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June 4, 2020

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, DC 20535

Dear Director Wray,

I write concerning the Federal Bureau of Investigation's failure to respond to my Questions for the Record (QFRs) following your May 7, 2019 testimony in front of the Senate Appropriations Committee-Subcommittee on Commerce, Justice and Science given that answers have not been provided despite multiple attempts to obtain this information.

My QFRs submitted to your agency are below:

Question 1: Earlier this year, the FBI launched its National-Use-of-Force data collection on fatal and nonfatal officer-involved shootings. This information is vital for lawmakers and law enforcement officers as we look to reduce the number of shootings between civilians and police officers.

Has the FBI included any mid-year metrics to see if states and local municipalities are inputting their information?

Question 2: What can Congress do to encourage full participation of this program?

The National-Use-of-Force database was created following several high-profile incidents between law enforcement officers and unarmed civilians. Congress learned that while independent researchers and news organizations tracked civilian deaths caused by police officers, the federal government did not have any consistent or accurate disaggregated data. This new National-Use-of-Force database is designed to remedy this data deficiency and collect information on all incidents involving use-of-force that results in death or serious injury, or when an officer discharges a firearm in someone's direction.¹

¹ U.S. Department of Justice, Federal Bureau of Investigation "National Use-of-Force Data Collection Flyer," (July, 2018), available at <https://www.fbi.gov/file-repository/ucr/use-of-force-flyer.pdf/view>.

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I asked my questions with the understanding that, as with all Universal Crime Reporting (UCR) Program data collections, participation in the National-Use-of-Force database is voluntary. I want to ensure that the necessary resources are in place to expand the depth and breadth of data collected. In FY 2019, less than half of all law enforcement agencies reported crime data to the FBI UCR Program.² Although the first batch of data from the National-Use-of-Force database is expected to be released this summer, it is incomprehensible that, for over a year, the FBI chose not to respond to my questions regarding the reliability, accuracy, and accessibility of the data collected.

This data is particularly important if we are to address underlying and persistent racial biases in policing. Black Americans only make up 13% of the United States' population but they are two-and-a-half times more likely to be killed by the police than white Americans.³ In Minnesota, where George Floyd was killed by police officers, Black Americans account for 5 percent of the state's overall population but they are nearly four times as likely to be killed by law enforcement officers.⁴ One-third of unarmed victims killed by police are black.⁵ Additionally, the use of force on protestors has already resulted in death and serious bodily injury.

The Senate Appropriations Committee has both budgetary and oversight capabilities. Requests for information are not optional and "should be treated as a priority for the Department and responded to both courteously and expeditiously."⁶ The Committee has reached out repeatedly since the hearing to your agency to no avail. In 2018, your agency was 267 days late responding to the Committee's QFRs for the FBI's Budget Hearing.⁷ The FBI, alongside the Department of Justice's, consistent disregard for Congressional oversight resulted in the Committee issuing a \$5 million withholding of FY 2020 appropriations from the Department's General Administration account until responses to QFRs are received. These unacceptable delays cause distrust between the FBI and Congress.

Despite the Committee's clear directive, your agency has still not responded to my questions concerning implementation of the National-Use-Of-Force database.⁸ In light of the recent deaths of unarmed Black American civilians due to excessive use-of-force by law enforcement officers,

² U.S. Department of Justice, Federal Bureau of Investigation, "FY 2021 Authorization and Budget Request to Congress," (February, 2020), *available at* <https://www.justice.gov/doj/page/file/1246311/download>

³ Haddad, Mohammed, "Mapping US Police Killings of Black Americans," Al Jazeera, (May 31, 2020), *available at* <https://www.aljazeera.com/indepth/interactive/2020/05/mapping-police-killings-black-americans-200531105741757.html>.

⁴Ibid.

⁵Fox, Joe, Adrian Blanco, Jennifer Jenkins, Julie Tate, and Wesley Lowery, "What We've Learned about Police Shootings 5 Years after Ferguson." The Washington Post, WP Company, (August 9, 2019), *available at* <https://www.washingtonpost.com/nation/2019/08/09/what-weve-learned-about-police-shootings-years-after-ferguson/?arc404=true>.

⁶ U.S. Congress, "Senate, Committee on Appropriations, Departments of Commerce and Justice, Science, And Related Agencies Appropriations Bill, 2020 Report: (to accompany S. 2584)," (September, 2019), *available at* <https://www.appropriations.senate.gov/imo/media/doc/FY2020%20CJS%20Appropriations%20Act,%20Report%20116-127.pdf>

⁷Ibid.

⁸Ibid.

it is imperative that Congress is provided with timely information in order to create legislative solutions and consider how we should expand and improve reporting requirements.

As Congress continues to consider how best we can reduce these incidents, including mandating compliance with the Death in Custody Reporting Act, we will need your full cooperation. We cannot protect our citizens or demand accountability and justice if we do not know who is being killed. As the 2015 President's Task Force on 21st Century Policing makes clear, “law enforcement’s obligation is not only to reduce crime but also to do so fairly while protecting the rights of citizens.”⁹ I hope your agency is committed to working alongside Congress to improve the structural and systemic dysfunction that plagues our country.

I look forward to your timely response to this letter and all future correspondence.

Sincerely,

A handwritten signature in blue ink that reads "Chris Van Hollen". The signature is written in a cursive, flowing style.

CHRIS VAN HOLLEN
United States Senator

⁹ Office of Community Oriented Policing Services, President’s Task Force on 21st Century Policing, “Final Report of the President’s Task Force on 21st Century Policing,” (May, 2015), *available at* https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf