

October 27, 2020

An Open Letter to All U.S. Federal, State, and Local Officials:

We write you today with grave concern about the future of the United States.

For nearly 60 years, Amnesty International has documented how racism, discrimination, and hate can lead to widespread violence and further disregard for human rights. We've monitored the unraveling of norms, laws, and rules around the world—and are deeply troubled by what we see happening in the United States. The widespread availability of guns in this country combined with the incitement to violence and the enabling and abetting of white supremacy—at the highest levels of government and by those elected to serve the people—has left the country dangerously vulnerable to those who prefer inequity to fairness, hate over unity, and impunity over justice.

Amnesty International and others have exposed widespread and egregious human rights violations committed by officials throughout the United States. Many of you are directly responsible. Others have done too little or nothing at all to stop these abuses.

The world is watching. We demand you meet your obligations under international law to respect, protect, and fulfill the human rights of all people, including the following:

- Freedom from racism, discrimination, and hate
- Freedom to peacefully protest and dissent
- Freedom from police violence and gun violence
- Freedom from arbitrary arrest and detention
- Freedom of the press to investigate and report the truth
- Freedom from armed intimidation at the polls

RECOMMENDATIONS TO POLICE CHIEFS:

- Follow Amnesty International's best practices on the policing of demonstrations: <http://www.amnestyusa.org/good-practice-for-law-enforcement-officials-policing-demonstrations>
- All law enforcement agencies must comply at all times with international human rights obligations and with international standards on policing, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which must be the guiding principles underpinning all operations before, during and after demonstrations. Specifically, they should review and amend where necessary their policies on the policing of demonstrations and:
 - Ensure that all law enforcement agencies engaged in the policing of protests understand that their task is to facilitate, not to restrict, a peaceful public assembly. All necessary measures must be taken to prevent the use of excessive force and other human rights violations by law enforcement officials during demonstrations.
 - Ensure that all law enforcement agencies engaged in policing protests review their policies regarding the policing of protests, which should adopt an approach that leads to de-escalation. They should avoid unnecessary escalation through threatening appearance and/or behavior, excessive use of force, inappropriate equipment and arbitrary detention. They should seek dialogue with protest organizers, call for calm and refrain from making public statements which label an entire group of protesters as the enemy of the state.

- Ensure that all law enforcement agencies involved in policing protests engage in communication with organizers and demonstrators before, during and after the operation in order to create mutual understanding and prevent violence. Where outbreaks of violence are highly probable, communication with organizers and demonstrators is particularly important in order to reduce tension and avoid unnecessary confrontation. Law enforcement officials and organizers should look together for ways to prevent violence or to stop it quickly should violence break out.
- Ensure that any decision to disperse an assembly is taken only as a last resort and carefully in line with the principles of necessity and proportionality; that is, only when there are no other means available to protect a legitimate aim and when the level of threat of violence outweighs the right of people to assemble.
- Differentiate between violent and non-violent actors, and target for law enforcement action only violent actors committing criminal actions, particularly those who are undermining others' right to freedom of peaceful assembly. Do not declare whole assemblies to be riots or unlawful due to isolated instances of violence by individuals, or unnecessarily disperse them otherwise. Ensure that even in situations in which a small minority tries to turn a peaceful assembly into a violent one, police take steps to enable those who are protesting peacefully to continue to do so and refrain from using the violent acts of a few as a pretext to restrict or impede the exercise of rights by the majority of protesters.
- Ensure that the type of equipment used for the purpose of dispersing protesters is carefully considered and used only when necessary, proportional and lawful. Policing and security equipment often described as "less lethal" weapons – such as kinetic impact projectiles (for example, sponge grenades), chemical irritants (such as tear gas/pepper spray) and stun grenades – can result in serious injury and even death.
- Chemical agents such as tear gas should only be used in situations of generalized violence for the purpose of dispersing a crowd when all other means have failed to contain the violence; canisters should not be fired directly at individuals and tear gas should not be used in confined spaces against unarmed people or in situations in which exits and ventilation points are restricted. The use of such chemicals must always be preceded by an oral warning that is audible to the protesters and sufficient time for those assembling to disperse voluntarily. Chemical Irritants should not be launched near people at high risk, such as older people, pregnant people and children, and strong consideration should be given before it is used in densely populated areas.
- The discharge of "less lethal" kinetic impact projectiles (rubber or plastic bullets) should be prohibited, unless the projectiles have been rigorously and independently tested to ensure that they are sufficiently accurate not to cause unwarranted injury. If such testing finds that they can be deployed, their use should be strictly limited to situations of violent disorder posing a risk of harm to persons where no less extreme measures are sufficient to achieve the objective of containing and stopping the violence. Such projectiles should never be aimed at the head or face of an individual.
- The use of firearms to disperse an assembly is always unlawful. Open deployment of firearms by police at public assemblies can be intimidatory, undermining the police's primary role as facilitators of peaceful protest and should where possible be avoided.
- Investigate and hold accountable police for failure to facilitate and protect protests and counter-protests from violence. Ensure effective, impartial and prompt investigations into all allegations of human rights violations by police officials during public assemblies, including unlawful use of force and arbitrary arrest and detention. Those found responsible, including commanding officers, must be held to account through criminal or disciplinary proceedings, as appropriate, and victims provided with full redress. Any

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

- Review and revise the training provided to law enforcement officials, ensuring that it includes thorough training on the lawful use of force and firearms and the policing of protests and counter-protests in compliance with international human rights standards.
- Ensure the right to freedom of expression and do not prevent or obstruct the work of journalists and members of the media. They have a right to attend and report on peaceful assemblies and have an important role in protecting the right to freedom of peaceful assembly. Their presence and freedom to move among protesters and police and document what is happening during demonstrations ensures the dissemination of information about the situation on the ground to the public during widespread and national protests.
- To better ensure the protection of protests and counter-protests from violence, law enforcement agencies must:
 - Maintain impartiality toward all protesters
 - Protect the rights of all peaceful protesters from disruption or violence by third-party actors
 - Prohibit and prevent vigilantism by armed groups, including the intimidation of protesters, voters, or others seeking to engage in civic activities
 - Communicate expectations of conduct and law-enforcement actions to both sides, in order to de-escalate conflicts by adopting a policy of “no surprises”
 - De-escalate conflict and prevent violent disruption of otherwise peaceful protests, if necessary, by physical separation of protesters and counter-protesters to facilitate both groups’ right to freedom of peaceful assembly
 - Fulfill the duty to protect any protester being physically attacked, through adequate deployment of police forces, as well as timely and human rights-compliant interventions to prevent and stop violence from occurring
 - Intervene to halt violence, but use tactics that are targeted only at violent individuals, employing the principle of differentiation. For instance, do not use crowd control weapons of wide area impact (such as tear gas, water cannons, or others) to respond to acts of violence by only a few individuals.
 - Adopt trainings on international standards related to facilitation of the right to freedom of peaceful assembly, including strict adherence to the principle of legality, necessity and proportionality in any limitation on freedom of assembly.
 - Investigate and prosecute violence and threats of violence against protesters, including to deter future disruptions of freedom of peaceful assembly
 - Expand certifications and protections for legal observers to monitor the policing of protests and counter-protests, without fear of intimidation, arrest or violence
- Review and revise law enforcement policies and training related to race and policing diverse communities.

RECOMMENDATIONS TO CITY COUNCIL MEMBERS:

- Issue temporary special measures to prohibit firearms at or near polling places during the 2020 general elections.
- Issue temporary special measures to prevent armed individuals or groups from intimidating or threatening protesters or voters during and following the elections.

RECOMMENDATIONS TO MAYORS:

- Direct police departments to adopt and follow Amnesty International’s best practices on the policing of demonstrations: <http://www.amnestyusa.org/good-practice-for-law-enforcement-officials-policing-demonstrations>
- Demilitarize your police departments. Do not equip them in a manner more appropriate for a battlefield.
- Issue executive orders, emergency orders, or other temporary special measures to prohibit firearms at or near polling places during the 2020 general elections.
- Issue executive orders, emergency orders, or other temporary special measures to prevent armed individuals or groups from intimidating or threatening protesters or voters during and following the elections.
- Temporarily prohibit the open and concealed carry of firearms in public, including parks, recreational areas and other gathering spaces.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

RECOMMENDATIONS TO GOVERNORS:

- Institute an immediate ban on firearms at and around polling locations in order to ensure the safety of voters and poll workers. The presence of guns at polling places, or armed groups aiming to intimidate voters, is a grave threat to the rights of all people to life, health, security and to participate in the political process free from discrimination and violence.
- Direct police departments to adopt and follow Amnesty International’s best practices on the policing of demonstrations: <http://www.amnestyusa.org/good-practice-for-law-enforcement-officials-policing-demonstrations>
- Demilitarize your police departments. Do not equip them in a manner more appropriate for a battlefield.
- Do not deploy the National Guard for the policing of protests, unless trained on these protocols.
- Issue executive orders, emergency orders, or other temporary special measures to prevent armed individuals or groups from intimidating or threatening protesters or voters during and following the elections.
- Temporarily prohibit the open and concealed carry of firearms in public, including parks, recreational areas and other gathering spaces.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

RECOMMENDATIONS TO STATE LEGISLATORS:

- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

- Demilitarize your police. Do not appropriate funds that would equip police departments in a manner more appropriate for a battlefield.
- Introduce or review and amend statutes that authorize the use of lethal force to ensure that they are in line with international law and standards by limiting the use of lethal force by law enforcement officers to those instances in which it is necessary and proportional to protect against an imminent threat of death or serious injury and to oblige law enforcement officials in any case to exhaust non-violent and less harmful means first. The statutes should emphasize the obligation of law enforcement officials to carry out their duty and to exercise the power to use force and firearms without any discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- In states without such authority already, state legislatures should empower the state attorney general with the authority to conduct pattern-and-practice investigations and consent decrees of police departments found to violate the rights of residents.

RECOMMENDATIONS TO STATE ATTORNEYS GENERAL:

- In states where the Attorney General has the authority to do so, investigate and prosecute unlawful detention, use of force, and other vigilantism by armed groups.
- In states where the Attorney General has the authority, expand the use of pattern-and-practice investigations and consent decrees, with the goal of decreasing excessive use of force by law enforcement personnel and other acts of misconduct.
- In states where the Attorney General has the authority, provide urgent training for local law enforcement agencies on how to facilitate freedom of peaceful assembly, without discrimination, particularly in the context of volatile counter-protest situations.
- In states where the Attorney General has the authority, provide urgent training to local law enforcement agencies on the lawful use of force, particularly in public assemblies, in line with international standards on legality, necessity and proportionality.
- In states where the Attorney General has the authority, promptly conduct effective and impartial investigations into all human rights violations committed by state and local law enforcement officers during the policing of protests. Any officer found responsible, including commanding officers, should be held to account through criminal or disciplinary proceedings, as appropriate, and victims should be kept updated on the status of those investigations and proceedings and be provided full redress.
- In states where the Attorney General has the authority, investigate any targeting of journalists covering demonstrations and hold officers accountable for any excessive use of force. International human rights law and standards state that the media should not be hindered in their reporting of events such as protests.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

RECOMMENDATIONS TO CONGRESS:

- End the use of the 1033 program to provide for the transfer of surplus military equipment to local law enforcement. In policing protests, such equipment is generally unnecessary and may escalate violence.

- Hold investigations and oversight on the escalation of violent extremism, including against protests by Black Lives Matter supporters.
- Pass the Protect our Protesters Act of 2020 (HR 7315).
- Relevant committees in Congress, such as the Judiciary Committee and the Committee on Homeland Security, should hold hearings that investigate the deployment of and use of force and the equipment used in the policing of protests and any violations committed by law enforcement officers, including the incidents of excessive use of force by federal law enforcement officials.
- Pass the Police Exercising Absolute Care with Everyone or “PEACE Act” of 2019 (H.R. 4359), which bars federal law enforcement from using deadly force unless necessary as a last resort to prevent imminent death or serious bodily injury, and only after reasonable alternatives have been exhausted, and includes an incentive mechanism for states to enact similar changes to their use of lethal force statutes or lose federal funding from the US Department of Justice.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

RECOMMENDATIONS TO ACTING SECRETARY WOLF:

- The Department of Homeland Security (DHS) must not deploy law enforcement personnel from DHS agencies to participate in the policing of assemblies or polling stations, as they are not adequately trained in the human rights-compliant policing of public assemblies.
- DHS must continue to monitor and publish reports on the actions of Domestic Violent Extremists.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

RECOMMENDATIONS TO ATTORNEY GENERAL BARR:

- The Department of Justice (DOJ) must investigate and prosecute unlawful detention, use of force, and other vigilantism by armed groups.
- DOJ must expand the use of pattern-and-practice investigations and consent decrees, with the goal of decreasing excessive use of force by law enforcement personnel and other acts of misconduct.
- DOJ must direct the Federal Bureau of Investigations (FBI) to continue to monitor and public reports on the actions of Domestic Violent Extremists.
- DOJ must review and review DOJ guidelines to law enforcement agencies on the policing of protests, in conformity with international human rights standards on policing.
- DOJ must provide urgent training for law enforcement agencies on how to facilitate freedom of peaceful assembly, without discrimination, particularly in the context of volatile counter-protest situations.
- DOJ must provide urgent training to law enforcement agencies on the lawful use of force, particularly in public assemblies, in line with international standards on legality, necessity and proportionality.

- DOJ must enforce and expand the use of consent decrees, with the goal of decreasing excessive use of force by law enforcement personnel.
- DOJ must review and revise the DOJ's *Guidance on the Use of Race* by law enforcement officials to include a comprehensive ban on racial profiling by federal and state law enforcement agencies.
- DOJ must fully implement the Death in Custody Reporting Act of 2014.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

RECOMMENDATIONS TO SECRETARY OF STATE POMPEO:

- The Department of State (DOS) must extend invitations for US country visits to the special rapporteurs and independent experts of the United Nations and the Organization of American States, particularly those with specialized mandates on freedom of expression, freedom of peaceful assembly and association, and the conduct of law enforcement officials.
- DOS must extend invitations for US country visits to human rights monitors of the Organization for Security and Co-operation (OSCE) Office for Democratic Institutions and Human Rights, particularly to conduct monitoring and/or trainings of US law enforcement officials on human rights-compliant policing of assemblies.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to p

RECOMMENDATIONS TO PRESIDENT TRUMP:

- The President must not deploy military personnel to participate in the policing of assemblies or polling stations, as they are not adequately trained in domestic law enforcement or the human rights-compliant policing of public assemblies. If military personnel are ever deployed for law enforcement purposes, they must act under the same law enforcement standards, rules and policies, and be under the strategic and operational command of the police.
- Publicly denounce xenophobic rhetoric and incitement to violence, and condemn white supremacist, extremist, and armed private groups using discriminatory language and hateful rhetoric as a danger to public safety. Make it clear that such armed private groups are NOT authorized to protect the public, and that they pose a risk to the human rights and public safety of others.

Amnesty International takes no position for or against any political ideology, party, candidate, or official. As the world's largest grassroots human rights organization—more than 10 million supporters—our sole purpose is the promotion and defense of freedom, equality, justice, dignity, and human rights worldwide.

Sincerely,

Amnesty International USA
www.amnestyusa.org/freedom

