



Please note: highlighted text was added on 6/22/2020

Pass these eight meaningful policing reforms to promote accountability and reimagine public safety.

Key Statistics:

Approximately 1,000 people are fatally shot and killed annually by police

Black people represent 12.7% of the population, but 23% of those killed by policing using firearms in 2019¹

Black people were killed by police at more than twice the rate for white people from 2015-2019.²

1 in 1,000 Black men will be killed by police in the US in their lifetime, particularly between ages 20-35 years old³

Between 2005 and 2019 only three state or local law enforcement officers have been convicted of murder in deadly force cases⁴

0 states in the USA have statutes on the use of lethal force that comply with international law and standards.

Why Is This Issue Important?

The horrific, videotaped killing of George Floyd, a 46-year old Black man who died after a white police officer in Minneapolis, Minnesota kept his knee on George Floyd's neck for nearly nine minutes, sparked widespread protests across the US seeking accountability and systemic change for this issue that has plagued Black people in the US for over 400 years.

Approximately 1,000 people are killed by police every year in the United States. The Washington Post reported that police shot and killed 1,003 people in 2019, though the actual number may be higher. As we've recently seen, deaths resulting from chokeholds or other uses of force, are not included in the numbers. The federal government does not collect this data, despite enactment of the Death in Custody Reporting Act in 2014 requiring this data to be collected, disaggregated and published annually. International law and standards require that force is only used when necessary and proportionate and that lethal force be reserved as a last resort, against an imminent threat of death or serious injury, and after exhausting all other methods. However, US laws on the use of force and lethal force are far too permissive, resulting in human rights violations and deaths.

A person's right to survive an interaction with law enforcement should not be dependent on where they live. A more restrictive national standard is needed to limit law enforcement use of force to prevent families from being devastated by this violence and provide for accountability when police use of force is

¹ <https://www.washingtonpost.com/graphics/2019/national/police-shootings-2019/>

² <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>

³ <https://www.pnas.org/content/116/34/16793>

⁴ <https://www.nbcnews.com/news/nbcblk/police-officers-convicted-fatal-shootings-are-exception-not-rule-n982741>



excessive or otherwise unlawful. Allowing law enforcement officers to be sued for violating people's rights and lowering the intent standard so that a prosecutor need not prove law enforcement acted willfully but recklessly, in tandem with a more restrictive use of force standard, would go a long way toward securing justice when people's civil rights and civil liberties are violated by police.

Background:

Amnesty International has worked on policing issues in the USA since the "[Rights for All](#)" Campaign in the late 1990's. However, the death of Mike Brown in Ferguson, Missouri in 2014 and the resulting [report on his death and the policing of protests](#) helped illustrate how Missouri's use of lethal force statute did not comply with international law and standards nor with US Constitutional law standards. AIUSA set out on reviewing the use of lethal force statutes for all 50 states and Washington, DC, where they exist. Amnesty International's 2015 [Deadly Force Report](#) found that all 50 states and the District of Columbia failed to meet international law and standards for the use of lethal force by police. Nine states and Washington DC have not even enacted laws on use of lethal force by law enforcement officers. Congress must enact a federal standard to ensure that a person's right to survive a police encounter does not depend on the color of their skin or where they live. A more restrictive national standard is urgently needed to protect our rights such as the right to survive an interaction with law enforcement, the right to be safe, the right to be free from discrimination and the right to equal protection of the law.

Case Study:

Tamir Rice

Tamir Rice, a 12-year-old Black child, was playing with a toy gun in a park in Cleveland, Ohio in 2014. An emergency call was made during which the caller raised concern that someone was pointing a gun at members of the public. The caller twice stated that the gun was "probably fake" and that the individual was "probably a juvenile". An edited recording of the subsequent Cleveland Police Dispatch call suggests that the information regarding Tamir Rice's youth and the likelihood that the gun was not a real firearm was not relayed to the responding officers. The video footage of the incident shows Rice was shot as a Cleveland Police officer opens the car door immediately after the patrol car pulled up within a few feet of Tamir Rice. It was later confirmed by the Cleveland Police Department that Rice had been in possession of a toy gun. Shortly after the fatal shooting, Cleveland Police Department issued statements which were not consistent with the evidence presented in video and cellular phone footage which was made public. A grand jury failed to indict the officer.

How the PEACE Act could apply to this case:



Under the PEACE use of force standard, the police who responded to the emergency call would have been incentivized to keep more distance from Tamir Rice when they drove up to the park so that they could have first seen for themselves that he was a juvenile and only had a toy gun. Instead, they pulled up [within 10 feet of him](#), which would have made it difficult to take cover, or use verbal persuasion or other tactics suggested by the police department's use-of-force policy, had Tamir Rice resisted compliance. Instead of attempting to talk to Tamir Rice first, a police officer killed this 12-year-old boy within two seconds of arriving at the park.

Under the totality of the circumstances as written in the PEACE Act, in this case the officers' actions leading up to the use of force incident would be considered, which goes beyond the purview of the current national standard, as interpreted by the US Supreme Court in *Graham v. Connor* and *Tennessee v. Garner*, which would apply given that Ohio lacks a state use of force by police law.

What AIUSA Is Asking Congress To Do:

While work continues at the state level, we are asking Congress to pass legislation that would incorporate eight principles that include limiting the use of force, including lethal force, for federal law enforcement agencies, and provide a means to require states to enact similar statutes. Passage of The Police Exercising Absolute Care with Everyone, or "PEACE Act" of 2019, and other policing reforms is a first step toward transforming law enforcement and protecting Black lives.

Bill Summary:

The PEACE Act, ([HR 4359](#)), was introduced in the House on 17 September 2019 by Reps. Ro Khanna (CA – 17) and Lacy Clay (MO – 1). The bill is currently being debated in the House of Representatives as a part of the George Floyd Justice in Policing Act ([HR 7120](#)/[S 3912](#)) introduced in the House and Senate on June 8. The PEACE Act would:

- Only permit lethal force by federal officers when necessary to prevent loss of life and serious bodily injury. Additionally, it would only permit less-than-lethal force when necessary and proportional.
- This act also directs the Attorney General to create guidance on the use of lethal force and less-than-lethal force on vulnerable populations including pregnant women, young people, elderly people, people with disabilities, and others.
- It also limits states and localities from receiving Byrne Justice Assistance Grant funds from the US Department of Justice for the years in which their use of force by police statutes are dissimilar to that outlined in the bill.



While limiting deadly force through stronger national legal standards is very important, we believe that this list of eight principles should be included in meaningful policing reform:

- Create a federal standard that the use of deadly force be reserved for only when necessary to protect life, as a last resort after exhausting reasonable alternatives, and call on states to implement this standard or risk losing federal funding; require the use of de-escalation techniques and that officers warn subjects before resorting to force, like in the PEACE Act (HR 4359), as included in the Justice in Policing Act;
- Prohibit racial profiling with robust data collection on police-community encounters and law enforcement activities. Data should capture all demographic categories and be disaggregated;
- Prohibit neck and chokeholds. Prohibit all maneuvers that restrict the flow of blood or oxygen to the brain, including neck holds, chokeholds, and similar excessive force, deeming the use of such force a federal civil rights violation;
- End militarization of police. Eliminate the federal 1033 program that facilitates the transfer of military equipment to law enforcement;
- Prohibiting the use of no-knock warrants, especially for drug searches;
- Stop reckless behavior by police. Change the mens rea requirement of 18 U.S.C. Sec. 242 from willfulness to recklessness, permitting prosecutors to successfully hold law enforcement accountable for the deprivation of civil rights and civil liberties;
- Develop a national public database of police actions that is accessible to all and would cover all police agencies in the United States and its territories; and,
- End the qualified immunity doctrine that prevents police from being held legally accountable when they violate people's Constitutional rights, and enact a similar mechanism for holding federal law enforcement officers accountable, too.

Since the House is prepared to vote on the Justice in Policing Act (HR 7120) later in the week of June 22, the ask is simple: vote "YES" on passage of the Justice in Policing Act.

In the Senate, things are a bit more complicated. On June 17, Senator Tim Scott (R-SC) introduced a bill called the Justice Act ([S 3985](#)), which does not include any of the eight principles identified above. Instead, it focuses on creating task forces, commissions, best practices, training, and incentive grants that fail to contain any means to enforce failures to abide by these training and best practice recommendations.

Another important distinction between the Justice in Policing Act (HR 7120/S 3912) and the Justice Act (S 3985) is the price tag attached to each: \$750 million for the Justice in Policing Act and nearly \$8 billion for the Justice Act in grant dollars to be made available to law enforcement. As people take to the streets to demand respect and honor for Black lives, cities and states have responded by reallocating



some funds from going to police to other social services, and passed laws to ban choke holds and ban no knock warrants. Congress should not make new money available under either police reform package. Through the Coronavirus Aid Relief, and Economic Security (CARES) Act, passed into law March 27, 2020, \$850 million was made available for law enforcement purposes to states, localities, and police departments. This CARES Act money is on top of the already \$547 million Congress appropriated for law enforcement in FY 2020, via the Edward Byrne Memorial Justice Assistance Grant program, the primary federal source of funding for law enforcement.

Congressional Targets:

US House of Representatives:

- Rep. Karen Bass (D-CA-37) (Congressional Black Caucus Chair)
- Rep. James "Jim" Clyburn (D-SC-6) (Democratic party Whip)
- Rep. Val Demings (D-FL-10) (former law enforcement)
- Rep. Hakeem Jeffries (D-NY-08)
- Rep. Cedric Richmond (D-LA-02)
- Rep. Lucy McBath (D-GA-6)
- Rep. Tom McClintock (R-CA-04)

Except for Rep. McClintock, all of these members already support the Justice in Policing Act (HR 7121), which contains a version of all of the eight proposal above. Given it is very likely every member who is currently cosponsoring the Justice in Policing Act (HR 7121) will vote Yes on passage of the bill, e sure to thank each Representative you meet with for their support!

US Senate:

- Sen. Tim Scott (R-SC) (lead author of GOP lead policing proposal)
- Sen. Lindsey Graham (R-SC) (Judiciary Committee Chair)
- Sen. Chuck Schumer (D-NY) (Senate Minority leader)
- Sen. Joni Ernst (R-IA)
- Sen. Mitt Romney (R-UT)
- Sen. Mike Lee (R-UT)
- Sen Chuck Grassley (R-IA)
- Sen. Ben Sasse (R-NE)
- Sen. Rand Paul (R-KY)
- Sen. Susan Collins(R-ME)
- Sen. Lisa Murkowski(R-AK)
- Sen. Corey Gardner (R-CO)
- Sen. Josh Hawley (R-MO)
- Sen. Kelly Loeffler (R-GA)



- Sen. Tom Tillis (R-NC)
- Sen. Rob Portman (R-OH)
- Sen. Martha McSally (R-AZ)
- Sen. Joe Manchin (D-WV)
- Sen. Kyrsten Sinema (D-AZ)
- Sen. Chris Coons (D-DE)
- Sen. Doug Jones (D-AL)

Counter Arguments:

Police already have lethal force policies that already limit it to a last resort and at the highest end of the force continuum, so these bills are unnecessary.

- This is correct, however violations of policies only lead to internal review and, if anything, professional discipline, such as retraining, losing vacation days or, at most, being fired. We need legal guidelines for officers' use of force, including lethal force, and legal accountability when those limits are crossed.

Federal law enforcement makes up such a small number of law enforcement agencies nationwide. Wouldn't this activism be better spent on focusing on the hundreds of thousands of local and state law enforcement officers' use of force and the state laws that apply to them?

- While there are approximately [100,000](#) federal law enforcement officers in comparison to the more than a million state and local law enforcement officers, several federal agencies received scrutiny for their excessive force complaints [and lethal force incidents with little accountability](#), such as [US Customs and Border Protection](#). The PEACE Act would specifically hold those agents and officers to a higher standard and provide accountability. While AIUSA continues to work for change at the state level, the PEACE Act has a provision that would deny states federal funding if they do not enact laws that meet this federal standard set out in the bill.

Don't police officers need training to be better able to carry out functions of their job?

- While officer training should be appropriate, thorough and continual on topics like racial bias, appropriate de-escalation tactics, the continuum of force, and interacting with persons experiencing a mental health crisis among other things, training and changes to departmental policy alone are still not likely to amount to accountability when these department policies are transgressed.

Additional Resources:



- 1 June Letter to Congressional leadership identifying eight core principles of policing reform signed by over 400 organizations : <https://civilrights.org/resource/civil-rights-coalition-letter-on-federal-policing-priorities/>
- AIUSA/ ACLU Talking points on the PEACE Act: <https://www.amnestyusa.org/wp-content/uploads/2020/06/PEACE-Act-talking-points-.pdf>
- The Hill, Op-ed, *Police reforms should include federal cops too*: <https://thehill.com/opinion/criminal-justice/502636-police-reforms-should-include-federal-cops-too>
- PBS News Hour: *The war on drugs gave rise to 'no-knock' warrants. Breonna Taylor's death could end them*: <https://www.pbs.org/newshour/politics/the-war-on-drugs-gave-rise-to-no-knock-warrants-breonna-taylors-death-could-end-them>

Should you have questions feel free to reach out Krissy Roth, AIUSA Senior Program Officer, Criminal Justice Program kroth@aiusa.org