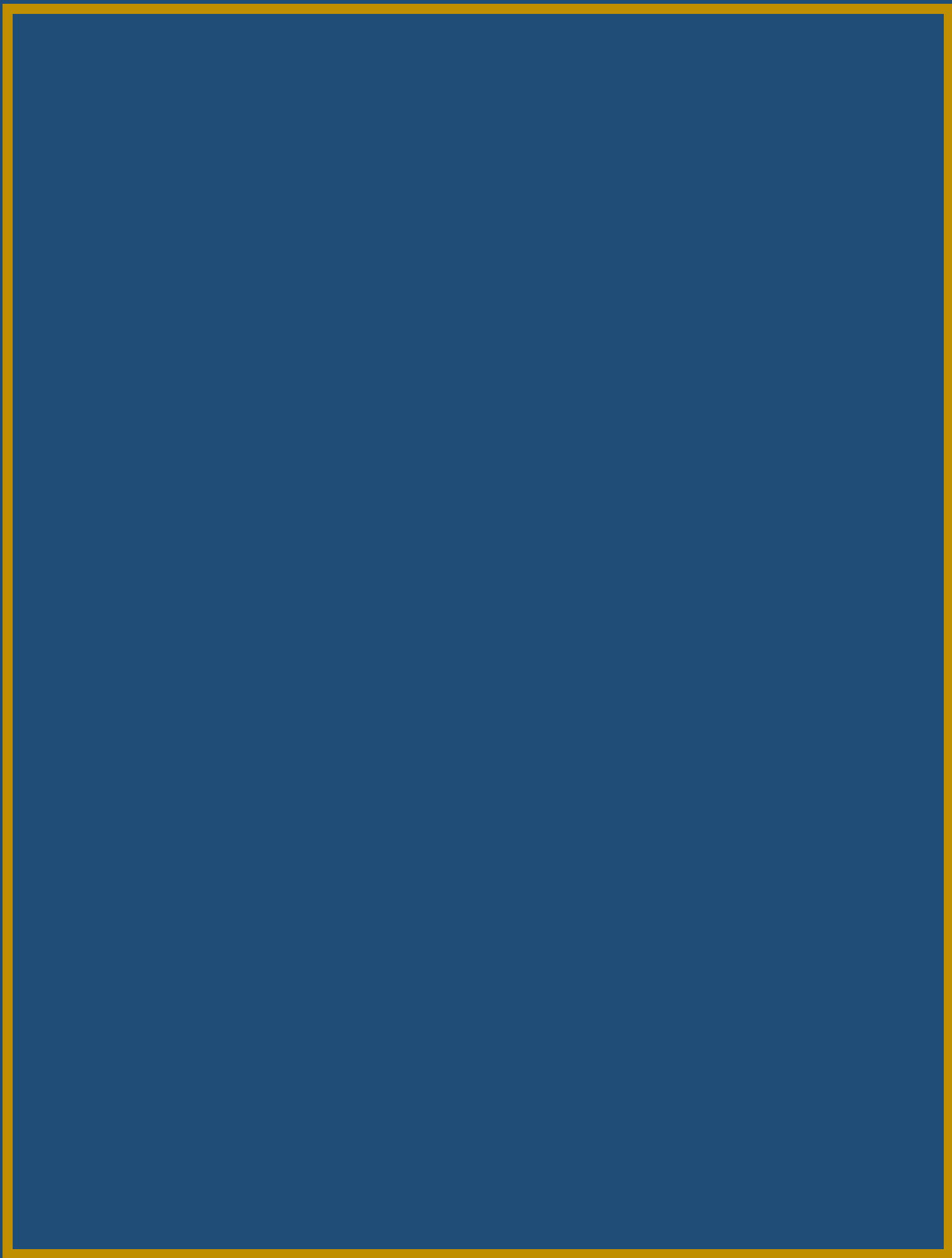


Civil Rights Coalition On Police Reform



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|---|---|---|
| 1. A. Philip Randolph Institute | Southern New Mexico | 28. National Collaborative on Health Equity |
| 2. ACLU | 14. Demos | 29. National Council of the Churches of Christ in the USA |
| 3. Advancement Project | 15. Empowerment Temple AME Church | 30. National Disability Rights Network |
| 4. African American Policy Forum | 16. Equity Matters | 31. National Organization of Black Law Enforcement |
| 5. American Association of University Women | 17. Hands Up United | 32. National Urban League Washington Bureau |
| 6. Amnesty International | 18. Hip Hop Caucus | 33. Parks & Crump Attorneys at Law |
| 7. Asian Pacific American Labor Alliance | 19. Lawyers' Committee for Civil Rights Under Law | 34. PICO Network |
| 8. Black Alliance for Just Immigration | 20. Leadership Conference on Civil and Human Rights | 35. Rainbow PUSH Coalition |
| 9. Black Lives Matter | 21. League of Young Voters | 36. Skinner Leadership Institute |
| 10. Black Movement Law Project | 22. Muslim Advocates | 37. Transformative Justice Coalition |
| 11. Black Youth Project | 23. NAACP | |
| 12. NYU Brennan Center for Justice | 24. NAACP LDF | |
| 13. Community Foundation of | 25. National Action Network | |
| | 26. National Bar Association | |
| | 27. National Coalition on Black Civic Participation | |





LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
UNDER LAW



LDF
DEFEND EDUCATE EMPOWER



The Leadership
Conference



National
Urban League

THE NATIONAL
Coalition on Black
Civic Participation



APRI
A. PHILIP RANDOLPH INSTITUTE



Monday, August 18, 2014

A Unified Statement of Action to Promote Reform and Stop Police Abuse

As national civil and human rights organizations and leaders committed to the protection of the rights of African Americans and all Americans, we come together as a unified collective to urgently impress upon elected officials, law enforcement, the legal profession, businesses and all those in this nation interested in social justice, that we must not allow the killing of Michael Brown and other unarmed individuals across this nation to be in vain. As organizational leaders we represent millions across this country who are, as the old saying goes – “sick and tired of being sick and tired.”

As we all mourn the loss of Michael Brown and remain steadfast in our unyielding support for his mother and father who have suffered a loss no parent should endure, we also continue to call upon the community at large to make sure that this tragedy results in future systemic change to prevent similar tragic shootings and the use of excessive force. We commend the actions of President Barack Obama and Attorney General Eric Holder Jr. and other elected officials for their strong stance against the senseless use of deadly force and the militarization of law enforcement in Ferguson, Missouri. We are now extremely concerned with the increasingly unstable situation in Ferguson and encourage more respectful responses from elected officials, along with a permanent restructuring of law enforcement so that it is more reflective of the racial and gender diversity and the overall needs of the community.

Beyond Ferguson, we must similarly demand mutual respect from law enforcement and elected officials toward other affected communities where lives have been tragically lost and endangered.

As we call for immediate and short term remedies to address the challenges in Ferguson, we know that more must be done to prevent future abuses across the nation. Nothing will be resolved until there is systemic change throughout this nation in the implicit and explicit bias against people of color and particularly African American youth who are routinely targeted by law enforcement even within their own communities.

Furthermore, it has not gone unnoticed that the images of militarized law enforcement personnel surrounding peaceful demonstrations in Ferguson are eerily similar to those we equate with the inhumane and racist tactics used against protestors during the Civil Rights movement in the 50's and 60's. This sight reminds us that despite the tremendous progress this nation has made in many areas, including the election of the first African American President, we are not and will never realize a post-racial society until we honestly acknowledge, confront and address the systemic structures that maintain the old vestiges of racial segregation and de-humanization in this country, particularly in law enforcement.

With so much to be done, we cannot begin to provide an all-inclusive list, but in an effort to outline a beginning strategy of reform, we are recommending the following:

- **An independent and comprehensive federal investigation by the Department of Justice of the fatal shooting of Michael Brown, an unarmed African American teenager shot by police in Ferguson, Missouri,**
- **A comprehensive federal review and reporting of all police killings, accompanied by immediate action to address the unjustified use of lethal and excessive force by police officers in jurisdictions throughout this country against unarmed people of color,**
- **A comprehensive federal review and reporting of excessive use of force generally against youth and people of color and the development of national use of force standards,**
- **A comprehensive federal review and reporting of racially disproportionate policing, examining rates of stops, frisks, searches, and arrests by race, including a federal review of police departments' data collection practices and capabilities,**
- **A comprehensive federal review and reporting of police departments' racial profiling and racially bias practices, as well as any related policies and trainings,**
- **A final update and release of the Department of Justice's (DOJ) June 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies (hereinafter "Guidance"), with substantive reforms including updates that would 1) make the Guidance enforceable 2) apply the Guidance to state and local law enforcement who work in partnership with the federal government or receive federal funding; 3) close the loopholes for the border and national security; 4) cover surveillance activities; 5) prohibit profiling based on religion, national origin, and sexual orientation,**
- **Required racial bias training and guidance against the use of force for state and local law enforcement that receive grants,**
- **The required use of police officer Body-Worn Cameras (BWC) to record every police-civilian encounter in accordance with and policy requiring civilian notification and applicable laws, including during SWAT deployments, along with rigorous standards regarding the retention, use, access, and disclosure of data captured by such systems,**
- **The universal use of dash cameras in police vehicles,**
- **Concrete steps to ensure that federal military weapons do not end up in the hands of local law enforcement and, if they do, to prevent the misuse of those weapons in communities of color,**
- **On the ground community training to educate residents of their rights when dealing with law enforcement,**
- **The elimination of the "broken windows" policing policy initiated in the 1980's which encourages overly aggressive police encounters for minor offenses and the promotion of community-based policing,**
- **Greater and more effective community oversight over the local law enforcement and policing tactics, and**
- **The establishment of a law enforcement commission to review policing tactics that would include in its composition leaders/experts from civil rights advocacy groups who represent the most impacted communities.**

Even as we provide this initial outline in an effort to bring together our respective communities and work toward immediate and long-term change, we know in order to truly be effective, we must ensure that our elected officials are responsive to our demands. If they are not, we must exercise our political power and elect officials that will be arbiters of social justice and change and not barriers to this process. The vote is a precious tool that we ignore at our own peril. On the heels of the anniversary of the Voting Rights Act – we must demand action with our vote and we call upon every person to take responsibility in their respective communities to exercise their fundamental right as a citizen in the upcoming elections in November – and EVERY election so that those in power truly represent and reflect the communities they were elected to serve.

African Americans, like so many in this country, have suffered, bled and died for this country. Not only do we deserve and demand that we be respected in the communities in which we live, we will not be silent, and instead encourage every concerned citizen to work with us to fulfill the promise of this nation - LIFE, Liberty and the Equality of opportunity for all.

Lawyers' Committee for Civil Rights Under Law

- **Barbara Arnwine, President and Executive Director**
- **Tanya Clay House, Public Policy Director**

A. Phillip Randolph Institute

- **Clayola Brown, President**

Advancement Project

- **Judith Browne Dianis, Co-Director**
- **Penda D. Hair, Co-Director**
- **Susan Lee, National Director, Urban Peace Program**

American Civil Liberties Union

- **Laura Murphy, Director of the Washington Legislative Office**
- **Vanita Gupta, Deputy Legal Director**
- **Dennis Parker, Director of our Racial Justice Program**

Hip Hop Caucus

- **Reverend Lennox Yearwood, President and CEO**

Leadership Conference on Civil and Human Rights

- **Wade Henderson, President and CEO**
- **Nancy Zirkin, Executive Vice President**
- **Lisa Bornstein, Legal Director**

National Action Network

- **Reverend Al Sharpton, President**
- **Michael A. Hardy, Executive Vice President & General Counsel.**
- **Janaye Ingram, Acting National Executive Director**

National Association for the Advancement of Colored People (NAACP)

- **Cornell William Brooks, President and CEO**

NAACP-Legal Defense Fund

- **Sherrilyn Ifill, President and Director-Counsel**
- **Janai Nelson, Associate Director-Counsel**
- **Leslie Proll, Director, Washington DC Office**
- **Vincent Southerland, Senior Counsel, Criminal Justice Project**

National Coalition on Black Civic Participation Black Women's Roundtable (BWR)

- **Melanie Campbell, President, Convener of BWR**

National Bar Association

- **Pamela Meanes, President**

National Urban League

- **Marc Morial, President**

Rainbow Push Coalition

- **Reverend Jesse Jackson Sr.**

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Special Thanks To:

African American Policy Forum
ACLU
Amnesty International
Brennan Center
Disability Advocates
Leadership Conference
NAACP
National Urban League

For your contributions to this educational resource.

ACCOUNTABILITY

BRENNAN CENTER FOR JUSTICE

at New York University School of Law

ENSURING POLICE ACCOUNTABILITY

Police departments are funded with taxpayer dollars and are accountable to the public. Enforceable accountability measures with a proven track record should be established that ensure impartiality in instances where police brutality, discriminatory profiling, and/or improper use of force are in question. We recommend the implementation of effective independent review boards broadly representative of the community, not just municipal interests.

The actions, investigations, and publication of all relevant information, evidence, and policy recommendations of these review boards will be transparent and enforceable. These boards should have substantial authority, which could include subpoena power and independent disciplinary authority. These boards should also ensure that data and summary information are properly collected and analyzed and made publicly available on particular incidents, progress, and trends that relate to suspected police brutality and racial profiling over the years for the department.

WRITTEN TESTIMONY AND RECOMMENDATIONS OF THE NATIONAL URBAN LEAGUE AND ITS CEO, MARC MORIAL, TO THE PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING

The recommendations of the National Urban League correspond to the “10 Point Justice Plan” publicly released in December 2014.

1 WIDESPREAD USE OF BODY CAMERAS AND DASHBOARD CAMERAS

RATIONALE: In the case of officer-involved homicides, there is no living injured party available to present his/her testimony to a jury. Body cameras may serve to provide necessary “objective” evidence of incidents.

Studies indicate that Body-Worn Cameras have improved the effectiveness of police operations by: (1) increasing transparency to the public; (2) helping resolve questions following an encounter between an officer and a citizen; (3) serving as a deterrent to misconduct; (4) allowing agencies to identify and correct larger structural problems within the department.

As a result, various stakeholders have called for the implementation of mandatory body cameras and dashboard cameras, including **US Conference of Mayors**, a coalition of 14 national civil and human rights organizations and the **Coalition of Civil Rights Organizations on Police Reform**. However, experts caution that – in the absence of appropriate safeguards – the use of body cameras could lead to significant **privacy concerns** that could offset available benefits.

2. BROKEN WINDOWS REFORM AND IMPLEMENTATION OF 21ST CENTURY COMMUNITY POLICING MODEL

RATIONALE: The broken windows model calls for heightened policing in communities evidencing visible neglect (e.g. broken windows, yet has been found to be not only ineffective in reducing crime, but contributing to the exacerbation of mistrust between communities and police officers. In fact, studies find that broken windows policy overcriminalizes the poor and homeless, covers racist behavior and targets communities of color. Instead, evidence shows that proactively and comprehensively engaging communities in policing practices yields positive results in crime reduction and the building of trust between law enforcement and citizens.

3. REVIEW AND REVISION OF POLICE USE OF DEADLY FORCE POLICIES

RATIONALE: Recent reviews, such as the Police Executive Research Forum (PERF) review of the U.S. Customs and Border Protection Agency (CBP) and the Department of Justice’s (DOJ) ongoing review of the Cleveland Police Division (CPD) both found that “structural and systemic deficiencies and practices—including insufficient accountability, inadequate training, ineffective policies and inadequate engagement with the community contribute to the use of unreasonable force.”

4. COMPREHENSIVE RETRAINING OF ALL POLICE OFFICERS

RATIONALE: Experts have suggested racial bias training is essential as a part of ongoing professional development. In cases where there have been incidents of police misconduct, a remedy by the Department of Justice’s consent decrees has been the training of officers, which has grown to include implicit and explicit racial bias. One of the first cities to address the training of officer in its descent decree was Cincinnati. It has been reported that Cincinnati is a national model. Moreover, in a study of the U.S. Department of Justice’s investigation into local law enforcement, it has been argued that the key reforms for a police department to avoid a federal investigation are to have strong policies, ensure they are followed, and to have strong management and supervision of the measures.

5. COMPREHENSIVE REVIEW AND STRENGTHENING OF POLICE HIRING

STANDARDS

RATIONALE: There is much variation on how each department implements their hiring policies and which policies they include. National hiring standards based on strong best practices will help ensure high quality police officers in every city.

6. APPOINTMENT OF SPECIAL PROSECUTORS TO INVESTIGATE POLICE MISCONDUCT

RATIONALE: In the aftermath of the officer-involved killings involving Michael Brown, Eric Garner, Tamir Rice and others, there has been community outcry requesting the appointment of special prosecutors to address real or perceived conflicts of interest between local prosecutors and the police force with whom they partner to administer cases before the court. Since criminal justice and policing power is maintained by States, state laws are needed.

7. MANDATORY, UNIFORM FBI REPORTING AND AUDIT OF LETHAL FORCE INCIDENTS INVOLVING ALL LAW ENFORCEMENT

RATIONALE: Currently there is no uniform, mandatory federal database that tracks all incidents of police-involved shootings of citizens, as a result the public lacks sufficient information to assess the true scope of the problem, or identify problematic departments and/or individual officers.

8. CREATION AND AUDIT OF NATIONAL CITIZEN DATABASE OF COMPLAINTS AGAINST POLICE

RATIONALE: The manner in which citizen complaints are collected, tracked and investigated varies by department. In most cases, the adjudication and outcome of citizen complaints are not available to the public, thereby preventing access to information about problematic officers and departments and eroding public trust. According to the June 2006, *Bureau of Justice Statistics Special Report*, “Estimates from the 2002 Police-Public Contact Survey indicated that although 75% of citizens experiencing force thought the level of force used was excessive, [only] about 10% filed a complaint with the agency employing the officer(s).”

9. ADOPTION OF NATIONAL POLICE ACCREDITATION SYSTEM FOR MANDATORY USE BY LAW ENFORCEMENT TO BE ELIGIBLE FOR FEDERAL FUNDS

RATIONALE: There is currently no mandatory national law enforcement accreditation system for the 18,000 local, county and state law enforcement agencies. The Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA)’s Accreditation Programs are considered the “Gold Standard” for law enforcement accreditation. The purpose of CALEA’s Accreditation Programs is to improve the delivery of public safety services, primarily by: maintaining a body of standards, developed by public safety practitioners, covering a wide range of up-to-date public safety initiatives; establishing and administering an accreditation process; and recognizing professional excellence.

10. NATIONAL COMPREHENSIVE ANTI-RACIAL PROFILING LAW

RATIONALE:

Racial profiling involves the unwarranted screening of certain groups of people, assumed by the police and other law enforcement agents to be predisposed to criminal behavior. Multiple studies have proven that racial profiling results in the misallocation of law enforcement resources and therefore a failure to identify actual crimes that are planned and committed. Relying on stereotypes rather than proven investigative procedures needlessly harms the lives of innocent people harmed by law enforcement agencies and officials.

BODY-WORN CAMERAS

Civil Rights Coalition On Police Reform

Body Worn Cameras – Best Practices

Body Worn Cameras (BWCs) are an important component of law enforcement transparency. Agencies and the individuals who come in contact with law enforcement can both benefit from the use of BWCs but only when policies are developed to ensure the preservation of privacy rights and proper training on the retention, use, access, and disclosure of data captured by BWCs.

Storage & Retention:

- Policies should be developed to address how long recordings should be stored based on the type of content
- Data captured by BWCs should be retained and protected by third parties
- Data that is not useful should be deleted immediately

Use

- Police Departments should have clear policies on what officers are required to use BWCs based on volunteerism or citizen complaints
- Policies should be developed to determine what interactions require officers to use BWCs
- Policies should make it unethical and unlawful to turn off a BWC in the course of day-to-day policing

Access

- Recordings of an officer's use of force should be made available to the public and media
- Access should not be granted to an officer who has become the subject of a complaint or investigation before the officer makes a statement or files a report
- Police Departments should make efforts to ensure the protection of privacy of each individual captured in the recording before releasing it to the public

Accountability & Transparency

- A forensic review of the camera equipment when officers claim equipment malfunction
- Requiring an investigator to immediately take custody of an officer's BWC at the scene of a shooting or other serious incidences in which the officer may become the subject to a complaint or investigation

Body Worn Cameras – Best Practices continued...

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Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body Worn Cameras

For Immediate Release

Contact: Scott Simpson, 202.466.2061, simpson@civilrights.org

May 15, 2015

WASHINGTON –Today, a broad coalition of civil rights, privacy, and media rights organizations released shared civil rights principles for the use of body worn cameras by law enforcement.

As body worn cameras come into greater use by law enforcement across the country, the signers are urging police departments to follow certain principles to ensure that the cameras are a tool of public accountability and transparency. Video footage that documents law enforcement interactions with the public — whether gathered through body worn cameras or citizen video of police activities — can have a valuable role to play in the present and future of policing. At the same time, the arrival of new video equipment does not guarantee that a police agency will better protect the civil rights of the community it serves.

In the principles, the groups underscore that body worn cameras are not a substitute for broader policing reforms and, when deployed without appropriate safeguards, can even compound problems of over-surveillance and biased policing.

To ensure mobile cameras are used to help eradicate discriminatory policing and protect civil rights, the groups are calling for camera policies to be developed publicly and to make sure that certain footage is made available to the public and the press. The groups also say that police departments must commit to a set of well-defined purposes for camera use, and need to specify clear operational policies for recording, retention, and access.

“These guidelines can help ensure that cameras are tools for accountability—not instruments of injustice,” said Wade Henderson, president and CEO of The Leadership Conference on Civil and Human Rights. “Without fair and transparent standards for the use of body worn cameras, police departments risk exacerbating the problems they are seeking to fix.”

The statement of principles and a full list of signing organizations are below:

Civil Rights Principles on Body Worn Cameras

May 2015

Mobile cameras operated by law enforcement may play a valuable role in the present and future of policing. Whether they're worn by an officer or mounted on police equipment, cameras could help provide transparency into law enforcement practices, by providing first-hand evidence of public interactions.

But police-operated cameras are no substitute for broader reforms of policing practices. In fact, cameras could be used to intensify disproportionate surveillance and enforcement in heavily policed communities of color. Without carefully crafted policy safeguards in place, there is a real risk that these new devices could become instruments of injustice, rather than tools for accountability.

To help ensure that police-operated cameras are used to enhance civil rights, departments must:

1. **Develop camera policies in public** with the input of civil rights advocates and the local community. Current policies must always be publicly available, and any policy changes must also be made in consultation with the community.
2. **Commit to a set of narrow and well-defined purposes** for which cameras and their footage may be used. In particular, facial recognition and other biometric technologies must be carefully limited: if they are used together with body cameras, officers will have far greater visibility into heavily policed communities—where cameras will be abundant—than into other

communities where cameras will be rare. Such technologies could amplify existing disparities in law enforcement practices across communities.

3. Specify clear operational policies for recording, retention, and access, and enforce strict disciplinary protocols for policy violations. While some types of law enforcement interactions (e.g., when attending to victims of domestic violence) may happen off-camera, the vast majority of interactions with the public—including all that involve the use of force—should be captured on video. Departments must also adopt systems to monitor and audit access to recorded footage, and secure footage against unauthorized access and tampering.

4. Make footage available to promote accountability with appropriate privacy safeguards in place. At a minimum: (1) footage that captures police use of force should be made available to the public and press upon request, and (2) upon request, footage should be made available in a timely manner to any filmed subject seeking to file a complaint, to criminal defendants, and to the next-of-kin of anyone whose death is related to the events captured on video. Departments must consider individual privacy concerns before making footage available to broad audiences.

5. Preserve the independent evidentiary value of officer reports by prohibiting officers from viewing footage before filing their reports. Footage of an event presents a partial—and sometimes misleading—perspective of how events unfolded. Pre-report viewing could cause an officer to conform the report to what the video appears to show, rather than what the officer actually saw.

Signed by:

American Civil Liberties Union
Asian Americans Advancing Justice |
AAJC
Asian Americans Advancing Justice |
Asian Law Caucus
Asian Americans Advancing Justice |
Los Angeles
Asian Americans Advancing Justice |
Chicago
Center for Democracy and Technology
[Center for Media Justice](#)
[ColorOfChange.org](#)
[Data & Society](#)
Demand Progress
Demos
Electronic Frontier Foundation

Free Press
Hip Hop Caucus
The Lawyers' Committee for Civil
Rights Under Law
The Leadership Conference on Civil
and Human Rights
Martinez Street Women's Center
May First/People Link
Media Alliance
Media Literacy Project
Media Mobilizing Project
Million Hoodies Movement for Justice
NAACP
NAACP Legal Defense and
Educational Fund, Inc.
National Association of Social Workers

National Council of La Raza
National Hispanic Media Coalition
National Urban League
[New America's Open Technology
Institute](#)
Public Knowledge
Southwest Workers' Union
Urbana-Champaign Independent
Media Center
Voices for Racial Justice
Working Narratives
Alvaro Bedoya, Executive Director,
Center on Privacy and Technology at
Georgetown Law*
* Affiliation for Identification Purposes
Only

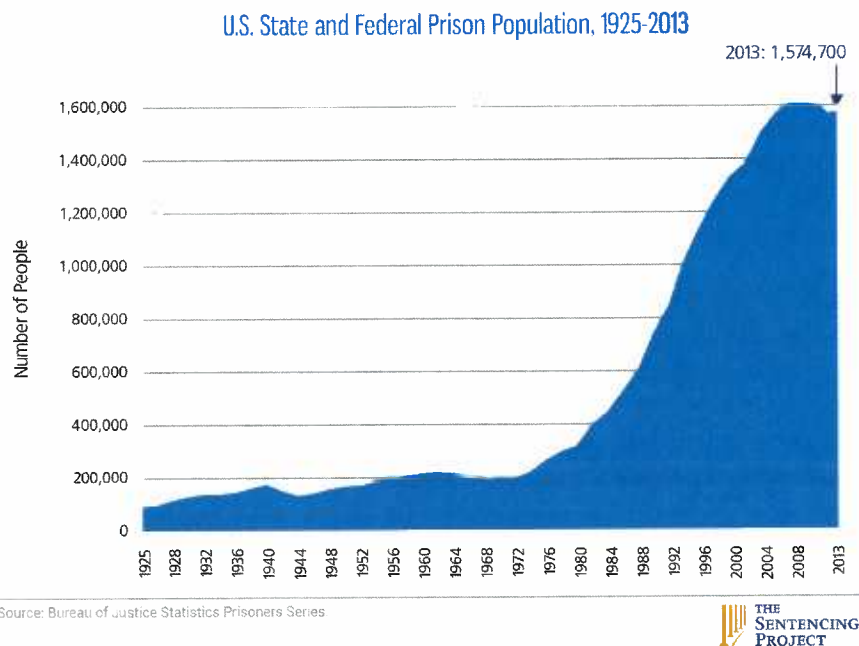
MASS INCARCERATION



Defining Mass Incarceration

The scale of incarceration in the United States is historically and comparatively unprecedented.ⁱ According to the International Centre for Prison Studies (“IPS”),ⁱⁱ the United States has the highest incarceration rate in the world: an estimated 716 per 100,000 of the national population (2,239,751 people in total) are incarcerated in federal and state prisons and local jails.ⁱⁱⁱ This places the United States well ahead of the next three largest per capita rates of imprisonment, Cuba (510 per 100,000), Rwanda (492 per 100,000) and Russia (475 per 100,000),^{iv} and is roughly 7 times the average rate among Western European democracies (roughly 100 per 100,000).^v

Incarceration at this scale is a recent phenomenon in the United States. By 2012, state, federal, and local authorities together had expanded the incarcerated population *seven times* what it was in 1972, a 1.9 million person increase.^{vi} According to the Department of Justice’s Bureau of Justice Statistics, about 4.7 million people are under community supervision, which includes those on probation or parole, bringing the number of people under the supervision of the adult correctional systems at year end 2012 to 6.9 million, which is 1 in every 35 or 2.9% of all adult residents in the United States.^{vii} Figure 1 provides a visual representation of the scale and pace of the incarceration boom in federal and state prisons only (excluding local jails):



In further discussing the scale of incarceration, it is important to distinguish between the three levels of government institutions charged with the responsibility to incarcerate: state prisons, federal prisons, and local jails.^{viii}

State prisons accounted for about 57% of the adult incarcerated population in 2012, incarcerating mainly those serving time for felony convictions and parolees re-incarcerated for violating their parole terms.^{ix} Felony convictions at the state level fall into three categories: violent offenses (e.g., murder, robbery), property offenses (e.g., larceny, auto vehicle theft), and drug offenses (e.g., manufacturing, possession, sale). Of these, drug offenders have seen the most dramatic expansion in their share of the state prison population – whereas at the beginning of the prison expansion in the 1970s persons convicted of drug crimes made up only a small percentage of those serving time, by 1996 they made up 23%, and as of 2010, 17.4%.^x The three states with the largest prison populations (not counting persons incarcerated in local jails) are Texas (157,900 inmates, or 601 per 100,000 residents), California (134,200 inmates, or 351 per 100,000 residents), and Florida (101,900 inmates, or 524 per 100,000 residents).^{xi}

While federal prisons might seem to account for a relatively small amount of the total prison population (as of September 7, 2014, there were 215,103 inmates in the federal system,^{xii} which accounts for roughly 10% of the total incarcerated population^{xiii}), the federally managed prison population has seen tremendous growth. It became the largest single prison system in the nation when its population surpassed those of California and Texas in 2002, and it still retains that title today.^{xiv} As with state prisons, drug crimes are a significant factor contributing to increased federal incarceration. According to the Bureau of Prisons, about half (100,549, or 49.7%) of all inmates in the federal system were convicted of a drug offense as of 2014,^{xv} notwithstanding the significant variety of federal crimes punishable by a prison term.

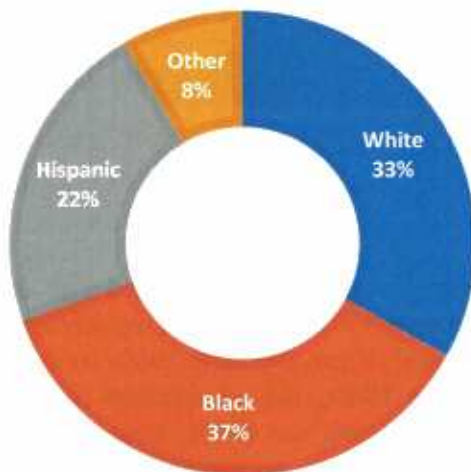
The third group of government institutions tasked with incarceration is local jails. In 2012, 744,524 persons,^{xvi} or one third of the adult incarcerated population,^{xvii} were held in city and county jails. Jails hold those who have been arrested, those who refuse to pay or are incapable of paying bail, those awaiting trial, those accused of misdemeanor offenses (often drug-related or public disorder offenses), and those who are sentenced to less than a year.^{xviii} Because of the short sentences and the nature of pre-trial detention, the jail population is characterized by high turnover and a huge number of admissions. The jail population is concentrated in a relatively small number of large urban counties,^{xix} which contributes to the spatial unevenness of mass incarceration.

The criminal justice system's penetration into the lives of millions of Americans is also carried out through the expanded scope of correctional supervision – in particular, probation and parole. Probation refers to the practice of placing and overseeing offenders in the community. If an individual's probation is revoked for breach of conditions (e.g., remaining drug-free, maintaining employment), that person can be resentenced to prison or jail.^{xx} Parole refers to the conditional release of an offender from prison to serve the remainder of the sentence in the community, subject to re-imprisonment for breach of conditions.^{xxi} In absolute terms, the growth in the probation population has tracked growth in the scale of incarceration. The number of persons on probation went from 923,000 in 1976 to 4.06 million in 2010, and then down slightly to 3.94 million in 2012.^{xxii} Today, probation represents the largest portion (57%) of all adults under correctional supervision.^{xxiii} Similarly, the number of persons under parole supervision has grown by a factor of six, from 143,000 to 841,000 between 1975 and 2010.^{xxiv}

Racial Disparities in Incarcerated Population

Statistics consistently show that African Americans and Hispanics are imprisoned at a higher rate than whites in the federal and state systems, in all age groups, and for both male and female inmates. Overall, African American men are six times more likely than white men to be incarcerated, and 2.5 times more likely than Hispanic men.^{xxxv} African Americans and Hispanics make up only 13.1% and 16.9% of the population respectively,^{xxxvi} yet they make up 38% and 21% of the total population incarcerated in state prison systems.^{xxxvii} Meanwhile, whites – who make up 77.9% of the total U.S. population^{xxxviii} – make up only 37.3% of those imprisoned under state jurisdiction.^{xxxix}

STATE AND FEDERAL PRISONERS, BY RACE AND ETHNICITY, 2012

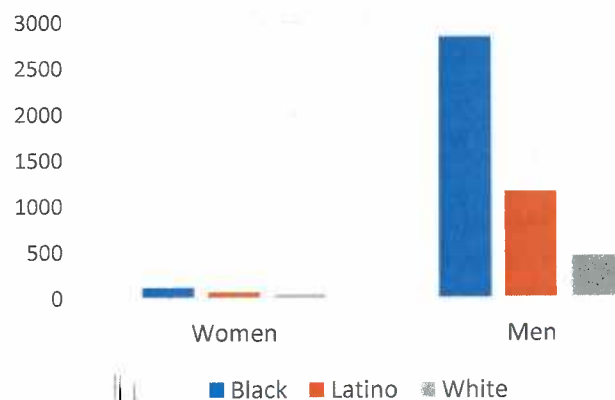


groups across ages, African American men were six times and Hispanic males 2.5 times more likely to be imprisoned than white men in 2012.^{xxxiv}

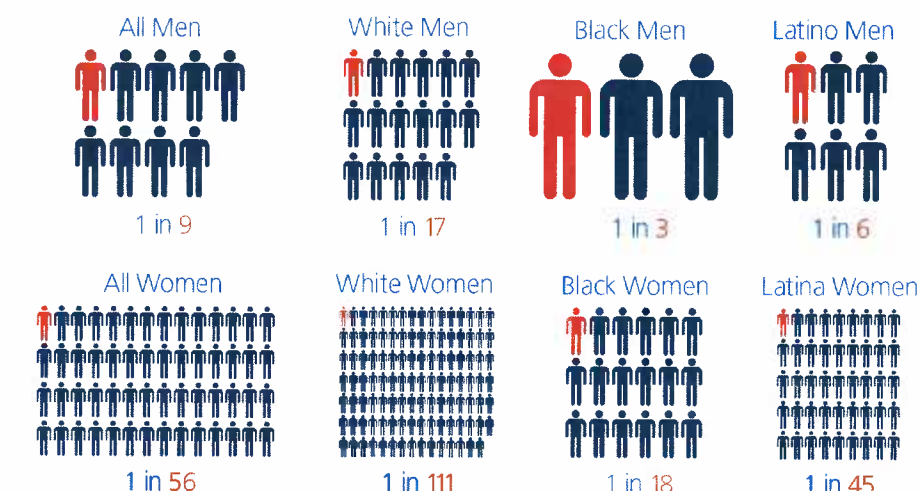
Racial disparities are found in imprisonment rates of both men and women. Although the proportion of men in the incarcerated population dwarfs that of women (in 2012, men accounted for 93% of the prison population sentenced to one year or more),^{xxxv} the incarceration rate women females has been growing more rapidly than that for men since the early 1970s.^{xxxvi} As far as racial disparities, African American women were imprisoned at about three times the rate of white women, while Hispanic women were imprisoned at somewhere between one and two times the rate of white women.^{xxxvii}

African Americans and Hispanics are disproportionately represented in the prison population at all ages. In 2011, between 6.6% and 7.5% of all African American men aged 25 to 39 were imprisoned – the highest imprisonment rates among the measured sex, race, Hispanic origin, and age groups.^{xxx} In 2012, African American men had imprisonment rates at least four times those of white men in all age groups, and the rates for African American men aged 39 or younger were six times greater than those for white men of the same age.^{xxxi} In particular, men aged 18 to 19 displayed the largest disparity in imprisonment rates – African American men were almost 9.5 times more likely than white men to be imprisoned.^{xxxii} For their part, Hispanic men aged 18 to 19 were three times as likely to be imprisoned as white men of the same age, and at all other age groups were at least twice as likely.^{xxxiii} In sum, comparing racial and ethnic

RATE OF INCARCERATION, PER 100,000 BY RACE, GENDER, AND ETHNICITY



Lifetime Likelihood of Imprisonment



Source: Bonczar, T. (2003). *Prevalence of Imprisonment in the U.S. Population, 1974–2001*. Washington, D.C.: Bureau of Justice Statistics

THE
SENTENCING
PROJECT

Understanding the Incarceration Boom

Although one might expect elevated incarceration rates to be strongly correlated with elevated crime rates, the dramatic increase in American incarceration since 1973 bears only a weak relationship to the national incidence of crime (violent and property crimes). From the early 1960s to the 1980s, there was a significant increase in crime rates, but since the 1980s, the relationship between the incarceration rate and crime rates is more complicated.^{xxxviii} During the 1980s, incarceration rates experienced their greatest period of growth, even though violent crime decreased in the first half of the decade and increased in the second.^{xxxix} Even more striking, incarceration rates continued to climb throughout the 1990s, while violent crime was actually *falling* precipitously, and in the 2000s, crime rates remained at low levels while the incarcerated population rose to its peak in 2010.^{xl} Because crime rates have varied significantly since 1972 (with the most notable trend since the 1990s being one of significant decline) and because incarceration rates sustained a largely consistent increase, high levels of incarceration cannot be explained by high levels of crime.

There is significant debate about the causes of the decline in crime rates since the 1990s.^{xli} There is now relatively widespread agreement, however, that high levels of incarceration are principally the product of a specific set of policy choices that have increased the use, certainty of imposition, and severity of prison sentences.^{xlii} Prominent among these policy choices are mandatory minimum sentences, three strikes laws, truth-in-sentencing laws, and life without the possibility of parole laws – the major tools adopted by the federal and state governments from the mid-1980s through 1996.^{xliii}

The increase in length of stay contributed to over half of the population increase from 1998 to 2010, and the increase in the time to be served by drug offenders alone accounts for one-third of total growth in the federal prison population.^{xliv} Other big contributors include heightened federal enforcement activity between 1998 and 2010, especially in the areas of immigration and weapon offenses, and higher conviction rates in federal cases, especially in drug cases. There is a loose consensus that the U.S. government's "war on drugs" was the primary driver behind these causes.

Economic Cost

As the nation's jails and prisons fill to over-capacity with inmates, the associated costs rise as well. The cost of incarceration in the United States was \$80 billion in 2010, according to the Justice Department.^{xlv} Corrections has been the fastest growing item in state budgets, outpacing other government services like education, transportation, and public assistance.^{xlvi} The National Association of State Budget Officers estimates that states spent a record \$51.7 billion on corrections in Fiscal Year 2008, or one in every 15 general fund dollars. At the same time, state spending on health care, mental health services, substance abuse treatment, job training, education, and other forms of public support for the socially slowed or even decreased.^{xlvii}

These dollar amounts do not include the longer-term economic impacts arising from the effects of incarceration, such as increased income inequality and more concentrated poverty. The larger prison populations may also skew the distribution of federal funding and voter districts, which are often based on raw U.S. Census data which counts individuals where they reside.^{xlviii}

It is only in the last three or four years that the issue of mass incarceration has garnered significant national attention, but the tide of change is moving quickly. In August 2013, Attorney General Eric Holder delivered a speech acknowledging the crisis and laying out new Department of Justice policies meant to reduce prison populations. He said,

“it’s time to ask tough questions about how we can strengthen our communities, support young people, and address the fact that young black and Latino men are disproportionately likely to become involved in our criminal justice system – as victims as well as perpetrators. We also must confront the reality that – once they’re in that system – people of color often face harsher punishments than their peers.”^{xlix}

ⁱ See, e.g., Bruce Western and Christopher Muller, *Mass Incarceration, Macrosociology, and the Poor*, Annals of the American Academy of Political and Social Science, Vol. 647, Reconsidering the Urban Disadvantaged: The Role of Systems, Institutions, and Organizations (May, 2013) at 168.

ⁱⁱ The International Centre for Prison Studies is an independent research organization affiliated with the University of Essex. It performs primarily comparative research regarding punishment and imprisonment, and regularly compiles data across nations to produce comparative incarceration statistics. See, <http://www.prisonstudies.org/>

ⁱⁱⁱ R. Walmsley, *World Population List, 10th Ed.* Essex: International Centre for Prison Studies (2013), available at http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf

^{iv} *Id.*

^v National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, Washington, DC: The National Academies Press (2014) at 37.

^{vi} *Id.* at 35-36.

^{vii} Lauren E. Glaze & Erinn J. Heberman, *Correctional Populations in the United States, 2012*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, December 19, 2013. Available at: <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4843>

^{viii} Statistical reports vary as to whether they include local jail populations in reports of total incarcerated populations or report them separately. This difference is what usually accounts for variation in totals of incarcerated populations reported across sources. In this report, some indication of whether local jail populations are included in a particular statistic will be given in a footnote or in the text.

^{ix} National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, Washington, DC: The National Academies Press (2014), 38.

^x *Id.*

- ^{xi} Prisoner totals from Carson, E. Ann and Daniela Golinelli. *Prisoners in 2012 – Trends in Admissions and Releases, 1991 – 2012*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, December 2013 at 23. Rates per 100,000 were calculated by the Sentencing Project from data provided by the Bureau of Justice Statistics, and are available at <http://www.sentencingproject.org/map/map.cfm#map>.
- ^{xii} See, http://www.bop.gov/about/statistics/population_statistics.jsp
- ^{xiii} National Research Council, *supra* note 5 at 55.
- ^{xiv} National Research Council, *supra* note 5 at 55.
- ^{xv} http://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp
- ^{xvi} Todd D. Minton, *Jail Inmates at Midyear 2012 – Statistical Tables*, Washington, D.C., U.S. Department of Justice, Bureau of Justice Statistics, May 2013, at 1. Available at: www.bjs.gov/content/pub/pdf/jim12st.pdf
- ^{xvii} National Research Council, *supra* note 5 at 40.
- ^{xviii} *Id.*
- ^{xix} *Id.*
- ^{xx} See, <http://www.bjs.gov/index.cfm?ty=qa&iid=324>
- ^{xxi} See, *id.*
- ^{xxii} National Research Council, *supra* note 5 at 40.
- ^{xxiii} Glaze and Heberman, *supra* note 7 at 4.
- ^{xxiv} National Research Council, *supra* note 5 at 41.
- ^{xxv} The Sentencing Project, *Fact Sheet: Trends in U.S. Corrections, 5*, available at http://sentencingproject.org/doc/publications/inc_Trends_in_Corrections_Fact_sheet.pdf.
- ^{xxvi} U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits. Available at <http://quickfacts.census.gov/qfd/states/00000.html> (last updated June 11, 2014).
- ^{xxvii} Percentages calculated from E. Ann Carson and Daniela Golinelli, *Estimated number of sentenced prisoners under state jurisdiction, by offense, sex, race, and Hispanic origin*, December 31. (Washington, DC: US Dept. of Justice Bureau of Justice Statistics, Dec. 19, 2013). Data table generated using the Corrections Statistical Analysis Tool at www.bjs.gov on July 2, 2014. <http://www.bjs.gov/index.cfm?ty=nps>
- ^{xxviii} Census, *supra* note 27.
- ^{xxix} Carson & Golinelli, *supra* note 28.
- ^{xxx} E. Ann Carson, William J. Sabol, *Prisoners in 2011*, 8, Washington, DC: US Dept. of Justice Bureau of Justice Statistics, December 2012. <http://www.bjs.gov/content/pub/pdf/p11.pdf>
- ^{xxxi} Prisoners in 2012, *supra* note 11 at 25.
- ^{xxxii} *Id.*
- ^{xxxiii} *Id.*
- ^{xxxiv} *Id.*
- ^{xxxv} Percentage calculated from Carson and Golinelli, *supra* note 30.
- ^{xxxvi} National Research Council, *supra* note 5 at 64.
- ^{xxxvii} Carson & Golinelli, *supra* note 28.
- ^{xxxviii} National Research Council, *supra* note 5 at 46.
- ^{xxxix} *Id.* at 47.
- ^{xl} *Id.*
- ^{xli} A number of theories have been advanced. One perspective is that increased incarceration has led to a reduction in crime, but scholars have disagreed about how primary a causal role incarceration has really played – most assess its contributions as being limited, meaning the decline in crime rates requires further explanation. Some have suggested that the banning of lead in gasoline and subsequent reduction in environmental lead (known to have psychological effects that increase the likelihood that those exposed at a very young age will engage in violent crime) could be the most important factor. Still others have suggested that new innovations in security technology (alarms, bulletproof screens, DNA databases, CCTV cameras) may have made crime more difficult. The debate remains unresolved and has even garnered some press attention. For brief journalistic discussions of the state of the research on the topic, see The Economist, *The curious case of the fall in crime*, July 20, 2013, available at: <http://www.economist.com/news/leaders/21582004-crime-plunging-rich-world-keep-it-down-governments-should-focus-prevention-not>. See also, James Q. Wilson, *Hard Times, Fewer Crimes*, Wall Street Journal (May 28th 2011), available at: <http://online.wsj.com/news/articles/SB10001424052702304066504576345553135009870>; BBC News Magazine, *Did removing lead from petrol spark a decline in crime?*, April 2014, available at <http://www.bbc.com/news/magazine-27067615>.

^{xlii} National Research Council, *supra* note 5 at 70.

^{xliii} *Id.* at 71.

^{xliv} Urban Institute, “Examining Growth in the Federal Prison Population, 1998-2010.”

^{xlvi} Attorney General Eric Holder Remarks to American Bar Association’s Annual Convention in San Francisco, CA August 12, 2013.

^{xlvii} National Research Council, *supra* note 5 at 314.

^{xlviii} *Id.* at 314-15.

^{xlix} Congressional Research Service, *Economic Impacts of Prison Growth*, by Suzanne M. Kirchhoff, April 13, 2010.

^l Attorney General Eric Holder Remarks to American Bar Association’s Annual Convention in San Francisco, CA August 12, 2013.

USE OF FORCE



(c) Scott Olson / Getty Images

PRESS RELEASE

JUNE 18, 2015

Amnesty International Report Finds That All 50 States Fail to Meet International Standards on the Use of Lethal Force by Police

A new report by Amnesty International USA finds that all 50 states and the District of Columbia fail to comply with international standards on the use of lethal force by law enforcement officers, which require that lethal force should only be used as a last resort when strictly necessary to protect themselves or others against imminent threat of death or serious injury.

Deadly Force: Police Use of Lethal Force in the United States calls for reform at the state and federal levels to ensure that laws are brought into line with international law and standards.

“Police have a fundamental obligation to protect human life. Deadly force must be reserved as a method of absolute last resort,” said Steven W. Hawkins, executive director of Amnesty International USA. “The fact that absolutely no state laws conform to this standard is deeply disturbing and raises serious human rights concerns.

“Reform is needed and it is needed immediately. Lives are at stake.”

The report is based on a review of the use of force statutes within the United States. Amnesty International reviewed relevant U.S. Supreme Court decisions, the Department of Justice guidelines on the use of deadly force, and available statistical data, including from the Centers for Disease Control and Prevention and the FBI Uniform Crime Reports.

In addition to finding that all state laws are overly broad and allow for police to justifiably use force in a wide range of circumstances, failing to meet international standards, thirteen states also fail to meet the lower standards set by U.S. constitutional law on the use of lethal force by law enforcement officers.

Nine states and the District of Columbia have no laws on the use of lethal force, including Maryland, Wisconsin, Massachusetts, Michigan, Ohio, South Carolina, Virginia, West Virginia and Wyoming.

The report also found that none of the states' use of lethal force statutes include accountability mechanisms and that statutes that are overly broad and allow for the use of lethal force outside the strict criteria set by international law contribute to a cycle of impunity that prevents holding law enforcement officers accountable.

At present, there are no official national statistics tracking police use of force, including police-related deaths or injuries in the United States. Estimates of people killed annually by law enforcement range from 400 to 1000. According to the limited government data available, African Americans are disproportionately affected by the use of lethal force. The African American population of the U.S. is 13 percent but makes up 27 percent of those killed by law enforcement.

The report calls for the Department of Justice to collect and publish statistics and data on police shootings and to sort the data by race, gender, age, nationality, sexual orientation, gender identity and indigenous status.

"A nationwide review of lethal force laws, policies and training is urgently needed," said Hawkins. "We are calling on the president and the Department of Justice to create a national task force to carry out this review and institute comprehensive reforms, including of oversight and accountability mechanisms. If the United States is to comply with its international legal obligations, these policies must be brought in line with international standards."

Key findings of the report include:

- All 50 states and DC fail to comply with international standards on the use of lethal force by law enforcement officers, which require that lethal force should only be used as a last resort when strictly necessary to protect themselves or others against imminent threat of death or serious injury.
- None of the state statutes require that the use of lethal force may only be used as a last resort with non-violent and less harmful means to 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.
- Nine states and the District of Columbia have no laws on use of lethal force. (Maryland, Massachusetts, Michigan, Ohio, South Carolina, Virginia, West Virginia, Wisconsin, Wyoming)
- Thirteen states have laws that do not comply with U.S. constitutional standards on use of lethal force. (Alabama; California; Delaware; Florida; Mississippi; Missouri; Montana; New Jersey; New York; Oregon; Rhode Island; South Dakota; and Vermont)
- Nine states allow lethal force to suppress a riot. (Arizona, Delaware, Idaho, Mississippi, Nebraska, Pennsylvania, South Dakota, Vermont and Washington)
- Twenty-two states allow for law enforcement officers to kill someone trying to escape from a prison or jail, regardless of whether or not they pose a threat. (Alabama, Colorado, Delaware, Georgia, Hawaii, Idaho, Indiana, Kentucky, Maine, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota and Washington)
- Only eight states require a verbal warning be given before law enforcement uses lethal force. (Connecticut, Florida, Indiana, Nevada, New Mexico, Tennessee, Utah and Washington)

- Only three states mandate officers be careful of bystanders when using law enforcement. (Delaware, Hawaii and New Jersey)
- Twenty states allow citizens to use lethal force if they carry out law enforcement activities, such as assisting an officer with an arrest. (Alabama, Arizona, California, Colorado, Connecticut, Indiana, Kansas, Kentucky, Louisiana, Maine, Mississippi, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Dakota, Texas and Washington)
- Zero states have a provision in the state law on police use of lethal force that establishes specific accountability mechanisms for the use of lethal force by officers, such as obligatory reporting that a firearm has been used or that there be a prompt, thorough, independent and impartial investigation with a view to prosecution.

Key Recommendations

- All state legislatures should introduce or amend statutes that authorize the use of lethal force to ensure that they are in line with international standards by limiting the use of lethal force by law enforcement to those instances in which it is necessary to protect against the threat of death or serious injury. The statutes should be brought into compliance with the U.N. Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- The president and Department of Justice should support the creation of a national commission (National Crime and Justice Task Force) to examine and produce recommendations on policing issues, including a nationwide review of police use of lethal force laws, policies, training and practices, which is urgently needed, as well as a thorough review and reform of oversight and accountability mechanisms. These laws, policies and practices must be brought in line with international standards.
- The Department of Justice must ensure the collection and publication of nationwide statistics on police shootings in accordance with the Violent Crime Control and Enforcement Act (1994) and the Death in Custody Act (2014). The data collected should be disaggregated on the basis of race, gender, age, nationality, sexual orientation, gender identity and indigenous status.
- Congress should take legislative action to ensure that all federal, state and local law enforcement officials restrict their use of lethal force in compliance with international law and standards. This should include enacting legislation requiring all law enforcement agencies to review and amend their policies by limiting the use of lethal force to those instances in which it is necessary to protect against the threat of death or serious injury. Congress should also pass the Police Reporting Information, Data, and Evidence Act and the End Racial Profiling Act.

DISABILITY IN POLICE REFORM

Disability and Police Reform

Data varies, but what we know is people with disabilities face a disproportionate risk of being victims of police violence. We also know that this same community runs a greater risk of being victims of crimes, versus perpetrators. This is true across the communities that represent the broader disability community, including people with mobility disabilities, mental health disabilities, sensory disabilities, and intellectual and developmental disabilities. This cross-disability voice must be at the table in this conversation and whatever approach is taken to reform the system must be inclusive of them, their experience, and their voice. The quick answer by the media is increase funding for Crisis Intervention Training. While training is critical, is it just one piece of the needed reform. A successful strategy needs to be cross-disability, culturally competent, and geographically relevant. What is needed is a stigma shift, robust cross-disability training, data & accountability, community engagement, and policy change.

Stigma Shift

The stigma of disability is a pervasive one, and impacts how people with disabilities are treated on a daily basis. Stereotypes of the inspirational person with an intellectual disability, the deranged criminal from the asylum, or the person who abuses or takes advantage of "the system" to live off the government dollar, all feed into what people perceive as the disability experience. These assumptions feed into how people with disabilities are engaged by law enforcement, often leading to tragic consequences. To combat stigma we recommend:

- Broader and holistic view of disability in trainings for law enforcement needs beyond just mental health or Intellectual Disability/Developmental Disability.
- Law Enforcement Agencies need to hire experts from the disability community including people with the lived experience of mental illness and/or disabilities
- Law Enforcement Officers who serve as Crisis Intervention Training (CIT) coordinators need to be dispatched in tandem with qualified professionals from community based disability organizations.
- Disability needs to not be siloed, but perceived within the context of a community or family's experience with poverty, lack of insurance, homelessness, military service, unemployment.
- Considering the stigma of disability within communities of color we need to the system itself needs to better engage in culturally and linguistically competent outreach
 - Community Based Organizations
 - Federally qualified health centers and other primary care health providers
 - Correctional facilities such as juvenile detention and treatment centers, state and federal prisons
 - Criminal justice system
 - Boys/Girls Clubs and other youth serving organizations
 - Churches, places of worship, and other Faith based organizations

Training

Training is a critical piece of this conversation. But training needs to be across the law enforcement system, inclusive of juvenile and adult settings, and not only look at how people with disabilities are treated as suspects, but also as victims. A successful strategy means that qualified experts from the cross-disability be engaged in training from day one.

Law Enforcement Agencies should

- Create a network of cross-disability professionals to work in tandem with LEOs (Deaf, ID/DD, Mental Health) & support the growth of mobile crisis unit that engage enhanced crisis intervention officers
- Support people with all disability types, including those with mental health disabilities and ID/DD should also receive training to learn about their rights when in situations involving law enforcement and Congress should increase funding for such peer-managed support and training programs.
- Engage in training that includes history of disability programs and systems nationally/locally and effects of stigma (including within communities of color and linguistically diverse populations, using San Antonio as an example)
- Provide training for all officers, including court, parole, school discipline, truancy, etc, sensitizing these public servants to recognize certain disabilities; creating more than basic awareness on the unique needs of certain groups of people with disabilities; and inform about specific requirements of the Americans with Disabilities Act.
- Conduct Use of force workshops involving people with different types of disabilities as co-trainers gives valuable one-on-one experience in interacting with diverse populations
- Engaging people with a variety of disabilities and community organizations representing them should be included in the development and facilitation of such training and policy and program development at local, state, and federal level

Community Based Organizations should

- Train families of people with disabilities on engaging with law enforcement in safe ways that do not negate their access to rights.

Data

Data collection is essential to accountability in improving the relationship law enforcement has with the disability. While there have been improvements in what is collected, until we see additional breakouts by disability and including specific disability categories, we do not know how pervasive the issue is and how to best target resources. We recommend:

- Data collection requirements include a requirement for further disaggregation by disability and veteran status (for example, data broken down by race, be further broken down by disability and veteran status so we could look at violence against groups such as the Black Deaf community, or Latino Veterans with Mental Health disabilities)
- Monitoring, data collection, and transparency tied to provisions of reasonable accommodations (wheelchairs, sign language interpreters, access to video relay or video phones) required to be provided under the ADA and additional data collection detailing the denial of those accommodations at any time while in custody and incarceration.

- Data collection that includes any disabilities acquired by an individual while at any point in custody.
- Data collection that is conducted on a geographic basis include information about group homes, halfway houses, Deaf or Blind schools, and other disability specific services that are provided in the area to ensure these communities are not being disparately targeted.

Community Engagement

The disability community understands that families, service providers, and others may turn to law enforcement when they feel desperate. In most cases these are also cases where there is little connection to Parent Training and Information Centers, Youth Leadership Forums, Protection and Advocacy Organizations, formal and informal support groups, and Centers for Independent Living. There needs to be an alternative to 9-1-1. To have successful relationships with their community that are inclusive of people with disabilities, there needs to be:

- Positive and constructive engagement with law enforcement, not “inspiration porn” or activities that teach people to fear or run from law enforcement
- Positive ongoing engagement between campus police, disability communities on college campuses, and disability student services
- Opportunities for officers a chance to hear directly from people with disabilities and officers who have disabled family members
- Not removing people with disabilities from reasonable accommodations or other equipment that is vital to their health/survival or ability to communicate (wheelchairs, AAC devices, etc)
- Ensuring all materials are available in multiple formats and that law enforcement understands that people with disabilities have a right to request reasonable accommodation.

Policy

We recognize that these tragic events are part of a larger social pattern involving racial profiling, police brutality, inequality, systemic racism, and segregation in addition to the marginalization and discrimination of people with disabilities. We recognize attempts in public policy to improve the system, including the End Racial Profiling Act (ERPA), currently under consideration by the United States House of Representatives, would prohibit the use of profiling on the basis of race, ethnicity, national origin or religion by law enforcement agencies.

We recommend amending the Death in Custody Act, to include data collection on people who acquire disabilities as a result of police violence or trauma occurring while in custody.

Ban solitary confinement of vulnerable populations including children and individuals with disabilities. Long-term solitary confinement is ineffective, costly, and often leads to significant physical and mental trauma. Research tells us that it also impedes successful prisoner re-entry upon release and increases recidivism.

How Police Can Stop Shooting People With Disabilities



By Claudia Center, Senior Staff Attorney, ACLU

Hundreds of Americans with disabilities die each year in police encounters, and many more are seriously injured. On Monday, the U.S. Supreme Court will hear oral argument in a case about one of these interactions.

In *San Francisco v. Sheehan*, police were called to take Teresa Sheehan – a woman having a psychiatric emergency – to the hospital. Instead of helping Ms. Sheehan get treatment, the officers ended up shooting her five times. She survived and sued. At issue is whether and how the Americans with Disabilities Act (ADA) applies to interactions between police and people with disabilities.

The Supreme Court is weighing in against a backdrop of news stories detailing a seemingly unending stream of officer-involved shootings. The dead and wounded are mostly persons with mental disabilities and young men of color. Many – such as Jason Harrison, Anthony Hill, and Kajieme Powell – are both.

Police shootings of persons with mental disabilities tend to follow a pattern. Someone calls the police about a person in crisis. The police arrive, but the person in crisis fails to immediately follow police commands, not because the person is a “criminal” but because they are experiencing a crisis related to their mental disability.

In response to the person’s noncompliance, the officers start shouting and draw their weapons. They may surround the individual or spray them with mace. The crisis escalates. In a panicked effort to resist, the person grabs a nearby object – a knife, a screwdriver, a pen, a mop. The officers fire. Usually the disabled person dies.

There is a safer way for police to interact with persons with mental disabilities in crisis. In communities across the country, officers are trying to resolve these situations without resort to lethal force by using

accepted crisis intervention and de-escalation tools, including calm communication, collaboration with mental health resources, physical containment of the individual from a distance, and patience.

These kinds of strategies should be considered reasonable accommodations under the ADA, as the 9th U.S. Circuit Court of Appeals ruled. Their use could have prevented the near-fatal shooting of Ms. Sheehan.

In Ms. Sheehan's case, the officers knew from the outset that they were dealing with a disability crisis situation. When they found Ms. Sheehan quiet and contained within her room, they had the opportunity to use their crisis intervention training. They could have surveyed the premises, consulted with command on strategies, and used calm communication to try to convince Ms. Sheehan to go with them to the psychiatric hospital.

They didn't.

Without a clear plan for a safe interaction, the officers entered Ms. Sheehan's locked second-story room without her permission. Twice. The second time they did so with force, shouting, spraying mace, and with guns drawn. When Ms. Sheehan brandished a bread knife, the officers fired multiple times at close range. She almost died. She spent months in the hospital and rehab and has permanent physical injuries.

The safer strategies are neither expensive nor complicated, but their implementation requires a commitment to change. Law enforcement must adopt ADA-compliant policies, practices, and trainings that require safer policing strategies for people with disabilities and that honestly assess bad outcomes after the fact.

If the Supreme Court rules that Ms. Sheehan somehow is not protected by the ADA, then the decades-long movement to achieve safer police interactions with individuals with disabilities will suffer a devastating setback. Such an outcome could eliminate one of the few legal mandates available to combat the terrible cycle of avoidable police shootings and killings. A call for help shouldn't result in death.

RACE IN POLICE REFORM

NAACP

THE END RACIAL PROFILING ACT INTRODUCED IN BOTH THE U.S. HOUSE OF REPRESENTATIVES AND THE SENATE

S. 1038 / H.R. 2581 WOULD CREATE A NATIONAL PROHIBITION AGAINST RACIAL PROFILING BY LAW ENFORCEMENT

The End Racial Profiling Act has now been introduced in the U.S. Senate by Senator Cardin (MD) (S. 1038) and in the U.S. House of Representatives by Congressman John Conyers, Jr. (MI) (H.R. 2851). The End Racial Profiling Act comprehensively addresses the insidious practice of racial profiling by law enforcement on five levels: first, it clearly defines the racially discriminatory practice of racial profiling by law enforcement at all levels; second, it creates a federal prohibition against racial profiling; thirdly, it mandates data collection so we can fully assess the true extent of the problem; fourth, it provides funding for the retraining of law enforcement officials on how to discontinue and prevent the use of racial profiling; and fifth, it holds law enforcement agencies that continue to use racial profiling accountable. We need to urge Members of both the House and Senate to co-sponsor and help move the bill through to passage as soon as possible.

As painfully demonstrated over the past months, racial profiling is a serious problem in the United States, and can lead to deadly consequences. It is difficult for our faith in the American judicial system not to be challenged when we cannot walk down the street, drive down an interstate, go through an airport, or even enter into our own homes without being stopped merely because of the color of our skin. Training law enforcement officers how to more efficiently carry out the essential policing without avoid using this counter-productive procedure will not only help our nation's criminal justice system at all levels, but it will trickle down to other groups as well, such as neighborhood watch organizations and citizens' community groups, which often model themselves after their local police and which have taken on additional responsibilities in light of the budget cuts being faced by almost every locality and jurisdiction.

The majority of law enforcement officers are hard working men and women, whose concern for the safety of those they are charged with protecting is often paramount, even when their own safety is on the line. However, if and when even one of their colleagues engages in racial profiling, whether it be conscious or subconscious, the trust of the entire community can be, and will be, lost. Law enforcement agents should not endorse or act upon stereotypes, attitudes, or beliefs that a person's race, ethnicity, appearance, religious affiliation, or national origin increases that person's general propensity to act unlawfully.

Numerous studies have demonstrated over the past few years that racial profiling is all too prevalent throughout law enforcement today. One study has shown that approximately 72%

of all routine traffic stops on an interstate in the Northeast occur with African American drivers despite the fact that African Americans make up only about 17% of the driving population. Another 2004 study showed that approximately thirty-two million Americans, a number equivalent to the population of Canada, report they have already been victims of racial profiling at some point. Other studies have shown similar disparities in stops and searches by federal, state and local law enforcement agents.

We need the End Racial Profiling Act to stop this insidious practice and to help begin to restore the confidence of communities of color throughout the United States in federal, state and local law enforcement and thus restore the necessary trust and integrity necessary to be effective. It is supported by numerous civil rights and civil liberties organizations, as well religious associations and most police unions of color.

NAACP

Campaign To End Racial Profiling:
How to Begin A Dialogue About Racial Profiling

To prepare ourselves and our nation to address the ongoing problem of racial profiling, we encourage you to begin a dialogue with your children, students, friends or someone significant in your life. Talk with them about the impact of racial profiling, stereotyping, and dehumanization of others and about its implications for our nation.

A - Think About & Discuss - How might you define racial profiling? How does your definition compare to those below?

Racial Profiling Broadly Defined

Racial Profiling is broadly defined as the suspicion of people based on race, ethnicity, nationality, religion, gender or other immutable characteristics, rather than on evidence-based suspicious behavior. It is usually paired with potentially negative action. Each of us can engage in such stereotyping and profiling, but when those with power and/or authority engage in this behavior, it can have devastating consequences - as we saw in the circumstances surrounding the killing of Trayvon Martin.

Racial Profiling by Law Enforcement

From Teaching Tolerance

- Racial profiling occurs when law enforcement agents impermissibly use race, religion, ethnicity or national origin in deciding whom to investigate.

From Amnesty International

- The targeting of individuals and groups by law enforcement officials, even partially, on the basis of race, ethnicity, national origin, or religion, except where there is trustworthy information, relevant to the locality and timeframe, that links persons belonging to one of the aforementioned groups to an identified criminal incident or scheme.

B - Think About & Discuss - How does racial profiling impact young people?

For example - Last year in New York City, police stopped and interrogated black men and boys between the ages 14 and 24 a total of 168,126 times. The total population of black men and boys aged 14 through 24 in New York City is 158,406, which means the total number of stops exceeds the total number of black men and boys living in the city. → *What does racial profiling look like in your community? At your school?*

C - Think About & Discuss - What are the goals? Who are the targets of racial profiling? What are the moral and ethical issues? What is the social and emotional impact of racial profiling?

D - Next Steps To Take

Encourage This - An Idea to take on the road this summer--

Reflecting on your discussions using a 3,2,1 strategy

- *Identify 3 ideas you take away from the discussion
- *Identify 2 questions you should always ask when faced with racial profiling
 - as a target of racial profiling, as the person engaged in profiling, or as a witness
- *Identify 1 thing you can do to help end racial profiling

WOMEN OF COLOR IN POLICE REFORM

African American Policy Forum

Black Girls Matter: Pushed Out, Overpoliced and Underprotected→

[December 30, 2014](#)

Black Girls Matter: Pushed Out, Overpoliced, and Underprotected

February 4, 2015—Girls of color face much harsher school discipline than their white peers but are excluded from current efforts to address the school-to-prison pipeline, according to a new report issued today by the African American Policy Forum and Columbia Law School’s Center for Intersectionality and Social Policy Studies.

The report, *Black Girls Matter: Pushed Out, Overpoliced and Underprotected*, is based on a new review of national data and personal interviews with young women in Boston and New York. Read a copy of that report [here](#).

“As public concern mounts for the needs of men and boys of color through initiatives like the White House’s My Brother’s Keeper, we must challenge the assumption that the lives of girls and women—who are often left out of the national conversation—are not also at risk,” said Kimberlé Crenshaw, the report’s lead author.

Crenshaw, a leading authority in how law and society are shaped by race and gender, argues that an intersectional approach encompassing how related identity categories such as race, gender, and class overlap to create inequality on multiple levels is necessary to address the issue of school discipline and the school-to-prison pipeline.

The study cites several examples of excessive disciplinary actions against young black girls, including the controversial 2014 case of a 12-year-old in Georgia who faced expulsion and criminal charges for writing the word “hi” on a locker room wall. A white female classmate who was also involved faced a much less severe punishment.

According to the most recent data from the U.S. Department of Education cited in the report, nationally black girls were suspended *six times* more than white girls, while black boys were suspended three times as often as white boys.

Data specific to New York and Boston demonstrates that the relative risk for disciplinary action is higher for Black girls when compared to white girls than it is for Black boys when compared to white boys.

- In New York, the number of disciplinary cases involving black girls was more than *10 times* more than those involving their white counterparts and the number of cases involving black boys was six times the number of those involving white boys, despite there being only twice as many black students as white students.
- In Boston, the number of disciplinary cases involving black girls was more than *11 times* more than those involving their white counterparts while the number of cases involving black boys was approximately eight times those involving white boys, despite there being less than three times as many black students as white students.
- Rates of expulsion were even more strikingly disproportionate between black and white students, especially among girls.

The report recommends policies and interventions to address challenges facing girls of color, including revising policies that funnel girls into juvenile supervision facilities; developing programs that identify signs of sexual victimization and assist girls in addressing traumatic experiences; advancing programs that support girls who are pregnant, parenting, or otherwise assuming significant familial responsibilities; and improving data collection to better track discipline and achievement by race/ethnicity and gender for all groups.

African American Policy Forum

PROTESTER RIGHTS



Know Your Rights: Demonstrations and Protests

General guidelines

Can my free speech be restricted because of what I say—even if it is controversial?

No. The First Amendment prohibits restrictions based on the content of speech. However, this does not mean that the Constitution completely protects all types of free speech activity in every circumstance. Police and government officials are allowed to place certain nondiscriminatory and narrowly drawn "time, place and manner" restrictions on the exercise of First Amendment rights. Any such restrictions must apply to all speech regardless of its point of view.

Where can I engage in free speech activity?

Generally, all types of expression are constitutionally protected in traditional "public forums" such as streets, sidewalks and parks. In addition, your speech activity may be permitted to take place at other public locations that the government has opened up to similar speech activities, such as the plazas in front of government buildings.

What about free speech activity on private property?

The general rule is that the owners of private property may set rules limiting your free speech. If you disobey the property owner's rules, they can order you off their property (and have you arrested for trespassing if you do not comply).

Do I need a permit before I engage in free speech activity?

Not usually. However, certain types of events require permits. Generally, these events are:

- A march or parade that does not stay on the sidewalk, and other events that require blocking traffic or street closure
- A large rally requiring the use of sound amplifying devices; or
- A rally at certain designated parks or plazas

Many permit procedures require that the application be filed several weeks in advance of the event. However, the First Amendment prohibits such an advance notice requirement from being used to prevent rallies or demonstrations that are rapid responses to unforeseeable and recent events. Also, many permit

ordinances give a lot of discretion to the police or city officials to impose conditions on the event, such as the route of a march or the sound levels of amplification equipment. Such restrictions may violate the First Amendment if they are unnecessary for traffic control or public safety, or if they interfere significantly with effective communication with the intended audience. A permit cannot be denied because the event is controversial or will express unpopular views.

Specific problems

If organizers have not obtained a permit, where can a march take place?

If marchers stay on the sidewalks and obey traffic and pedestrian signals, their activity is constitutionally protected even without a permit. Marchers may be required to allow enough space on the sidewalk for normal pedestrian traffic and may not maliciously obstruct or detain passers-by.

May I distribute leaflets and other literature on public sidewalks?

Yes. You may approach pedestrians on public sidewalks with leaflets, newspapers, petitions and solicitations for donations without a permit. Tables may also be set up on sidewalks for these purposes if sufficient room is left for pedestrians to pass. These types of free speech activities are legal as long as entrances to buildings are not blocked and passers-by are not physically and maliciously detained. However, a permit may be required to set up a table.

Do I have a right to picket on public sidewalks?

Yes, and this is also an activity for which a permit is not required. However, picketing must be done in an orderly, non-disruptive fashion so that pedestrians can pass by and entrances to buildings are not blocked.

Can government impose a financial charge on exercising free speech rights?

Some local governments have required a fee as a condition of exercising free speech rights, such as application fees, security deposits for clean-up, or charges to cover overtime police costs. Charges that cover actual administrative costs have been permitted by some courts. However, if the costs are greater because an event is controversial (or a hostile crowd is expected)—such as requiring a large insurance policy—then the courts will not permit it. Also, regulations with financial requirements should include a waiver for groups that cannot afford the charge, so that even grassroots organizations can exercise their free speech rights. Therefore, a group without significant financial resources should not be prevented from engaging in a march simply because it cannot afford the charges the City would like to impose.

Do counter-demonstrators have free speech rights?

Yes. Although counter-demonstrators should not be allowed to physically disrupt the event they are protesting, they do have the right to be present and to voice

their displeasure. Police are permitted to keep two antagonistic groups separated but should allow them to be within the general vicinity of one another.

Does it matter if other speech activities have taken place at the same location?

Yes. The government cannot discriminate against activities because of the controversial content of the message. Thus, if you can show that similar events to yours have been permitted in the past (such as a Veterans or Memorial Day parade), then that is an indication that the government is involved in selective enforcement if they are not granting you a permit.

What other types of free speech activity are constitutionally protected?

The First Amendment covers all forms of communication including music, theater, film and dance. The Constitution also protects actions that symbolically express a viewpoint. Examples of these symbolic forms of speech include wearing masks and costumes or holding a candlelight vigil. However, symbolic acts and civil disobedience that involve illegal conduct may be outside the realm of constitutional protections and can sometimes lead to arrest and conviction. Therefore, while sitting in a road may be expressing a political opinion, the act of blocking traffic may lead to criminal punishment.

What should I do if my rights are being violated by a police officer?

It rarely does any good to argue with a street patrol officer. Ask to talk to a supervisor and explain your position to him or her. Point out that you are not disrupting anyone else's activity and that the First Amendment protects your actions. If you do not obey an officer, you might be arrested and taken from the scene. You should not be convicted if a court concludes that your First Amendment rights have been violated.

WHEN STOPPED BY POLICE

THE NATIONAL BAR ASSOCIATION

REAL SOLUTIONS TO AMERICA'S EPIDEMIC

Police Brutality



The National Bar Association maintains that the current acts of civil disobedience form the modern day fight for Justice and Equal Treatment, and Justice Demands That Black Lives Matter. In mid-July the National Bar Association offered the following "Real Solutions To America's Epidemic"

WHAT DO WE WANT?

- Law-Violating Police Officers, our EMPLOYEES, to stop committing acts of police brutality and our judicial system calling it justifiable;
- Police officers to stop engaging in racial profiling of African American citizens;
- Economic Development in Impoverished Communities

WHEN DO WE WANT IT!

Since mid-July, the National Bar Association has advocated that the grave miscarriage of injustice caused by police brutality will only be corrected by implementing legislative reform (local, state and federal) establishing **Training, Accountability, and De-Escalation** of the Use of Force.

We are demanding that legislators implement these laws in the

UPCOMING LEGISLATIVE SESSION:

LOCAL

- Stricter Adherence of **Mental Health Testing**
- Detailed & Thorough **Diversity Training**
- **De-escalation** of Force Training

STATE

- Establish an **Independent Police Investigation**
- Establish an **Independent Prosecution Body** (for cases involving police brutality and misconduct)

FEDERAL

- Mandatory **Body Camera** With Penalty For Tampering
- Succinct **Definition** and Training for **Escalation of Force**
- Succinct Definition and Training for **Excessive Force**
- **Felony** Brutality & End Racial Profiling

A Legacy of Service. A Promise of Justice.

In light of the alleged police misconduct which took place causing the deaths of Michael Brown from Ferguson, Missouri; Eric Garner from Staten Island, New York; John Crawford from Beavercreek, Ohio; Marquis Jones from San Antonio, Texas; Ezell Ford from Los Angeles, California; Rodney Mitchell from Sarasota, Florida, and Raymond Herisse from South Florida, the National Bar Association (NBA)-the largest African American Bar Association in the United States-is waging a war against police misconduct and issuing forth a call for justice in each of these fatal incidents.

To those ends, the NBA has sent open records requests to each of the largest 25 cities in the United States, seeking information regarding the number of unarmed individuals who have been killed or injured while pursued by police or in police custody. The NBA will submit said results to the Department of Justice and demand investigations be launched into each incident in the interest of winning justice in cases of past police misconduct and putting an end to future misconduct on the part of the police.

As part of its War on Police Brutality, the National Bar Association has committed to taking the following steps:

INVESTIGATION

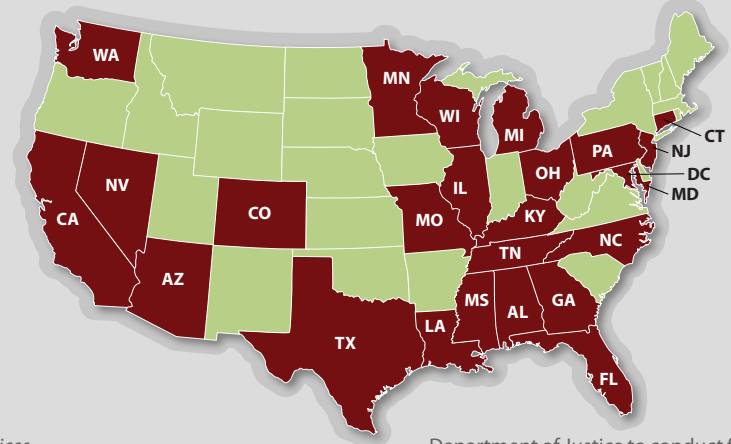
Open Records Requests

The National Bar Association has developed a list of the top 25 cities and list of 25 states to file Open Records Requests seeking information regarding the number of unarmed individuals who have been killed or injured while pursued or in police custody. The top 25 states were based upon their African American population, and the top 25 cities in these states were selected based upon population and the number of reported incidents of police brutality in the past. These cities and states include:

25 Top States			
Alabama	Illinois	Missouri	Texas
Arizona	Kentucky	Nevada	Washington
California	Louisiana	New Jersey	Washington, D.C.
Colorado	Maryland	North Carolina	Wisconsin
Connecticut	Michigan	Ohio	
Florida	Minnesota	Pennsylvania	
Georgia	Mississippi	Tennessee	

25 Top Cities		
Atlanta, GA	Jacksonville, FL	New York City, NY
Baltimore, MD	Kansas City, MO	Philadelphia, PA
Birmingham, AL	Las Vegas, NV	Phoenix, AZ
Charlotte, NC	Little Rock, AR	San Antonio, TX
Chicago, IL	Los Angeles, CA	San Jose, CA
Cleveland, OH	Louisville, KY	St. Louis, MO
Dallas, TX	Memphis, TN	Washington, D.C.
Detroit, MI	Miami, FL	
Houston, TX	Milwaukee, WI	

After all the information from these open records requests has been obtained, the National Bar Association's Criminal Law Section, in conjunction with the NBA's Police Brutality Task Force will analyze the information, determine which states the National Bar Association should ask the United States Department of Justice to seize, and which investigations it should ask the Justice Department assume. Thereafter, President Meanes shall present the National Bar Association's results to the Department of Justice and demand investigations be launched to put an end to any wrongful conduct.



Preservation of Evidence Notices

When appropriate, the National Bar Association will also send preservation of evidence letters to the above-referenced cities, requesting that they preserve, and do not alter in any way, any evidence in connection with any particular incident. These requests for preservation of evidence shall include, but not be limited to, any vehicle involved in the incident, evidence retrieved from all dash cam video(s), all photographs, voice-mails, text messages, e-mails, videotapes, memos, meeting agendas and notes, investigations, incident reports, security tapes, in/out records, employment records, press releases, local and long-distance telephone records, cellular phone records for any unidentified police officer, bills, statements expense reports, notes, reports, interviews and all electronic data received from or prepared by anyone with knowledge of, or involved in reviewing, investigating or evaluating the incident.

Notification Letter to City, State and Government Officials

When appropriate, the National Bar Association will submit a letter to state local and government officials advising them of its concerns regarding the state's alleged historical pattern of police brutality. In addition, when necessary the National Bar Association will request a meeting with said leaders.

ADVOCACY

The National Bar Association is committed to employing any method or means necessary to bring attention to any act or alleged act of police misconduct in each state. Some of these methods may include: holding press conferences, issuing press releases, meeting with state, local and city officials, demanding prosecution, holding rallies, and calling for the United States

Department of Justice to conduct fair and impartial investigations into deaths involving police. To date, the National Bar Association has made such demands as is related to the deaths involving police in St. Louis, Missouri; Staten island, New York; Dallas, Texas; San Antonio, Texas; and Beavercreek, Ohio.

EDUCATION

In each targeted city, the National Bar Association will host an Educational Day entitled, "Know Your Rights Because It Could Save Your Life." The first such event was held on Saturday, August 16, 2014 in St. Louis, Missouri.

FEDERAL LEGISLATION

The National Bar Association will advocate for passage of the following legislation:

- 1.** Body Video Cameras: A law requiring local police departments to wear body video cameras when on duty and allocating federal funding for the same.
- 2.** A law establishing federal standards for Use of Force training and tactics.
- 3.** A law requiring local police departments to conduct annual training in the practice of de-escalation and force transition.
- 4.** A law requiring local police departments to enact a policy requiring any officer present and observing another officer engaging in excessive force, shall when in a position to do so, intercede to prevent the use of excessive force.

NATIONAL BAR ASSOCIATION CRIMINAL LAW SECTION

The National Bar Association Criminal Law Section represents the Collective Voice of Criminal Justice. With the section's diverse membership of private criminal defense attorneys, prosecutors,

public defenders, academics, and judges, the Section is uniquely situated to bring all the various parties to the table to address today's most pressing criminal justice issues.

Overview of Criminal Law Section's Actions related to NBA's Fight Against Police Brutality

To address the nationwide epidemic of police brutality, on Monday, July 28, 2014 during the National Bar Association's Annual Convention the Criminal Law Section, in conjunction with then President-Elect Pamela Meanes, held a Police Misconduct Town Hall meeting.

As a result of the Town Hall meeting, the Criminal Law Section established a Police Misconduct subcommittee. The members of the subcommittee are: 1) Terry Wiley; 2) Kwixuan Maloof; 3) Verona Swanigan; and 4) Marwan Porter. The purpose of the subcommittee is to work collaboratively with the National Bar Association's Police Misconduct Task Force to design and implement a plan aimed at ending police brutality in America.

NATIONAL BAR ASSOCIATION POLICE MISCONDUCT TASK FORCE

The National Bar Association's Police Misconduct Task Force was established on August 1, 2014. The purpose of the Task Force is to implement President Pamela Meanes' War Against Police Brutality initiative. To accomplish this goal, the Task Force was charged with: 1) identifying cities with a high number of police misconduct and brutality cases committed against unarmed black men and women; 2) creating a National Educational program designed to educate the public on ways to deal with police officers, aimed at ending police brutality; and 3) working in conjunction with the NBA Regional Directors and Affiliate Chapters.

Task Force Members

Daryl K. Washington, Aubrey "Nick" Pittman, Donna Wilson-Peters and the NBA Criminal Law Subcommittee on Police Misconduct

INTERESTED IN JOINING THE FIGHT?

If a National Bar Association's Region, Affiliate Chapter or member is interested in joining the Association's fight against police brutality, it may:

- 1.** If you, your Region or Affiliate Chapter is located in a National Bar Association's Top 25 State or Top 25 City, you may partner with the National Bar Association and file Open Records Request, help organize and plan all events/attend meetings in your area and if necessary file a lawsuit to obtain requested data;
- 2.** Host a National Bar Association's Police Misconduct Educational Day;
- 3.** Report incidents of Police Misconduct to the National Bar Association at www.nationalbar.org; and
- 4.** Sign the National Bar Association's online petition to have the United States Justice Department to over certain investigations of police misconduct. Go to www.nationalbar.org to sign the petition and learn more.

A Legacy of Service. A Promise of Justice.



NATIONAL BAR
ASSOCIATION®

EST. 1925

National Bar Association
1225 11th St. NW, Washington, DC 20001
(202) 842-3900

KNOWING YOUR RIGHTS COULD SAVE YOUR LIFE

Statement of Constitutional Rights

Officer, I mean no disrespect, but I understand my rights. I have a right to have an attorney present during questioning. I have a right to refuse to consent to any search of my body, and personal effects. I wish to exercise all my rights. If I am under arrest I wish to invoke and exercise my *Miranda* rights and be allowed the opportunity to obtain the advice of my attorney. If I am to be taken into custody I request a reasonable opportunity to make arrangements to secure my own property. I do not consent to any impoundment of my property. No, I will not stop videoing you. The Supreme Court of the United States said. I had a right to film police officers. No, I will not give you my phone. As I said, I do not consent to any impoundment of my property. If I am not under arrest, I want to leave. If I am free to leave, please tell me immediately so that I may go about my business.

FREQUENTLY ASKED QUESTIONS

If the police contact me, do I have to speak with them?

No. If you are questioned by law enforcement, it is essential to keep in mind the *Miranda* warnings: “You have the right to remain silent; anything you say can and may be used against you in court; you have the right to an attorney before and during any questioning; if you cannot afford an attorney, one will be appointed to assist you.”

State clearly that you wish to have an attorney present before and during any questioning. If law enforcement continues to question you after you have requested an attorney, repeat your request for an attorney and otherwise remain silent. These are your *Miranda* rights, guaranteed by the U.S. Constitution. If you are not given these warnings, your lawyer can ask that any statements you made to the police not be used against you in court. But this does not necessarily mean that your case will be dismissed. And this does not apply if you volunteer information without being questioned by the police.

If you agree to the questioning and then change your mind, the questioning must stop as soon as you say so or as soon as you say that you want a lawyer. If the questioning continues after you request a lawyer and you continue to talk, your answers can be used against you if you testify to something different.

What should I do if the police want to search me or my belongings?

Law enforcement is under no duty to advise you of your rights in order to search you or your property. Nevertheless, law enforcement can only search you or your property under certain circumstances. While you do have the right to refuse to be searched or have your property searched, there are situations where law enforcement can search you or your property without your consent. If you do not consent to being searched by law enforcement, you should clearly tell the police that you do not want to be searched. If law enforcement has a search warrant, ask for a copy of the warrant.

What is an arrest?

When you are arrested, you are taken into custody. This means that you are not free to leave the scene. Without being arrested, however, you still could be detained or held for questioning for a short time if a police officer or other person believes you may be involved in a crime.

For example, an officer may detain you if you are carrying a large bag near a recent protest site. Whether you are arrested or detained, you do not have to answer any questions except to give your name and address and show some identification if requested.

Who can arrest me?

In most cases, all law enforcement officers can arrest you whether they are on or off duty. Probation and parole officers also can arrest you. If they have probable cause or good reason to believe you committed a felony, they can arrest you even if they do not have an arrest warrant. (A felony is the most serious type of crime and is usually punishable by imprisonment for more than a year. A misdemeanor is usually punishable by a fine or short jail term.) They do not have to see you commit a felony in order to arrest you. They do, however, have to see you commit a misdemeanor in order to arrest you.

If you commit an infraction, they may ask you to sign a citation or notice instead of taking you into custody. An infraction is a minor offense, such as a moving violation, for which the punishment is usually a fine. If you sign the citation, you are not admitting guilt. You are only promising to appear in court. If you have no identification or refuse to sign, however, an officer may take you into custody.

What should I do if a family member or friend is arrested?

If a friend or family member is in jail, and you are trying to get helpful information, the most important thing you can tell your friend or family member is: “While you are in jail, DO NOT discuss the facts of your case with anyone. Do not talk with the police. Do not talk with other inmates. Do not talk to your friends or family over the phone about the facts of the case. Wait until you meet your lawyer to talk about the facts of your case because only conversations between you and your lawyer are protected by attorney-client privilege and are confidential, and only your lawyer will be able to give you accurate, reliable advice about how to proceed with your case.

REMEMBER: ALL CONVERSATIONS BETWEEN ANYONE OTHER THAN YOUR LAWYER ARE RECORDED .



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NBA FIGHT AGAINST POLICE BRUTALITY

Initiative

Pamela J. Meanes,
NBA President
president@nationalbar.org

Coordinators
NBA Police Misconduct Task Force
NBA Criminal Law Section

*For additional information or to volunteer, contact:
nbacriminalsection@gmail.com*

Call your local ACLU or visit www.aclu.org/profiling.

anonymously if you wish.

File a written complaint with the agency's internal affairs division or civilian complaint board. In most cases, you can file a complaint

attention first).
are injured, take photographs of your injuries (but seek medical
and patrol car numbers, which agency the officers were from, and
Write down everything you remember, including officers' badge

complaint.
Remember: police misconduct cannot be challenged on the street. Don't physically resist officers or threaten to file a

IF YOU FEEL YOUR RIGHTS HAVE BEEN VIOLATED

trust.

Keep a copy of your immigration documents with someone you
Remember your immigration number ("A" number) and give it to

your family. It will help family members locate you.
up your opportunity to try to stay in the U.S.

Do not sign anything, such as a voluntary departure or stipulated
removal, without talking to a lawyer. If you sign, you may be giving
immigration status with anyone but your lawyer.

Tell the ICE agent you wish to remain silent. Do not discuss your
inform the consulate of your arrest.

You have the right to **contact your consulate** or have an officer

WHAT TO DO IF YOU'RE STOPPED BY POLICE, IMMIGRATION AGENTS OR THE FBI

YOUR RIGHTS

- You have the right to remain silent. If you wish to exercise that right, say so out loud.
- You have the right to refuse to consent to a search of yourself, your car or your home.
- If you are not under arrest, you have the right to calmly leave.
- You have the right to a lawyer if you are arrested. Ask for one immediately.
- Regardless of your immigration or citizenship status, you have constitutional rights.

YOUR RESPONSIBILITIES

- *Do* stay calm and be polite.
- *Do not* interfere with or obstruct the police.
- *Do not* lie or give false documents.
- *Do* prepare yourself and your family in case you are arrested.
- *Do* remember the details of the encounter.
- *Do* file a written complaint or call your local ACLU if you feel your rights have been violated.

This information is not intended as legal advice.
This brochure is available in English and Spanish /
Esta tarjeta también se puede obtener en inglés y español.
Produced by the American Civil Liberties Union 6/10



free or low-cost legal services.

You have the right to a lawyer, but the government does not have to provide one for you. If you do not have a lawyer, ask for a list of

IF YOU ARE TAKEN INTO IMMIGRATION (OR "ICE") CUSTODY

- Read all papers fully. If you do not understand or cannot read the papers, tell the officer you need an interpreter.
- While you are in jail, an immigration agent may visit you. Do not answer questions or sign anything before talking to a lawyer.
- Don't discuss your immigration status with anyone but your lawyer.
- Ask your lawyer about the effect of a criminal conviction or plea on your immigration status.

Special considerations for non-citizens:

Make emergency plans if you have children or take medication.
Memorize the phone numbers of your family and your lawyer.
Prepare yourself and your family in case you are arrested.
listen if you call a lawyer.

You have the right to make a local phone call. The police cannot
anything or make any decisions without a lawyer.

lawyer, you have the right to a free one. Don't say anything, sign
Don't give any explanations or excuses. If you can't pay for a
Say you wish to remain silent and ask for a lawyer immediately.

Do not resist arrest, even if you believe the arrest is unfair.

IF YOU ARE ARRESTED

We rely on the police to keep us safe and treat us all fairly, regardless of race, ethnicity, national origin or religion. This card provides tips for interacting with police and understanding your rights. Note: some state laws may vary. Separate rules apply at checkpoints and when entering the U.S. (including at airports).

IF YOU ARE STOPPED FOR QUESTIONING

Stay calm. Don't run. Don't argue, resist or obstruct the police, even if you are innocent or police are violating your rights. Keep your hands where police can see them.

Ask if you are free to leave. If the officer says yes, calmly and silently walk away. If you are under arrest, you have a right to know why.

You have the right to remain silent and cannot be punished for refusing to answer questions. If you wish to remain silent, tell the officer out loud. In some states, you must give your name if asked to identify yourself.

You do not have to consent to a search of yourself or your belongings, but police may "pat down" your clothing if they suspect a weapon. You should not physically resist, but you have the right to refuse consent for any further search. If you *do* consent, it can affect you later in court.

IF YOU ARE STOPPED IN YOUR CAR

Stop the car in a safe place as quickly as possible. Turn off the car, turn on the internal light, open the window part way and place your hands on the wheel.

you will only answer questions on a specific topic.

any questions you feel uncomfortable answering, and can say that an interview, **have a lawyer present. You do not have to answer the right to say you do not want to be interviewed.** If you agree to an interview, **you have**

If you are asked to meet with FBI agents for an interview, **you have a lawyer first.**

If an FBI agent comes to your home or workplace, **you do not have to answer any questions.** Tell the agent you want to **speak to a**

IF YOU ARE CONTACTED BY THE FBI

door.

If you choose to speak to the officers, **step outside and close the door.**
Even if officers have a warrant, **you have the right to remain silent.**

warrant) does not allow officers to enter a home without consent.
believe the person is inside. A *warrant of removal/deportation* (ICE
police to enter the home of the person listed on the warrant if they
search the areas and for the items listed. An *arrest warrant* allows
to enter the address listed on the warrant, but officers can only
the window so you can inspect it. A *search warrant* allows police
Ask the officer to slip the warrant under the door or hold it up to
have to let them in unless they have certain kinds of warrants.

If the police or immigration agents come to your home, **you do not**

IF THE POLICE OR IMMIGRATION AGENTS COME TO YOUR HOME

Upon request, **show police your driver's license, registration and proof of insurance.**

If an officer or immigration agent asks to look inside your car, you can refuse to consent to the search. But if police believe your car contains evidence of a crime, your car can be searched without your consent.

Both drivers and passengers have the right to remain silent. If you are a passenger, you can ask if you are free to leave. If the officer says yes, sit silently or calmly leave. Even if the officer says no, you have the right to remain silent.

IF YOU ARE QUESTIONED ABOUT YOUR IMMIGRATION STATUS

You have the right to remain silent and do not have to discuss your immigration or citizenship status with police, immigration agents or any other officials. You do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country. (Separate rules apply at international borders and airports, and for individuals on certain nonimmigrant visas, including tourists and business travelers.)

If you are not a U.S. citizen and an immigration agent requests your immigration papers, you must show them if you have them with you. If you are over 18, carry your immigration documents with you at all times. If you do not have immigration papers, say you want to remain silent.

Do not lie about your citizenship status or provide fake documents.

OTHER HELPFUL RESOURCES

The President's Task Force on 21st Century Policing

http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf

African American Policy Forum – *Black Girls Matter: Pushed Out, Overpoliced and Underprotected*

http://static1.squarespace.com/static/53f20d90e4b0b80451158d8c/t/54d2d37ce4b024b41443b0ba/1423102844010/BlackGirlsMatter_Report.pdf

Department of Justice Report on Baltimore

<http://www.justice.gov/opa/pr/justice-department-opens-pattern-or-practice-investigation-baltimore-police-department>

Department of Justice Report on Cleveland

http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2014/12/04/cleveland_division_of_police_findings_letter.pdf

Department of Justice Report on Ferguson

http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

Department of Justice Resource Guide for Enhancing Community Relationships and Protecting Privacy and Constitutional Rights

<https://www.bja.gov/Publications/CommRelGuide.pdf>

Department of Justice Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity

<http://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf>

Civil Rights Coalition On Police Reform



“We have been reactive, but we have also been proactively advancing a platform of policy reforms and recommendations for change.”

– Barbara Arnwine