

Data in support of the Working Group of Experts on People of African Descent upon issuance of the Group's Report dated August 21, 2020

We applaud the Working Group of Experts on People of African Descent upon issuance of the Group's Report dated August 21, 2020.

We take this opportunity to supply additional supporting data, in particular in connection with paragraphs 8 & 43 concerning the Ahmaud Arbery matter.

*1. Citizen patrols, echo of longstanding practice?* We don't know when the Satilla Shores citizen patrol (the patrol that murdered Ahmaud Arbery in February 2020) was formed. The meager evidence we have now suggests that the patrol was formed at least as early as December 2019.<sup>1</sup> In the 2018 Georgia gubernatorial election, there was advocacy for forcibly "rounding up" so-called criminals by "myself" with guns and pickup trucks.<sup>2</sup> Was the Satilla Shores citizen patrol formed in response to this election campaigning? Or did it pre-exist the 2018 election? Are there other citizen patrols operating in our community—Glynn County, Georgia, USA and surrounding counties? If yes, when were they formed?

*Failure to investigate?* We are informed that the murder of Arbery is now being investigated to determine whether it qualifies as a Federal hate crime,<sup>3</sup> in addition to being prosecuted as a State of Georgia murder. But we have no indication that there's any investigation going on into formation and operations of Satilla Shore citizen patrol and other citizen patrols generally.

*2. Connections to official law enforcement.* The Satilla Shores citizen patrol that murdered Ahmaud Arbery is often characterized as a private patrol. There are, however, numerous and deep connections to official law enforcement that cry out for investigation.

*Deputization of citizen patrol(s) by law enforcement?* The leader of the Satilla Shores citizen patrol, Greg McMichael, was, at the time of the murder of Ahmaud Arbery, recently retired in 2019 from a career in law enforcement—first, as a police officer with the Glynn County Police Department and, second, as an investigator in the State prosecutor's office.<sup>4</sup> The weapon this patrol leader used to terrorize Mr Arbery was a government-issued handgun.<sup>5</sup>

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<sup>1</sup> <https://www.cnn.com/2020/06/04/us/mcmichaels-hearing-ahmaud-arbery/index.html>

<sup>2</sup> See <https://youtu.be/5Q1cfjh6VfE>.

<sup>3</sup> <https://www.cnn.com/2020/06/04/us/mcmichaels-hearing-ahmaud-arbery/index.html>

<sup>4</sup> <https://www.insider.com/this-is-what-we-know-about-gregory-and-travis-mcmichael-2020-5>

<sup>5</sup> June 2020 probable-cause hearing.

When people had called and put in a request for police assistance, instead of handling the request, the Glynn County Police Department had referred the request to the Satilla Shores citizen patrol.<sup>6</sup>

*Pattern and practice on the part of law enforcement, including State prosecutors, including the way State prosecutors are assigned to cases, of protecting citizen patrols and effectively granting them immunity from prosecution?* It is reported that Greg McMichael, in tracking down and cornering Mr Arbery, asserts that he intended to make a citizen's arrest.<sup>7</sup> After the murder of Mr Arbery, the Glynn County Police Department did come to the scene, but made no arrests. Some local officials assert that the State prosecutor (in whose office Mr. Greg McMichael had worked as investigator) told police officers at the scene not to make an arrest.<sup>8</sup> The State prosecutor denies this account.<sup>9</sup> This first State prosecutor ultimately recused herself because Mr Greg McMichael had worked in her office. But, somehow, the matter was then assigned to a second State prosecutor who had a known conflict as well—because his son had also worked in the first State prosecutor's office. This second State prosecutor was notorious in Georgia for prosecuting a case that was widely characterized as a case of racially-motivated voter intimidation and suppression.<sup>10</sup> The appointment of the second State prosecutor was made by the Georgia attorney general's office.<sup>11</sup>

How did it happen that, precisely, this second State prosecutor was assigned to the case, despite his conflict, the same kind of conflict that had caused the first State prosecutor to recuse herself? However the assignment happened, before he had removed himself from the case, on account of his son's employment in the first State prosecutor's office, the second State prosecutor delivered: Despite the conflict and his own recusal, the second State prosecutor wrote a memo upholding recently retired investigator and perpetrator Greg McMichael's construction of the

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<sup>6</sup> <https://www.news4jax.com/news/local/2020/05/17/test-suggests-gregory-mcmichael-was-deputized-before-ahmaud-arbery-shooting/>

<sup>7</sup> <https://www.wsj.com/articles/georgia-killing-provides-new-look-at-old-policing-tool-11589290869>

<sup>8</sup> <https://www.ajc.com/news/local/watch-gbi-updates-following-arrests-ahmaud-arbery-shooting/1aJbZe2uL9HrndjyWYjB2L/>

<sup>9</sup> <https://www.ajc.com/news/glynn-county-says-her-office-did-not-thwart-arrests-after-shooting/n1MoXKq17EdjTpVAo3WWQN/>

<sup>10</sup> <https://www.nytimes.com/2020/05/08/us/glynn-county-police-ahmaud-arbery.html>

<sup>11</sup> <https://www.ajc.com/news/glynn-county-says-her-office-did-not-thwart-arrests-after-shooting/n1MoXKq17EdjTpVAo3WWQN/>

matter and ruled, citing the Georgia citizen's arrest law, the killing of Mr Arbery to have been a justifiable homicide and not an unlawful killing, much less a murder.<sup>12</sup>

Even though Mr. Greg McMichael has now been arrested, the second State prosecutor's memo justifying the killing on the basis, among other things, of the citizen's arrest law is being used as a key defense by Mr McMichael in the prosecution against him.<sup>13</sup>

*Failure to investigate?* Again, we are informed that the murder of Mr Arbery is now being investigated to determine whether it qualifies as a Federal hate crime,<sup>14</sup> in addition to being prosecuted as a State of Georgia murder. But we have no indication that there's any investigation going on concerning the following:

- When did law enforcement begin referring requests for police assistance to the Satilla Shores citizen patrol?
- Did/Does law enforcement refer requests for police assistance to other citizen patrols operating in the community?
- Are other citizen patrols allowed to use government-issued weapons in their operations?
- How many times has law enforcement, including State prosecutors, invoked the citizen's arrest law as a justification for not arresting and for not pressing charges against individuals who hunt down and use force against other individuals in the community?
- Is there a pattern and practice on the part of law enforcement, including State prosecutors, including the way State prosecutors are assigned to cases, of protecting citizen patrols and effectively granting them immunity from prosecution?
- What are the demographics of the citizen patrol members and of their victims?

All of these issues, and more, cry out for investigation.

*3. Evocations of (a) the reign of terror that was lynching reaching all the way back to slave patrols and of (b) contemporary right-wing terrorist practices in the United States.*

*(a) Suspect origins of Georgia's citizen's arrest law.* The State of Georgia secedes from the United States on January 19, 1861. Later in 1861, the State of Georgia codifies for the first time its laws. That codification does **not** include the citizen's arrest law. President Lincoln issues the final Emancipation Proclamation on January 1, 1863. Later in 1863, the State of Georgia goes back to the 1861 codification of its laws and adds in the citizen's arrest law.

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<sup>12</sup> <https://int.nyt.com/data/documenthelper/6916-george-barnhill-letter-to-glyn/b52fa09cdc974b970b79/optimized/full.pdf>

<sup>13</sup> June 2020 probable-cause hearing.

<sup>14</sup> <https://www.cnn.com/2020/06/04/us/mcmichaels-hearing-ahmaud-arbery/index.html>

Was the citizen's arrest law added, in 1863, to enhance the authority of slave patrols in anticipation of a wave of fugitives from slavery claiming their liberty after the proclamation of emancipation?<sup>15</sup>

(b) *Parallel to contemporary terrorist practice?* As Eric Ward of the Western States Center notes, “USA Today, The Guardian, Slate, and Just Security have all documented the alarming rise in the weaponization of vehicles.”<sup>16</sup> The hunting down and murder of Ahmaud Arbery at the hands (and the trucks) of the Satilla Shores citizen patrol are no exception.<sup>17</sup>

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<sup>15</sup> Research is ongoing; see generally:

[https://www.washingtonpost.com/video/national/descendants/the-citizens-arrest-law-cited-in-ahmaud-arberys-death-was-created-to-control-the-black-population/2020/09/29/f3891bb1-468d-4fed-bf11-16aa5eed943d\\_video.html](https://www.washingtonpost.com/video/national/descendants/the-citizens-arrest-law-cited-in-ahmaud-arberys-death-was-created-to-control-the-black-population/2020/09/29/f3891bb1-468d-4fed-bf11-16aa5eed943d_video.html); <https://historynewsnetwork.org/article/175619>;  
<https://www.nytimes.com/article/ahmaud-arbery-citizen-arrest-law-georgia.amp.html>

<sup>16</sup> <https://medium.com/@westernstatescenter/remember-reckon-recommit-charlottesville-three-years-later-dfb960e6f997>

<sup>17</sup> <https://www.cnn.com/2020/06/04/us/mcmichaels-hearing-ahmaud-arbery/index.html>