

June 23, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Steny Hoyer  
Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jerrold Nadler  
Chair, Judiciary Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable James Clyburn  
Whip  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Karen Bass  
Chair, Crime Subcommittee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable James McGovern  
Chairman, Rules Committee  
U.S. House of Representatives  
Washington, DC 20515



National Political  
Advocacy Department  
915 15th St. NW, 6th FL  
Washington, D.C. 20005  
aclu.org

Susan Herman  
*President*

Anthony Romero  
*Executive Director*

Ronald Newman  
*National Political  
Director*

**Re: H.R. 7120, George Floyd Justice in Policing Act**

Dear Speaker Pelosi, Leader Hoyer, Whip Clyburn,  
Chairman Nadler, Chairwoman Bass, and Chairman McGovern:

On behalf of the American Civil Liberties Union (ACLU) and its more than eight million members, activists, and supporters throughout the country, we urge the Congress to make critical changes to H.R. 7120, the George Floyd Justice in Policing Act, before it is considered on the House Floor this week. In the wake of police violence and killings of Black people, the Congress is right to provide much needed federal intervention around such brutality. As the U.S House of Representatives works to advance the George Floyd Justice in Policing Act in the coming days, it must perfect the legislation to ensure that the intent of federal lawmakers to address systemic police violence is realized. Identified below are outstanding concerns that the ACLU believes must be addressed before this significant and historic bill is taken up.

## **Section 102 Must Completely Abolish Qualified Immunity**

Section 102 attempts to reign in the judge-made doctrine of “qualified immunity,” which prevents victims of government misconduct from holding officials liable when those officials violate constitutional rights. The defense of qualified immunity is often asserted by law enforcement as a shield from allegations of excessive force or improper searches, but any government actor can use this doctrine to protect themselves from liability. With the Supreme Court recently rejecting a petition to consider a qualified immunity case, it is critical that the Congress intervene and abolish the doctrine. Section 102 abolishes qualified immunity only for law enforcement officers, leaving the defense intact for all other government actors. Section 102 must abolish qualified immunity for everyone, thereby ensuring that no government actor can evade accountability for violating constitutional rights. Additionally, while Section 102 removes qualified immunity for federal law enforcement, the Justice in Policing Act must also provide a federal cause of action to hold federal law enforcement accountable when they violate constitutional rights.

## **Sections 201 and 343 Must Ensure Officer Transparency & Accountability**

Section 201 establishes a National Police Misconduct Registry, which is critical for data collection and reporting and transparency around officer misconduct. For years, people of this nation have faced tremendous obstacles in accessing police records, which are critical for public oversight. The public interest in ensuring police transparency and accountability outweighs the privacy concerns of police officers in their role as public servants and government employees. The public has a right to know when and which law enforcement officers have engaged in various practices that are harmful to communities, so Section 201 should not be limited to excessive force and racial profiling. Additionally, Section 201(e)(2) could be misused to restrict public disclosure of critical information about policing misconduct in the police registry and must be amended to eliminate any such restrictions. Additionally, Section 343, which prohibits certain profiling data from being accessed through the Freedom of Information Act (FOIA), must be eliminated. The Justice in Policing Act must also include whistleblower protections, to protect those who come forward to ensure officer accountability, and to ensure this legislation is implemented as intended.

## **Sections 362 and 365 Must End Practices Perpetuating Militarized Policing**

Section 365 prohibits the transfer of certain military weapons and equipment to law enforcement through the Department of Defense 1033 program. However, Section 365 must go further and end the 1033 program, which has fueled militarized policing in America. The ACLU's report, *War Comes Home: The Excessive Militarization of American Policing*, and subsequent research finds that 1033 weapons and equipment are routinely used to execute drug search warrants, police the southern border, and suppress protests and other First Amendment protected speech. In these instances, the use of military weapons and equipment compromises public safety and increases the likelihood that police caused violence and death will result. While Section 365 takes a good first step in limiting the transfer of certain military weapons, it must go further and eliminate the 1033 program. Additionally, Section 362, which prohibits no-knock warrants in all drug cases, should also be amended to include quick-knock raids, a tactic often used in militarized policing.

## **Section 382 Must Prohibit Biometric & Facial Recognition Technology**

Section 382 allocates federal grants to states and localities for body worn cameras without restrictions to prevent such technology from contributing to our already bloated surveillance infrastructure. Specifically, Section 382 does not fully prohibit the use of biometric and facial surveillance on footage obtained from these cameras. This omission is particularly striking, given that many jurisdictions already prohibit such actions and that a multitude of private companies, including Amazon, IBM, Microsoft, and Google, halted sales of face recognition to the police due to concerns that it can exacerbate existing police abuses. Section 382 must be amended to prohibit federal grant dollars from being used to employ biometric and facial recognition technology on footage obtained from body-worn cameras, which would be consistent with the prohibition on federal law enforcement use of body-worn cameras in Section 374.

## **The Justice in Policing Act Must Withhold Federal Dollars**

Finally, the George Floyd Justice in Policing Act provides almost a billion dollars in additional federal dollars to state and local law enforcement agencies, mostly prosecutors' offices, without significant guardrails in place to ensure those resources are used in the manner in which they are intended. Instead of allocating new resources to policing, existing federal dollars received by states must be tied to the adoption of critical policies outlined in the bill. The hundreds of millions of dollars

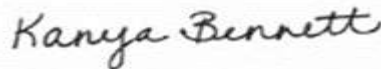
allocated in the George Floyd Justice in Policing Act continue to pour federal money into systems that may not reflect community demands, when millions of people in the United States are calling for direct non-policing investments into communities during this critical moment. These resources could be better spent supporting community-led solutions to reimagining public safety. All funding amounts outlined in the bill should be removed and captured in a general appropriations authorization provision, allowing stakeholders to work with Congress to determine, through the appropriations process, if additional federal monies are needed to increase accountability and transparency in policing.

Thank you in advance for your consideration. If you have any questions, please follow-up with Kanya Bennett, ACLU Senior Legislative Counsel, at [kbennett@aclu.org](mailto:kbennett@aclu.org).

Sincerely,



Ronald Newman  
National Political Director



Kanya Bennett  
Senior Legislative Counsel