

May 13, 2021



Re: The Law Enforcement Reform Working Group of the Justice Roundtable Demands Improvements to the George Floyd Justice in Policing Act of 2021 (JPA) H.R. 1280

Dear Senator Durbin, Senator Booker, Senator Scott, Senator Graham, and Congresswoman Bass,

CC: Speaker Pelosi, Leader McCarthy, Majority Leader Schumer, Minority Leaders McConnell, and CBC Chair Representative Joyce Beatty

The Law Enforcement Reform Working Group (LERWG) of the Justice Roundtable¹ joined by 44 civil and human rights and faith-based undersigned organizations, write at this most critical time, weeks after a jury found Derek Chauvin guilty of murdering George Floyd, and in the wake of several law enforcement caused fatalities of people of color within less than a month's time, including Daunte Wright, Adam Toledo, Ma'Khia Bryant, Mario Gonzalez and Andrew Brown Jr., to demand the Senate make meaningful improvements to the House-passed George Floyd Justice in Policing Act (JPA),² as a bipartisan group of legislators look to advance a version of the JPA with deliberate speed.

Last summer, after George Floyd was tortured and extrajudicially executed, broad public support emerged for significant changes to policing.³ Recently, The Washington Post reported six in 10 Americans say the U.S. should do more to hold police accountable for the mistreatment of Black people.⁴ On February 24, the House reintroduced the JPA, which passed less than two months later, without a committee hearing or markup, and much to the dismay and frustration of the LERWG and many of the undersigned organizations. Since last year, this working group⁵ and many organizations⁶ have called for the JPA to be improved.

While we appreciate that some of the improvements to the JPA that our member organizations have recommended were discussed and some were adopted, further improvements are necessary to hold law enforcement accountable and shift both the culture and system of policing in this country. The majority of the changes we recommended are reasonable and practical improvements to bring greater accountability to police misconduct and unnecessary police violence. The sense of urgency for overhauling the system of policing has only escalated in recent months and will continue to grow, as more individuals face abusive policing and lose their lives at the hands of law enforcement officers.

¹ The Justice Roundtable is a broad-based coalition of more than 100 organizations working to reform federal criminal justice laws and policies. Founded in 2002, the Roundtable's mission is to bring value to the Justice Movement by coordinating the federal legislative and advocacy efforts of the Washington criminal justice advocacy community. Learn more about the Justice Roundtable here: <https://justiceroundtable.org/>

² H.R. 1280, The George Floyd Justice in Policing Act of 2021

³ Mollyanne Brodie, Liz Hamel, Audrey Kearney, Ashley Kirzinger, Lunna Lopes, and Caliey Muñana, "KFF Health Tracking Poll-June 2020" KFF, June 26, 2020. <https://www.kff.org/racial-equity-and-health-policy/report/kff-health-tracking-poll-june-2020/>

⁴ Scott Clement and Emily Guskin, "Most Americans support greater scrutiny of police as discrimination concerns persist, Post-ABC poll finds," The Washington Post, April 23, 2021. <https://www.washingtonpost.com/politics/2021/04/23/poll-police-bias-floyd/>

⁵ Letter from the Justice Roundtable, Law Enforcement Reform Working Group, to Chairman Nadler and Representative Karen Bass (October 30). https://justiceroundtable.org/wp-content/uploads/2020/12/Justice-Roundtable-LERWG-Demands-Significant-Changes-to-JPA-October-30-2020_FINAL.pdf

⁶ Coalition Letter from the Leadership Conference on Civil and Human Rights et al., to Congressional Leadership (June 18, 2020). http://civilrightsdocs.info/pdf/policy/letters/2020/Final_Leadership_Conference_Letter_on_George_Floyd_Justice_in_Policing_Act_6_18_2020_Sign_on.pdf

There has been a national call to reduce and redefine law enforcement's role in daily life, for instances that simply do not require an armed response, such as traffic enforcement, apparent behavioral or mental health crises,⁷ and as a response to homelessness. Congress must pass not only stronger means of accountability and transparency for policing but also effective alternatives that address current public safety failings and reprioritize investments into programs and services that allow for the health, safety, and well-being of all communities. For too many families directly impacted by violence inflicted by law enforcement officers, there can never be justice. In order to stop more people from experiencing this pain, Congress must take seriously shoring up tools of transparency and police accountability.

We urge the Senate to include the following amendments, in its version of the JPA:

1. Eliminate the judicial doctrine of qualified immunity for all governmental actors, not just law enforcement officials;
2. Include a statutory *Bivens* remedy to hold federal officials accountable for violations of constitutional rights;
3. Amend 18 U.S.C. Sec. 242, which enables prosecutors to hold law enforcement officers accountable for criminal and civil rights violations, by adding a new subsection that lowers the mens rea standard to hold law enforcement officers accountable for "intentional acts" and "reckless acts";
4. Create a national use of force standard that limits the use of all force: less lethal force should not be used unless it is the least amount necessary and proportional, and lethal force only as a last resort, after exhausting all reasonable options when faced with an imminent threat of death or serious bodily injury; federal funding should be conditioned to require states to enact a substantially similar use of force statute to the national standard;
5. End the DOD 1033 program that transfers military style equipment, to Federal, state and local law enforcement;
6. Eliminate school-based law enforcement;
7. Strengthen the provisions from H.R. 1280, regarding a police misconduct registry, including ensuring that it is inclusive of all types of misconduct by police officers, and not limited to only use of force and racial profiling; ensuring it allows for officers' names and demographic information to be publicly available; requiring reporting for federal officers; including a provision to require DOJ to issue regulations;
8. Ban chokeholds. Condition funding to states that do not enact a statutory prohibition on maneuvers that restrict blood or oxygen flow to the brain, including chokeholds, strangleholds, neck restraints, neckholds, and carotid artery restraints;
9. Include provisions for enforcement of the racial profiling prohibition, including making data collection and publication more robust, including legal justifications for investigatory activities in reported data, specifying reporting timelines, removing limits on the publication of data, and eliminating a demonstration project; and
10. Eliminate quick-knock raids for drug cases.

Last year, the Congressional Budget Office estimated the House-passed JPA would authorize \$1.1 billion in federal appropriations for state and local law enforcement agencies.⁸ While a large portion of this is for the purposes of investigating potential law enforcement misconduct, new funding through this bill stands in stark contrast with protestors' demands for equity for Black lives and for reinvestment from law

⁷ Between 2015-2020 30% of people shot and killed by police were cited as exhibiting signs of mental illness. Extrapolated from the Washington Post's Fatal Force Database <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>

⁸ Congressional Budget Office, "Estimate of the Statutory Pay-as-You-go Effects of H.R. 7120," June 24, 2020. <https://www.cbo.gov/system/files/2020-06/hr7120.pdf>

enforcement into community-based public safety programs. Systemic and anti-Black racism are at the core of our current criminal legal system, as is evident in the state sanctioned killings of Black and Indigenous people, who are most significantly overrepresented among other races. The video of George Floyd's killing by Minneapolis police officers shocked the global conscience, but abusive and excessive policing of Black people by law enforcement is as old as policing in the U.S. itself. In the South, the profession of policing has early roots in the slave patrols created by slave masters who used these brutal patrols to retrieve, beat, punish and often kill their property – Black bodies.⁹ The JPA can take the first steps to create new processes that will remove law enforcement or armed responses to minor violations like traffic offenses and behavioral health crises, address systemic racism, and reinvest in under-resourced and over-policed communities. These demands require Congress to prioritize funding for social workers, health providers, peer support, community-based programs and other programs and services better equipped to address the needs of the community.

The protests that ensued in response to the killing of George Floyd are potentially the largest in U.S. history.¹⁰ Millions of people took to the streets to peacefully protest police violence and wrote decision makers demanding justice for George Floyd. The volume has been turned up on demands to change our public safety model to redirect funds to make caring investments into community-based solutions. These calls become more pressing as violence at the hands of law enforcement officers continues unabated and the list of names of lives lost to police caused fatalities grows. Given the lack of movement on major policing reform since the brutal beating of Rodney King 30 years ago, it is hard to imagine that without the protests that ensued following the killing of George Floyd, Breonna Taylor, Dresjean “Sean” Reed, Tony McDade and so many others last year, there would be a policing reform package at all. The JPA falls short of these requests and does not fully reflect the interests of all Black and Brown communities on the frontlines seeking accountability. Congress must not stop at seeking to pass the George Floyd Justice in Policing Act, but do much more to meet the moment to address the more than 400 years of harms that have been administered to people of color in this country by law enforcement officers.

George Floyd's six-year-old daughter, Gianna, said she knew her father would change the world, and she was right. The verdict in the Derek Chauvin trial was an exception but it should be a rule that officers who brutalize the communities they police can no longer act with impunity. Now is the time to be bold and make meaningful changes that set new standards for policing and hold officers accountable for discriminatory, unlawful, and unconstitutional policing.

We hope the Senate will work with us to construct meaningful legislation that addresses the demands of the people and stand in unity with communities of color to pass solutions that start us on the path of systemic changes to law enforcement and public safety so that all communities may be safe - free of police harassment, violence and police killings. Should you have any questions or wish to discuss these issues further, please contact, Kristina Roth of Amnesty International USA, co-chair of the Law Enforcement Reform Working Group at KRoth@aiusa.org.

Sincerely,

The Justice Roundtable

⁹ Olivia B. Waxman, “How the U.S. got Its Police Force,” *Time*, May 18, 2017, <https://time.com/4779112/police-history-origins/>

¹⁰ Larry Buchanan, Quoctrug Bui, and Jugal K. Patel, “Black Lives Matter May be the Largest Movement in U.S. History,” *The New York Times*, July 3, 2020, <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>

Al Otro Lado
American Atheists
American Friends Service Committee
Americans for Democratic Action (ADA)
Amnesty International USA
Asian Pacific American Labor Alliance, AFL-CIO
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Bazon Center for Mental Health Law
California Families United 4 Justice
Center for Civilians in Conflict (CIVIC)
Center for Constitutional Rights
Center For Employment Opportunities
Church of Scientology National Affairs Office
College and Community Fellowship
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Constitutional Accountability Center
Drug Policy Alliance
Ella Baker Center for Human Rights
Equal Justice USA
Faith Action Network of Washington State
Families United 4 Justice
Government Information Watch
Human Rights Campaign
International CURE
Japanese American Citizens League
Justice Revival
Leadership Conference of Women Religious
League of Women Voters of the United States
Love Not Blood Campaign

National Advocacy Center of the Sisters of the Good Shepherd

National Association of Social Workers

National Council of Churches

NETWORK Lobby for Catholic Social Justice

Project On Government Oversight

SJSU Human Rights Institute

Students for Sensible Drug Policy

The Black Police Experience

The Sentencing Project

The United Methodist Church - General Board of Church and Society

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