



February 2, 2021

Mr. Monty Wilkinson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: Investigation into the events at the Capitol Building on January 6, 2021

Dear Acting Attorney General Wilkinson:

Amnesty International USA urges you to conduct a prompt, thorough and impartial investigation into the storming of the U.S. Capitol on January 6th, including, but not limited to examining the role of former President Trump, former White House staff, Members of Congress, and white supremacist and other hate groups and militias in inciting, planning, and executing coordinated actions that resulted in the death of seven people. The investigation should also include the endangerment of and death threats toward lawmakers and their staff, and the incitement to continued hate violence through racist chants and the donning of racist, neo-Nazi, and xenophobic symbols. All those found responsible, regardless of their current or former position in government, must be held to account.

For nearly 60 years, Amnesty International has documented how racism, discrimination, and hate can lead to widespread violence and disregard for human rights. We have monitored the unraveling of norms, laws, and rules around the world—and are deeply troubled by what we see happening in the United States, including the events on January 6th in Washington DC.

The incitement to violence and the enabling and abetting of white supremacy at the highest levels of government, including by former President Trump, has left people throughout the country dangerously vulnerable to attacks by white supremacist and violent groups who feel emboldened to act with impunity.

The world is watching. We urge the Justice Department to meet U.S. obligations under international law to respect, protect, and fulfill the human rights of all people. Under international law, individuals suspected of having committed unlawful acts must be held to account through effective investigation, and where warranted, prosecuted.

Failure of public officials to condemn incitement to hate and violence:

The Federal Bureau of Investigation (FBI) has documented political violence at public assemblies across the country by armed groups with ties to white nationalism. Also, in its annual threat assessment, the Department of Homeland Security warned in 2020 that what they call “domestic violent extremists” – particularly white supremacist armed groups – could target elections-related protests and mass gatherings with political violence. Indeed, more than a dozen white supremacist and other hate groups

and militias who were known to U.S. intelligence and law enforcement agencies were responsible for the January 6th attack on the Capitol, including the Proud Boys, Oathkeepers, Three Percenters, and adherents of the QAnon conspiracy theory.

Throughout his Presidency, former President Trump's hateful rhetoric and failure to condemn white supremacy and violence have legitimized the actions of white supremacists and other hate groups and militias. Following a rally organized by white supremacists and white nationalists in Charlottesville, Virginia, on August 11, 2017, where a woman was intentionally run over with a vehicle and killed, Trump blamed "many sides" for the violence, and even referred to some of the attackers as "very fine people." During the Presidential candidate debate on September 29, 2020, when asked to condemn "white supremacists and militia groups", then-President Trump responded, "Proud Boys, stand back and stand-by."

Even with evidence of threats to life and safety of all individuals, Trump repeatedly failed to address the threat posed by far-right groups. On January 6, 2021, the day that Congress was set to certify the Presidential Election results, former President Trump incited his supporters in a rally on the National Mall by saying:

"We will never give up. We will never concede, it doesn't happen. You don't concede when there's theft involved. We're going walk down to the Capitol, and we're going to cheer on our brave senators, and congressmen and women. We're probably not going to be cheering so much for some of them because you'll never take back our country with weakness. You have to show strength, and you have to be strong. And we fight. We fight like Hell and if you don't fight like Hell, you're not going to have a country anymore."

Following his speech, thousands of his supporters stormed the Capitol building during the joint session of Congress. A mob entered the Capitol, some carrying weapons and symbols of white supremacy and hate, including Confederate flags and anti-Semitic symbols or messaging, as Members of Congress and staff fled for their lives. Amid intense pressure to disperse the mob, rather than condemn the violence and deescalate, he told his supporters in a video posted to social media to "go home," adding, "We love you. You're very special."

To date, while Congress has initiated political processes to impeach former President Trump, as well investigations to censure or expel members of Congress found to be involved in the January 6th attack, we demand that all those responsible, including those who incited hatred and instigated violence, be brought to justice in accordance with human rights obligations and respect for the rule of law.

Failure to adequately plan for demonstrations, conduct security assessments, and devise contingency plans to safeguard human rights, despite known threats of potential violence, armed individuals, and large numbers of participants:

The positive obligation of the U.S. to ensure human rights requires that authorities facilitate assemblies. Officials should plan properly for assemblies, which requires the collection and analysis of information, anticipation of different scenarios, and proper risk assessments. Transparent decision-making is central to the process of planning and facilitating assemblies and to ensuring that any action taken by law enforcement officials is proportionate and necessary. Contingency plans and precautionary measures must also be put in place. Proper planning and preparation require continuous monitoring of activities

and should be adaptable to changing circumstances. International law allows for dispersal of a peaceful assembly only in rare cases, for example when it incites discrimination, hostility or violence, which was clearly the case on January 6th.¹

Despite clear indications that several thousand individuals with known ties to far right and white supremacy groups, with public calls for violence, were planning to descend on the Capitol, the U.S. government failed to adequately plan for the demonstration and ensure safeguards were in place to protect human rights when the crowd turned violent. Rather, the top elected official in the U.S. emboldened the crowd and offered to accompany them as they made their way to storm the center of U.S. government, endangering the lives of all in their path. As a result of the U.S. government's inadequate planning, Capitol police were wholly unprepared for the mob forcing its way into the Capitol, many of them armed, which resulted in police use of lethal force against one woman who was attempting to break into a secured area of the building. Amnesty International USA urges your office to review and revise existing policies on the use of lethal force for federal law enforcement officers to ensure that they are in line with international law and standards by limiting the use of lethal force by law enforcement officials to those instances in which it is necessary and proportional to protect against an imminent threat of death or serious injury. An investigation should be conducted into whether the use of lethal force was justified in this case.

As part of your investigation into the policing of the events on January 6, 2021, it is imperative that you also investigate the policing of racial justice protests that took place throughout the country in 2020. As Amnesty International documented in its August 4, 2020 [report](#), in the face of largely peaceful Black Lives Matter protests during the summer of 2020, law enforcement officers in cities across the country responded with tear gas, pepper spray, batons, kinetic impact projectiles, and flash grenades — in many cases with little or no warning. Rather than being a necessary and proportionate response to any specific threat, the use of force became a matter of first resort to enforce a curfew, to end an ongoing demonstration, or clear a park for a photo opportunity, all in violation of international law and standards on the policing of protests. Protesters suffered serious injuries, including loss of sight, through the indiscriminate and excessive use of force by police. Leaders and activists within the Black Lives Matter movement in the lead up to and aftermath of these demonstrations were targeted, detained, and investigated. Police response was not limited to protestors, however. Members of the media, medics, and legal observers were also targeted and abused with use of force and chemical irritants for their mere presence at the demonstrations.

In stark contrast, despite the violent attack on the Capitol, largely white members of the January 6th attack on the U.S. Capitol were able to walk away from the attack, board planes and buses back to their homes and face no immediate accountability for their actions. In the days and months ahead, law enforcement officials, like those under your supervision, will continue to pour over the vast amounts of video evidence attempting to identify potential suspects, in addition to those already identified and charged by the Department of Justice. Nevertheless, the ease with which this violent mob, calling for white supremacy and the death of lawmakers, terrorized the nation's capital stands in stark contrast with the treatment of protestors for the protection of Black lives and demands account.

Obligation to address discrimination in policing of protests and demonstrations and to take actions to ensure that all people are treated equally under the law:

¹ A/HRC/32/36/Add.2, para. 22

International law strictly prohibits all forms of discrimination. Under the International Covenant on Civil and Political Rights and the International Convention on the Elimination of all forms of Racial Discrimination, the prohibition of discrimination encompasses not only policies and practices that are discriminatory in purpose, but also those that are discriminatory in effect. The siege on the U.S. Capitol on January 6th is not an isolated incident, but it does represent an irrefutable example of two systems of justice in the United States. One in which hundreds of peaceful protestors were physically assaulted, detained and arrested as they protested the treatment of Black and Brown people by police over months of demonstrations. And another where, even with FBI documentation of the rising threat of armed groups and their white supremacist ideology, they stormed the U.S. Capitol facing little to no obstacles as they overwhelmed an unprepared Capitol police force, beating and terrorizing law enforcement, screaming racial epithets and death threats, defiling and looting property, and calling for an overthrow of the U.S. government. The U.S. government has a duty to address discrimination in its use of excessive force in policing of protests for the protection of Black lives, which stands in stark contrast to its failure to police the January 6th assembly and ensuing Capitol mob, and must take actions to remedy discriminatory administration of justice to ensure that all people are treated equally with equal justice under the law.

Threats from white supremacist and other hate groups and militias have incited violence and hatred in the nation's capital and across the U.S. On December 12, 2020, during a rally in Washington, D.C., which included some of these same groups, two churches were vandalized, Asbury United Methodist Church and Metropolitan AME Church, with Black Lives Matter signs ripped down and lit on fire. The leader of the Proud Boys took credit for the violence, "I was the person that went ahead and put the lighter to it and engulfed it in flames, and I am damn proud that I did." An investigation into the incident is ongoing and Amnesty International USA calls on city officials to analyze whether appropriate measures were put into place to protect the public from violent threats posed by the Proud Boys and other hate groups who organize rallies and events in the District.

Despite this recent violence against Black churches in D.C., and public calls by white supremacy groups for further aggression against non-white individuals, the U.S. government did not adequately plan for the violent mob on January 6th, and that failure threatened the human rights to life, freedom from discrimination and security of person. We urge you to ensure that prosecutors carry out their functions impartially and without discrimination and should give due attention to prosecuting crimes committed by public officials. In addition to guaranteeing accountability through judicial processes, we urge you to call for implementation of additional levels of non-judicial oversight, including an effective internal investigations process and an independent oversight body. These systems should operate in addition to, and not as an alternative to, criminal, public and private legal remedies for misconduct by public officials and police. The role of a dedicated civilian oversight body may be complemented by the work of the national human rights institution or ombudsman.

The U.S. should address the threat of white supremacist and other hate groups and hold those responsible for incitement to violence accountable through existing laws, rather than the creation of new laws that threaten the human rights of already marginalized minority groups

The U.S. Department of Justice should employ the over 50 federal statutes that exist to investigate and hold accountable those who participated in the Capitol mob. Human rights and civil rights groups strongly oppose the unnecessary creation of a new federal domestic terrorism charge- citing evidence that these types of domestic terrorism laws have been misused to target and criminalize the already marginalized groups that white supremacists target for hate and violence. The U.S. government's inadequate response to white supremacist and other hate groups and the threat they pose endangers the lives of the public, but it is a lack of political will, rather than vehicles for accountability, that the U.S. must address. The U.S. can easily address the threat of white supremacy and incitement to hate violence by enforcing existing anti-militia and anti-paramilitary laws, and increasing resources to analyze and oversee a more effective response to this public security risk.

Granting legitimacy to those who incite hatred and violence allows for the underlying cause of the violence to remain. It is how racist violence replicates itself and amplifies over time. The U.S. is in a state of crisis, and with the world watching, and the ongoing threat of persistent violence, we urge you to hold those responsible for the horrifying attack on the U.S. Capitol accountable for their actions and the implications of their toxic and divisive rhetoric.

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. Should you have any questions or concerns, please feel free to contact Joanne Lin, National Director of Advocacy and Government Affairs, at jlin@aiusa.org or 202.281.0017.

Thank you for your time and consideration of this matter.

Sincerely,



Bob Goodfellow
Interim Executive Director
Amnesty International USA

Sincerely,



Joanne Lin
National Director, Advocacy and Government Affairs
Amnesty International USA

Cc Michael Sherwin, Acting US Attorney for the District of Columbia