



Response To Call for Inputs on Upcoming Country Visit to the United States of America by United Nations International Independent Expert Mechanism to Advance Racial Justice and Equality in the context of Law Enforcement.

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

The Advocates for Human Rights is presenting the following information based on previous work done in collaboration with the partner organization Research in Action¹ for the United States revision by the Committee on Elimination of Racial Discrimination (CERD), in addition to current research, including desk research and interviews, done by the organization to submit the current report to International Independent Expert Mechanism.

I. Systemic and Institutional Racism in the United States

Racial Disparities in the Criminal Justice System

1. The United States criminal justice system is rooted in systemic and institutional racism. Black women are also subject to other practices by State actors and society, such as zero-tolerance policies, along with overpoliced and inadequate school environments.² Research has observed that higher incarceration rates and severe sentences of Black women in comparison with other socio-demographic groups.³ According to the Sentencing Project, “In 2020, the imprisonment rate for Black women (65 per 100,000) was 1.7 times the rate of imprisonment for white women (38 per 100,000).”⁴ Black women still make up 30 percent of the women’s prison population, and they continue to outnumber White women in the incarceration rate by two to one.⁵
2. According to the National Black Women’s Justice Institute, “there is a connection between sex abuse and the eventual criminalization and incarceration of Black women and girls. Girls in the juvenile justice system have typically experienced overwhelmingly high rates of sexual

¹ See. The State of Minnesota Missing and Murdered African American Women Task Force, Research in Action, The Advocates for Human Rights, *The United States of America’s Compliance with the International Convention on the Elimination of Racial Discrimination Parallel Report Relating to Rights of Women and Girls of Color*, July 15, 2022

² Kimberlé Williams Crenshaw et al., *Black Girls Matter: Pushed Out, Overpoliced and Under protected*, African American Policy Forum, 2015, 8 https://www.atlanticphilanthropies.org/wp-content/uploads/2015/09/BlackGirlsMatter_Report.pdf

³ Kimberlé Williams Crenshaw et al., *Black Girls Matter: Pushed Out, Overpoliced and Under protected*, African American Policy Forum, 2015, 7 https://www.atlanticphilanthropies.org/wp-content/uploads/2015/09/BlackGirlsMatter_Report.pdf

⁴ The Sentencing Project, *Incarcerated Women and Girls*, (consulted on February 10, 2023). Available at: <https://www.sentencingproject.org/app/uploads/2022/11/Incarcerated-Women-and-Girls.pdf><https://www.sentencingproject.org/app/uploads/2022/11/Incarcerated-Women-and-Girls.pdf>

⁵ Talitha L. LeFlouria, *Criminal justice reform won’t work until it focuses on Black women*, The Washington Post, (February, 2021), <https://www.washingtonpost.com/outlook/2021/02/12/criminal-justice-reform-wont-work-until-it-focuses-black-women/>

violence. Of women in jail—44% of whom are Black—86% have experienced sexual violence.”⁶ Further, the report *The Sexual Abuse To Prison Pipeline: The Girls’ Story* presents, “although rates of overrepresentation vary significantly by jurisdiction, the national trends are revealing. African American girls constitute 14 percent of the general population nationally but 33.2 percent of girls detained and committed.”⁷

3. The American Civil Liberties Union (ACLU) and the Sentencing Project observe in their shadow report to the CERD: *Racial Disparities in Sentencing in the United States* that “the enormous racial disparities, discrimination and inequality created by the United States’ system of mass incarceration did not occur by happenstance. They are the product of deliberate legal and policy choices created by a dominant white population supported by a culture of white supremacy.”⁸ The report also exhibits emblematic cases that interlink systemic discrimination and high incarceration rates of African American people, such as the case of Timothy T. Foster in 1987 and the case of Curtis Flowers in 1997.⁹

II. Access to justice and remedies

4. The Advocates interviewed experts on police and the criminal justice system for the current submission. They identified issues regarding actions that should be improved in tackling the systemic discrimination on law enforcement and the criminal justice system in the U.S. For example, interviewees identified a lack of state action on service provision, monitoring and data collection as a particular barrier to African American women endure when they are victims of gender-based violence and domestic violence.¹⁰
5. One interviewee stated that civil society organizations are the leading actor documenting the key necessities of victims/survivors and the rate of effectiveness of the support and remedies provided to victims/survivors.¹¹ Further, the interviewee's observation suggested having agencies such as city attorney offices support this data collection. These actions will positively impact domestic violence cases, as those need to be evaluated with a long-term view. In the interviewee’s words, “we are not tracking how successful victims are with what we are offering them.”¹² The interviewees also exemplify how “there is no aftercare for the victim. There is nobody. We have a reparations board, and most states have something. But it’s not clear that victims get that information. Or that they get it in a way, and in a panic, and in a time when they can hear it and absorb it.”¹³

⁶ National Black Women’s Justice Institute, *Black Women, Sexual Assault, and Criminalization.*” (Apr. 12, 2021) Available at: <https://www.nbwji.org/post/black-women-sexual-assault-criminalization>

⁷ Human Rights Project for Girls, Georgetown Law Center on Poverty and Inequality, Ms. Foundation for Women, *The Sexual Abuse To Prison Pipeline: The Girls’ Story*,(February 2015) P.7, available at: <https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2019/02/The-Sexual-Abuse-To-Prison-Pipeline-The-Girls’-Story.pdf>

⁸ The American Civil Liberties Union (ACLU) and the Sentencing Project, *Racial Disparities in Sentencing in the United States*, Report for the 107th Session of the UN Committee on the Elimination of Racial Discrimination (July 14, 2022), p. 1. Available at: https://www.sentencingproject.org/app/uploads/2022/10/07-14-2022_CERD-Shadow-Report-Draft_with-endnotes.pdf

⁹ Ibid, p.1

¹⁰ Interview of Police Expert 2 by The Advocates for Human Rights, February 2023.

¹¹ Interview of Police Expert 2 by The Advocates for Human Rights, February 2023.

¹² Interview of Police Expert 2 by The Advocates for Human Rights, February 2023.

¹³ Interview of Police Expert 1 by The Advocates for Human Rights, February 2023.

III. *The emblematic case of Minnesota's MISSING AND MURDERED AFRICAN AMERICAN WOMEN TASK FORCE*

6. As the first of its kind, The Missing and Murdered African American Women Task Force (MMAAW) was created in the 2021 Minnesota Legislature.¹⁴ The MMAAW had the mandate to examine “1) systemic causes of violence against African American women and girls, 2) Appropriate methods of tracking and collecting data, 2) Policies, practices, and institutions that assist in perpetuation violence against African American women and girls, 3) Measures necessary to address and reduce violence against African American women and girls, and, 4) Measures necessary to help victims, their families, and their communities”¹⁵ The MMAAW processes lasted about a year, being convened on November of 2021 and presenting its final report on December 16, 2022, with the support of the organization by Research in Action (RIA).¹⁶
7. The MMAAW report presents that due to racial profiling, black women and girls “are fully aware that if they report crimes to law enforcement or other sources, they are likely to be met with disbelief or disdain.”¹⁷ The report exhibits that in high unreported crimes such as domestic violence and sexual assaults, it is necessary to include factors such as “the impact of negative stereotypes and histories of state violence” on the discourage of reporting from Black Women.¹⁸
8. The MMAAW report also observes that “insufficient mental health resources, teacher bias, and racially biased school policies all play a role in the increased discipline, suspension, and expulsion rates that Black girls experience in schools. The consequences of exclusion from school activities due to disciplinary actions can be severe, ranging from lower academic performance to early involvement with the criminal justice system.”¹⁹
9. Regarding the criminal justice system, and the impact systemic discrimination has on Black women and girls, the MMAAW report states, “Given established discrepancies in law enforcement and juvenile court practices that disproportionately affect Black girls, the perception of Black girls as less innocent and more adult-like may contribute to more punitive exercise of discretion by those in positions of authority, greater use of force, and harsher penalties”²⁰
10. Moreover, the MMAAW report presents information about the superior risk of experiencing sexual exploitation due to systemic racism and the higher arrests of black youth for charges

¹⁴ Laws of Minnesota 2021, 1st Spec. Sess. Chapter 11, Article 2, Section 50, sourced on The State of Minnesota Missing and Murdered African American Women Task Force, Research in Action, The Advocates for Human Rights, *The United States of America's Compliance with the International Convention on the Elimination of Racial Discrimination Parallel Report Relating to Rights of Women and Girls of Color*, July 15, 2022

¹⁵ Office of Justice Programs, *Missing And Murdered African American Women Task Force*, (consulted on Feb. 10, 2023). Available at: <https://dps.mn.gov/divisions/ojp/Pages/missing-murdered-african-american-women-task-force.aspx>

¹⁶ Office of Justice Programs, *Missing And Murdered African American Women Task Force*, (consulted on Feb. 10, 2023). Available at: <https://dps.mn.gov/divisions/ojp/Pages/missing-murdered-african-american-women-task-force.aspx>

¹⁷ Office of Justice Programs, *Missing And Murdered African American Women Task Force*, (consulted on Feb. 10, 2023), p. 29. Available at: <https://dps.mn.gov/divisions/ojp/Pages/missing-murdered-african-american-women-task-force.aspx>

¹⁸ Ibid. p.29

¹⁹ Ibid. p.29

²⁰ Ibid. p.29

related to sex trade. Asserting that “in 2019, FBI statistics showed that 51 percent of all prostitution arrests for youth under age 18 are of Black youth. In Minnesota, at least 5,000 youth reported trading sex for something of value, such as shelter or money: 1.7 percent of those reporting traded sex were Black, African, or African American, and 1.3 percent were cisgender girls.”²¹In this matter, the MMAAW report also observes, “[...] Black women and girls often go unnoticed as victims of sex trafficking. Instead, the focus on the sex trafficking victim is a young, white woman”²²

11. As a continuation of the MMAAW process, Minnesota’s congress is studying the bill HF55²³ that establishes an Office of Missing and Murdered Black Women and Girls” This office will be the first of its kind in the country. At the time of the submission of this report²⁴, the bill was approved by the Minnesota House of Representatives and is pending the approval of the Senate and the State governor’s signature.

Affirmative measures

12. The Advocates suggest that the International Independent Expert Mechanism follow up on various programs the U.S. Government is currently implementing in favor of victims of domestic violence. The Department of Justice’s (DOJ’s) Office on Violence Against Women launched a grant program that assists victims of domestic and sexual violence in their transition to alternate housing facilities. The DOJ partnered with the Department of Housing and Urban Development to allocate a budget for housing victims of domestic violence, sexual assault, and stalking.²⁵
13. Likewise, it is relevant to analyze the impact and implementation of President Biden’s revocation of the Executive Order 13950, “*Combatting Race and Sex Stereotyping*,” which prohibited federal contractors from providing diversity training and programs in the workplace.²⁶ The International Independent Expert Mechanism also could follow up on implementing and fulfilling the DOE’s Equity Action Plan which promises to invest in resources to help advance civil rights²⁷ is required.

IV. Law enforcement, systemic discrimination, and potential good practices

14. Racial discrimination permeates the law enforcement institution; the Minnesota Department of Human Rights found in its report, “MPD maintains an **organizational culture** where officers are trained to be aggressive towards community members, which leads to officers escalating situations and often using inappropriate levels of force. The accountability systems in place

²¹ Ibid, p. 30.

²² Ibid, p. 30.

²³ Minnesota Legislature, HF 55 2nd Engrossment - 93rd Legislature (2023 - 2024), available at: https://www.revisor.mn.gov/bills/text.php?number=HF55&type=bill&version=2&session=1s93&session_year=2023&session_number=0

²⁴ February 24 of 2023.

²⁵The Advocates for Human Rights, The State of Minnesota Missing and Murdered African American Women Task Force, Research in Action, *The United States of America’s Compliance with the International Convention on the Elimination of Racial Discrimination Parallel Report Relating to Rights of Women and Girls of Color*, July 15, 2022, ¶ 5.

²⁶*Office of Federal Contract Compliance*, “Revocation of Executive Order 13950,” accessed Sept. 23, 2002, <https://www.dol.gov/agencies/ofccp/executive-order-13950>, para. 10

²⁷U.S. Department of Education, “Department of Education Equity Action Plan,” accessed Sept. 23rd, 2022, <https://www.ed.gov/equity>.

are insufficient and ineffective at holding officers accountable. Instances of police misconduct are not properly investigated, not timely addressed, and officers are not held consistently accountable.”²⁸

15. According to interviews with experts on police made by The Advocates, law enforcement in the United States must implement trust-building processes and include community perspectives on the decision they make, especially in African immigrant and African American communities. This is currently not widely executed on law enforcement.²⁹ Further, an expert interviewed observed, “When it comes to our current police department, we have got to involve our community leaders. We must have them meeting with us and helping, I mean if you take a department like Minneapolis, you have the community identify their leaders and start having meetings. And not just focus groups. You should have focus groups to help see how the community feels that it needs to be dealt with, but you also have to have leaders at the table. At the policy-making table.”³⁰
16. Regarding the training and capacity building that law enforcement officials require to tackle systemic racism within the institutions, our interviews presented the necessity to provide trauma-informed actions and context training.³¹ The importance of community liaisons from and working in the communities is crucial to building trust.³² On training matters, the importance of training law enforcement to listen and accept disagreement without it triggering excessive use of force was highlighted. The interviewee noted, “police opinion gets to overpass individuals. There is no room for a discussion, or there’s no room for an officer to say, “Oh, yeah, maybe I got that wrong. This is what happens when you militarize your police department. It is like your citizens are the enemy instead of “We’re in this together. We’re working on this together.”³³
17. Interviewees also highlighted the connection of institutional chauvinism with systemic discrimination to African American and African people in the United States. The lack of women police officers in law enforcement, and particularly of African American women, increments the excessive use of force, the lack of effective communication, conflict resolution and targeted action to crimes against women.³⁴
18. The Advocates asked our interviewees about dynamics of the federal system in the U.S., and how it should be highlighted to the International Independent Expert Mechanism for providing recommendations. The interviewees asserted “We have 502 police departments just in Minnesota. Because we have state police, county police, county sheriffs, and local police. So, on a federal level, thousands of police departments. But one clear is that police departments on some level are acting at the behest of local government. Police departments are not going to do what they are not being directed to do. So even in Minneapolis, where some of the city council people wanted to defund the police, those same city council people were at city council meetings telling the chief that he needed to do something about the crime and homicide in their

²⁸ The Minnesota Department of Human Rights, Investigation into the City of Minneapolis and the Minneapolis Police Department, (April 27, 2022), p. 5. Available at: https://mn.gov/mdhr/assets/Investigation%20into%20the%20City%20of%20Minneapolis%20and%20the%20Minneapolis%20Police%20Department_tcm1061-526417.pdf

²⁹ Interview of Police Expert 2 by The Advocates for Human Rights, February 2023.

³⁰ Interview of Police Expert 1 by The Advocates for Human Rights, February 2023.

³¹ Interview of Police Expert 2 by The Advocates for Human Rights, February 2023.

³² Interview of Police Expert 2 by The Advocates for Human Rights, February 2023.

³³ Interview of Police Expert 1 by The Advocates for Human Rights, February 2023.

³⁴ Interview of Police Expert 1 by The Advocates for Human Rights, February 2023.

region. So the message is certainly confusing to police departments. [...] I think it's also important that we hold politicians accountable for not doing anything. It's just like gun violence. Federal laws supersede state laws. So, if the federal departments do something, that could be helpful. But states need to do something too."³⁵ Likewise, our interviewees asserted the enormous influence the federal government has over local law enforcement by providing funding for programs³⁶.

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³⁵ Interview of Police Expert 1 by The Advocates for Human Rights, February 2023.

³⁶ Interview of Police Expert 2 by The Advocates for Human Rights, February 2023.