



December 4, 2020

Hon. Michelle Bachelet
U.N. High Commissioner on Human Rights
Office of the High Commissioner of Human Rights
Sent via email to: Antiracism1@ohchr.org and Registry@ohchr.org

RE: Request for Submissions in response to HRC Res. 43/1

In response to the police killing of George Floyd in the United States this past summer and subsequent global protests and outrage condemning racist police and state violence, the UN Human Rights Council held an urgent debate on “current racially inspired human rights violations, systemic racism, police brutality and violence against peaceful protests.” As a result of the urgent debate, which included testimony from the brother of George Floyd, the Human Rights Council adopted by consensus resolution 43/1 on June 19, 2020, entitled “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.” Subsequently, the High Commissioner on Human Rights issued a call for input from civil society organizations related to Res. 43/1 in preparation of the Commissioner’s for the Human Rights Council. LatinoJustice PRLDEF—a national racial justice and immigrants’ rights organization that uses the law to defend the human rights of Latinos and Latinas across the United States—respectfully submits our letter and attached report concerning state sponsored violence and police killings of Latinx¹ citizens.

Racist policing that targets Black and Latinx citizens in the United States traces its roots to the transnational slave trade and has contemporary manifestations that continue to perpetuate the targeting, harassment, abuse, incarceration and punishment of African descendants, including Latinxs and Afro-Latinx citizens. Race-based policing that centers the racial profiling and criminalization of Black and Latinx citizens is infused at every level of law enforcement throughout the United States, including municipal police departments to federal immigration officials. Given that the request for submissions specifically requested information relevant “systems of collection by State authorities of disaggregated data based on race, colour, descent, or national or ethnic origin, and processes for the analysis of such data,” it is important to note that in the United States, most data points within the criminal justice or immigrant detention context do not disaggregate based both on race and ethnicity and/or national origin. Those whose data is gathered on them usually must choose a category for race that may include “Latino” or “Hispanic,” as an effort to capture their ethnicity while ignoring their racial identity. Therefore, although many Latinx citizens in the United States identify as Afro-Latinx, Black and/or of Black heritage, their racial identity is not captured in statistics of police violence, even though that violence may be perpetuated on the basis of their perceived race. Nearly “one-quarter of all U.S. Latinos self-identify as

¹ The term “Latinx” is a gender-neutral term that refers to Latinos or Latinas in the United States, or namely those who are of Latin American descent and/or identify as Latin American, Latino or Latina.



Afro-Latino, Afro-Caribbean or of African descent with roots in Latin America,”² although this is often not captured in the data. The racial/ethnic identity of victims of police violence continues to remain the predominant factor even when an individual targeted by law enforcement is visibly Black or Latinx. Therefore, we felt it important to surface this dynamic in the context of race-based law enforcement practices that may not capture the full scope of how Black, Black-identifying, or Black-perceived citizens are targeted by the state.

Latinxs and Black communities have long faced harassment and violence by law enforcement, including police departments. That is true in states where both there are large Latinx populations and are considered progressive in terms of public policy stances. In California, “police are more likely to search Black, Latinx, and Native American people, and they are less likely to find drugs or weapons compared to when they search white people.”³ In New York City, the New York Police Department was found to have systematically implemented a racial profiling program known as “stop and frisk” that targeted Black and Latino men, primarily, and amounted to at times over 800,000 unlawful police stops annually.⁴ In 2017, 90 percent of all stops were for Latinx and African American citizens between the ages of 14 – 24.⁵ In Suffolk County, New York, an investigation led by the U.S. Department of Justice found a pattern and practice of racial profiling against Latinxs, including discriminatory traffic stops that led to police officers robbing Latinx drivers and failures to properly investigate hate crimes committed against Latinx residents.⁶

Latino and Black men disproportionately face higher rates of fatal interactions with the police than other communities, particularly in communities that are majority people of color.⁷ In 2015, independent

² Gustavo Lopez and Ana Gonzalez-Barrera, *Afro-Latino: A deeply rooted identity among U.S. Hispanics*, PEW RESEARCH CENTER (March 1, 2016), <https://www.pewresearch.org/fact-tank/2016/03/01/afro-latino-a-deeply-rooted-identity-among-u-s-hispanics/>.

³ Amicus curiae brief of NAACP Legal Defense and Educational Fund, Inc., Lawyers’ Committee for Civil Rights Under Law, LatinoJustice PRLDEF, and Law For Black Lives, *Uniformed Fire Officers Association, et al. v. de Blasio, et al.*, 20-cv-05441 (KPF) (S.D.N.Y. 2020), citing Darwin Bond Graham, *Black people in California are stopped far more often by police, major study proves*, The Guardian, Jan. 3, 2020, available at <https://www.theguardian.com/us-news/2020/jan/02/california-police-blackstops-force>.

⁴ *Floyd v. City of New York*, 959 F. Supp. 2d 640, 663 (S.D.N.Y. 2013).

⁵ <https://www1.nyc.gov/site/nypd/stats/reports-analysis/stopfrisk.page>.

⁶ U.S. Dep’t of Justice, Suffolk County Police Department Technical Assistance Letter at 11 (Sept. 13 2011), available at https://www.justice.gov/sites/default/files/crt/legacy/2011/09/14/suffolkPD_TA_9-13-11.pdf.

⁷ O. Johnson, *How Neighborhoods Matter in Fatal Interactions Between Police and Men of Color*, 220 SOCIAL SC. & MED. 226 – 35, 233 (2019). The racial justice uprisings and demands in connection with the Black Lives Matter movement has surfaced the police violence experienced by the Latinx and Black communities, and has intentionally linked them together. In Los Angeles, “the names of Latinos killed by police go on and on, as is painfully clear at Black Lives Matter protests. On June 24, at the weekly Black Lives Matter L.A. protest to remove District Attorney Jackie Lacey, families of those killed by police spoke the names of their loved ones. Many of them were Latino, including Afro-Latinos.” Julissa

media sources identified 67 Latinxs who were killed by police across the United States that year alone; nearly 60% of them were not carrying a gun and 25% were unarmed.⁸ From January - July 2016, an estimated 94 Latinos were killed by police, around 16% of the 585 police-involved killings in that timespan.⁹ Since 2015, 910 Latinxs have been killed by police violence;¹⁰ that number is likely an undercount given that data often reports race but not ethnicity as we have alluded to. Since 2000, the Los Angeles Police Department has killed 465 Latinxs.¹¹

Police violence is a leading cause of death among young men of color.¹² That is true even when law enforcement personnel come from the same communities. In fact, Latino men are at increased risk of being killed by a police officer when that officer is Latino, dispelling the myth that merely diversifying the police force will result in community-based policing or reduced incidents of police violence.¹³ In California alone, Latinos “represented 46% of deadly police shootings – second to the rates for African Americans” between 2016 - 2018.¹⁴ That is why, in part, efforts to make police officers’ records public and remove the protective shield of confidentiality that removes them from public scrutiny are moving forward. In New York, legislative and legal actions have been taken to repeal New York Civil Rights Law Section 50-a, which has been one of the most secretive laws protecting police and police violence for years.

Cases of the use of extreme or deadly force by law enforcement have not halted despite demands to the contrary. In 2017, “LatinoJustice found that more than 50 percent of Latinxs believe the police use

Arce, *It's Long Past Time We Recognized All the Latinos Killed at the Hands of Police*, Time Magazine (July 21, 2020), <https://time.com/5869568/latinos-police-violence/>.

⁸ *The Counted: People Killed by Police in the United States*, The Guardian, <https://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database#amilcar-perez-lopez-0226>.

⁹ See Kenya Downs, *Why aren't more people talking about Latinos killed by police?*, PBS.org (Jul. 14, 2016), available at <http://www.pbs.org/newshour/rundown/black-men-werent-unarmed-people-killed-police-last-week/>.

¹⁰ *It's Long Past Time We Recognized All the Latinos Killed at the Hands of Police*; *supra*, note 7.

¹¹ *Police have killed 910 people in L.A. County since 2000*, Los Angeles Times, <https://www.latimes.com/projects/los-angeles-police-killings-database/>.

¹² Frank Edwards, Hedwig Lee & Michael Esposito, *Risk of being killed by police use of force in the United States by age, race-ethnicity, and sex*, 116 Proc. of the Nat'l Acad. of Sci. 16793, 16793–94 (Aug. 2019), available at https://www.pnas.org/content/116/34/16793?source=post_page-----1a2ce329f8e0-

¹³ *Id.*

¹⁴ Laurel Rosenhall, *California's attempt to reduce police shootings, explained*, CalMatters (May 31, 2020), <https://calmatters.org/explainers/california-police-shootings-deadly-force-new-law-explained/>; see also Mario Koran, *We're suffering the same abuses': Latinos hear their stories echoed in police brutality protests*, The Guardian (June 12, 2020), <https://www.theguardian.com/world/2020/jun/12/latinos-police-brutality-protests-george-floyd>.

excessive force—specifically deadly force—against community members.”¹⁵ Local police departments nationwide continue to contribute to the atmosphere of violence that the United States is leading the charge on, leaving Latinxs vulnerable to present and future harm. Among the victims are the following, whose stories are indicative of the dangers that Latinos and Latinas face in interacting with, relying on and turning to law enforcement to ensure their safety:

- Eighteen-year-old Andres Guardado was killed by Los Angeles County police officers in front of an auto body store on June 18, 2020.¹⁶ His death prompted the Los Angeles Coroner’s office to order an autopsy, the first in three decades, due to public outrage and allegations of unjustified police violence resulting in his death. The autopsy report revealed that Guardado was shot five times in the back and announced the death as a homicide.
- On June 2, 2020, police officers with the Vallejo Police Department in Vallejo, California shot and killed 22-year-old Sean Monterrosa outside a store where he was kneeling – unarmed - with his hands in the air.¹⁷
- Erik Salgado was 22 years old when he was shot and killed by California Highway Patrol on June 6, 2020, while his pregnant girlfriend who was with him was shot twice and seriously injured.¹⁸ Patrol officers fired 40 bullets at him over reports of a stolen car. His girlfriend lost her pregnancy as a result.
- On February 29, 2020, Antonio Valenzuela, a 40-year-old man, was strangled to death by police officers in Las Cruces, New Mexico who used a stun gun twice on him and then put him in a neck chokehold, telling him, “I’m going to fucking choke you out, bro.”¹⁹

¹⁵ Press Release: LatinoJustice, *National Poll Shows Latinos Are Concerned about Police Violence, Feel Less Safe Under Trump But Insist on Increased Spending on Rehabilitation Instead of More Funding for Prisons or Police*, (Jan. 10, 2017), http://latinojustice.org/briefing_room/press_releases/national_poll_shows_latinos_are_concerned_about_police_violence_feel_less_safe_under_trump_but_insist_on_increased_spending_on_rehabilitation_instead_of_more_funding_for_prisons_or_police/.

¹⁶ Kelly McCleary, et al., *FBI will investigate deadly police-involved shooting of California teen*, CNN (July 17, 2020), <https://www.cnn.com/2020/07/17/us/andres-guardado-death-fbi-investigation/index.html>.

¹⁷ Melanie Woodrow, *Family speaks out after Vallejo police mistake hammer for gun and shoot, kill 22-year-old*, ABC News (June 5, 2020), <https://abc7news.com/family-speaks-out-after-man-shot-killed-by-vallejo-police/6232256/>.

¹⁸ Meagan Flynn, *Oakland protesters demand justice after police fatally shoot man, injure his pregnant girlfriend in stolen vehicle investigation*, Washington Post (June 10, 2020), <https://www.washingtonpost.com/nation/2020/06/10/oakland-erik-salgado-shooting/>.

¹⁹ Tim Stelloh, *Officer on video saying he'll 'choke you out' before man dies is charged with manslaughter*, NBC News (June 9, 2020), <https://www.nbcnews.com/news/us-news/officer-video-saying-he-ll-choke-you-out-man-dies-n1228886>.

- On July 28, 2019, a police officer with the South Whitehall Township in Pennsylvania shot Joseph Santos, a Puerto Rican man with potential mental health issues and who was unarmed. Santos walked away from the police vehicle and showed no signs of a weapon when police shot him five times, killing him.²⁰
- In 2017 a police officer in Vallejo, California shot and killed 21-year-old Angel Ramos, an unarmed Latino man.²¹ Police records show that the majority of people killed by police officers in Vallejo, California are Black and Latino. Latino deaths at the hands of law enforcement remain at large, and largely ignored.²²
- Dominic Fuller, an unarmed 24-year-old Latino, was killed by police in Auburndale, Florida on September 21, 2015. Police officers responded to reports of suspicious activity in the area unrelated to Fuller. When police came up to him, Fuller raised his right hand holding a stapler and was immediately shot and killed.²³
- Richard Jacquez, an unarmed 40-year-old Latino, was killed by police officers in San Jose, California on August 17, 2015. Police followed him in his vehicle on a homicide suspicion. Initially, the officers claimed they shot him when he reached for his waistband, but they later recanted their story, admitting that they actually shot him in the back as he ran.²⁴
- Amilcar Perez-Lopez was 20-years-old when he was shot four times in the back and once in the head by two San Francisco police officers in 2015.²⁵ Police said they were responding to a confrontation over a bike and never faced any charges.

²⁰ Julia Jacob, *Pennsylvania Police officer Charged with Voluntary Manslaughter of Unarmed Man*, ABC News (), <https://abcnews.go.com/US/pennsylvania-police-officer-charged-voluntary-manslaughter-unarmed-man/story?id=57095705>.

²¹ Brendan Weber, *'Justice for Angel Ramos': Family Members, Friends Clamor for Due Process After Officer-Involved Shooting in Vallejo*, NBC News (Jan. 28, 2017), <https://www.nbcbayarea.com/news/local/Angel-Ramos-Vallejo-Police-Officer-Involved-Shooting-Vigil-Rally-412060723.html>.

²² Nicole Santa Cruz, Ruben Vives, and Marisa Gerber, *Why the Deaths of Latinos at the Hands of Police Haven't Drawn as Much Attention*, Los Angeles Times (July 18, 2015), <http://www.latimes.com/local/crime/la-me-0718-latino-police-20150718-story.html>.

²³ *The Counted: People killed by the police in the US*, The Guardian, <http://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-policekillings-us-database#dominic-fuller-859>.

²⁴ Robert Salonga, *San Jose: Family files wrongful-death suits in 2015 police killing of homicide suspect*, Mercury News (Sept. 20, 2016), <https://www.mercurynews.com/2016/09/20/san-jose-family-files-wrongful-death-suit-in-2015-police-killing-of-homicide-suspect/>.

²⁵ Oliver Laughland, *Chronicle of a death untold: why witnesses to killings of Latinos by police stay silent*, The Guardian (June 2, 2015), <https://www.theguardian.com/us-news/2015/jun/02/amilcar-perez-lopez-san-francisco-police-killing>.

- Ruben Garcia Villalpando, an unarmed 31-year-old man, was shot and killed by police in Grapevine, Texas on February 20, 2015. After a car chase, Garcia Villalpando stopped and exited the vehicle with his hands up, saying, “Are you going to kill me?” The officer ordered him to stop, shouting profanities, and fired two shots as Garcia Villalpando was shuffling toward him. Most of the encounter following the chase was captured on the officer’s dashboard camera.²⁶
- Anthony Nuñez was 18 years old when he was fatally shot by police at his residence in San Jose, California. Nuñez suffered from mental health concerns and was reportedly suicidal prior to police arrival. Family members have questioned why the police did not use other tactics to subdue him prior to firing their weapons.²⁷
- Gilbert Flores, age 41, was fatally shot by police in San Antonio, Texas after police responded to a domestic dispute. Video evidence recorded at the time of the killing shows that Flores held his hands up in apparent surrender prior to being shot and killed by police officers.²⁸
- Antonio Montes-Zambrano, age 35, was unarmed when he was shot to death by police in Pasco, Washington. A nearby civilian videotaped the incident, showing Montes-Zambrano running and being subsequently shot by officers. A total of 17 shots were fired by the police. None of the three police officers wore body cameras at the time of the shooting and no charges were ever brought.²⁹
- In 2013, Ricardo Díaz Zeferino was shot eight times by an officer in Los Angeles after Díaz’ own family called police for help in searching for one of the family member’s bikes

²⁶ Dianne Solís, *Protesters demand justice for Mexican immigrant killed by Grapevine officer*, Dallas News (March 2015), <https://www.dallasnews.com/news/crime/2015/03/03/protesters-demand-justice-for-mexican-immigrant-killed-by-grapevine-officer>.

²⁷ Robert Salonga, *Federal civil jury finds two San Jose cops liable for excessive force in fatal 2016 police shooting*, Mercury News (July 3, 2019), <https://www.mercurynews.com/2019/07/02/federal-civil-jury-finds-officers-liable-for-excessive-force-in-fatal-2016-police-shooting/>.

²⁸ Rick Rojas & Samantha Schmidt, *Amid Protests Over Police Shootings of Black Men, Latinos Not a Disparity*, New York Times (Jul. 14, 2016), available at https://www.nytimes.com/2016/07/15/us/amid-protests-over-police-shootings-of-black-men-latinos-note-a-disparity.html?_r=1, See also John Tedesco, *New video reveals details in fatal shooting of Gilbert Flores by deputies in San Antonio*, my San Antonio (Dec. 11, 2015), available at <http://www.mysanantonio.com/news/local/article/New-video-reveals-details-in-fatal-shooting-of-6692051.php>.

²⁹ Phil Helsel, *No Charges for Pasco Police Officers Who Killed Antonio Zambrano-Montes, Man Who Threw Rocks*, NBC NEWS (Sep. 9, 2015) available at <http://www.nbcnews.com/news/us-news/no-charges-pasco-police-officers-who-killed-antonio-zambrano-montes-n424571>.

that was stolen.³⁰ Díaz and two of his friends—both Latino, though only one of whom survived a shot in the back—were looking for his brother’s stolen bike. Though the family called 911 to report the stolen bike, when the police arrived, they treated Mr. Díaz as the robber, not the victim. Mr. Díaz held his hands on his head, then to his sides, removed his hat and raised his arms again. Once he dropped his hands a second time, the police open fired, shooting him eight times. Despite ample and clear evidence of state killing, the District Attorney for Los Angeles declined to press charges against the officers after an investigation determined that the officer acted within his duties.³¹

While not intended to be a comprehensive overview of police violence against Latinx citizens, it is hoped that understanding police brutality in both Black and Latinx communities as a continuum and shared phenomenon will assist the Commissioner in understanding how race is inextricably embedded in how policing is carried out in the United States. It is notable that instances of police violence against Latinxs fail to galvanize public outcry since Latinos are often viewed as foreigners by other Americans, making them unsympathetic victims. This is a narrative perpetuated by the United States and that attempts to legitimize private citizens’ racist violence while offering blanket protection to public officers who violate the sanctity of life with little to no repercussions.

The history of state violence by law enforcement personnel against Black and Latinx citizens is extensive. For a more thorough understanding and background of the nationwide pattern of hostility and targeting by all levels of law enforcement against the Latinx community, we respectfully refer the Commissioner to the attached addendum which documents widespread abuse and state violence against Latinx citizens based on xenophobia and racism. While we lament the inability to access data that would allow us to cross-reference race and ethnicity and/or national origin, we hope that the Commissioner will consider the experiences of Latinx citizens who identify, are perceived as, and are treated as Afro-descendants.

Thank you for your consideration of our submission.

Respectfully,

/s/

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³⁰ Charlene Muhammad, *Outrage over police killings of Latinos - #JusticeOrElse*, The Final Call (Jul. 22, 2015, 10:18 AM), http://www.finalcall.com/artman/publish/National_News_2/article_102497.shtml.

³¹ Almost unanimously in cases of police violence, the police officers who kill civilians are found to be acting within their duties and rarely, if ever, face consequences, much less criminal liability. See German Lopez, *Cops are almost never prosecuted and convicted for use of force*, Vox (Nov. 14, 2018), <https://www.vox.com/identities/2016/8/13/17938234/police-shootings-killings-prosecutions-court>.