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Toni Van Pelt

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AAJC

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June 4, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Barr:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 220 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, and the 219 organizations listed below, we urge the U.S. Department of Justice (DOJ) to investigate the recent fatal police shooting of Breonna Taylor in Louisville, Kentucky. Specifically, we ask that DOJ: (1) determine whether the officers involved in the death of Breonna Taylor violated criminal civil rights laws; (2) pursue a pattern or practice investigation of the Louisville Metro Police Department (LMPD) for its recurrent use of excessive force, particularly when executing searches of persons of color; and, (3) restore its decades-long commitment to addressing systemic police misconduct by law enforcement agencies nationally.

As attorney general, you swore an oath to “support, protect, and defend the Constitution of the United States.” You have given us ample reason to doubt your willingness to fulfill that oath, most recently in your decision to order federal police and security officials to use tear gas on individuals peacefully protesting police violence outside of the White House. However, in calling on you to enforce our nation’s federal civil rights statutes at such a critical moment, we join the rest of the country and the world in urging you to uphold your solemn obligation to do justice in Ms. Taylor’s case, as well as in all other cases seeking to support, protect, and defend the Constitution.

DOJ Must Carefully and Expeditiously Review the Evidence to Determine Whether the Officers Involved in Breonna Taylor’s Death Violated Federal Criminal Civil Rights Law

On March 13, 2020, 26-year old African-American emergency medical technician Breonna Taylor was shot and killed in her own home by police officers executing a no-knock drug warrant.¹ Just after midnight, three plainclothes officers from the LMPD SWAT Team forced

¹ See, e.g., Haines, E. (May 11, 2020). Family seeks answers in police shooting of Louisville woman in her apartment. *The Washington Post*.

<https://www.washingtonpost.com/nation/2020/05/11/family-seeks-answers-fatal-police-shooting-louisville-woman-her-apartment/>

their way — allegedly unannounced — into the apartment where Ms. Taylor lay asleep next to her boyfriend, Kenneth Walker.² As Mr. Walker allegedly took actions in self-defense, officers fired upwards of 20 shots, at least eight of which fatally struck Ms. Taylor.³ Mr. Walker’s confusion and distress can be heard on the 911 call as he tells the dispatcher “I don’t know what happened . . . someone kicked in the door and shot my girlfriend.”⁴ Subsequently, prosecutors charged Mr. Walker with attempted murder of a police officer, although those charges have since been dropped.⁵

Kentucky Governor Andy Beshear called on the state attorney general, local prosecutor, and regional federal prosecutor to review LMPD’s internal investigation report.⁶ As of May 20, LMPD had completed its investigation, and according to Louisville Mayor Greg Fischer, delivered its report to State Attorney General Daniel Cameron, the Federal Bureau of Investigation, and the U.S. Attorney’s Office.⁷ On May 21, Mayor Fischer announced that Louisville Police Chief Steve Conrad would retire at the end of June,⁸ and the FBI confirmed it would initiate an investigation to “collect all available facts and evidence” pertaining to the case.⁹

DOJ should carefully and expeditiously review the evidence to be collected in the course of the FBI’s investigation to determine whether the officers involved violated Ms. Taylor’s civil rights under 18 U.S.C. § 242, which makes it unlawful for any person acting under the color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.¹⁰ Persons acting under the color of law include police officers and other law enforcement officials who are or appear to be functioning in their official capacities.¹¹ Ms. Taylor was not the subject of the warrant the officers were

² See, e.g., Burke, M. (May 15, 2020). Breonna Taylor police shooting: What we know about the Kentucky woman’s death. *NBCNews*. <https://www.nbcnews.com/news/us-news/breonna-taylor-police-shooting-what-we-know-about-kentucky-woman-n1207841>

³ Ibid.

⁴ Albert, V. (May 29, 2020). 911 call from Breonna Taylor’s shooting death released: “Somebody kicked in the door and shot my girlfriend.” *CBS News*. <https://www.cbsnews.com/news/breonna-taylor-kenneth-walker-911-call-police-shooting/>

⁵ Levenson, M. (May 22, 2020). Prosecutors Drop Charges Against Boyfriend of Breonna Taylor. *The New York Times* <https://www.nytimes.com/2020/05/22/us/Breonna-Taylor-Kenneth-Walker.html>

⁶ Bogel-Burroughs, N. (May 14, 2020). Months After Louisville Police Kill Woman in Her Home, Governor Calls for Review. *The New York Times*. <https://www.nytimes.com/2020/05/14/us/breonna-taylor-louisville-shooting.html>

⁷ LMPD investigation into Breonna Taylor’s death sent to attorney general, Mayor Fischer says. (May 20, 2020). *WDRB*. https://www.wdrb.com/news/lmpd-investigation-into-breonna-taylors-death-sent-to-attorney-general-mayor-fischer-says/article_d228e9ea-9ad1-11ea-b6b0-a73a072b6f51.html

⁸ Green, M., Riley, J., and Mills, C. (May 21, 2020). *Louisville Police Chief Steve Conrad to retire in June in wake of controversial Breonna Taylor shooting*. *WDRB*. https://www.wdrb.com/in-depth/louisville-police-chief-steve-conrad-to-retire-in-june-in-wake-of-controversial-breonna-taylor/article_b168c718-9b92-11ea-a1cc-4fda5c80c570.html

⁹ Gross, J. (May 21, 2020). F.B.I. to Investigate Shooting of Breonna Taylor by Louisville Police. *The New York Times*. <https://www.nytimes.com/2020/05/21/us/fbi-louisville-shooting.html>.

¹⁰ 18 U.S.C. § 242.

¹¹ U.S. Department of Justice, Deprivation of Rights Under Color of Law. <https://www.justice.gov/crt/deprivation-rights-under-color-law>.

executing.¹² In fact, the individuals named in the warrant did not reside at the apartment complex, and were detained that same night — along with the drugs that officers had been in search of — at a location approximately 10 miles away.¹³ A federal civil rights investigation into the death of Ms. Taylor is warranted because this case potentially involves excessive use of force or other police misconduct in violation of Ms. Taylor’s Fourth Amendment right against unreasonable seizure.

DOJ Must Initiate a Pattern or Practice Investigation of Louisville Metro Police Department

Pursuant to 34 U.S.C. § 12601 (previously codified at 42 U.S.C. § 14141), DOJ is authorized to investigate police departments for patterns or practices of systemic, unconstitutional policing.¹⁴ As detailed below, LMPD has a history of troubling incidents that suggest immediate DOJ intervention is necessary.

Breonna Taylor’s death is not the first time LMPD has militarized the use of a no-knock drug warrant,¹⁵ nor is it the first time that LMPD has deployed excessive force or conducted unreasonable searches. Two of the three officers involved in Ms. Taylor’s death reportedly had excessive force complaints filed

¹² Ibid.

¹³ Martinez, N. (May 12, 2020). Breonna Taylor shooting: Warrant says suspect used her apartment to hide drugs, *Wave3*. <https://www.wave3.com/2020/05/12/breonna-taylor-shooting-warrant-says-suspect-used-her-apartment-hide-drugs/>

¹⁴ U.S. Department of Justice, Civil Rights Division. (Jan. 2017). *The Civil Rights Division’s Pattern and Practice Police Reform Work: 1994-Present*.

¹⁵ No-knock warrants resulted in at least 81 civilian deaths nationally between 2010 and 2016. See, Sack, K. (Mar. 18, 2018). Door-Busting Drug Raids Leave a Trail of Blood, *The New York Times*. <https://www.nytimes.com/interactive/2017/03/18/us/forced-entry-warrant-drug-raid.html>. The use of high-risk no-knock warrants, including for suspected drug crimes, mimics the troubling discrimination in enforcement of the war on drugs itself. According to a 2014 report by the American Civil Liberties Union, the use of SWAT teams to execute search warrants has disproportionately targeted African American and Latino individuals. These minorities make up 42% and 12% of deployments, respectively, and account for a staggering 61% of the total number of individuals impacted by SWAT raids for drug cases. Notably, the report also found that SWAT teams were almost twice as likely to use force to enter a person’s home in drug investigations than in other cases. American Civil Liberties Union. (June 2014). *War Comes Home: The Excessive Militarization of American Policing*. <https://www.aclu.org/report/war-comes-home-excessive-militarization-american-police>. In the mid-1980s, only 30 percent of police departments had SWAT teams, conducting 3,000 raids annually. Today, that number has ballooned to well over 80 percent of police departments with SWAT teams and approximately 60,000 deployments each year, mostly for the purposes of conducting drug searches on people’s private property. See, *Oversight of Federal Programs for Equipping State and Local Law Enforcement Agencies: Hearing Before the United States Senate Committee on Homeland Security and Governmental Affairs*, 113th Cong. (2014). <https://www.govinfo.gov/content/pkg/CHRG-113shrg92902/pdf/CHRG-113shrg92902.pdf>.

against them previously,¹⁶ and the department has a documented pattern of other violations in recent years. In October 2019, the LMPD's SWAT team held a young family at gunpoint while raiding a home on suspicion of marijuana.¹⁷ Six months earlier, the department fired an officer over incidents involving his use of excessive force in 2016 to 2017, including one where he tased an African-American woman while she sat on her hands.¹⁸ The police-involved shooting of Louisville business owner David McAtee on May 30, 2020, represents just the latest failure of LMPD to safely police the community it serves. Following a nonadherence to LMPD body camera policies, the officers involved have been placed on administrative leave and LMPD Chief Conrad has been fired.¹⁹

Further, LMPD has frequently been the subject of complaints regarding illegal searches. In 2012, a Jefferson District Court judge dismissed criminal charges in a case she determined LMPD carried out a "prolonged, intrusive, and ultimately unreasonable search,"²⁰ and earlier this year the Jefferson County Circuit Court similarly dismissed at least three cases in which LMPD officers were found to have violated defendants' constitutional rights by conducting illegal searches.²¹

For these reasons, the Department of Justice must take action to ensure that the police department charged with protecting the residents of Louisville is not systematically violating their constitutional rights. It is clear that LMPD officers' use of excessive force and unreasonable searches in the documented instances are not merely one-off incidents, but an indicator of systemic problems within the police department. As such, a DOJ pattern or practice investigation is merited and critical for ensuring the constitutional rights of Louisville residents are protected.

¹⁶ Costello, D. and Duvall, T. (May 14, 2020). "Get your damn story straight": What we know about Louisville woman Breonna Taylor's Death, *USA Today*. <https://www.usatoday.com/story/news/nation/2020/05/14/breonna-taylor-what-know-louisville-emt-killedpolice/5189743002/>

¹⁷ See, e.g., Riley, J. (Oct. 29, 2019). Lawsuit: Louisville family held at gunpoint after SWAT team errs in marijuana raid. *WDRB*. https://www.wdrb.com/in-depth/lawsuit-louisville-family-held-at-gunpoint-after-swat-teamerrs/article_7ab3983c-fa67-11e9-85fd-4b5d61f667e6.html

¹⁸ Riley, J. (Nov. 18, 2019). Body cam video shows Louisville police officer tasing woman sitting on her hands. *WDRB*. https://www.wdrb.com/in-depth/body-cam-video-shows-louisville-police-officer-tasing-woman-sitting-on-her-hands/article_0a0c28a6-07d7-11ea-b8c1-bb97ea33e145.html

¹⁹ Otts, C. (June 1, 2020). Louisville police chief fired after no body camera footage of shooting. https://www.wdrb.com/in-depth/louisville-police-chief-fired-after-no-body-camera-footage-of-shooting/article_faa2ba10-a443-11ea-9309-c39cfd65671a.html

²⁰ Riley, J. (Mar. 4, 2020). Man paid \$96,000 for illegal LMPD search in 2012 sues police again – for illegal search, *WDRB*. https://www.wdrb.com/in-depth/man-paid-96-000-for-illegal-lmpd-search-in-2012-sues-police-again--/article_ca59cad0-5e37-11ea-baa3-d783123f6156.html

²¹ Judges dismiss criminal cases after denouncing illegal searches by LMPD's Ninth Mobile Division, (June 24, 2019). *Louisville Future*. <https://louisvillefuture.com/archived-news/judges-dismiss-criminal-cases-after-denouncing-illegal-searches-by-lmpds-ninth-mobile-division/>

DOJ Must Restore its Commitment to Investigating and Addressing Systemic Policing Problems Nationally

Even as we request a federal investigation into the police shooting that resulted in Breonna Taylor's death, we remain concerned that this request will succumb to the decision-making process of an agency that has abdicated its responsibility for local police oversight and accountability. Despite the racially biased and unconstitutional practices repeatedly uncovered by previous pattern or practice investigations, the DOJ has, under the current administration, adopted a policy that significantly encumbers department attorneys attempting to pursue pattern or practice investigations or negotiate settlement agreements and consent decrees.²² DOJ leaders have declared that the agency intends to "avoid harmful federal intrusion in the daily work of local police,"²³ and proclaimed a commitment to the interests of law enforcement to the detriment of the communities in which those officers serve.²⁴

DOJ must return to conducting true oversight and demanding accountability from state and local police departments. As we have said before, DOJ's current policies and practices pertaining to local policing are an "attack on the core mission of the Department of Justice" and "a slap in the face to the dedicated career staff of the department who work tirelessly to enforce our nation's civil rights laws."²⁵ DOJ must use its statutory authority to conduct federal civil rights pattern or practice investigations, investigate and sue law enforcement agencies, and enter into federal agreements to ensure constitutional policing.

Additionally, DOJ must enforce federal civil rights laws, such as Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from discriminating based on race and national origin. And it should take proactive steps to advise police departments across the country that they can effectively promote public safety while respecting the constitutional rights of those in the communities they protect.

Conclusion

As we continue to witness law enforcement agencies exercise excessive use of force and undertake other troubling practices that systemically violate individuals' civil rights in predominantly minority communities, DOJ must take swift and strong action to denounce these practices and hold to account the

²² Sessions, J., (Nov. 7, 2018). Att'y Gen., Memorandum for Heads of Civil Litigating Components & United States Attorneys on the Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Governmental Entities. <https://www.justice.gov/opa/press-release/file/1109681/download>

²³ Sessions, J. (Apr. 17, 2017). Jeff Sessions: 'Avoid harmful federal intrusion' *USA Today* <https://www.usatoday.com/story/opinion/2017/04/17/jeff-sessions-avoid-harmful-federal-intrusion-editorialsdebates/100579848/>

²⁴ Rubin, J. (Dec. 5, 2019). What to do with an attorney general who disdains justice. *The Washington Post*. <https://www.washingtonpost.com/opinions/2019/12/05/bar-should-hold-barr-accountable/>

²⁵ See, e.g., The Leadership Conference. (Nov. 8, 2018). *Sessions Gutted Key Tool for Department of Justice to Fix Unconstitutional Conduct*. <https://civilrights.org/2018/11/08/sessions-gutted-key-tool-for-department-of-justice-to-fix-unconstitutionalconduct/>

state and local departments that deploy them. This includes pursuing a federal civil rights investigation of the fatal police shooting of Breonna Taylor and opening a pattern or practice investigation into the string of deeply troublesome actions by the LMPD in the past decade. More broadly, we reiterate our call for DOJ to restore its commitment to addressing the systemic constitutional violations by police departments across the country. To follow up, please contact Sakira Cook of The Leadership Conference on Civil and Human Rights at cook@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
9to5

A Better Balance

ACCESS

Accountable.US

ACLU People Power Fairfax

African American Ministers In Action

Alabama Institute for Social Justice

Alianza Nacional de Campesinas

All Our Kin

America's Voice

American Association of People with Disabilities

American Association of University Women (AAUW)

American Atheists

American Civil Liberties Union (ACLU)

American Federation of State, County, and Municipal Employees (AFSCME)

American Federation of Teachers

American Humanist Association

American Muslim Empowerment Network (AMEN)

American-Arab Anti-Discrimination Committee (ADC)

Americans for Democratic Action (ADA)

Amnesty International USA

Andrew Goodman Foundation

Arab American Institute (AAI)

Arms Control Association

Asian & Pacific Islander American Health Forum

Asian American Legal Defense and Education Fund (AALDEF)

Association of People Supporting Employment First

Augustus F. Hawkins Foundation

Autistic Self Advocacy Network

Autistic Women & Nonbinary Network

Bazelon Center for Mental Health Law

Black and Pink NYC

Blacks in law Enforcement of America

Brain Injury Association of America

Brennan Center for Justice

BUILD Initiative

Center for American Progress

Center for Biological Diversity
Center for Disability Rights
Center for Law and Social Policy (CLASP)
Center for Policing Equity
Center for Responsible Lending
Center for the Study & Extremism-California State University, San Bernardino
Child Care Services Association, Chapel Hill, NC
Church World Service
Clearinghouse on Women's Issues
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition for Justice
Coalition of Labor Union Women
Coalition on Human Needs
College and Community Fellowship
Colorado Coalition Against Sexual Assault
Common Cause
Community Alliance on Prisons
Community Catalyst
Community Change Action
Congregation of Our Lady of the Good Shepherd, US Provinces
Council on American-Islamic Relations (CAIR)
DC Coalition Against Domestic Violence
Defending Rights & Dissent
Detention Watch Network
Disability Rights Advocates
Disability Rights Education & Defense Fund (DREDF)
Drug Policy Alliance
Earthjustice
Earthworks
Eating Disorders Coalition for Research, Policy & Action
Engage Action
Empowering Pacific Islander Communities (EPIC)
End Citizens United // Let America Vote Action Fund
Endangered Species Coalition
Equality California
Faith in Public Life
Family Crisis Center, Inc.
Feminist Majority Foundation
Franciscan Action Network
Friends of Human Rights
Friends of the Earth
Girls Inc.
GLSEN
Health Care Voter
Hindu American Foundation
Hip Hop Caucus
Hispanic Federation
Housing Choice Partners

Human Rights Campaign
Idaho Coalition Against Sexual & Domestic Violence
Illinois Accountability Initiative
Illinois Coalition Against Domestic Violence
Indiana Coalition Against Domestic Violence, Inc
Indivisible
Interfaith Alliance
Iowa Coalition Against Sexual Assault
Japanese American Citizens League
Jetpac
Jewish Council for Public Affairs
Jewish Women International
Justice for Migrant Women
Justice in Aging
Justice Strategies
Juvenile Law Center
Labor Council for Latin American Advancement
Lake Research Partners
Lambda Legal
LatinoJustice PRLDEF
Lawyers for Good Government
League of United Latin American Citizens (LULAC)
League of Women Voters of the United States
Legal Aid Justice Center
Matthew Shepard Foundation
Marion County Commission On Youth, Inc.
Media Alliance
MomsRising.org
Monica
Movement Advancement Project
Muslim Advocates
Muslim Caucus of America
NAACP
NAACP Legal Defense and Educational Fund, Inc.
NAPAFASA
NARAL Pro-Choice America
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance for Partnerships in Equity (NAPE)
National Alliance to End Sexual Violence
National Association of Human Rights Workers
National Center for Transgender Equality
National Coalition Against Domestic Violence
National Consumer Law Center (on behalf of its low-income clients)
National Council of Churches
National Council of Jewish Women
National Council on Independent Living
National Council of Negro Women, Inc.
National Crittenton

National Disability Rights Network
National Domestic Violence Hotline
National Domestic Workers Alliance
National Education Association
National Employment Law Project
National Health Care for the Homeless Council
National Hispanic Media Coalition
National Immigration Project of the National Lawyers Guild
National Juvenile Justice Network
National LGBTQ Task Force
National Organization for Women
National Partnership for Women & Families
National Urban League
National Women's Law Center
National Youth Employment Coalition
Nay's Little Rascals Pre-School
NETWORK Lobby for Catholic Social Justice
New American Leaders
NextGen America
OCA Greater Chicago
Open Primaries
Our Revolution
Pax Christi USA
Pennsylvania Coalition Against Rape (PCAR)
People For the American Way
People's Action
PFLAG National
Poder Latinx
Poligon Education Fund
Positive Women's Network-USA
Poverty & Race Research Action Council
Progress Virginia
Project on Government Oversight
Public Advocacy for Kids (PAK)
Public Citizen
Religious Action Center of Reform Judaism
RespectAbility
Rethinking Foreign Policy, Inc.
ReThink Media
Reviving the Islamic Sisterhood for Empowerment
Revolutionary Love Project
Rhode Island Coalition Against Domestic Violence
Rutgers University
SEIU
Silver State Equality-Nevada
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
Southern Poverty Law Center

SparkAction
Stand Up America
States United to PRevent Gun Violence
Strategies for Youth
T'ruah: The Rabbinic Call for Human Rights
Tahirih Justice Center
Tampa Bay Center for Community Transformation
Texas Progressive Action Network
The Black Sex Worker Collective
The Climate Reality Project
The Education Trust
The Forum for Youth Investment
The Humanization Project
The Opportunity Agenda
The Ounce of Prevention Fund
The Sikh Coalition
TNTP
Trustees for Alaska
Tyler Temple United Methodist Church
Ujima Inc., The National Center on Violence Against Women in the Black Community
UltraViolet
UndocuBlack Network
UnidosUS
Union For Reform Judaism
United Farm Workers Foundation
United Steelworkers
Virginia Coalition for Immigrant Rights
Virginia Coalition of Latino Organizations
Virginia Prisoner of Conscience
Voices for Progress
Washington Lawyers' Committee for Civil Rights and Urban Affairs
West Virginia Coalition Against Domestic Violence
Western Watersheds Project
Whitman-Walker Health and Whitman-Walker Institute
Women's Action for New Directions (WAND)
Young Center for Immigrant Children's Rights
YWCA ISA
ZERO TO THREE

Cc:

Christopher Wray
Director
Federal Bureau of Investigation