



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

May 11, 2021

Senator Cory Booker
717 Hart Senate Office Building
Washington DC, 20515

**Re: Center for Disability Rights and The Daniel Initiative with 45 Organizations:
Concerns about language and provisions in the Justice in Policing Act of 2021 (JPA)**

Dear Senator Booker,

The Center for Disability Rights, The Daniel Initiative, and the **45 undersigned** civil and human rights groups write at this critical time to inform you of our concerns and provide some language proposals for [the Justice in Policing Act of 2021 \(JPA\) H.R. 1280](#) . The bill does not provide assurances of safety nor the ability to hold law enforcement accountable, therefore police violence continues unabated. The plan for this legislation from House leadership was to pass the JPA as is and send that version to the US Senate to edit and strengthen the language. Many activists and policy makers informed the House that this was not an effective strategy, but we were ignored. We understand that there are various conversations happening about the language for a senate version of the JPA and we send this letter to you with information and suggested language changes in that work. We look forward to working with you and others in the senate on our suggestions.

House leadership decided to proceed with a floor vote on the JPA without engaging a number of expert advocacy organizations. There was 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.

Since the JPA's inception in the 116th Congress ^[1], it has been characterized by a rushed closed-rule process. This resulted in the undermining and exclusion 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. [On March 3rd we sent a sign on letter](#) to all of Congress with 40 signatures expressing our concerns and opposition for this process and the bill as written. Unfortunately, these efforts were largely ignored and, in most cases, outright dismissed.

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 bodies [2].

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. There can be no reform to this as there is no federal statute on QI. In fact, expert activists and policy makers working on QI say this language will be harmful to the creation of QI in statute.)*
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 which means that all federal law enforcement entities are left out -such as AFT, CIA, DEA, FBI, US Parks, Transit, Housing Authority, Corrections offices and any special agencies within police departments - like NYC has its own agency or S.W.A.T teams found across the nation.)*

3. Elimination of law enforcement in schools (police-free schools); (there is no language of this in the House version yet many of our children and youth continue to be harmed and killed in what is supposed to be one of the safest places for them outside of their homes - school)
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 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. (*Section 101: Deprivation of Rights Under Color of Law*).;
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 which have a high standard of proof and there are no provisions that cover who and how this registry is administered. Law enforcement is going to report this on themselves. There is no accountability in this process.*)
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 – this provision modifies the existing program instead of eliminating it*).;
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; (Communities around the country are in the streets demanding to see video footage of law enforcement murdering people and they can’t obtain that information; data analysis is being funded through programs like the National Highway Traffic Safety Administration (NHTSA) [1906 The Prohibiting Racial Profiling](#) program yet not being used - only 4-5 states in this country use the program because there are no accountability measurements set forth in federal statute requiring states to implement this program and there are none in JPA); 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 House of Representatives closed-rule process undermined 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.

The editing of the JPA in the senate should include all and we look forward to joining in that work with you and other senate members. , 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 to discuss this letter further and to work on this imperative legislation.

Sincerely,

National Organizations:

Center for Disability Rights

The Daniel Initiative

American Friends Service Committee

Anacostia Organics

Autistic Women & Nonbinary Network

Banduri

Center For Employment Opportunities

Center for LGBTQ Economic Advancement & Research (CLEAR)

Church WORLD SERVICE

Clearinghouse on Women's Issues

Coalition of Labor Union Women, AFL-CIO

Fellowship of Reconciliation

Justice For Families

Justice Strategies

Lovelace Consulting Services, Inc.

National Action Network NYC Chapter Second Chance Committee

National Coalition for the Homeless

National Council of Churches

National Crittenton

National Equality Action Team (NEAT)

National Juvenile Defender Center

Rebuilding Independence My Style

Revitalization Strategies

Students for Sensible Drug Policy

The Black Police Experience

United Church of Christ

V-Day

State/local organizations:

Chicago Drug Users' Union	IL
Mayers Strategic Solutions, LLC	IL
The Institute for Compassion in Justice	KY
LivableStreets Alliance	MA
Charles Hamilton Houston Institute for Race and Justice	MA
Activists With A Purpose Plus	MS
National Association of Black Law Enforcement Officers (NABLEO)	NA
A Little Piece of Light	NY
Urban Justice Center Mental Health Project	NY
Public Interest Resource Center, Fordham Law School	NY
Incarcerated Nation Network	NY

Visionary V	NY
Hispanic Federation	NY
Long Island Social Justice Action Network	NY
WCJA	NY
Blacks in Law Enforcement of America	NY/DC
Black Shield Police Association	OH
New Athens Creative, Inc.	TX

Cc:

Sen. Dick Durbin
Sen. Chuck Grassley
Majority Leader Charles Schumer
Minority Leader Mitch McConnell
Rep. Karen Bass
Rep. Jerald Nadler
Rep. Jim Jordan
All of House of Representative members
All of Senate members
White House Domestic Policy Council

[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>

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