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Written Submission of the Thurgood Marshall Civil Rights Center To the Office of the United Nations High Commissioner for Human Rights (OHCHR)

Pursuant to Human Rights Council resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”

February 26, 2021

The Thurgood Marshall Civil Rights Center at Howard University School of Law and on behalf of the Michael O.D. Brown “We Love Our Sons & Daughters” Foundation would like to take advantage of this opportunity to contribute to the preparation of the report of the United Nations High Commissioner for Human Rights to be presented at the 47th session of the Human Rights Council. This submission focuses on the mental health impact of police violence and structural racism in the United States and proposes recommendations to supplement the implementation of Human Rights Council resolution 43/1.

As part of a petition being submitted to the Inter-American Commission on Human Rights on behalf of Michael Brown, Jr. and his mother Lezley McSpadden for violations of their international human rights, the Thurgood Marshall Center is requesting certain recommendations with the goal of addressing an aspect and consequence of police violence in the United States that often goes overlooked—the effects of police violence on the mental health of Black communities in the U.S. This submission offers some of those same recommendations to the High Commissioner. While addressing the root causes of police violence and seeking an end to it are necessary, so too is addressing the lasting impacts such violence has on the very communities that experience it. These impacts on the health and well-being of those communities must be addressed in order to fully repair the damage caused by racist police violence in the United States.

The measures recommended here are vital in a holistic approach to remedying structural racism and the police violence that accompanies it.

Police Violence, Impunity, and Human Rights Violations

The United Nations Committee Against Torture and other international organs have repeatedly condemned the violent and discriminatory nature of policing in the United States since the killing of Michael Brown Jr. in 2014 by a Ferguson police officer and before.ⁱ Those bodies have long found that the United States’ compliance with international obligations is deficient, and its practices result in the inhumane and degrading treatment of the Black citizens

of the nation, as occurred in Michael Brown Jr.'s case. They have also found a failure on the part of the United States to provide adequate remedies that fully address the harm done to the families of those killed, the communities they lived in, and the larger Black and Brown communities throughout the United States.

The death of Michael Brown Jr. was the initial catalyst of years of recent protest against those practices and community demands for redress and accountability. Unfortunately, as many others have also communicated, such redress and accountability has yet to be delivered. Officers continue to go unpunished after the repeated killing of unarmed citizens—like George Floyd, Breonna Taylor, Atiana Jefferson, Stephon Clark, Philando Castille, and countless others—and the harm inflicted by those officers and the system they represent persists.

Mental Health Impacts on the Black Community

As this office has noted, contemporary police killings and the trauma it creates are reminiscent of the terror caused by racial lynching.ⁱⁱ Police brutality continually forces the Black community to deal with fatalities of injuries from brutal encounters, racist state responses to those encounters, financial legal strains, hospital bills, and funeral bills, among other consequences. Even further, systemic racism and oppression invalidates and minimizes that trauma by failing to address it. Such a failure adds to what already includes enumerable hardships on the communities that experience police violence.

Mental health experts have previously established a causal link between racism and an increase in depression, anxiety, substance abuse, and suicide amongst black adults and youth.ⁱⁱⁱ The increase stems both from racial profiling and discrimination as well as from interactions with the police, both violent and otherwise.^{iv} In particular, Black men who have been racially profiled by police are at an increased risk of experiencing these mental health issues, as well as post-traumatic stress disorder.^v

The American Journal of Public Health published a survey in which young urban men were asked about their experience with police encounters and their subsequent mental health.^{vi} This survey specifically focused on Terry stops in New York City (commonly known as “stop and frisk”) in neighborhoods that have been targeted with aggressive policing tactics. Researchers recruited 1261 participants between the ages of 18 and 26. Overall, 85% of respondents reported having experienced at least one police stop, and 46% reported being stopped at least once during the year they were surveyed. Of these police encounters, young men who reported having more contact with the police also reported higher anxiety scores, even if the level of contact with the police was low.^{vii} The survey concluded that aggressive policing that occurs in communities that are already targeted by law enforcement have suffered from disproportionately compromised mental health outcomes.^{viii}

Police brutality also has more victims than those directly involved in the interaction with law enforcement. In the case of Black Americans, the scale and nature of the harm reaches beyond the families, impacting the broader mental health of the Black community. The widespread publications of police killings, although necessary, have created a form of vicarious trauma that increases the scope of harm to include all Black mothers and fathers, sisters and brothers,

protesters, and other concerned community members. Although direct data on the issue is scarce, one group of researchers found elevated depressive symptoms among Black mothers in Baltimore, Maryland after Freddie Gray's death.^{ix} Another group similarly found high rates of depression in the community after Michael Brown Jr.'s death in Ferguson, Missouri.^x

These negative mental health impacts are not limited to the aftermath of specific instances of police violence, but also manifest more broadly among communities impacted by police contact and violence generally. For instance, yet another group of researchers found a strong correlation between depressive symptoms among Black pregnant women and the anticipation of negative encounters between Black youths and police officers.^{xi} Similarly, research, legal scholarship, and personal anecdotes alike support the existence of linkages between the mental health of Black individuals and the aggressive policing policies like "stop and frisk" that both implicitly and explicitly target them.^{xii}

Recently, the Perelman School of Medicine at the University of Pennsylvania School of Medicine conducted a broader national survey of over 100,000 Black Americans and found an increase in poor mental health days across that population following a three-month period after the killing of an unarmed Black American in each respondent's locality.^{xiii} These experiences were similar among age groups and sexes.^{xiv}

As a result of the persistence of police brutality and the wide media coverage, many Black Americans live in fear of future encounters with police officers. The exposure to police killings can trigger acute stress that amplifies when people view the killings as unjustified. This is known as the "spillover effect" where members of the community suffer harm, although not directly affected, because they have witnessed or heard about the killings.^{xv} Overall, the survey implies that police killings of unarmed Black Americans affect 33% of Black Americans (four killings per year) could contribute 55 million excess poor mental health days per year for Black adults. To put this in perspective, 20.6% of Blacks suffer from diabetes, meaning diabetes is responsible for 75 million additional poor mental health days.^{xvi} This survey suggests the killing of unarmed Black Americans is one other factor in a list of many that is unjustifiably detrimental to a Black individual's health.^{xvii}

The author of the survey further indicated that it might underestimate the mental health spillover effect of police killings on Black Americans.^{xviii} While more data is certainly beneficial, these samples clearly demonstrate communal harm must be addressed and healing services offered to the entire community.

Recommendations

While eliminating police brutality and providing avenues for individuals directly affected by that brutality to vindicate their legal rights in the United States is essential, so too is addressing the harm already inflicted—not only on individuals directly, but also on the local and larger communities to which they belong. Adequate redress for the violence and other harm permitted and committed by the United States includes other avenues addressing the toll that national police violence has on the Black communities it affects.

Ultimately, it is our position that the High Commissioner’s call for reparations for “centuries of violence” should be interpreted to include repair for the police violence.^{xix}

For these reasons, we urge the OHCHR to recommend that the United States:

- Establish a commission to investigate the effects of police violence on the mental health of not only local communities affected by individual instances of police brutality, but also on the mental health of the larger Black community. This includes studying the mental health impacts of exposure to such violence both through direct experience and through media channels and other sources of information. The results of these studies should be used to provide targeted mental health relief to those most affected by their exposure—however that exposure has occurred—to police violence.
- Create a national fund that subsidizes or completely covers the cost of mental health counseling for family and community members who have been affected by police brutality, violence, or other police misconduct. Access to these funds or services should not require individuals to file a police report and should be provided at the request of a social service or other health care provider.
- Implement federal financial support for community-based organizations throughout the country providing mental health counseling and other support to individuals affected by police violence.
- Provide funding to increase the number of school counselors and other individuals who can provide services that relate to mental health and trauma-informed care at schools, especially in the communities most affected by over-policing. These individuals should be selected from the communities they are serving, and any services provided should be non-coercive and completely voluntary.
- Establish a victim’s compensation fund covering the financial costs associated with the direct impacts of police violence—such as missed work, hospital bills, etc.—the infliction of which has an even further detrimental effect on the mental health of Black communities.
- All of these services should be provided alongside a campaign to educate the general public about the prevalence of police violence and brutality and the physical and mental health consequences that such violence and brutality inflicts not only directly on the communities that experience them, but also on a broader demographic of people.

ⁱ See Concluding Observations on the Third to Fifth Periodic Reports of United States of America, U.N. Comm. Against Torture (Nov. 28, 2014), *available at* https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_COC_USA_18893_E.pdf; *see also* INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, POLICE VIOLENCE AGAINST AFRO-DESCENDANTS IN THE UNITED STATES 12 (2018).

ⁱⁱ *UN Experts Condemn Modern-day Racial Terror Lynchings in US and Call for Systemic Reform and Justice*, OHCHR (June 5, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25933>.

ⁱⁱⁱ *Position Statement on Police Brutality and Black Males*, AM. PSYCHIATRIC ASS'N (Dec. 2018), available at <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-Police-Brutality-and-Black-Males.pdf>.

^{iv} *Id.*

^v Jacob Bor, Atheendar Venkataramani, David Williams & Alexander Tsai, *Police Killings and Their Spillover Effects on the Mental Health of Black Americans: a Population-Based, Quasi-Experimental Study*, THE LANCET (Dec. 2018), available at [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(18\)31130-9/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31130-9/fulltext).

^{vi} Amanda Geller, Jeffrey Fagan, Tom Tyler & Bruce Link, *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. OF PUB. HEALTH 2321 (2014).

^{vii} Taneisha Fair, *The Impact of Policing on Black Mental Health*, THE CTR. FOR COMMUNITY SOLUTIONS (June 22, 2020), <https://www.communitysolutions.com/impact-policing-black-mental-health/>.

^{viii} The anxiety also increased based on how critical or intrusive the encounter with the police was. This survey also estimated the likelihood of Post-Traumatic Stress Disorder based on the level of aggression shown by law enforcement during the police stop. There was more trauma in men who lived in public housing areas, suggesting that more aggressive policing occurs in these areas. There was also a strong correlation between invasive police stops and high levels of trauma. Young men who reported that they had been treated fairly by the police had reported lower levels of trauma.

^{ix} Bor, *supra* note 3, at 303.

^x *Id.*

^{xi} *Id.*

^{xii} *Id.*; see also XXXX

^{xiii} Bor, *supra* note 3, at 306.

^{xiv} *Id.* at 307.

^{xv} See Bor, *supra* note 3.

^{xvi} These health conditions lead to short life spans for Black Americans. One survey measured the years of life lost (YLL) to evaluate the public health of Blacks as a result of police violence. People of color accounted for 51.5% of YLLs as a result of police violence, despite making up only 38.5% of the population.

^{xvii} Geller, *supra*, note 4, at 2321–2327.

^{xviii} Bor, *supra* note 3, at 308.

^{xix} Joseph Guzman, *UN Human Rights Chief Urges Reparations for ‘centuries of violence and discrimination’ Beginning with Slavery and Colonialism*, THE HILL (June 18, 2020), available at <https://thehill.com/changing-america/respect/equality/503363-un-human-rights-chief-urges-reparations-for-centuries-of->