March 1, 2016

Honorable Karol Mason
Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
810 Seventh Street, NW
Washington, DC 20531

Request to Condition Federal Grants on Data Collection and Reporting & Provide Regulations on Deaths in Custody Reporting Act

Dear Assistant Attorney General Mason:

The undersigned national, state, and local criminal justice, civil rights, human rights, faith-based, immigrants’ rights, disability rights, LGBTQ, and open government organizations are writing to request that the Office of Justice Programs (OJP) condition federal criminal justice grants on data collection and reporting on police-civilian encounters. We are also writing to request that OJP issue regulations on the implementation of the Deaths in Custody Reporting Act (DCRA).

Since the 2014 fatal police shooting of Michael Brown in Ferguson, Missouri, national attention has focused on the use of force by law enforcement. People of color are disproportionately subjected to such force, with minorities constituting 47.2% of all persons killed by police in 2015.1 Unfortunately, this statistic cannot be compared to data kept by the federal government because it is largely incomplete. Only 224 of 18,000 law enforcement agencies reported fatal police shootings to the Federal Bureau of Investigation (FBI) in 2014, though evidence suggests the actual number of fatal shootings is far greater.2 The 2013 FBI Uniform Crime Report indicates that there were 461 justifiable homicides by law enforcement in 2013.3 However, with The Guardian and the Washington Post now keeping track, we have reason to believe annual numbers of people killed by police exceeds 1,000.4 Data collection by

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media outlets has been critical to understanding police-civilian encounters over the past year, but such accounting should be the responsibility of the federal government. Accurate, reliable data will provide the best depiction of 21st century policing and allow policing experts to better shape law enforcement tactics and policies.

The Office of Justice Programs should mandate data collection and reporting on police involved shootings and other excessive force by state and local law enforcement agencies that benefit from Department of Justice criminal justice grants and programs. The federal government awards close to $4 billion in such grants annually, and any discretionary grant should be conditioned upon providing data. Any statutory or formula grant, including the Edward Byrne Memorial Justice Assistance Grant (Byrne JAG), should require data reporting as part of its existing performance metrics. To achieve complete and uniform data collection and reporting, the federal government must solicit disaggregated data that is reflective of all police-civilian encounters, including those encounters with people of color, women, and people with disabilities.

We recognize that the Deaths in Custody Reporting Act (DCRA) is designed to provide data on fatal police use of force while people are in police custody. However, the law does not require reporting non-fatal uses of force or uses of force during non-custodial encounters and it is not clear if the Attorney General will withhold federal funds from non-compliant jurisdictions. Therefore, we also recommend that OJP issue regulations on the implementation of DCRA. Among other things, the regulations should define the term “custody,” specify penalties for non-compliance, and provide a plan for data transparency. The regulations should also discuss how all federal law enforcement, including Customs and Border Protection (CBP), will comply with DCRA.

Both the Attorney General and the FBI Director have said that data collection and reporting is necessary. The President’s Task Force on 21st Century Policing has recommended that agencies be required to “collect, maintain, and report data to the federal government on all officer involved shootings, whether fatal or nonfatal, as well as any in-custody death.” The Task Force has also


recommended data collection concerning sexual assault and misconduct by law enforcement agents.\textsuperscript{9}

We appreciate the Administration’s commitment to data collection and reporting and welcome the opportunity to work with you on this issue.

For all these reasons, we urge OJP to a) condition federal criminal justice grants on data collection and reporting on police-civilian encounters and b) provide regulations on the implementation of the Deaths in Custody Reporting Act (DCRA). We also respectfully request a meeting with you to discuss this matter further. If you have any questions or comments, please feel free to contact Kanya Bennett, Legislative Counsel with the ACLU, phone: (202) 715-0808 or email: kbennett@aclu.org or Sakira Cook, Counsel with the Leadership Conference on Civil and Human Rights, phone: (202) 263-2894 or email: cook@civilrights.org.

Sincerely,

AFL-CIO
Alliance San Diego
American Civil Liberties Union
Amnesty International USA
Arab American Institute
Asian Pacific American Labor Alliance, AFL-CIO (APALA)
Bill of Rights Defense Committee/Defending Dissent Foundation
Black and Pink
Black Women’s Roundtable Policy Network
Black Youth Vote/Black Male Initiative
Capital Area Immigrants’ Rights (CAIR) Coalition
Center for American Progress
Center for Community Change Action
Church of Scientology National Affairs Office
Coalicion de Lideres Latinos-CLILA (Dalton, GA)
Conversations with Friends (MN)
Council on American-Islamic Relations (CAIR)
Criminal Justice Policy Foundation
Drug Policy Alliance
Equality New Mexico
Equity Matters IN
The First Existentialist Congregation’s Social Justice Guild
The Gathering for Justice
Georgia Detention Watch
Georgia Latino Alliance for Human Rights
Government Accountability Project

\textsuperscript{9} See id at 2.13.1 Action Item, 28.
Grassroots Leadership
Hip Hop Caucus
Human Rights Watch
Immigrant Legal Advocacy Project
Immigrant Legal Resource Center
Justice League NYC
Justice Strategies
Kino Border Initiative
LatinoJustice PRLDEF
Lawyers’ Committee for Civil Rights Under Law
The Leadership Conference on Civil and Human Rights
Mommieactivist and Sons
Muslim Advocates
NAACP
National Action Network
National African American Drug Policy Coalition Inc.
National Association of Criminal Defense Lawyers
National Association of Social Workers (NASW)
National Center for Transgender Equality
National Coalition of Anti-Violence Programs
National Coalition on Black Civic Participation
National Council of Asian Pacific Americans (NCAPA)
National Council of Churches
National Council of La Raza (NCLR)
National Disability Rights Network (NDRN)
National Employment Law Project
National Immigrant Justice Center
National Immigration Law Center
National LGBTQ Task Force
National Network for Arab American Communities
National Urban League
OCA – Asian Pacific American Advocates
One America (Washington State)
OpenTheGovernment.org
Organization for Black Struggle
ParentWatch
Pastor & Associates, P.C.
Peace Alliance
PFLAG National
PICO Network LIVE FREE
Prison Policy Initiative
Reformed Church of Highland Park
Refugee and Immigrant Center for Education and Legal Services (RAICES)
SAALT
San Diego Immigrant Rights Consortium
Southern Border Communities Coalition
Southern Poverty Law Center
Student Peace Alliance
Sunlight Foundation
Transformative Justice Coalition
UC Davis Immigration Law Clinic
Union for Reform Judaism
US Human Rights Network's Police Crimes Members Initiated Action Team
Wilco Justice Alliance (Williamson County, Texas)
Women Who Never Give Up
Women’s All Points Bulletin, WAPB

cc: Denise E. O’Donnell, Director, Bureau of Justice Assistance
William J. Sabol, Director, Bureau of Justice Statistics
Sarah R. Saldaña, Director, U.S. Immigration and Customs Enforcement
R. Gil Kerlikowske, Commissioner, U.S. Customs and Border Protection