



March 31, 2020

The President's Commission on Law Enforcement and the Administration of Justice

**Re: Amnesty International Statement**

Dear Commissioners:

Amnesty International USA (AIUSA) respectfully submits this statement to the President's Commission on Law Enforcement and the Administration of Justice in connection with request for written comments from civil society groups to the Commission. Our comments will specifically address the ineffectiveness of Federal grant programs in establishing best practices for law enforcement and supporting the administration of justice in State, local, and tribal jurisdictions. We urge the Commission to examine the delayed implementation of the Death in Custody Reporting Act (DCRA) and ensure that state and local police departments are provided appropriate guidance in order to comply with the law.

Amnesty International is a global movement of more than seven million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations. In 2015 Amnesty International issued a report, *Deadly Force: Use of Lethal Force in the United States*<sup>i</sup>, that reviewed each state's statute on use of lethal force and found that none of the 50 states or Washington, D.C. comply with international law and standards. This report further highlights the inadequacy of existing data collected by the government on the number of people killed each year during interactions with law enforcement, that is meant to be captured and publicly reported on through DCRA.

Amnesty International recognizes that police officers have difficult jobs that are often dangerous. At the same time, they are responsible for upholding the law, as well as respecting and protecting the rights of all members of society. We entrust them with the authority to use lethal force in certain, limited situations. That authority must be narrowly defined, and when transgressed there needs to be accountability. However, the use of lethal force by law enforcement officers raises serious human rights concerns, including in regard to the right to life, the right to security of the person, the right to freedom from discrimination and the right to equal protection of the law. The USA has a legal obligation to respect, protect and fulfill these human rights and has ratified the International

Covenant on Civil and Political Rights (ICCPR)<sup>ii</sup> and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)<sup>iii</sup>, which explicitly protect these rights. One of the most fundamental duties with which police officers, as agents of the state, must comply in carrying out their law enforcement role is to protect life. The United Nations' (UN) Basic Principles on the Use of Force and Firearms provide that law enforcement officers may use firearms only as a last resort when strictly necessary to protect themselves or others against the imminent threat of death or serious injury, and only after non-violent and less harmful means are tried first.

The 2014 Reauthorization of DRCA (Public Law No: 113-242) in Congress occurred in the aftermath of the deaths of Michael Brown in Ferguson, MO and Eric Garner in New York City, NY and the protests that ensued not only in those cities but across the country that year. Before 2015, when media outlets like the Washington Post and the Guardian began documenting this data, we had no context for knowing the true number of people killed by law enforcement each year, because previous attempts to collect and publish data that were undertaken by the Federal Bureau of Investigations (FBI) through the Uniform Crime Reports were inadequate. We would also call into review the most recent efforts of the FBI to collect this data via the National Use of Force Data Collection in a voluntary manor. While the federal government has been working to develop a system to comply with DCRA, more than five years later, the reporting and documenting by media and activists is still all we currently have to rely upon.

The UN Human Rights Committee is the expert body established under the ICCPR to monitor implementation of this core human rights treaty. The USA ratified the ICCPR in 1992. In its General Comment 6 on the right to life under the Covenant, the Committee stated that “The deprivation of life by the authorities of the State is a matter of the utmost gravity” and that states must take measures to prevent arbitrary killing by their own security forces. Without mandatory collection from all law enforcement departments on the number of individuals killed by law enforcement annually, it is impossible to know whether the nearly 1,000 killings by police reported annually by publications like the Washington Post Fatal Force database are arbitrary. Furthermore, the lack of publicly available reporting creates unnecessary secrecy that stands to erode public trust in law enforcement. We advise this Commission to review Principles 6, 11, and 22 from the UN Basic Principles on the Use of Force and Firearms<sup>iv</sup>, for guidance on appropriate reporting for an incident of use of force by law enforcement.

For years, the monitoring of lethal force by police has been hampered by the failure of the US Department of Justice (DOJ) to collect accurate, national data on police use of force, including the number of people killed by police. The DOJ has been required to ensure the collection and publication of nationwide statistics on police use of force (including all police fatal shootings) since the passage of the Violent Crime Control and Enforcement Act (1994); however, it has failed to do so. As you know, an estimate of the number of deaths caused by law enforcement officers used to be provided by the Bureau of Justice Statistics,

which until March 2014 collected data about “arrest-related” deaths, defined as deaths that occur during law enforcement officers’ attempt to detain an individual. However, after an internal evaluation of the data’s reliability, the Bureau of Justice Statistics concluded that its figures likely did not capture all deaths and decided to suspend data collection until this most recent endeavor under DCRA.

Under DCRA, the DOJ was to begin to collect and report state arrest-related death data by fiscal year (FY) 2016, however, according to a 2018 report by the Office of the Inspector General, the Department does not expect to begin its collection of this data until the beginning of FY 2020. Six months into FY 2020, we would hope to see an update from the DOJ as to whether this data is being collected; this is not evident at the time of this submission. Beyond the requirement of the DOJ to collect data on deaths from all states, DCRA provides the US Attorney General with the discretion to withhold as much as ten percent of federal funding for law enforcement agencies that they normally would receive under the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.). We call on this Commission to examine the impact on establishing best practices with respect to the use of lethal force and preventing deaths in custody due to the failure of the DOJ to implement the DCRA. Furthermore, we call on the Commission to provide an update on the progress of DOJ’s full implementation of DCRA and work with state and local police department’s around the country to ensure they have received adequate guidance from DOJ in order to comply with this law.

For more information, please contact Kristina Roth, at [kroth@aiusa.org](mailto:kroth@aiusa.org) or (202) 509-8182.

Respectfully,



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<sup>i</sup> [Deadly Force: Use of Lethal Force in the United States](#), Amnesty International USA, June 2015  
<sup>ii</sup> [International Covenant on Civil and Political Rights](#), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976; Art. 2(1)  
<sup>iii</sup> [International Convention on the Elimination of All Forms of Racial Discrimination](#), G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force Jan. 4, 1969.  
<sup>iv</sup> [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990).