



June 16, 2020

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

The Honorable Jim Jordan, Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Re: Support H.R. 7120 the “Justice in Policing Act”

Dear Chairman Nadler and Ranking Member Jordan:

People in the United States of America, particularly those who are Black, have been dealing with police brutality for far too long. Members of the American Association of Justice (AAJ) represent many of the families directly impacted by police violence and as such, AAJ supports H.R. 7120, the Justice in Policing Act (JPA), as a key first step towards implementing long-overdue reforms. To that end, AAJ also supports critical amendments to ensure that the promises of the bill are fully achieved by making important changes, including ensuring that qualified immunity is eliminated completely and that law enforcement is held fully accountable for unjust, senseless deaths and violations of Constitutional rights.

The Civil Rights Act of 1871, codified as 42 U.S.C. §1983, provides if a person, acting under the color of state law, unlawfully deprives another of his or her federally guaranteed rights, that person “shall be liable to the party injured.” Judicial interpretation has grossly distorted the purpose of §1983 so victims of police misconduct can rarely prove a violation of their constitutional rights, even for reprehensible, severely abusive misconduct. Qualified immunity is a complete bar to holding officers accountable. While AAJ supports the provision in H.R. 7120 to address qualified immunity for police, it strongly supports two additional changes to ensure public accountability and incentivize systemic change:

- *Eliminate qualified immunity and restore remedies for violations of civil rights.*
Congress must completely abolish the doctrine of qualified immunity. By overturning a judge-made rule for certain law enforcement officers only, H.R.7120 infers that Congress did not intend to redress wrongdoing by other state actors, including prison guards, border patrol agents, and other government agents. This troubling and unintentional inference could be misinterpreted by a court in another type of case involving the

doctrine of qualified immunity against other public officials accused of violating an individual's constitutional rights.

- *Hold employers of law enforcement officers accountable for the acts of their employees.* Private sector employers are responsible for the unlawful acts of their employees under the doctrine of respondeat superior. Given that the purpose of Section 1983 is to help ensure that the promises of the 14th Amendment are truly realized by all Americans, this law must be amended so that employers of law enforcement officers can be held accountable for an officer's actions. It will only be when those entities know they can be held publicly accountable for the acts of their employees will broad changes be implemented to decrease police brutality and better serve the public.

Federal data collection on law enforcement practices is another central and critical component to transparency and creating some level of public trust. H.R. 7120 contains important requirements on data collection and retention on traffic stops, body searches, and deadly force, and this information must be available to the public to document patterns and practices of misconduct and constitutional violations. The bill includes key provisions regarding the use and retention of body camera and dashboard camera videos, which often play crucial evidentiary roles in both criminal and civil proceedings. In particular, the establishment of a rebuttable evidentiary presumption for failing to capture or destroying body camera video is an essential enforcement provision.

Finally, the bill would implement a national registry which allows for increased transparency and informed decision-making, especially as it relates to employment. Transparency will enable law enforcement agencies to terminate law enforcement officers with a history of abusive behavior. The national police misconduct registry also ensures that those bad actors do not become a problem at another law enforcement agency.

AAJ looks forward to working with the Committee on improving the bill and implementing important changes to incentivize change and ensure justice and accountability for victims and survivors of police violence and brutality.

Sincerely,



Linda A. Lipsen
C.E.O.
American Association for Justice