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Congress of the United States
House of Representatives
Washington, DC 20515-4603

June 9, 2020

The Honorable William Barr
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Barr:

As our nation continues to mourn and protest the senseless and avoidable death of George Floyd at the hands of law enforcement, I respectfully request that the Department of Justice (Department) take immediate action to implement and enforce the Death in Custody Reporting Act (DCRA) of 2013.

The Department has been derelict in its duty to collect accurate information about police misconduct and the conditions of incarceration in this country. The DCRA simply requires States to report quarterly information to the Attorney General about the death of any person detained by law enforcement, in the process of arrest, or in custody. That data would include any individual incarcerated in a state or federal jail, prison, or juvenile facility. An accurate, nationwide count on the number of individuals dying while in the of custody of law enforcement is critical in assessing the scope of a problem that persists in this country. The harrowing video of George Floyd's death at the hands of Minneapolis police officers underscores what many Americans already know: that others have suffered the same fate, but their death has gone unrecorded and those responsible were not held to account. Congress and the Executive branch must know the depths of the problem in order to eliminate avoidable deaths and criminal police behavior in our justice system.

In December 2018, the Department's Inspector General issued a report on the Department's failure to implement the law and provided recommendations to ensure compliance. Over the next year, the Department made little to no progress in implementing many of the Inspector General's recommendations. Earlier this year, House Judiciary Committee Chairman Jerry Nadler and Crime Subcommittee Chair Karen Bass called for an investigation into the Department's failure to collect DCRA data and to implement the IG's recommendations.

Letter to Attorney General William Barr
June 9, 2020
Page 2

I remain concerned that the Department set aside the compliance guidance published in the Federal Register on December 19, 2016, and instead submitted a new data collection method on June 11, 2018. Relying on media reports of deaths in custody and a voluntary program in which state law enforcement agencies voluntarily report deaths in custody proved to be an unreliable and inaccurate method for collecting this information. The Department soon abandoned this flawed methodology and has since tasked the Bureau of Justice Assistance with collecting this important information.

In January of this year, the Department finally created a process for States to begin collecting and reporting data. The DCRA became law in 2014, and six years later the Department has not published accurate and reliable data on the number of deaths in police custody. It has abandoned the law's goal of collecting data about all deaths in custody, such as suicides, homicides, and deaths by natural causes, and instead engaged in bureaucratic shuffling.

I am also concerned that the Department has not enforced the mandatory reporting requirement and exercised the law's enforcement mechanism: a maximum 10 percent loss of a State's federal funds under the Edward Byrne Memorial Justice Assistance Grant. It is critical that the Department make clear to the States that the reporting requirement is mandatory and penalize States that have refused to comply with the law.

Men and women continue to die at the hands of law enforcement. Policymakers do not have access to government data on the nature and circumstances of these deaths. Instead the public and lawmakers must rely solely on the work of non-profit organizations and the media. Despite the tremendous work of investigative journalists and these non-profit organizations in cataloging deaths in custody, there is still an incomplete picture of the problem. The Department cannot abdicate its duty to the public in this matter any longer.

Very truly yours,



ROBERT C. "BOBBY" SCOTT
Member of Congress