

**Statement of Mr. Ronald L. Davis**

Chair, Legislative Committee  
National Organization of Black Law Enforcement Executives  
**(NOBLE)**

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Hearing on

“Policing Practices and Law Enforcement Accountability”

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Good morning Committee Chairman Nadler, Ranking Member Collins, and distinguished members of the United States House Committee on the Judiciary. I bring you greetings on behalf of National President Cerelyn J. Davis, the Executive Board, and all members of the National Organization of Black Law Enforcement Executives, also known as (NOBLE).

My name is Ronald Davis and I am a life-member of NOBLE and chair of its' Legislative Committee. I also had the honor of serving in the Obama Administration as the Former Director of the Department of Justice Office of Community Oriented Policing Services (COPS) and the Executive Director of the President's Task Force on 21st Century Policing. I am a career cop who served close to 30 years of policing experience: 20 years in Oakland and nine years as police chief in East Palo Alto, CA. And as evident with my appearance today, I am a Black man and father.

It is an honor for NOBLE to provide testimony on the topic of "Policing Practices and Law Enforcement Accountability." NOBLE joins the nation in condemning the heinous murder of Mr. George Floyd in Minneapolis and we are concerned and alarmed by the recent deaths of Breonna Taylor and Ahmaud Arbery. We offer our heartfelt condolences and prayers to each of their families.

Yet, we know these names represent just a few in a much longer list of tragedies. Though it is very important that the Minneapolis officers responsible for the murder of Mr. Floyd are prosecuted to the fullest extent of the law; we know it is also important to recognize that such tragedies are not exceptions to our policing systems, they are too often an inevitable manifestations of them. We must start with this important fact and hard truth because we cannot address a problem if we fail to properly identify.

We know it is almost impossible to move forward with any meaningful changes and progress while Blacks are still being held down by the unreconciled troubles of our past. Or, as Nelson Mandela has stated, “Only the truth can put the past to rest.” So, today let us deal in the hard truths so that we can start the racial reconciliation this nation has purposely avoided. Let us embrace truth so we reconstruct a policing system that reinforces the core principles of our democracy. And lets use the truth to change that reality that, even today, there remain two societies: one white and one black, as identified by Kerner Commission over 50 years ago

We know that the core problems with policing are not limited to just a few bad apples. In fact, we believe the vast majority of police officers in this country are decent and honorable men and women committed to service.

Another fact we should not forget, deny or ignore. The problem is the continued use of draconian policing systems that still suffer from structural racism and institutional deficiencies. Under these systems even good cops have bad outcomes, and bad and racist cops operate with impunity.

Most of the systems that determine why we police, how we police, and where we police were constructed in the 1940's, '50s and '60s to enforce Jim Crow and other discriminatory laws. In other words, our policing systems are not broken; they are doing what they were designed to do. To understand this hard truth is to recognize the system cannot just be reformed; it must be reconstructed. It also means that the demand for policing reform should not require an indictment against all police. It is our hope that our brothers and sisters who wear the badge will embrace this moment and join this movement, and become part of the change that is needed. We've seen many police take a knee over the past week. And that's great. We now need you to take a stance with the community and work to reconstruct an unjust system.

Our challenge here today is not to re-litigate the causes of our dysfunctional policing and criminal justice system. We, as a nation, should stipulate to these facts and invest our time focusing on implementing solutions.

What we need now is action, and NOBLE members are ready to act and live up to our motto: “Justice by Action.”

NOBLE believes the first action step in reconstructing a new policing system is to take immediate steps in strengthening police accountability and building trust with communities. This was the core task President Obama charged the President’s Task Force on 21st Century Policing in 2015. The task force produced a seminal document with recommendations that provide guidance for police agencies and their communities.

Unfortunately, the Trump Administration not only tossed this report, it has actually taken steps to reverse the progress that was being made and return to the so-called “law and order” days in which the mass arrests of men of color was this nation’s crime strategy. We need to abandoned the dangerous “law and order” rhetoric of the ’90’s and embrace a “peace and justice” mantra that truly enhances public safety and ensures justice for all. We must immediately revive the task force report and its recommendations. This requires leadership at every level of government.

Mr. Chairman, we need the support of the federal government to further advance those recommendations.

We also need to make immediate changes to specific policies and practices pertaining to the police use of force. To this end, NOBLE supports the following recommendations provided by the Leadership Conference for Civil and Human Rights (LCCHR):

- Require a federal standard that use of force be reserved for only when necessary as a last resort after exhausting reasonable options, and incentivize states through federal funding mechanisms to implement this standard;
- Prohibit all maneuvers that restrict the flow of blood or oxygen to the brain, including neck holds, chokeholds, and similar excessive force, deeming the use of such force a federal civil rights violation;
- Prohibit racial profiling, and require robust data collection on police-community encounters and law enforcement activities. Data should capture all demographic categories and be disaggregated;
- Prohibit the use of no-knock warrants, especially for drug searches;
- Give DOJ greater authority to prosecute individuals officers for civil rights violations. Change the 18 U.S.C. Sec. 242 mens rea requirement from willfulness to recklessness, permitting prosecutors to successfully hold law enforcement accountable for the deprivation of civil rights and civil liberties;

- Develop a national public database of police misconduct that would cover all police agencies in the United States and its territories, similar to the International Association of Directors of Law Enforcement Standards and Training's National Decertification Index, which would compile the names of officers who have had their licenses revoked due to misconduct, including but not limited to domestic violence, sexual violence, assault and harassment, criminal offense against minors, excessive use of force, violation of 18 U.S.C. § 242; perjury, falsifying a police report or planting and destroying evidence, and deadly physical assault; as well as terminations and complaints against the officers; and
- End the qualified immunity doctrine which prevents police from being held legally accountable when they break the law. Qualified immunity, a defense that shields officials from being sued, has been interpreted by courts so broadly that it allows officers to engage in unconstitutional acts with impunity.
- We generally agree with LCCHR in their recommendation for a federal standard in the use of deadly force, but we do add specificity for what we think should be included in all use of force policies:
  - o Establish the sanctity of life as an organizational priority.
  - o Require that deadly force be necessary and proportionate.

- o Mandate de-escalation training for all officers and require de-escalation of part of a continuum of force.
- o Prohibit the carotid restrict, chokeholds and all physical restraint maneuvers on or above the neck and any physical act that restricts the flow of blood or oxygen to the brain.
- o Mandatory requirement that officers render immediate medical aid to anyone who forced was used.
- o Mandatory requirement that officers intervene where physical force is being applied to either stop or attempt to stop another officer when force is being inappropriately applied or is no longer required.
- o Mandatory requirement that officers immediately report any misconduct observed to their supervisor.
- Although we do not support an outright ban on military equipment as recommended the LCCHR, we do recommend the reinstatement of the restrictions and oversight mechanisms identified during the Obama Administration.

Additionally, NOBLE proposes the following:

- Rescind the “Sessions” memo pertaining to consent decrees and restore programs that provide organizational assessments and after action evaluations/reports for agencies that request such assistance.

- Require all police agencies to obtain national certification to receive federal funding.
- Continued appropriations for the Department of Justice Community Relations Service directed towards programs to improve community and police relations.
- Enact legislation requiring all police agencies collect and provide the federal government use-of-force, vehicle and pedestrian stops, and arrests data.

We also need the federal government to support leadership at the state level. When it comes to police accountability, the Department of Justice has been absent. However, many state leaders have filled the gaps. For example, the state of California and Governor Gavin Newsom passed Assembly Bill (AB) 392 - the most comprehensive use force reform bill in the nation. Last week, Governor Newsom ordered the state POST to stop training on carotid restrains and choke holds, made clear his support of legislation prohibit these techniques.

In Illinois, former Attorney General Lisa Madigan and current AG Kwami Raoul used their offices to work with the city of Chicago to adopt the most comprehensive consent decree in history.

An action the Trump administration backed away from despite the clear findings of a pattern or practice of Constitutional violations identified by the DOJ Civil Rights Division.

In California, Attorney General Becerra has used his office to conduct pattern and practice investigations, provide voluntary organizational and use of force reviews. Again, support the Trump Administration walked away from this type of support. And in Minnesota, Attorney General Keith Ellison and Department of Public Safety Commissioner John Harrington used their offices to convene a diverse working group on police deadly encounters. The group released their report in February and as Minnesota moves forward, they have roadmap in which to start.

In sum, the recommendations we have outlined are also contained in the “Justice in Policing Act” co-sponsored by Congresswomen Karen Bass and Chairman Nadler. NOBLE supports this legislation and looks forward to working the Congress as the Bill moves forward.

As we proceed forward with this landmark legislation, there are immediate steps police leaders and departments can take as a first step in racial reconciliation and in reimagining policing:

1. Publicly acknowledge historical and current police abuses and its impact on communities of color.
2. Acceptance of responsibility to change policing systems and its culture.
3. Have all officers reaffirm their Oath of Office to the Constitution and the core principles of our democracy.
4. Collaborate with the community to re-define and reimagine policing.
  - o Define the role of police in our society
  - o Stop the over-reliance of police to address social issues
  - o Identify what activities police should and should not be engaging in
  - o Develop reinvestment strategies
  - o Dismantle existing operational systems and develop new (evidence-based) systems in:
    - Recruitment and hiring
    - Training
    - Supervision
    - Discipline and accountability
    - Civilian Oversight
    - Community Policing & Crime reduction strategies
    - Racial disparities
5. Embrace and adopt the recommendations of President Obama's Task Force on 21st Century Policing.

In closing, I would also like to remind this committee and the American people that the issue of policing reform cannot be disconnected from the discussions around COVID-19 and the next stimulus package. Without support from the federal government, the budget cuts that local and state governments will be forced to make will hinder all criminal justice reform efforts, stall any efforts to reinvest in community-based programs, maintain existing inequities, and further expose the open wound of our racial tension that has yet to be treated. We will again be sitting on a powder keg waiting for the next tragedy to spark an explosion.

On behalf of NOBLE, I thank you for supporting law enforcement and our ability to maintain public safety while acknowledging the pressing need to address the issues of police accountability and building trust between police departments and the communities they serve.

Thank you, Mr. Chairman.