

**AMNESTY
INTERNATIONAL**



Daniel Cameron
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Dear Attorney General Daniel Cameron

INVESTIGATION OF THE SHOOTING DEATH OF BREONNA TAYLOR: USE OF LETHAL FORCE BY LOUISVILLE METROPOLITAN POLICE OFFICERS

I am writing on behalf of Amnesty International to convey our deep concern about the fatal shooting of Breonna Taylor, a 26-year-old Black woman and Emergency Medical Technician, who was killed in her own home by officers of the Louisville Metropolitan Police Department (LMPD) on 13 March 2020. I urge your office to undertake a prompt, thorough, independent and impartial investigation into the circumstances on the use of lethal force in this case.

Amnesty International is deeply concerned about the justification behind using a “no knock” search warrant in the middle of the night to forcibly enter the home of Breonna Taylor, which she shared with her boyfriend, Kenneth Walker, and the lawfulness of the shooting involving three LMPD officers. Shortly after midnight on 13 March 2020, the couple was drifting into sleep in their apartment when three LMPD plainclothes officers, Officer Brett Hankison, Sergeant Jonathan Mattingly, and Officer Myles Cosgrove, arrived to execute the narcotics search warrant which included a “no knock” provision. The individual that the officers were seeking was apprehended by and in custody of the LMPD earlier that morning, raising serious questions regarding the need for the use of such a tactic. While LMPD insists the officers “knocked on the door several times and announced their presence as police who were there with a search warrant,” a lawsuit filed on behalf of Breonna Taylor, supported by witness statements from neighbors of Taylor and Walker, claims that they never identified themselves as police officers before breaching the front door. Without knowing who was breaking into their apartment, Kenneth Walker, a licensed firearm owner, fired a single shot in self-defense and struck Sergeant Jonathan Mattingly in the leg. In response, police opened fire, shooting more than 20 rounds throughout the home, with at least one bullet found in an adjacent apartment. Breonna Taylor was struck eight times, and despite being alive for several minutes following the shooting, officers failed to immediately administer first aid, and she died from her injuries. Kenneth Walker was initially arrested and charged with attempted murder and assault of an officer, who he thought was an intruder. These charges were eventually dropped on 21 May.

According to official statements, none of the officers was wearing a body camera during the incident. An LMPD incident report released approximately three months after Breonna Taylor’s death was nearly blank, listing Breonna Taylor’s injuries as “none”, and denoting that forced entry was not used, despite all of the information publicly available on the case. The officers involved in the shooting were placed on administrative reassignment during the course of the investigation. At this time, no charges have been filed against any of the three

officers, and the only disciplinary action taken was the termination of Sergeant Brett Hankison on 23 June 2020 for violating standard operating procedure, as it was determined that his "actions displayed an extreme indifference to the value of human life" when he "wantonly and blindly fired ten (10) rounds" into Taylor's apartment. However, termination of a police officer from an agency for violation of policy is not justice.

Amnesty International welcomes your appointment as an independent prosecutor in the case and call on your office to conduct a prompt, thorough, independent and impartial investigation into the circumstances on the use of lethal force in this case and to keep Breonna Taylor's family and loved ones updated on its developments throughout the course of the investigation.

The UN Human Rights Committee is the expert body established under the International Covenant on Civil and Political Rights (ICCPR) to monitor implementation of this core human rights treaty. The USA ratified the ICCPR in 1992. In its General comment 6 on the right to life under the Covenant, the Committee stated that "The deprivation of life by the authorities of the State is a matter of the utmost gravity" and that states must take measures to prevent arbitrary killing by their own security forces. Such measures are set out in the United Nations (UN) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 9 of which states:

"Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life" (emphasis added).

Therefore, if the force is unavoidable it must be no more than is necessary and proportionate to achieve the objective, and law enforcement officers must use it in a manner designed to minimize damage or injury, must respect and preserve human life, and ensure medical aid is provided as soon as possible to those injured or affected. The use of a firearm in such a way that does not give a person any chance of survival – i.e. the intentional lethal use of the firearm – may only be authorized in the most extreme situation of a threat to life, in which the death of the person is the only way to prevent the loss of an imminently threatened life of another person; in any case, the death of the person must always be only a means to an end (preventing the loss of another life) and must never be a goal in itself.

Furthermore, Amnesty International previously developed guidelines for states on the implementation of the UN Basic Principles on the Use of Force and Firearms. In order to ensure the protection of life during operations, such as the execution of a search warrant, the element of precaution must be given the utmost attention in both planned operations and suddenly occurring situations. This includes:

- obtaining and analyzing relevant information in advance as much as possible;
- anticipating various scenarios, and making an assessment of the threats and risks in the given situation;
- ensuring the availability of a range of tactical options, including: protective equipment and means of communication, equipment and weapons allowing for a differentiated response, as well as sufficient resources and backup;

- deciding on the appropriate time and place for any law enforcement action with a view to minimizing risks and harm for the public as well as the law enforcement officials involved;
- ensuring the protection of persons or groups at risk;
- providing for the protection and/or evacuation of third persons;
- ensuring the availability of medical assistance.

Lastly, law enforcement officials must not be required to achieve their objectives at any cost. The operational framework must offer the option of retreat with a view to minimizing damage.

While the evidence on whether officers announced themselves is in dispute, this will of course be a matter for the impartial investigation to examine in detail. However, the number of shots fired by LMPD officers and the haphazard manner in which they were fired into Breonna Taylor's and Kenneth Walker's residence raises serious concerns in regards to the training of LMPD officers on the use of force and firearms and depicts a use of lethal force that may be in breach of international law and standards. Despite Kenneth Walker's attempts to defend his home from what he believed to be unknown intruders in the middle of the night, the officers' inability to tactically maneuver to a place of shelter to protect themselves calls into question their assessment of the situation and whether lethal force was necessary as a last resort, still less that firing at least twenty shots into the home were "strictly unavoidable in order to protect life". The further failure to render any medical aid to Breonna Taylor after the shooting for as long as six minutes is a callous disregard for human life.

Amnesty International seeks your assurance that the investigation into this incident will conform to the highest standards for investigating officer-involved shootings, and that all relevant evidence, including the application and justification behind the issuance of the "no knock" search warrant, the reasoning and decision to execute that warrant at a residence in the middle of the night, the LMPD incident report, the autopsy report and witness testimony, will be made available to it. Furthermore, the investigation should also include any actions taken by the individual officers involved in the incident or others in attempting to cover up the specifics of the use of force in this situation and Breonna Taylor's death. The family of Breonna Taylor should be updated on the progress of the investigation throughout. We urge that a report of the findings be made public as soon as possible, with information on the scope of the investigation, procedures and methods used to evaluate evidence, as well as conclusions and recommendations. We also seek your assurance that any officer found responsible for unlawful use of force will be held accountable in disciplinary and criminal proceedings as appropriate.

Accountability is also an essential part of redress. Under international law, anyone whose rights have been violated has the right to remedy. In a case involving death in custody or as a result of lethal force, the family has that right to remedy. The UN Human Rights Committee has stated:

Article 2, paragraph 3, requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights. ... Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies. A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant...

Where the investigations referred to [above] reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic or international law, such as ... summary and arbitrary killing...

Lastly, Amnesty International would like to draw your attention to Kentucky's use of force and lethal force statute, KRS §503.090. In 2015, Amnesty International reviewed each state's use of lethal force statute, where they existed, and found that all statutes, including Kentucky's, fails to meet international standards for the use of force and firearms by law enforcement. Kentucky's statute is so permissive that it allows for the use of lethal force in instances where officers or others are not faced with an imminent threat of death or serious injury. Amnesty International is calling on all state legislatures to amend their state statutes on the use of lethal force by law enforcement officers to comply with international law standards, as set out earlier in this letter.

Again, I welcome the investigation that your office is undertaking into this very serious case and look forward to learning the outcome. Should you have any questions about the contents of this letter and the obligations and responsibilities of law enforcement officers under international law in carrying out their duties, or assistance in bringing Kentucky's law on officers' use of physical force more closely in line with international standards, please feel free to reach me at kroth@aiusa.org.

I thank you for your serious consideration of our concerns and look forward to your response.

Yours sincerely,



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