of the Bronx (see section on Physical force above). Just prior to their detention, one NYPD officer was overheard saying to round up “all the green hats”. They were eventually released at the scene and told they would receive some unspecified charge in the future.¹⁴⁶

States should fully investigate any human rights violation or abuse against monitors. Legal observers should never be targeted for arrest due to the conduct of protesters or in order to obstruct their legitimate monitoring activities, which are essential to hold police accountable when they abuse their authority. Law enforcement officers should be trained to respect the role played by legal observers before, during and after demonstrations and clearly instructed that observers should not be targeted for arrest when exercising that role around protests.

TARGETING OF STREET MEDICS

“We are the canaries in the coal mine – if we are getting maced and pepper sprayed 30 times, it’s exponentially worse for the protesters... I have never seen anything like this, and it is appalling.”

Amnesty International interview with Duck Bardus, street medic in Columbus, Ohio

Medical volunteers, otherwise known as street medics, attended protests across the country to support the health and medical needs of protesters. Dating back to the Civil Rights Movement, street medics provide a range of support to protesters – from supplying water and snacks, to washing out eyes affected by tear gas and pepper spray, to treating contusions caused by batons and projectiles, to addressing natural infirmities, such as heat exposure and dehydration. During the COVID-19 pandemic they also provide essential protective gear like masks and gloves and sanitizer to those demonstrating.

Even though street medics attended protests as medical volunteers, clearly identified by red crosses taped on their backpacks, shirts, white coats, hard hats and other visible areas of their clothing, law enforcement repeatedly interfered with their work during the Black Lives Matter protests. This interference included deliberately targeting both the volunteers and clearly identified aid stations using force that endangered not only the medics, but also the protesters they were treating. Amnesty International spoke with street medics who were volunteering in cities such as Seattle, Washington; Columbus, Ohio; and Minneapolis, Minnesota.



SEATTLE, WASHINGTON JUNE 2020

Danielle Meehan, John Moore, Beverly* and Effie Wardenburg, street medics in Seattle, Washington, described to Amnesty International a pattern of police targeting of street medics as well as protesters with chemical irritants and kinetic impact projectiles.¹⁴⁷

Danielle Meehan, John Moore and Beverly described the weekend of 6-7 June as particularly violent. On the night of Saturday, 6 June, protesters started to disperse after police began firing different chemical irritants at the crowd. Beverly was standing outside the medic station, flushing out one protester’s eyes: “The woman was sobbing and throwing up on her shoes and begging me to stop her pain.” Beverly saw police throw a flash bang into the medic station and enter it. Right after, an officer approached her. “I put my hands in the air with an open bottle of water in each hand and stopped moving. I was completely still.

¹⁴⁶ J. Offenhartz, “Round Up The Green Hats”: NYPD Accused Of Deliberately Targeting Legal Observers In Brutal Bronx Mass Arrest, Gothamist, 8 June 2020, gothamist.com/news/round-green-hats-nypd-accused-deliberately-targeting-legal-observers-brutal-bronx-mass-arrest

¹⁴⁷ Interview with Danielle Meehan, John Moore, Beverly, and Effie Wardenburg, Seattle, Washington, 11, 16, 21, and 24 June 2020. Beverly and Effie requested only use of their first names; full name on file with Amnesty International USA.

The officer reached out his left hand and palmed my left breast and pushed me backwards onto the sidewalk. I stumbled and almost fell, and kept walking backward slowly.”

Beverly described how the medic station was clearly identifiable. “It’s outside Rancho Bravo restaurant and is clearly identifiable with pop-up tents with blue tops. There are several different tables stacked with standard first aid care: gauze, lots of saline, gloves and masks, and water. There is some higher level trauma gear but we try to keep that in more secure locations. Every three feet there is a sign saying, ‘Please don’t photo or video medics.’”¹⁴⁸

Beverly, John Moore, and Danielle Meehan described the police as even more aggressive on the night of Sunday, 7 June, the night that Danielle Meehan and her medic partners scrambled to treat Aubreanna Inda as police continued to fire tear gas, flash grenades, and rubber bullets at them and the aid station where they were treating her and other protesters (see page 25). Beverly said that, as police advanced on the medic station, she “saw something launched into the aid station and then things were on fire. I saw some of the aid supplies catch fire.”

John Moore described how, “[t]here was a really extraordinary amount of munitions discharged on the protesters and us. Every 30-40 seconds that night there was the boom, boom, boom, boom, boom, of constant munitions going off.” He added: “We saw protesters with third degree burns on legs from flash bangs, who were blinded from pepper spray, suffering asthma from the tear gas, and had head trauma.” Beverly spoke of the effect on the street medics themselves: “You get in a zone where you almost have to dissociate to focus only on the patient. It’s really overwhelming.” Beverly described the injuries to her colleagues that night:

“One person shot by a tear gas canister was wearing a bicycle helmet; it was dented and burned. Another colleague was shot in the groin. The tear gas canister bounced off his testicles and exploded on the ground in front of him and while he was doubled over, he was shot in the side with rubber bullets. There was a nurse who was shot with a flash bang grenade and upon impact on her butt, it exploded. Another colleague was hit by shrapnel and suffered burns down her left leg... All the street medics were identifiable with red crossed taped to their arms, clothes, or helmets, and were either treating patients or making themselves available by yelling, ‘Do you need medical attention’.”

Beverly herself was targeted directly on a side street off Rancho Bravo: “I had my arms in the air, saying I was a medic, and there was no one for 10 feet around me.” The police threw flash bangs at her that landed within 8 inches of her. She said she heard people around her yelling, “Protect the medic.” Protesters moved dumpsters around her to protect her.

Effie stated to Amnesty International: “It really begs questions – what does freedom of expression mean and what rights do you give up by doing that? What systems do you give up by doing that? This is about the right to protest and the right to have access to services to be treated. We need a system that allows people to protest and still have medical system at their disposal. There is the negligence of understanding a situation and the negligence of a human being denied care.”¹⁴⁹



COLUMBUS, OHIO

A street medic in Columbus, Ohio, Duck Bardus reported to Amnesty International that on 30 May 2020 police relentlessly targeted medics treating protesters.

Duck Bardus trained as a street medic at the Standing Rock protests and has volunteered for four years at over 150-200 protests. They told Amnesty International this was the first time law enforcement had

¹⁴⁸ Interview with Danielle Meehan, John Moore, Beverly, and Effie, Seattle, Washington, 11, 16, 21, and 24 June 2020; see, L. Fowler, *Medics say police have targeted them at Seattle protests*, Crosscut, 18 June 2020, [crosscut.com/2020/06/medics-say-police-have-targeted-them-seattle-protests](https://www.crosscut.com/2020/06/medics-say-police-have-targeted-them-seattle-protests).

¹⁴⁹ Amnesty International interviews with John Moore, Danielle Meehan, Beverly, and Effie, Seattle, Washington, 11, 16, 21, and 24 June 2020.

targeted them as a street medic, adding: “Absolutely, no doubt, they would have known we were street medics.”¹⁵⁰

Duck Bardus trained as a street medic at the Standing Rock protests and has volunteered for four years at over 150-200 protests. They told Amnesty International this was the first time law enforcement had targeted them as a street medic, adding: “Absolutely, no doubt, they would have known we were street medics.”¹⁵¹

By the afternoon, Duck Bardus estimated they had been tear gassed and sprayed 20 times. “I also narrowly missed getting shot with a wooden bullet. I was kneeling and had taken off my backpack when the police started firing wooden bullets. I was covering my head for protection when someone ran over and shielded me with his body. I thought he had to be like 16 – he looked very young. I thanked him and gave him a cold pack because he had a contusion on his shin where the wooden bullet had hit him, which was in line with my head.”

Later in the afternoon, Duck Bardus, along with several legal observers, moved to an alley to treat more protesters. Police officers with bikes and one officer in riot gear entered the alleyway. “I immediately knew that something was wrong. It was dangerous for police to separate themselves from their units and leave a large dense crowd of people between them on the sidewalk. The officer in riot gear looked like he was playing football; he charged right at the woman standing five feet from me and shoulder rammed her. She ended up in a heap of materials on a construction site.” He looked at Duck, who was clearly identified as a street medic, and ran at them. “It was an exercise in self-control to not attempt to engage the officer who was charging me. At the last moment, I stepped away and he brushed off my shoulder.” A legal observer 10-15 feet behind Duck Bardus “put her hands up and said calmly, ‘Officer, I am a legal observer.’ He knocked her glasses off her face, grabbed her shirt, pulled her in real close, and maced her in the face... All of the legal observers were clearly identified in their green hats.”

Duck Bardus told Amnesty International of their alarm about the policing of peaceful protests. “How can we call ourselves a democracy when journalists are maced at protests? How can we call ourselves a democracy when lawyers who go through a rigorous training program are pepper sprayed and arrested and detained? I have never seen anything like this, and it is appalling. This is supposedly what our country was founded on, and we aren’t doing it.”

“We thought they would see what we were doing, that we were no threat; we wore white coats with red crosses. We thought they wouldn’t use any type of force against us.”

Amnesty International interview with Safa Abdulkadir, first-year medical student.

¹⁵⁰ Amnesty International interview with Duck Bardus, Columbus, Ohio, 24 June 2020.

¹⁵¹ Amnesty International interview with Duck Bardus, Columbus, Ohio, 24 June 2020.

MINNEAPOLIS, MINNESOTA

2ND LINE



From left: Safa Abdulkadir, street medic and first-year medical student; Kia Bible, an organizer; and Dr. Jackie Kawiecki; Minneapolis, Minnesota
Credit: Aaron Nesheim/New York Times

Dominique Earland, Paul Cho and Safa Abdulkadir, first-year medical students at the University of Minnesota, worked as street medics in Minneapolis, Minnesota on the night of 30 May 2020.¹⁵²

Dominique Earland, Paul Cho, and Safa Abdulkadir were tending to protesters in their medic station in the local Kmart parking lot in Minneapolis, Minnesota, on the night of 30 May 2020. Paul Cho was stationed in the back of the medic station. He told Amnesty International: “I could see and hear the police slowly approaching. I could smell the tear gas and see the flash grenades. It was very ominous.”

Dominique Earland described the scene as the curfew came into effect at 8pm:

“I could clearly tell the National Guard and police were using tear gas, flash bangs and rubber bullets against protesters to approach up the street after curfew. I was caring for patients with those injuries. I treated a woman with a severe flash bang injury and helped a woman who looked like she was shot in the ankle with rubber bullets and then had to run. I treated several other protesters with rubber bullets. I know it’s not lethal force, it’s less than lethal force, but these were significant wounds.”

Paul Cho was finishing treating a protester who was injured by a kinetic impact projectile when he heard someone yell, “Hands up!” He saw the street medics who were nearer the front of the tent drop everything, stand still, raise their hands, and start yelling “Medics” and “First Responders.” He dropped the bandages in his hands and did the same. Paul Cho told Amnesty International: “The police were right in front of the medic station and should have heard people yelling they were medics and they should have seen the taped red crosses. Medical students had on white coats and others had taped red crosses on their clothes. There was a combat medic who had his medic attire on with an Army backpack, while others were in scrubs. We clearly were all medics.” Dominique Earland added, “I could see [police] lined up in front of the medic tent with weapons drawn into the crowd. I saw medics at the front triage tent raise their hands and stay really still and say, ‘I’m a medic’ and try to calm down patients.”

Immediately after that, police shot kinetic impact projectiles and tear gas into the area. As Paul Cho and Dominique Earland saw orange kinetic impact projectiles fly past their faces. Paul Cho said: “I think I was astonished when I saw rubber bullets fly by my face. I understood that they were supposed to be directed toward the ground and legs.” Safa Abdulkadir was working on a man who had been shot with a kinetic impact projectile and had a huge laceration near his calf. She said: “I was so focused on what was happening with him, I hadn’t realized everyone else had left because the police were firing into the medic site. I think because I was down on the ground, all of the bullets missed me.”

As the police fired tear gas and kinetic impact projectiles into the medic tent, street medics and protesters alike fled. Safa Abdulkadir was forced to leave her patient behind. Dominique Earland helped a couple of protesters trying to flee, before she herself had to run. She saw one man who was bleeding after being shot at close range with a kinetic impact projectile being carried out of the medic tent.

¹⁵² Amnesty International interviews with Dominique Earland, Paul Cho, and Safa Abdulkadir, Minneapolis, Minnesota, 19 and 21 June 2020.

Dominique Earland, Paul Cho and Safa Abdulkadir recounted running down the street, along with protesters, as the police pursued them, firing more kinetic impact projectiles and tear gas. At each intersection they crossed, they would see a new set of vehicles coming up the cross streets carrying members of the police and National Guard. A helicopter hovered in the air. The three street medics told Amnesty International that the next morning when they returned to the medic site to retrieve supplies, they discovered many had been pepper sprayed and were useless; others had been knocked over and thrown around. Containers for water and milk had been cut open.

Paul Cho, whose family immigrated to the USA from South Korea and whose parents were targeted with tear gas and rubber bullets under a military regime there, said: “I didn’t think that would happen to me in America. It was shocking.”

Amnesty International documented similar cases of attacks against street medics in cities such as Asheville, North Carolina; New York, New York; Austin, Texas; and Tampa, Florida. In these cases, law enforcement destroyed clearly identified medic stations and targeted clearly identified medics. The medics were specifically targeted and subjected to excessive force, such as being physically assaulted, pepper sprayed and hit with rubber projectiles; some were arrested.

When law enforcement agencies resort to using force, they have a duty to ensure that assistance and medical aid are rendered to anyone who is injured or affected at the earliest possible moment.¹⁵³ Law enforcement are required under international law and standards to avoid targeting medical crews during dispersals of demonstrations and to allow them to provide treatment and first aid to those who have suffered injuries or are in need of care, especially when ambulances and medical personnel are unable to access areas where injured protesters are located.

VIOLATIONS DURING ARRESTS FOR PROTEST-RELATED OFFENCES

The imposition of curfews limits not only the rights of those who are demonstrating peacefully, but also the freedom of movement of the general public in the cities where they are imposed. International law allows the restriction of such rights only if it is proportionate and necessary to carry out a legitimate aim, such as the protection of public safety, order, health, morals or the fundamental rights and freedoms of others.

Many of the curfews imposed in the USA during this period were hastily ordered by local and state officials, with little notice to protesters and the general public, sometimes just hours before going into effect. Law enforcement officials in individual cities were inconsistent in how curfews were enforced from a night to night. Based on the manner in which they were imposed and how they were enforced, the curfews were a disproportionate restriction on the right to freedom of assembly.

Curfews were ordered in at least 39 cities or counties in 21 states between the end of May and the beginning of June.¹⁵⁴ For instance, the Associated Press documented approximately 10,000 protest-related arrests nationwide from the time when protests began to the first few days of June.¹⁵⁵ In New York City alone, between 28 May and 7 June 2020, which covered a portion of the time when New York City’s curfew was in effect, the NYPD arrested more than 2,500 people for their involvement in protest-related activities; more than half were for curfew infractions and the majority of those arrested were Black and Hispanic people.¹⁵⁶ The arrests during the curfews overwhelmed the NYPD to the point where people were being detained well past New York City’s 24-hour arraignment or release rule. A New York City judge denied a petition to release

¹⁵³ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; General Principle 5(c); Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/31/66, paras 40

¹⁵⁴ M. Stieb, et al, *Police Spar With Protesters for 6th Straight Night: Live Updates*, *Intelligencer*, 1 June 2020, nymag.com/intelligencer/2020/06/george-floyd-nationwide-protests-minneapolis-updates.html

¹⁵⁵ A. Snow, *AP tally: Arrests at widespread US protests hit 10,000*, *The Associated Press*, 4 June 2020, apnews.com/bb2404f9b13c8b53b94c73f818f6a0b7

¹⁵⁶ S. Pereira and G. Hogan, *NYPD’s Historic Mass Arrest Campaign During George Floyd Protests Was Mostly For Low-Level Offenses*, *Gothamist*, 10 June 2020, gothamist.com/news/nypds-historic-mass-arrest-campaign-during-george-floyd-protests-was-mostly-low-level-offenses “Hispanic” is the identifying information used in the data set for “race” in the information documented and provided by the NYPD.

those who were detained past the 24 hours, stating that the delays in the police processing of the cases was “a crisis within a crisis”, referring to the civil rights protests and the ongoing COVID-19 pandemic.¹⁵⁷

Amnesty International spoke with two protest organizers who described their detentions and arrest while peacefully protesting in Manhattan, New York City.



MIDAS*
NEW YORK, NEW YORK
3 JUNE 2020

Midas,¹⁵⁸ a protest organizer in New York City, was arrested on 3 June 2020, put in a chokehold, held for 11 hours and interrogated by the FBI. He was not read his rights or told why he was being arrested or allowed to make a telephone call.

Midas told Amnesty International that when protesters, who had been peacefully marching, stopped at the intersection of 14th Street and 8th Avenue, “the police started grabbing Black men off the street.” He described how an officer came up behind him and put him in a chokehold and kept saying, “Stop resisting, Stop resisting.” Holding Midas in the chokehold, the officer pushed him towards a bus and slammed him against the side of the bus. Another officer came and assisted him and around four police surrounded him and pushed his face against the bus. Midas was tightly cuffed behind his back with zip ties and accused of stealing his own bicycle but was not told specifically what he was being arrested for. Two other protesters were arrested at the same time, both Black men. “At this point, I was extremely scared. I saw they were only picking up Black men. I thought they were going to beat us up, and we hadn’t broken any laws.”

When the police pushed him in the van, he cut his leg. “I was telling them that my leg was bleeding, but no one paid attention. I have a scar now.” Three more people were arrested in the vicinity and held in the van too. Midas described how “the police held us for two hours in a closed van with no ventilation and no AC on a very hot day. I still had my mask on but others didn’t. We could hear nothing that was happening outside and none of us were read our rights.” After two hours, they were transferred to a Department of Corrections bus to wait. Midas told Amnesty International that by this point he had lost feeling in his hands because the police had cuffed them so tightly. As the Department of Corrections officer loosened the ties, he told Midas: “Whoever put this on, they put it on wrong. It was intended to cut off circulation to your hands. We use these all day, and this is not proper technique.”

Around 8pm, approximately four hours after being detained, they were driven to a detention facility in Brooklyn. The male detainees were put into a holding cell. Midas described it as “the dirtiest place I’ve ever seen in my life.” He shouted to an officer in the hallway: “There are almost 25 people here. COVID is still a thing.” He heard back from down the hall: “Social distancing is not a thing in here, you shouldn’t have been arrested.” Midas still had a mask but a lot of officers were not wearing masks, although when he requested a mask for someone in his cell, an officer eventually provided him with one. After the curfew came into effect at 8pm, Midas saw police bring dozens more protesters to the precinct. Some were put in his cramped holding cell. Midas heard them request masks, but the police did not provide them with any.

Later that night, Midas was taken from the cell for an interview with officers who identified themselves as being from the FBI. Midas volunteered to continue speaking with them and explained that he had been peacefully protesting. They questioned him for almost an hour and asked him a series of questions about other protest organizers before he was returned to his cell. At about 3am, the officer told him he was getting a desk appearance ticket¹⁵⁹ for “obstruction of justice” and that his release was held up until his bicycle was delivered to the jail in Brooklyn.

¹⁵⁷ M. Crane-Newman, *Manhattan judge denies Legal Aid request to free hundreds of George Floyd protesters held more than 24 hours*, New York Daily News, 4 June 2020, www.nydailynews.com/new-york/manhattan/ny-manhattan-judge-denies-writ-protestors-custody-20200604-cj67y2xoxigrhk4es7vbyxkhcm-story.html

¹⁵⁸ Amnesty International interview with Midas (pseudonym; name on file with Amnesty International USA), New York, New York, 28 June 2020.

¹⁵⁹ A Desk Appearance Ticket is an order issued by the police to appear in Criminal Court to respond to an accusation that you have committed an offense. In most cases, a Desk Appearance Ticket will be charging a misdemeanor offense.

Another protest organizer out leading protests the next night, 4 June 2020, in New York City described how a peaceful demonstration was led well past curfew before mass arrests were made.



JUAN ARANDANO*
NEW YORK, NEW YORK
4 JUNE 2020

Juan Arandano¹⁶⁰ is a protest organizer in New York City. He was leading a march in Manhattan on 4 June 2020, which progressed from lower Manhattan through the city until they reached 53rd Street and 3rd Avenue. It was approximately two hours after the 8pm curfew when they reached the intersection. He said, although there were not many police initially following the marchers, by the time they reached the intersection, “approximately 20 officers were lined up trying to form a perimeter around them. Then a van pulled up and bike mounted police approached with officers on foot, closing the perimeter around the group.” Juan Arandano told Amnesty International that the police never made an announcement to disperse before they started detaining people for being out after curfew.

When Juan Arandano saw police officers grab a young man, he pulled him away from the police, told him to leave, and sent him back into the crowd. Juan Arandano turned to the police, saying: “We’re leaving, we’re going.” As he was walking away, he heard someone say: “Get him, get him.” Police hit him with a baton in his back, seized him, and cuffed his wrists in zip ties behind his back. He asked the officer why he was being arrested and detained, but the officer did not answer him. The officer put him in a van with other protesters who had been arrested, and they were taken to 123rd Street and Frederick Douglass Boulevard in Harlem. After several hours, the police let Juan Arandano and most of the protesters out with summonses and court dates in October. They were released into the night with no access to working transportation due to the curfew.

Journalists and legal observers were also arbitrarily detained for minor protest-related offences.



ANDREW BUNCOMBE
SEATTLE, WASHINGTON
1 JULY 2020

Andrew Buncombe, a journalist at *The Independent*, was arrested while covering the clearing of Cal Anderson Park and the streets around it in Seattle, Washington, on 1 July 2020. He had been covering the ongoing protests throughout the city for a month and said that, in 30 years as a correspondent, it was the first time he had been arrested. At the time of his arrest he was standing on the proper side of a police line and had shown that he was a member of a media and refused to leave.

He was not told by police why he was being arrested when initially detained. At the jail, he again informed the officers he was a member of the press and was told he was arrested for “failure to disperse”, a misdemeanour, despite the fact that the law exempted members of the media. After an hour at the precinct spent in handcuffs, he was placed in leg irons and a belly chain so tight that he was unable to breathe properly, and transported to the King County Jail.

At the jail, as he was being reprocessed, an officer seemed to not understand his British accent when he was spelling his name. She told him: “Get back in the cell. You’ve lost your chance. You’re being condescending.” When he tried to spell his name again, a male officer grabbed him by the collar of jacket with such force it caused him to gasp and then forced him back into the cell without saying a word. Despite the COVID pandemic and signs in the facility about social distancing, safe hygiene and wearing a

¹⁶⁰ Amnesty International interview with Juan Arandano (pseudonym; name on file with Amnesty International USA), Queens, New York, 12 June 2020.

mask, he was packed in what he described as a filthy cell with 10 other individuals. Andrew Buncombe was finally released after several hours in jail.¹⁶¹



JACK*
CHICAGO, ILLINOIS
30 MAY 2020

Jack, a legal observer with the NLG, was repeatedly hit with batons and arrested while observing a protest in Chicago, Illinois, on 30 May 2020. Police did not tell him why he was being arrested and they never advised him of his rights.

Police transported Jack and a group of protesters to the 18th Precinct police station, where guards placed two people in each holding cell. Jack told Amnesty International, “The police wouldn’t give people masks in the cells, even though there were two people in each holding cell. They only gave people masks if they were coming out of the cells.” Jack was held in a cell with an essential worker who did not have a mask; he placed himself in self-quarantine after his arrest and later tested negative for COVID-19.

After five hours in detention, police finally allowed protesters to make telephone calls. But Jack told Amnesty International, that many were not able to make calls because the police had confiscated everything, including sheets of paper with phone numbers on them. Nearly 10 hours after Jack and other protesters was arrested, the police gave them something to eat for the first time. He said: “The choice for food was actually cold bologna or cold pizza.” Jack said when he asked police when he could be let go he was told they “were waiting for the arresting officer to return and complete his report before I could be fingerprinted and allowed to leave. Since the police waited until 3.30am to take mine and other protesters’ information and put it into a database, attorneys, friends or family members were unable to find anyone who was arrested until that time.” He and the other protesters were released around 5.30am. The police said they were being charged with a misdemeanour, but Jack was not given a charging document when released or a court date. Jack’s lawyer told him that other people who were arrested were provided charges and documentation when they left.

Jack told Amnesty International he felt his arrest fitted a pattern. “It was done in a way that people who beat him would not be connected to the arrest. The person who took me away and arrested me and others was one particular officer who took credit for 3 arrests including mine. All the arrest reports were credited to him, yet that officer was not present for the physical assaults against me.”¹⁶² Midas expressed the same concern: “I was never told why I was being arrested – when I got to the van, when I was put in the other bus; when I got to Brooklyn. My arresting officer on paper was not the officer in the field. The guy who put me in a chokehold in the field should have been my arresting officer: the guy who said my bike was stolen, that I was resisting arrest, and who felt the need to choke me in the middle of the day.”¹⁶³

Processing additional people through local jails at the height of a nationwide health pandemic in these circumstances places people’s lives unnecessarily at risk, as prisons and jails have become hotspots for COVID-19 throughout the country. Local jails have often been hot spots within cities battling COVID-19, continuing to increase even when those cities’ numbers of infections have decreased, such as at Rikers Island in New York City.¹⁶⁴ There is no way to socially distance or maintain safe hygiene in these jails, which are notoriously overcrowded.¹⁶⁵

¹⁶¹ A. Buncombe, *I was arrested, jailed and assaulted by a guard. My ‘crime’? Being a journalist in Trump’s America*, The Independent, 9 July 2020, www.independent.co.uk/news/world/americas/journalist-arrest-seattle-chaz-protest-police-prison-black-lives-matter-a9606846.html

¹⁶² Amnesty International interview with Jack (pseudonym; name on file with Amnesty International USA), Chicago, Illinois, 24 June 2020.

¹⁶³ Amnesty International interview with Midas (pseudonym; name on file with Amnesty International USA), New York, New York, 28 June 2020.

¹⁶⁴ B. Maurer, et al, *There must be mass releases from NYC jails immediately – it’s the only way to protect public health*, The Appeal, 9 July 2020, theappeal.org/there-must-be-mass-releases-from-nyc-jails-immediately-its-the-only-way-to-protect-public-health/

¹⁶⁵ A. Jones, *Does our county really need a bigger jail? A guide for avoiding unnecessary jail expansion*, Prison Policy Initiative, May 2019, www.prisonpolicy.org/reports/jailexpansion.html



CAMELLIA* AND JACK DAVES

NEW YORK, NEW YORK

3 JUNE 2020

Camellia and Jack Daves were both violently arrested while protesting past curfew on the night of 3 June 2020 in Manhattan, New York City, (see section on Physical force above). They were both released in the early morning hours the next day. Neither of them received medical attention for their injuries nor were they advised of their rights or allowed to make a telephone call when arrested. They described their detention and the conditions in which they were held. Camellia told Amnesty International:

“The cells were filthy. I do not think they had ever been cleaned. Covered in black grime. The first cell was smallest with 15 women inside, but all were small. There were benches around the perimeter and a toilet in the corner- no toilet paper, and not enough room for everyone to sit- some were standing. I was really worried about COVID, but the police never acknowledged it, except for my arresting officer who said he was just back after two months because he had COVID. Plenty of cops were not wearing masks and many of the protesters lost masks while being assaulted or arrested. My mask was half off and because of restraints I could not fix it. We were all sitting up against each other.”¹⁶⁶

Jack Daves described his detention condition:

“We were held in different cells. First in a 30x20 foot cell with about 30 people and then in a smaller cell before we were released. It was disgusting. There were filthy greasy benches, toilets overflowing with feces. The cells were not designed to hold this many people. No one was wearing masks and we were still in handcuffs in the cells. Inside the cell I saw people injured and bleeding, one guy had blood dripping down his arm.”¹⁶⁷

Midas described similar conditions to Amnesty International. He was crammed with other people into a filthy holding cell at a jail in Brooklyn over the night of 3 June 2020.¹⁶⁸ He told an officer, “COVID is a thing, spread us out.” The officer ignored him.

In light of the health risks associated with COVID-19, law enforcement should avoid detaining people for low-level offences related to protest-related activities wherever possible and only resort to detention where absolutely necessary. Arrest and detention should not be used as a means to prevent peaceful participation in a public assembly nor as a means of intimidation or punishment for participation. If individuals are arrested, officers should not use restraints in an excessive manner or for prolonged periods of time during processing and anyone arrested should be provided with food and water, access to restrooms, means of sanitation and prevention like soap and water, medical attention, if needed, and prompt access to legal counsel. They should be promptly informed of their rights and the reason for their arrest.

CONCLUSION AND RECOMMENDATIONS

As the cases detailed in this report illustrate, police have clearly failed to protect the right to freedom of assembly of protesters that took to the streets following the killing of George Floyd. Protesters, journalists and members of the media, legal observers and street medics were repeatedly subjected to excessive force through the use of chemical irritants, kinetic impact projectiles and brute physical force and additionally subjected to violations during arrest and detention. A bill has been introduced specifically in response to these violations – Protecting our Protesters Act of 2020 (HR 7315)¹⁶⁹ – which would amend the federal civil rights statute (Section 242 of Title 18 of the US Code) to allow the prosecution of any officer who wilfully kills or causes bodily harm to a person through the use of force during a response to a protest.

¹⁶⁶ Amnesty International interview with Camellia (pseudonym; name on file with Amnesty International USA), New York, New York, 12 June 2020.

¹⁶⁷ Amnesty International interview with Jack Daves, New York, New York, 12 June 2020

¹⁶⁸ Amnesty International interview with Midas (pseudonym; name on file with Amnesty International USA), New York, New York, 28 June 2020.

¹⁶⁹ Protecting our Protesters Act of 2020, HR 7315, www.congress.gov/bills/116/congress/house-bill/7315?s=1&r=5

It is imperative that the US government takes steps at the state and federal level to address the use of lethal force by law enforcement officers, the use of force in the policing of protests and the systemic racism inherent in the policing system throughout the country. The people protesting in the streets are urgently demanding this. It is also the state's obligation under international law to address these human rights violations and to implement reforms. Lastly, officials must investigate, effectively, impartially and promptly, all allegations of human rights violations by police officials during public assemblies, including unlawful use of force, and hold all those found responsible, including commanding officers, to account through criminal or disciplinary proceedings, as appropriate, and provide full redress to victims.

TO THE DEPARTMENT OF JUSTICE

- Urgently implement root and branch reform of the police forces in the USA in order to address systemic racism and the widespread misuse of force by law enforcement officials.
- Review and revise DOJ guidelines to law enforcement agencies on the policing of protests to ensure that there is compliance at all times with the international human rights obligations and with international standards on policing. In particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials must be the guiding principles underpinning all police operations before, during and after demonstrations.
- Ensure that military forces are not deployed to conduct law enforcement duties unless under exceptional and temporary circumstances, based on a clear needs assessment as to their added value in a concrete situation. In such a case they are duty bound by the legal framework applicable to law enforcement, including international and domestic human rights law and they may only be deployed to carry out law enforcement functions if they are properly instructed, equipped and trained to carry out those functions in a lawful, human rights compliant manner. They should be subject to civilian command, control and oversight at all times.
- Develop national guidelines on use of tear gas to ensure that there is compliance at all times with the international human rights obligations and with international standards on policing, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Such guidelines should restrict the use of tear gas during the policing of demonstrations to ensure it is only used in situations of generalized violence, for the purpose of dispersing a crowd when all other means have failed to contain the violence; that cannisters are never fired directly at individuals; and that tear gas is not used in confined spaces against unarmed people, in situations in which exits and ventilation points are restricted or near high risk people, such as older people, pregnant people and children. Protesters must always be warned in advance that tear gas is going to be used and given sufficient time to voluntarily disperse. These guidelines should also include guidance on the use of tear gas in densely populated areas.
- Develop national guidelines on the use of "less lethal" kinetic impact projectiles (such as sponge rounds) should be prohibited unless the projectiles have been rigorously and independently tested to ensure that they are sufficiently accurate not to cause unwarranted injury. If such testing finds that they can be deployed, their use should be strictly limited to situations of violent disorder posing a risk of harm to persons where no less extreme measures are sufficient to achieve the objective of containing and stopping the violence. Such projectiles should never be aimed at the head or face of an individual.
- The DOJ should ensure effective, impartial and prompt investigations are carried out into all allegations of human rights violations by police officials during protests including unlawful use of force and arbitrary arrest and detention. All those found responsible, including commanding officers, must be held to account through criminal or disciplinary proceedings, as appropriate, and victims provided full redress.

TO THE US DEPARTMENT OF HOMELAND SECURITY

- DHS should immediately withdraw any federal agents, including US Customs and Border Protection agents and units, sent to localities in response to the Presidential Executive Order issued on 26 June 2020 and under "Operation Diligent Valor", and refrain from sending such units to other cities.

TO THE US CONGRESS

- Pass the Protect our Protesters Act of 2020 (HR 7315).
- Pass legislation to eliminate the federal 1033 Program that facilitates the transfer of military equipment to law enforcement.

- Relevant committees in Congress, such as the Judiciary committee and the Committee on Homeland Security should hold hearings that investigate the deployment of and use of force and the equipment used in the policing of protests and any violations committed by law enforcement officers, including the incidents of excessive use of force by federal law enforcement officials.

TO STATE AND LOCAL OFFICIALS AND LAW ENFORCEMENT AGENCIES

- State and local governments and law enforcement authorities, in particular, must ensure that everyone under their jurisdiction can enjoy their human rights, including the rights to freedom of peaceful assembly, freedom of expression and freedom of movement.
- State Attorneys General Offices should promptly conduct effective and impartial investigations into all human rights violations committed by state and local law enforcement officers during the policing of protests that have taken place since the death of George Floyd on 25 May 2020. Any officer found responsible, including commanding officers, should be held to account through criminal or disciplinary proceedings, as appropriate, and victims should be kept updated on the status of those investigations and proceedings and be provided full redress.
- All law enforcement agencies must comply at all times with international human rights obligations and with international standards on policing, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which must be the guiding principles underpinning all operations before, during and after demonstrations. Specifically, they should review and amend where necessary their policies on the policing of demonstrations and:
 - Ensure that all law enforcement agencies engaged in the policing of protests understand that their task is to facilitate, not to restrict, a peaceful public assembly. All necessary measures must be taken to prevent the use of excessive force and other human rights violations by law enforcement officials during demonstrations.
 - Ensure that all law enforcement agencies engaged in policing protests review their policies regarding the policing of protests, which should adopt an approach that leads to de-escalation. They should avoid unnecessary escalation through threatening appearance and/or behaviour, excessive use of force, inappropriate equipment and arbitrary detention. They should seek dialogue with protest organizers, call for calm and refrain from making public statements which label an entire group of protesters as the enemy of the state.
 - Ensure that all law enforcement agencies involved in policing protests engage in communication with organizers and demonstrators before, during and after the operation in order to create mutual understanding and prevent violence. Where outbreaks of violence are highly probable, communication with organizers and demonstrators is particularly important in order to reduce tension and avoid unnecessary confrontation. Law enforcement officials and organizers should look together for ways to prevent violence or to stop it quickly should violence break out.
 - Ensure that any decision to disperse an assembly is taken only as a last resort and carefully in line with the principles of necessity and proportionality; that is, only when there are no other means available to protect a legitimate aim and when the level of threat of violence outweighs the right of people to assemble. Ensure that even in situations in which a small minority tries to turn a peaceful assembly into a violent one, police take steps to enable those who are protesting peacefully to continue to do so and refrain from using the violent acts of a few as a pretext to restrict or impede the exercise of rights by the majority of protesters.
 - Ensure that the type of equipment used for the purpose of dispersing protesters is carefully considered and used only when necessary, proportional and lawful. Policing and security equipment often described as “less lethal” weapons – such as kinetic impact projectiles (for example, sponge grenades), chemical irritants (such as tear gas/pepper spray) and stun grenades – can result in serious injury and even death.

Chemical agents such as tear gas, should only be used in situations of generalized violence for the purpose of dispersing a crowd when all other means have failed to contain the violence; cannisters should not be fired directly at individuals and tear gas should not be used in confined spaces against unarmed people or in situations in which exits and ventilation points are restricted. The use of such chemicals must always be preceded by an oral warning that is audible to the protesters and sufficient time for those assembling to disperse

voluntarily. Chemical Irritants should not be launched near people at high risk, such as older people, pregnant people and children, and strong consideration should be given before it is used in densely populated areas.

The discharge of “less lethal” kinetic impact projectiles (rubber or plastic bullets) should be prohibited, unless the projectiles have been rigorously and independently tested to ensure that they are sufficiently accurate not to cause unwarranted injury. If such testing finds that they can be deployed, their use should be strictly limited to situations of violent disorder posing a risk of harm to persons where no less extreme measures are sufficient to achieve the objective of containing and stopping the violence. Such projectiles should never be aimed at the head or face of an individual.

The use of firearms to disperse an assembly is always unlawful. Open deployment of firearms by police at public assemblies can be intimidatory, undermining the police’s primary role as facilitators of peaceful protest and should where possible be avoided.

- Ensure effective, impartial and prompt investigations into all allegations of human rights violations by police officials during public assemblies, including unlawful use of force and arbitrary arrest and detention. Those found responsible, including commanding officers, must be held to account through criminal or disciplinary proceedings, as appropriate, and victims provided with full redress. Any use of force during a public assembly should be subject to review and, where appropriate, investigation and disciplinary or criminal sanction. Law enforcement officials should be identifiable during public order operations either through name or number tags.
- Review and revise the training provided to law enforcement officials, ensuring that it includes thorough training on the lawful use of force and firearms and the policing of protests as well as on respect for human rights.

GOOD PRACTICE FOR LAW ENFORCEMENT POLICING DEMONSTRATIONS

Law enforcement authorities have a responsibility to ensure that everyone can enjoy their human right to peaceful assembly. Law enforcement officials should:

FACILITATE PEACEFUL PUBLIC ASSEMBLIES

- It is the legitimate right of people to carry their opinion to the streets. Public assemblies should not be considered as the “enemy.”
- The command hierarchy must convey a clear message to law enforcement officials that their task is to facilitate and not to restrict a peaceful public assembly. This must be clearly understood by all law enforcement officials taking part in the management of the assembly.

PROTECT PEACEFUL PUBLIC ASSEMBLIES

- Minor violations of the law, such as billposting, littering, minor damage to property caused by a large group of people gathering together, may lead to investigation and eventual individual liability. However, in view of the importance of the right to freedom of assembly, this should not lead to a decision to disperse an assembly.
- Where a small minority tries to turn a peaceful assembly into a violent one, law enforcement officials should protect the peaceful protesters and **not use the violent acts of a few** as a pretext to restrict or impede the exercise of fundamental rights of a majority.

DEESCALATE TENSE OR VIOLENT SITUATIONS

- Communication with organizers and demonstrators before and during the operation should aim to create mutual understanding and prevent violence.
- Where outbreaks of violence are highly probable – for instance in the context of sensitive anniversaries or linked to the public outcry against austerity measures – communication with organizers and demonstrators becomes even more important, in order to reduce tension and to avoid unnecessary confrontation.
- Law enforcement officials and organizers should look together for ways to prevent violence or to stop it quickly as soon as it breaks out.

THE DECISION TO DISPERSE

- The decision to disperse an assembly should be taken in line with the principles of necessity and proportionality, only when there are no other means available to protect public order from an imminent risk of violence.
- When a (lawful) decision has been taken to disperse an assembly, the order to disperse must be clearly communicated and explained, to obtain, as far as possible, the understanding and compliance of the demonstrators.
- Sufficient time must be given to disperse.

USE POLICE POWERS ONLY FOR LAWFUL AIMS

- Force should not be used to punish the (presumed or alleged) non-compliance with an order nor simply for the participation in an assembly.
- Arrest and detention should be carried out only in accordance with procedures established by law. **They should not be used as means to prevent peaceful participation in a public assembly nor as a means of punishment for participation.**

MINIMIZE DAMAGE AND USE FORCE ONLY WHEN NECESSARY

- Firearms or shotguns should never be used for the purpose of dispersing a crowd
- Batons and similar impact equipment should not be used on people who are unthreatening and non-aggressive.
- Where baton use is unavoidable, law enforcement officers must have clear orders to avoid causing serious injury and that vital parts of the body are excluded as target zones.
- The type of equipment used to disperse an assembly must be carefully considered and used only when necessary, proportional and lawful. Policing and security equipment – such as rubber bullets, tear gas and stun grenades, often described as “less-lethal” weapons – can result in serious injury and even death.
- Chemical irritants, such as tear gas, should not be used where people are confined in an area and not in a way that can cause lasting harm (such as at too close range, or directly aimed at people’s faces)
- Clear orders should be given to all law enforcement officers that medical assistance to anyone injured must be provided without delay.

BE ACCOUNTABLE TO THE PUBLIC AND JUDICIARY

- Any use of force during a public assembly should be subject to review, and where appropriate, investigation and disciplinary or criminal sanction.
- Any use of force during a public assembly should be subject to review, and where appropriate, investigation and disciplinary or criminal sanction.
- Law enforcement officials should be identifiable during public order operations (either through name or number tags).

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