

October 30, 2020

Chairman Jerry Nadler
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

Honorable Karen Bass
House Judiciary Committee
2059 Rayburn House Office Building
Washington, DC 20515

Re: The Law Enforcement Reform Working Group of the Justice Roundtable Demands Significant Changes to the George Floyd Justice in Policing Act of 2020 (JPA) H.R. 7120

Dear Chairman Nadler and Representative Bass,

The Law Enforcement Reform Working Group (LERWG) of the [Justice Roundtable](#)¹ writes at this critical time, when there is broad public support for significant law enforcement reform,² yet police violence continues unabated, to urge you to vastly improve the George Floyd Justice in Policing Act (JPA)³ passed by the House of Representatives earlier this year.

Structural and anti-Black racism are at the core of the criminal legal system, evident in the epidemic of state- sanctioned killings of Black people. In May the world came to know the name of George Floyd, but excessive force against and killings of Black people by law enforcement are 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.⁴

Since the passage of JPA, at least 50 Black people have died at the hands of law enforcement.⁵ This week alone, two Black people were killed by law enforcement in this country. In Philadelphia, PA, Walter Wallace Jr., a 27-year old man with a mental health diagnosis, was gunned down in front of his mother and pregnant wife by police officers.⁶ In Waukegan, Illinois, police opened fire into a moving vehicle with two unarmed young Black people, killing 19-year old Marcellis Stinnette and seriously wounding Tafara Williams, his 20-year old girlfriend.

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.

² Liz Hamel, Audrey Kearney, Ashley Kirzinger, Lunna Lopes, Cailey Muñana, and Mollyanna Brodie, "KFF Health Tracking Poll June 2020," *KFF Tracking*, June 26 2020, <https://www.kff.org/racial-equity-and-health-policy/report/kff-health-tracking-poll-june-2020/>

³ HR 7120, passed by the U.S. House of Representatives June 25, 2020, <https://www.congress.gov/bill/116th-congress/house-bill/7120?q=%7B%22search%22%3A%5B%22Justice+in+Policing+Act%22%5D%7D&s=1&r=1>

⁴ Olivia B. Waxman, "How the U.S. got Its Police Force," *Time*, May 18, 2017, <https://time.com/4779112/police-history-origins/>

⁵ Numbers reflected from June 25th – October 16th, <https://www.cbsnews.com/news/george-floyd-killing-police-black-people-killed-164/>; and <https://mappingpoliceviolence.org/>.

⁶ Ellie Rushing, Anna Orso, Robert Moran and Samantha Melamed, "Fatal police shooting of Walter Wallace Jr. prompts heated overnight protests in West Philly," *The Inquirer*, October 27, 2020, <https://www.inquirer.com/news/west-philadelphia-police-shooting-locust-20201026.html>

These shootings were both unacceptable and avoidable. They send a clear message: policing in this country must be fundamentally overhauled.⁷ The sense of urgency for comprehensive reform has only escalated in recent months and will continue as more people die at the hands of law enforcement. Yet many leaders continue to call for heavy policing in communities of color and remain unwilling to adopt restorative practices, instead persisting in wrongheaded punitive responses.

There has been a national call to reduce and redefine law enforcement's footprint in communities of color. Congress must pass not only stronger means of accountability and transparency for policing but also implement effective alternatives that address current public safety failings and prioritize programs and services that allow for the health, safety, and well-being of all communities. The JPA should create new processes that will remove police or armed responses to 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, while reducing the budgets of law enforcement who are called too often to address these issues. For too many families directly impacted by violence wrought by law enforcement, 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 demand the JPA be amended to include the following:

1. Full elimination of the judicial doctrine of qualified immunity, which must be extended to all governmental actors;
2. A statutory *Bivens* remedy to hold federal officials accountable for violations of constitutional rights;
3. Elimination of law enforcement in schools;
4. Amend 18 U.S.C. Sec. 242, which enables prosecutors to hold law enforcement accountable for criminal and civil rights violations, by adding a new subsection that creates a "deliberate indifference" standard to facilitate accountability for failure to intervene; and lowers the mens rea standard to hold law enforcement accountable for both intentional and reckless acts;
5. The creation of a national use of force standard that limits the use of all force and allows lethal force only when necessary and 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 this new national.

⁷ Elliot C. McLaughlin, "Car chase precedes police shooting that killed Marcellis Stinette in Waukegan, Illinois, video shows" *CNN* October 29, 2020, <https://www.cnn.com/2020/10/29/us/waukegan-police-shooting-video-marcellis-stinette/index.html>

6. Strengthening the provisions 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; removing restrictions on public disclosure; requiring reporting for federal officers; including a provision to require DOJ to issue regulations;
7. Full elimination of the 1033 program and other programs that facilitates the transfer of military weapons to law enforcement.
8. A ban on chokeholds that conditions funding for states that do not enact a statutory ban on maneuvers that restrict blood or oxygen flow to the brain, including chokeholds, strangleholds, neck restraints, neckholds, and carotid artery restraints;
9. Provisions to enforce the prohibition on racial profiling, 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. Elimination of quick-knock raids for drug cases.

While we appreciate your efforts to adopt some of the improvements to JPA our coalition of organizations recommended, the majority of the non-negotiable changes we recommended, *were largely ignored and remain unadopted*. Recently, the JPA was enrolled in the Jobs and Justice Act of 2020,⁸ an omnibus bill championed by the Congressional Black Caucus, which was introduced without any of our proposed changes.⁹ The changes we have recommended are the baseline for any policing bill that seeks to truly transform public safety and provide meaningful accountability when law enforcement violate people's civil and constitutional rights.

The continued outpouring of anger against generations of oppressive and violent treatment by law enforcement should be a clear signal for Congress to take up their responsibility to work for and serve *all* people, including the communities of color, it claims to represent. The protests that ensued in response to the killing of George Floyd were potentially the largest in US history.¹⁰ Millions of people took to the streets to demand change: divestment from law enforcement agencies that are systemically killing Black people, and investment in new structures that protect health and public safety. The JPA, as currently written, misses the mark, and fails to address centuries of harm faced by people of color at the hands of the law enforcement. .

While legislative action is unlikely at this late juncture in the 116th Congress, we urge you, as leaders in the next Congress, to introduce and pass a bill that provides a real and transformative approach to public safety and policing that, at minimum, incorporates all of the principles we

⁸ Jobs and Justice Act of 2020 Summary, Congressional Black Caucus, https://cbc.house.gov/uploadedfiles/jobs_and_justice_act_of_2020_section_by_section_final.pdf

⁹ June 18th letter sent to House Judiciary Committee, http://civilrightsdocs.info/pdf/policy/letters/2020/Final_Leadership_Conference_Letter_on_George_Floyd_Justice_in_Policing_Act_6_18_2020_Sign_on.pdf

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>

have set forth above. Now is the time to be bold and produce the change that we, the people, took to the streets to demand.

Should you have any questions or wish to discuss these issues further, please contact Kristina Roth of Amnesty International USA at KRoth@aiusa.org or Christopher Scott of the Open Society Policy Center at Christopher.Scott@opensocietyfoundations.org.

Sincerely,

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Cc: Senator Cory Booker
Senator Kamala Harris