

Under the Color of the Law: A statement of the need to establish a national commission for the protection of Black Americans

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Learn to do good; seek justice, correct oppression. Isaiah 1:17 ESV

A statement prepared for Bishop Ira Combs and Ambassador Andrew Young concerning Black Americans and the police

The recent killing of George Floyd on May 25, 2020 by Minneapolis police officer Derek Chauvin has brought to light what has been lingering in the shadows of America for far too long – police-enforced racism. George Floyd was an African American. Derek Chauvin is a White police officer. Chauvin held his knee on Floyd’s neck while he was handcuffed on the ground for over eight minutes. Floyd pleaded, “Please, Man, I can’t breathe,” until he died. There were also three other police officers near Floyd, but they chose to not take a single action to save his life. Chauvin was charged with second-degree murder, and each of the other three officers were charged with one count of aiding and abetting second-degree murder and aiding and abetting second-degree manslaughter.

Since the murder was recorded and shared through social media, over 70 million people, not just in the United States, but around the world, watched the murder in real time. The murder of George Floyd took place shortly after a series of recent killings of other African Americans. Ahmaud Arbery was shot and killed on February 23, 2020 in Glynn County Georgia while jogging. Breonna Taylor was shot and killed by police in Louisville, Kentucky on March 13, 2020 in her apartment, while she was sleeping. These are just the latest incidents of Black shootings and murders that are similar to Philando Castile, Freddie Gray, Michael Brown, Eric Garner, Trayvon Martin, Amadou Diallo, Abner Louima, Malice Wayne Green, Rodney King, James Meredith and Emmett Till.

What is even more alarming is that the policing of African Americans goes back even further to September 8th, 1850, when President Millard Fillmore signed the Fugitive Slave Act into law. Also known as the Fugitive Slave Law, the act mandated that all escaped slaves be returned to their masters upon capture, and that officials and citizens of free states had to cooperate. Back then, it was slave patrols, also known as *patty rollers*, that controlled and intimidated Blacks. Even after President Abraham Lincoln signed the Emancipation Proclamation in 1863, freeing the slaves, in 1865, the 13th amendment was passed, which led the way to the policing of blacks into the prison industrial complex, with these words:

“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

Since then, involuntary servitude became legal. If a person was convicted of a crime, police were given permission to apprehend and incarcerate African Americans based on infractions of racially subjective, and often baseless, Black Codes and Jim Crow laws created by White former slave owners. Some states continued to sell their incarcerated inmate workers to other states as laborers. Because of Black Codes and Jim Crow, many of those incarcerated workers were Black. In short, there has been a longstanding racial practice of over-policing Blacks in the United States for decades.

Today, over policing of Black Americans is based on property value, red lining, as well as racial zoning that is enforced by the police. Researcher Arvanites acknowledges that when African Americans become more visible in White neighborhoods, racial coercive social control becomes more aggressively enforced by the police. Put simply, the more Black people move into a White neighborhood, the more police officers are hired.

It is important to note that not all the use of excessive policing is enacted on African Americans historically or during the recent uprisings. Sean Monterrosa, an unarmed Hispanic male, was shot by police in Vallejo California on June 5th, 2020, and Christopher Curro, an unarmed White male was killed by a police officer in West Babylon, New York on May 21st, 2020. However, according to the research firm Statista, Black Americans are killed by police at a rate of 2.5 times that of White Americans. Just as alarming, Mapping Police Violence reports that for 99% of killings by police, between 2013 and 2019, did not result in officers being charged with a crime. One reason why police officers are rarely charged with a crime, is that they operate as part of the state, and therefore, are under the umbrella of the doctrine of immunity established in the 1982 case, *Harlow v. Fitzgerald*, 457 U.S. 800. The doctrine of immunity allows officials of the state (i.e. the police) to unflinchingly discharge their duties without fear of being sued. Simply put, law enforcement has immunity of being punished from actions they take while doing their jobs, despite negative consequences such as citizen injury during the use of excessive force. This law is so pervasive that it has colored the way people view interactions between police officers and the public.

According to the 2017 Pew Survey of 7,917 police officers and 4,538 adults, 67% of the police view deaths between Blacks and the police as isolated incidents rather than signs of a broader problem, compared to 39% of the public. Forty-three percent of Black officers and 18% of Blacks share the same view. Only eight percent of officers see themselves as enforcers, while 29 % of the public view the police that way. Finally, 92% of White police officers say that the U.S. has made all of the changes needed to achieve racial equality, while only 57% of Whites agree. Perhaps the frustrations of inequality and injustice for racial groups is why the George Floyd murder during the COVID-19 quarantine sparked uprisings all over the U.S., and the world. The ideological and psycho-sociological bond between police officers is so strong that it has created a solidarity that both unites and protects police officers behind an almost impregnable blue wall of protection. In Fact, Johnson, Tress, Burkel, Taylor and Joseph Cesario 2019's research asserts that the race of the police officer did not predict the race of the person shot. Reducing fatal incidents by the police of racial minorities in the U.S., entails acknowledging racial disparities in wealth, employment, education, and family structure.

It is important to remember that the George Floyd protest was not the first uprising that was multiracial. The first American rebellion was led by Nathaniel Bacon in 1676 and included both Black and White Americans in Virginia. Bacon's rebellion is one of the first documented times in America where White Americans realized that poor Whites and Black slaves protesting together was dangerous to public and economic stability. By 1715 slavery of Whites by Blacks was outlawed. Indentured and poor Whites were told that they may be impoverished, but at least they were not a N!&&ER (Read the "N" word or *Black*). Consequently, Whiteness became associated with social class and wealth, while Blackness became associated with poverty and servitude. The intermixing of race, class and those who have and do not have power has resulted in what Schjelderup-Ebbe described as a *pecking order* between those who enforce the law and those who are enforced by the law.

Social status is so significant to humans that identifying and maintaining social hierarchies can be clearly identified in parts of the brain, including the amygdala, the

hypothalamus, and the temporal and prefrontal cortex. In fact, the size of the areas of the brain connected to social status are directly related to the size of the group that one belongs, and how much a person interacts with the group.

Based on, both the historical and recent events that have disproportionately affected Black Americans, we urge the White House to establish a national commission for the protection of Black Americans. We recommend the goals of the commission to be: 1) to investigate the disregard of the humanity of Blacks in the U.S. by the police; 2) to examine the over-policing of Blacks in the U.S.; and 3) redefining police and civilian interaction protocols, based on the doctrine of immunity. The overarching objective is to eliminate historic police racism that exists under the current color of the law.

References available upon request

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Ambassador Andrew Young is a United Church of Christ ordained Minister, a former Ambassador to the United Nations, a former Congressman, a former Mayor of Atlanta, and served as the Executive Director of the Southern Christian Leadership Conference (SCLC), and worked closely with Dr. Reverend Martin Luther King, Jr. Young was awarded the Presidential Medal of Freedom award in 1981. Currently, Ambassador Young serves as the head of the Andrew J. Young Foundation, which he considers an extension of his ministry and the civil rights movement itself.

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