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February 12, 2021

Michael E. Horowitz  
United States Department of Justice  
Office of the Inspector General  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Mr. Horowitz,

I write today to convey my deep concern regarding the disparate treatment of Black protesters in defense of Black lives and the white supremacist insurrectionists who stormed the Capitol Building. The attack on the U.S. Capitol on January 6th, in which a mob of insurrectionists illegally and violently stormed the halls of Congress, justifiably terrified our country. It was a shameful act that will forever stain this nation's history.

In the days since January 6th, it has become clear that this mob of insurrectionists barged through the U.S. Capitol to disrupt the peaceful transfer of power and suppress the votes of millions of Black, brown, and Indigenous people. Incited by former President Donald Trump, 800 insurrectionists breached the first security perimeter of the Capitol Building, some heavily armed and prepared to carry out acts of violence.<sup>1</sup> They stormed the U.S. Capitol, barreled past fences, barricades and walls, and climbed over protective barriers and through broken windows. They then made their way to the second-floor lobby and into the Senate Chamber. One woman was shot, and later pronounced dead, and four other people died on Capitol grounds, including a U.S. Capitol Police officer.<sup>2</sup> Police seized five guns.<sup>3</sup>

Of the 800 people who stormed the Capitol Building, 206 people have been arrested, and charged, many of them charged with violating curfew laws.<sup>4</sup> It has come to my attention that Eric Muchel, one of the insurrectionists who came prepared to hold Members of Congress hostage, was released on

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<sup>1</sup> Kaya Yurieff. Before rioters stormed the US Capitol, Trump supporters called for violence online. CNN: January 6, 2021. <https://www.cnn.com/2021/01/06/tech/protest-violence-online/index.html>

<sup>2</sup> Eric Levenson, Amir Vera and Mallika Kallingal, What We know about the 5 deaths in the pro-Trump mob that stormed the Capitol. CNN, January 8, 2021. <https://www.cnn.com/2021/01/07/us/capitol-mob-deaths/index.html>

<sup>3</sup> Jennifer Steinhauer. Police in Washington seize 5 guns and arrest at least 13 during violent Capitol protest. New York Times, January 6, 2021. <https://www.nytimes.com/live/2021/01/06/us/washington-dc-protests>

<sup>4</sup> Rebecca Harrington, Madison Hall, Skye Gould, Azmi Haroun, and Jacob Shamsian. 235 people have been charged in the Capitol insurrection so far. This searchable table shows them all. Insider: February 5, 2021. <https://www.insider.com/all-the-us-capitol-pro-trump-riot-arrests-charges-names-2021-1>

bond.<sup>5</sup> And another, Riley June Williams, accused of stealing Speaker Nancy Pelosi's laptop, was released to the custody of her mother as she awaits trial.<sup>6</sup>

The pretrial conditions used for the insurrectionists who stormed the Capitol are rarely, if ever, used when Black protesters are in question.<sup>7</sup> Too often, pretrial detention measures that aim to reduce the rate of incarceration, like bail, advantage wealthier individuals over the poor, and are used as a tool to incentivize guilty pleas. This must change, and it must change for every person in America.

The stark contrast between police treatment of these insurgents and the protesters who took to the street following the police murders of Breonna Taylor and George Floyd could not be clearer.<sup>8</sup> In the aftermath of the police torture and murder of George Floyd on June 1, 2020, 326 people were arrested.<sup>9</sup> That same day, police officers cleared protesters using chemical agents to allow President Trump a chance to take a photo-op,<sup>10</sup> and former Attorney General Bill Barr instructed law enforcement officers to clear the streets around Lafayette Square, a directive that led to significant aggressive policing towards peaceful protests.<sup>11</sup> In a year of mass protests in defense of Black lives, when we have all borne witness to the deadly consequences of police brutality and negligence, this discrepancy is personal. Too many of us witnessed the events of January 6th and knew that if these insurrectionists looked like us, the response would have been very different.

As an organizer, nurse, pastor and activist on the ground in Ferguson in the wake of Michael Brown Jr.'s murder, I was tear gassed and physically assaulted by law enforcement. I was stomped on by police officers for trying to help a woman who we believed to be having a heart attack. I saw friends and neighbors arrested and violence unleashed in our streets as law enforcement, including federal agents, swarmed into Ferguson in 2014. I understand, intimately, the cyclical trauma of criminalizing protest movements. The federal charges that have been lodged against Black protesters have lasting impacts on the lives of those in our communities. It impacts our housing, our benefits, our access to

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<sup>5</sup> Christina Zhao. Eric Gavelek Munchel, Pro-Trump Capitol Riot Zip-Tie Suspect, Arrested After Viral Photos. Newsweek: January 10, 2021.

<https://www.newsweek.com/eric-gavelek-munchel-pro-trump-capitol-riot-zip-tie-suspect-arrested-after-viral-photos-1560351>

<sup>6</sup> Spencer S. Hsu, Rachel Weiner and Devlin Barrett. U.S. prosecutors eye 400 potential suspects, expect sedition charges 'very soon' in Jan. 6 Capitol breach. The Washington Post: January 26, 2021.

[https://www.washingtonpost.com/local/legal-issues/pelosi-laptop-arrest-hearing-capitol-riot/2021/01/26/4ddda1ae-5ff6-11eb-9430-e7c77b5b0297\\_story.html](https://www.washingtonpost.com/local/legal-issues/pelosi-laptop-arrest-hearing-capitol-riot/2021/01/26/4ddda1ae-5ff6-11eb-9430-e7c77b5b0297_story.html)

<sup>7</sup> Aaron Miguel Cantú. Federal Prosecutors Engaged in Unprecedented Push to Jail Protesters Before Trial. The Intercept: October 30, 2020. <https://theintercept.com/2020/10/30/federal-prosecutors-protests-pretrial-detention/>

<sup>8</sup> Christian Davenport, Sarah Soule, & David Armstrong II, *Protesting While Black?: The Differential Policing of American Activism, 1960-1990*, 76(1) Am. Soc. Rev. 152 (2011), (examines 15,000 protest events between 1960 and 1990 to show that compared to other groups that Black protests are more likely to attract a police presence and then, once there, to make arrests and use force and violence); Heidi Reynolds-Stenson, *Protesting the police: anti-police brutality claims as a predictor of police repression of protest*, 17(1) Social Movement Studies 48 (2017), (article uses data from over 7,000 protest events from 1960 to 1995 in New York to show that police are twice as likely to show up at demonstrations against police brutality).

<sup>9</sup> Vince Dixon. How arrests in the Capitol riot compare to that of Black Lives Matter protests. The Boston Globe: January 7, 2020.

<https://www.bostonglobe.com/2021/01/07/nation/how-arrests-capitol-riot-wednesday-compare-that-black-lives-matter-protests/>

<sup>10</sup> Peaceful Protesters Tear-Gassed To Clear Way For Trump Church Photo-Op. NPR: June 1, 2020.

<https://www.npr.org/2020/06/01/867532070/trumps-unannounced-church-visit-angers-church-officials>

<sup>11</sup> Carol D. Leonnig, Matt Zapotosky and Josh Dawsey. Barr personally ordered removal of protesters near White House, leading to use of force against largely peaceful crowd. The Washington Post: June 2, 2020.

[https://www.washingtonpost.com/politics/barr-personally-ordered-removal-of-protesters-near-white-house-leading-to-use-of-force-against-largely-peaceful-crowd/2020/06/02/Oca2417c-a4d5-11ea-b473-04905b1af82b\\_story.html](https://www.washingtonpost.com/politics/barr-personally-ordered-removal-of-protesters-near-white-house-leading-to-use-of-force-against-largely-peaceful-crowd/2020/06/02/Oca2417c-a4d5-11ea-b473-04905b1af82b_story.html); Vince Dixon. How Arrests

in the Capitol riot compare to that of Black Lives Matter protests. The Boston Globe: January 7, 2020.

<https://www.bostonglobe.com/2021/01/07/nation/how-arrests-capitol-riot-wednesday-compare-that-black-lives-matter-protests/>

social safety nets and resources. It is because of this that I am committed to not only understanding the federal patterns and practices as they pertain to the criminalization of Black protesters—but I am also fueled to propose solutions in an effort to mitigate these trends.

To better understand the criminalization of Black protesters, the DOJ Office of Inspector General must investigate the disparate and racially biased treatment of activists and protesters by federal law enforcement. To that end, I am requesting that you investigate the following:

1. During the summer 2020 protests that followed the torture and murder of George Floyd and the murder of Breonna Taylor, did the Department of Justice implement policies and procedures to guard against the violation of First Amendment rights, particularly when it came to mass protests stemming from police violence? If so, please provide documents with that information.
2. Did the Department of Justice issue guidance to federal agents and/or prosecutors related to the arrest and charging decisions that stemmed from the George Floyd and Breonna Taylor protests in the summer of 2020 and to the January 6th attack on the Capitol? If so, please provide documents with that information.
3. Between 2014-2020, how many people have been federally charged due to activities relating to Black Lives Matter protests? To the extent possible, please disaggregate this data by race, gender, and county for each year.
4. Between 2014-2020, how many people have been held in federal detention, without bail, due to activities relating to Black Lives Matter protests?
5. Between 2014-2020, how many complaints of misconduct have been lodged against federal agents during Black Lives Matter protests? If there were complaints lodged against federal agents, did the Department of Justice investigate them further?
6. Between 2014-2020, how many civil rights complaints have been lodged against federal agents for their conduct during Black Lives Matter protests?
7. Between 2014-2020, did the apprehension and charging decisions of the Department of Justice result in racially disparate outcomes?

If any of the information above is unavailable, we kindly request the Department's plan for gathering this data in the future, as it is crucial in establishing institutional legitimacy. The American people's faith in the credibility of our legal system is necessarily dependent on its ability to guard against infringements on our constitutional right to peacefully protest, particularly when those rights are being used to affirm the value of Black life. For this reason, I urge you to swiftly and thoroughly conduct all necessary investigations and provide all available information. Thank you.

Sincerely,



CORI BUSH  
Member of Congress