



Center for Disability Rights, Inc.
INTEGRATION, INDEPENDENCE, CIVIL RIGHTS



March 3, 2021

Speaker Nancy Pelosi
The Capitol H-232
Washington DC, 20515

House Minority Leader Rep. McCarthy
The Capitol H-204
Washington, DC 20515

Re: UPDATED: Center for Disability Rights and The Daniel Initiative and 38 Organizations Oppose the Justice in Policing Act of 2021 (JPA)

Dear Speaker Pelosi and Minority Leader McCarthy,

The Center for Disability Rights, The Daniel Initiative, and the **38 undersigned civil and human rights groups** write at this critical time to oppose the Justice in Policing Act of 2021 (JPA). The bill does not provide assurances of safety nor the ability to hold law enforcement accountable, therefore police violence continues unabated. House leadership has decided to proceed with a floor vote on the JPA without engaging a number of expert advocacy organizations. There has been no consultation with on-the-ground activists and other stakeholders about our legitimate concerns. The bill simply does not meet this moment, or provide safety to Black and Brown communities that are historically over-policed. This move to fast track the bill also denies newly elected Members of Congress, many who ran on the promise of creating intentional and relevant police reform, the ability to hear from their constituents and adequately consider this important issue.

Since the JPA's inception in the 116th Congress¹, it has been characterized by a rushed closed-rule process. This resulted in the undermining and excluding of expert activists demanding justice and accountability for the killing of Black people by law enforcement. On numerous occasions, advocates sent correspondences to the House of Representatives to [strengthen the JPA](#) in meaningful ways. This outreach included suggested bill language and guidance in an attempt to improve the legislation. Unfortunately these efforts were largely ignored and in most cases outright dismissed.

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

This moment calls for bold legislative action that dismantles the systemic and institutionalized racism deeply embedded in law enforcement. The JPA falls woefully short of the comprehensive reform needed to address the current policing crisis, and fails to achieve meaningful accountability for law enforcement's violation of people's rights. We remain steadfast in our belief that this bill, framed as a bold step toward policing reform, is actually a flawed and misguided attempt to keep a broken system afloat.

The epidemic of state- sanctioned killings of Black people must cease. Excessive force 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 bodies².

In light of the January 6 Insurrection on the Capitol by domestic terrorists, revealing the prevalence of white supremacists within the ranks of law enforcement must be included in any accountability measures. Our message is clear, policing in this country must be fundamentally overhauled but in a significant way. Congress should follow regular order to produce strong accountability measures that include effective alternatives to addressing current public safety failings.

Lawmakers must prioritize programs and services that allow for the health, safety, and well-being of all communities. This 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. There must be a reduction of law enforcement budgets and an overhaul of how these funds are used.

In order to stop more people from experiencing this pain, Congress must create serious and real laws that will provide transparency and police accountability, something this anemic JPA will never accomplish.

We demand the JPA be amended to include the following:

1. Full elimination of the judge-made judicial doctrine of qualified immunity, which must be extended to all governmental actors--not just law enforcement--to ensure accountability; (*Section 102: Qualified Immunity Reform - does not eliminate*)
2. A statutory *Bivens* remedy to hold federal officials accountable for violations of constitutional rights; (*not in the bill – this bill only narrowly covers local law enforcement*)
3. Elimination of law enforcement in schools;

² Olivia B. Waxman, "How the U.S. got Its Police Force," Time, May 18, 2017, <https://time.com/4779112/police-history-origins/>

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; *(Section 101: Deprivation of Rights Under Color of Law)*
5. The creation of a national use of force standard that limits the use of all force only when necessary and proportional permitting lethal force only as a last resort, after exhausting all reasonable alternatives when faced with an imminent threat of death or serious bodily injury.

6. Strengthen the provisions regarding a police misconduct registry, which in this bill is limited to use of force and racial profiling. A strong accountability measure must include all types of misconduct by police officers like bribery, perjury, assault, sexual assault, theft and other infractions. It should require reporting for federal officers; include a provision to require DOJ to issue regulations; and not remove restrictions on public disclosure; *(Section 201: Establishment of National Police-Misconduct Registry – only for use of force & racial profiling)*

7. Full elimination of the 1033 program and other programs that facilitate the transfer of military weapons to law enforcement; *(Section 365: Stop Militarizing Law Enforcement Act – does not do this)*

8. A federal mandate banning chokeholds. This bill incentivizes 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; *(Section 363: Incentivizing of chokeholds – does not eliminate choke holds. This section allows states to continue using choke holds as a practice and opt out of DOJ funding)*

9. Provisions to enforce the prohibition on racial profiling, including making data collection and publication more robust, 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, that can and have been deadly. *(Section 362: Ban on No-Knock Warrants in Drug Cases)*

The demands above are necessary because the JPA, in its current form, cannot mitigate nor stop another Elijah McClain, Tony McDade, Tanisha Anderson, Layleen Polanco, India Kager, Kayla Moore or the thousands of others killed by racist out of control law enforcement.

The current House of Representatives closed-rule process undermines the demands and needs of Black communities on the ground and underscores the complicity of Congress. These actions reinforce the issues of systemic racism and anti-blackness. They are rooted in the constructs of white supremacy found in our government and also permeate throughout the culture of policing. It is problematic that the House has neglected to meet

this moment with the care and courage needed to stop the constant murders of Black people at the hands of law enforcement.

Congress has continued to say that it supports bold changes to policing, yet JPA only provides menial and hollow incremental approaches and gives more funding to police. This will only uphold the systemic issues and driving forces behind these murders. There will be no policies that effectively address state-sanctioned violence. 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 its responsibility to work for and serve all people.

We demand Congress stop compromising with the lives of Black people, and dutifully uphold their constitutional oath and authority to protect Black Lives.

Should you have any questions or wish to discuss these issues further, please contact Dara Baldwin, Director of National Policy, Center for Disability Rights at dara.baldwin@ncdr.us or Breon Wells, President and CEO, The Daniel Initiative at breon.wells@thedanielinitiative.com

Sincerely,

(List of organizations from 16 states and DC)

UPDATED sign ons are in BOLD

Center for Disability Rights	DC
The Daniel Initiative	VA
The Black Police Experience	MD
Black School, Inc.	CA
National Employment Law Project	DC
National Council of Churches	DC
Black Church Action Fund	DC
Covenant Baptist United Church of Christ	DC
New Georgia Project Action Fund	GA
Samuel DeWitt Proctor Conference	IL
Trinity United Church of Christ	IL
Strategies for Youth	MA
Charles Hamilton Houston Institute for Race and Justice at Harvard Law School	MA
National Council on Alcoholism and Drug Dependence- Maryland Chapter	MD

Missouri Faith Voices	MO
Indivisible St Louis	MO
Mitchell Resource Center for Social Serv	MO
Black With No Chaser	MS
National Association of Blacks in Criminal Justice	NC
Autistic Women & Nonbinary Network	NE
National Association of Black Law Enforcement Officers	NJ
Decarcerate Tompkins County	NY
Justice Strategies	NY
Guardians Association of the Police Dept of the City of New York	NY
WCJA	NY
KHN Consulting, LLC	NY
Fellowship of Reconciliation	NY
GLSEN	NY
Black Shield Police Association	OH
The Ohio Council of Churches	OH
National Crittenton	OR
American Friends Service Committee	PA
St. Paul's Baptist Church, Philadelphia	PA
Advocacy Without Borders	TTX
New Athens Creative, Inc.	TX
Banduri LLC	VA
Center for LGBTQ Economic Advancement & Research	National
Bread for the World	National
National Council for Incarcerated and Formerly Incarcerated Women and Girls	National
The Association of Black Law Enforcers	Canada

Cc:

Rep. Karen Bass

Rep. Jerald Nadler

Rep. Jim Jordan

Sen. Dick Durbin

Sen. Chuck Grassley

Majority Leader Charles Schumer

Minority Leader Mitch McConnell

Sen. Cory Booker

All of House of Representative members

All of Senate members

White House Domestic Policy Council