

July 31, 2020

**Submitted to the joint Senate Judiciary and Rehabilitation and Social Services Committee for Special Session on Policing Reform**

Honorable Edwards, Honorable Favola, and Committee members,

On behalf of the ACLU of Virginia and its more than 100,000 members and supporters in Virginia, we urge the committee to pass legislation that would create a way for community members to sue police in state court over police violence without the shield of qualified immunity and expand the conduct that can lead to police decertification to include serious misconduct including excessive use of force.

The ACLU of Virginia is united in solidarity with protestors in Virginia and across the country demanding an end to violent, racist policing. We must stop tolerating a system of policing in Virginia that has been allowed to kill Black people for decades without consequence or accountability. These protests are an outpouring of rage and grief at the endless, relentless examples of unarmed Black people being brutalized and murdered at the hands of police. George Floyd and Breonna Taylor are just the latest deaths.

Here in Virginia, in June a Virginia police officer in Fairfax used unacceptable force on a Black man by firing his stun gun and pressing a knee to the man's back as he said, "I can't breathe." On May 14, 2018, Marcus-David Peters, who was clearly unarmed and in mental distress, was killed by a Richmond police officer who shot him twice. On April 22, 2015, 18-year-old William Chapman died after a police officer suspected him of shoplifting and shot him 11 times. Mr. Chapman was not the first unarmed person this police officer had shot and killed. He should have been decertified long before this incident. Our experience in Virginia shows that we need strong, uniform statewide standards of conduct that apply to all police and protect all communities.

Currently under Virginia law, victims of brutality or harassment by law enforcement have no ability to hold offending officers accountable for their actions. The result is that police officers have little incentive to follow the law and improve their practices. This ultimately undermines safety and justice for everyone, especially Black and Brown people who are more likely to be the target of police misconduct. Virginia must enact a law that allows Virginians to sue for money damages in state courts when they're hurt by unconstitutional police violence. The legal rights of Virginians should be decided in Virginia courts, by Virginia juries, with Virginia judges.

Additionally, we need to change the state law that allows individual officers to engage in serious misconduct that results in bodily harm or death without professional or personal consequence. The reality is that police officers involved in incidents of unethical behavior and misconduct that are "fired" or "let go" or



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“resign” are often rehired by another police department. This is only a temporary way of removing a bad cop from the street. We need to break the cycle of firing and rehiring officers. The Virginia State Police have stated that there have only been 16 officers decertified since 2016. We need to pass legislation that expands the grounds for decertifying an officer to include misconduct on the job and to make that work we need compulsory standards of conduct that apply to every law enforcement agency in Virginia that address this kind of misconduct. Other state-certified professionals in Virginia such as teachers, barbers, doctors, and lawyers are expected to comply with statewide professional standards or risk losing their license. Why are police officers in Virginia held to a much lower standard?

Passing legislation to create a state cause of action and address decertification for misconduct would answer the call of Virginians who are demanding accountability for officers who use their power to harm Black and Brown people – without consequences – often keeping their jobs and continuing their lives while Black and Brown families mourn the loss of their loved ones. Passing these two reforms will be the first step to hold law enforcement accountable to all the people they are entrusted to “serve and protect.”

Inaction is not an option in the fight against systemic racism. We must reimagine the culture of policing while holding officers accountable for misconduct. Black activists and grassroots organizers have been working on police reform for decades. Many legislators on this committee have been pushing for reform for years. It is now time to implement these long overdue police accountability mechanisms. We have the facts, the experiences, and the data. The time for implementation is now.

Virginia is looking to you to lead in this moment. You must take positive action – individually and collectively – to make changes in the laws, policies, practices, and police culture that have allowed for murder and systematic inequity for generations. We have model legislation drafted, we have legislative champions, and we know that together we can make change happen now.

If you would like to speak about these issues and engage the community in a dialogue about what actions you will take, the Legislative Director of the ACLU of Virginia, Ashna Khanna, can be reached at 248-231-2551 or [akhanna@acluva.org](mailto:akhanna@acluva.org).



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