



February 22, 2021

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Government Oversight and Audit Committee
Louisville Metro Council
601 W. Jefferson Street
Louisville, KY 40202

Dear Chairperson Ackerson, Vice-Chairperson Kramer, and Committee Members:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF) and the ACLU of Kentucky Foundation, Inc. (ACLU-KY), we urge the Government Oversight and Accountability Committee (Committee), in light of shocking and unprecedented events in Washington D.C. on January 6, 2021, to launch a full and thorough investigation into whether any officers or employees of the Louisville Metropolitan Police Department (LMPD) attended, assisted with, or participated in the attack on the United States Capitol on that day, and to ensure that any officers or employees found to have participated are held fully accountable for their actions.

LDF is the nation's first and premier civil rights legal organization devoted to racial justice. Founded in 1940 by Thurgood Marshall, LDF's mission is to achieve racial justice, equality, and an inclusive society and to fulfill the promise of full and equal citizenship for Black people and other people of color guaranteed by the 14th Amendment to the United States Constitution. Since its inception, LDF has worked to eradicate unconstitutional and discriminatory policing practices and to promote accountability for police misconduct. The ACLU-KY is a decades-old organization fighting in the courts, legislatures, and communities to defend the individual rights and liberties guaranteed to all people by the Constitutions of the United States and the Commonwealth of

Kentucky. Racial justice has been, is now, and will continue to be central to the ACLU-KY's mission: pursuing cases designed to have a significant and wide-reaching effect on communities of color; working in coalition with other civil rights groups and local advocates to lobby in local and state legislatures; and supporting grassroots movements.

LMPD's treatment of Black people seized national attention last summer following the killing of Breonna Taylor, a young Black frontline worker who was shot to death in her own home by three LMPD officers executing a no-knock warrant. The resulting protests—both within Louisville and across the nation—revealed that Ms. Taylor's story is, unfortunately, no outlier. LDF and ACLU-KY are currently involved in litigation concerning LMPD's militaristic response to those protests of last summer.¹ As that lawsuit alleges, LMPD's violent crackdowns on those largely peaceful protests were motivated in part by animus and hostility towards the Black Lives Matter movement. Additionally, the ACLU-KY worked to unanimously pass a prohibition on the use of No Knock Warrants through Louisville Metro Council and have pushed the body to take further steps to limit use of force as well as explore meaningful alternatives to enforcement.

Across the nation, law enforcement agencies have identified a number of officers² who participated in the violent raid of the U.S. Capitol, that resulted in the deaths of five individuals, including one Capitol Police officer.³ At least one member of the Kentucky State Police was present at the insurrection.⁴ During the raid, some insurrectionists engaged in racially motivated acts of violence, threats, and wanton destruction, including a Texas man who was charged with threatening to assassinate U.S. Democratic Representative Alexandria Ocasio-Cortez.⁵ People who have yet to be identified affixed a noose—symbolic of the virulent racial violence committed by white supremacists against Black Americans—to a wooden beam in front of the Capitol,⁶ and another noose around a mannequin labeled “traitor.”⁷ Individuals hurled racial slurs at Black

¹ See *Scott, et al., v. Louisville/Jefferson County Metro Government*, No. 3:20-cv-535 (BJB) (W.D. Ky. 2020).

² See NPR Staff, *The Capitol Siege: The Arrested And Their Stories*, NPR (Feb. 12, 2021), <https://www.npr.org/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories> (“14% of those charged [for their actions at the January 6 insurrection] had possible ties to the military or to law enforcement.”).

³ See Jack Date, Mark Osborne, and Emily Shapiro, *Federal murder probe opened for Capitol Police officer Brian Sicknick who died following riots*, ABC News (Jan. 8, 2021), <https://abcnews.go.com/Politics/capitol-police-officer-dies-injuries-suffered-riots/story?id=75124131>.

⁴ Jacob Shamsian, *A Kentucky state trooper has been reassigned after attending the Trump rally that turned into a deadly attack on the US Capitol with his family*, Business Insider (Jan. 12, 2021), <https://www.businessinsider.com/kentucky-state-trooper-attended-dc-rally-ahead-of-capitol-riot-2021-1v>.

⁵ Marshall Cohen, *Capitol rioter charged with threatening to 'assassinate' Rep. Ocasio-Cortez*, CNN (Jan. 23, 2021), <https://edition.cnn.com/2021/01/23/politics/garret-miller-capitol-riot-threaten-alexandria-ocasio-cortez/index.html>.

⁶ See Elaine Godfrey, *It Was Supposed to Be So Much Worse*, The Atlantic (Jan. 9, 2021), <https://www.theatlantic.com/politics/archive/2021/01/trump-rioters-wanted-more-violence-worse/617614/>.

⁷ See Rhea Mahbubani, *Nooses spotted as pro-Trump rioters spark chaos and lawlessness on Capitol Hill*, Business Insider (Jan. 6, 2021), <https://www.businessinsider.com/nooses-spotted-as-pro-trump-rioters-spark-chaos-on-capitol-2021-1>.

officers,⁸ destroyed and overtook barricades, dragged an officer down a set of steps only to beat him with an American flag,⁹ and caused the death of another.¹⁰

The violence continued inside the Capitol, with staff and members forced to evacuate or hide from the violent mob. This mob—comprised of individuals who were armed with weapons¹¹ or plastic restraints¹²—carried a Confederate flag¹³ and assorted white supremacist iconography¹⁴ through the halls of the Capitol and sought to halt the certification of the 2020 presidential election. In addition to terrorizing employees within the Capitol, these insurrectionists committed violent acts of destruction and theft inside:¹⁵ damaging wood, placards, and doorframes, breaking glass, ransacking offices, and stealing a number of items.¹⁶ Pipe bombs were discovered in the vicinity of both the Republican National Committee and Democratic National Committee headquarters.¹⁷

The individuals who participated in the January 6 insurrection did not engage in protest. Rather, they spearheaded an orchestrated attack on this nation’s democratic process and showed an alarming capacity for violence and lawlessness, demanding that their preferred candidate, who has himself dehumanized people of color and stoked racial violence throughout his candidacy and presidency,¹⁸ remain in office despite his electoral loss. For too long, the threat of law enforcement

⁸ See Sean Neumann, *Black Officers Say They Endured Racial Slurs During Violent Riots at U.S. Capitol*, People (Jan. 11, 2021), <https://people.com/politics/black-officers-endured-racist-remarks-during-Capitol-riots/>.

⁹ See Katie Shepherd, *Video shows Capitol mob dragging a police officer down stairs. One rioter beat the officer with an American flag pole*, The Washington Post (Jan. 11, 2021), <https://www.washingtonpost.com/nation/2021/01/11/police-beating-capitol-mob/>.

¹⁰ See Zolan Kanno-Youngs and Tracey Tully, *He Dreamed of Being a Police Officer, Then Was Killed by a Pro-Trump Mob*, The New York Times (Jan. 8, 2021), <https://www.nytimes.com/2021/01/08/us/politics/police-officer-killed-capitol.html>.

¹¹ See Associated Press, *Capitol riot more sinister than it looked as gallows, pipes and guns turn up*, Tampa Bay Times (Jan. 11, 2021) <https://www.tampabay.com/news/florida-politics/2021/01/11/capitol-riot-more-sinister-that-it-looked-as-gallows-pipes-and-guns-turn-up/>.

¹² See Adam Goldman and Katie Benner, *The F.B.I. arrests two men who had carried plastic restraints into the Capitol*, New York Times (Jan. 10, 2021), <https://www.nytimes.com/2021/01/10/us/politics/capitol-zip-ties-arrest.html>.

¹³ See Maria Cramer, *Confederate Battle Flag an Unnerving Sight in Capitol*, New York Times (Jan. 9, 2021) <https://www.nytimes.com/2021/01/09/us/politics/confederate-flag-Capitol.html>.

¹⁴ See Mallory Simon and Sara Sidner, *Decoding the extremist symbols and groups at the Capitol Hill insurrection*, CNN (Jan. 9, 2021), <https://www.cnn.com/2021/01/09/us/capitol-hill-insurrection-extremist-flags-soh/index.html>.

¹⁵ See Wilson Wong, *Shattered glass, ransacked offices: Images of damage at U.S. Capitol left by pro-Trump mob*, NBC News (Jan. 7, 2021), <https://www.nbcnews.com/news/us-news/shattered-glass-ransacked-offices-images-damage-u-s-capitol-left-n1253302>.

¹⁶ See Jack Brewster and Andrew Solender, *Clyburn’s Ipad, Laptop From Pelosi’s Office: Items Stolen, Destroyed In Capitol Attack* (Jan. 7, 2021), <https://www.forbes.com/sites/jackbrewster/2021/01/08/clyburns-ipad-laptop-from-pelosis-office-items-stolen-destroyed-in-capitol-attack/?sh=505970f59632>.

¹⁷ See Michael Balsamo, *Discovery of pipe bombs in DC obscured by riot at Capitol*, Associated Press News (Jan. 11, 2021), <https://apnews.com/article/donald-trump-joe-biden-inaugurations-capitol-siege-8828a6a920198d0ea1ee0c73a49d8847>.

¹⁸ See Glenn Kessler, *The ‘very fine people’ at Charlottesville: Who were they?* (May 8, 2020), <https://www.washingtonpost.com/politics/2020/05/08/very-fine-people-charlottesville-who-were-they-2/>; Lydia O’Connor and Daniel Marans, *Trump Condemned Racism As ‘Evil.’ Here Are 20 Times He Embraced It*, Huffington Post (August 14, 2017), https://www.huffpost.com/entry/trump-racism-examples_n_5991dcabe4b09071f69b9261; Yamiche Alcindor, *Trump insists on using racist language. Will that approach win him support?*, PBS (July 2, 2020), <https://www.pbs.org/newshour/show/trump-insists-on-using-racist-language-will-that-approach-win-him-support>.

officers who support white supremacist groups has been ignored.¹⁹ The involvement of law enforcement officers in the violence of the January 6th attack on the U.S. Capitol cannot be ignored or dismissed. Some police chiefs have rightly recognized the problem this presents and have begun to address this issue.²⁰ The Committee should do the same for LMPD.

We ask that you immediately take the following steps to address this outgrowth of racial violence and insurrection:

- Conduct a thorough and comprehensive investigation to determine whether any officer or civilian employee of LMPD was present during the raid on the Capitol and participated in unlawful or unethical acts. Though individuals' First Amendment rights must be respected, any individual who participated in the destruction and attacks that took place on January 6 should be investigated to determine whether they violated any laws, departmental policies, or codes of conduct, and if so, LMPD should discipline them, as appropriate.
- Evaluate whether any LMPD employees have displayed support for white supremacist ideology, used racist symbols, or otherwise expressed or supported explicitly racist ideas. If found, the Committee must evaluate those officers' complete history of law enforcement activity (e.g. stops, searches, arrests, uses of force) while with LMPD and develop remedies for prior discriminatory or otherwise unlawful conduct. LMPD must discipline supervisors who failed to exercise oversight over such officers.
- At the conclusion of this investigation, the Committee should produce a report and statement, detailing both the results of its investigation and the specific investigative steps that were taken to reach its conclusions.
- These documents should be discussed at a public hearing of the Committee and made digitally accessible to the public in accordance with the Committee's policies and federal, state, and local law.
- Likewise, the Committee must ensure that LMPD has robust background check procedures and policies to prevent individuals with ties to white supremacist groups to become LMPD officers and employees.
- Any officer or civilian employee found to have participated in unlawful or unethical acts during the January 6 insurrection should be immediately subject to internal disciplinary procedures and, if applicable, referred to prosecuting authorities. Information about any disciplining and/or prosecution should also be made digitally accessible to the public in accordance with departmental policies and federal, state, and local law.

The severity and breadth of the violence and threats in the January 6th attack summarized in this letter highlights the urgent need for an exhaustive investigation to be conducted by your office. As numerous officers across the nation have been identified as participants in the insurrection, it is incumbent upon your office to thoroughly, impartially, and promptly investigate

¹⁹ See FBI Counterterrorism Division, *White Supremacist Infiltration of Law Enforcement* (Oct. 17, 2006), https://oversight.house.gov/sites/democrats.oversight.house.gov/files/White_Supremacist_Infiltration_of_Law_Enforcement.pdf

²⁰ See Neil MacFarquhar, *Police Forces Have Long Tried to Weed Out Extremists in the Ranks. Then Came the Capitol Riot*, N.Y. Times (Feb. 16, 2021), <https://www.nytimes.com/2021/02/16/us/police-extremists-capitol-riot.html?action=click&module=Top%20Stories&pgtype=Homepage>.

the possibility that some LMPD officers or employees were likewise active participants. This is a crucial opportunity for LMPD to make clear to the communities it serves that it does not support, tolerate, or condone any unlawful or unethical conduct by officers, especially acts of violence and insurrection against our democratic institutions. If any officer is found to have violated departmental policy or law, LMPD should ensure that these officers are held fully accountable for their actions. This is not only an issue of police accountability, but a matter of our nation's security and safety.

Importantly, it is critical for these steps to be taken in light of ongoing concerns about police violence, animus, and bias against Black people and other communities of color. The systemic problems with policing in Black communities—and the deep distrust that those problems have engendered—have only become more inflamed by the possibility of law enforcement officers engaging in acts of insurrection with violent white supremacists. A full investigation as we request in this letter would signal LMPD's recognition of the vital importance of rooting out racial discrimination among all LMPD personnel.

We urge you to act swiftly and in accordance with the requests made in this letter. If you have any questions, please do not hesitate to contact Puneet Cheema at 202-682-1300.

Sincerely,

Puneet Cheema
Manager, Justice in Public Safety Project
NAACP Legal Defense and
Educational Fund, Inc.



Kate Miller
Advocacy Director
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