

United States Senate

WASHINGTON, DC 20510-3203

June 23, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Leader McConnell:

Across the country, people of all races are marching together to demand a comprehensive overhaul of our current system of policing and an end to the killing of Black Americans by police. To begin to meet those demands, the Senate must move forward with meaningful reform. But on June 16, you stated that you would not negotiate with Democrats before bringing Senate Republicans' *JUSTICE Act* to the floor. Specifically, you noted that Democrats can either "shoot . . . down" the Republican proposal or "take the risk to go to the bill and see what changes, if any, we can all agree to in order to get to 60."¹ We will not meet this moment by holding a floor vote on the *JUSTICE Act*, nor can we simply amend this bill, which is so threadbare and lacking in substance that it does not even provide a proper baseline for negotiations. This bill is not salvageable and we need bipartisan talks to get to a constructive starting point.

First, the *JUSTICE Act*, which you are rushing to the floor for a vote, does not contain any mechanisms to hold law enforcement officers accountable in court for their misconduct. We repeat, in a moment calling for police accountability, the *JUSTICE Act*, your proposed answer to this crisis, does not contain any mechanisms to hold law enforcement officers accountable in court for their misconduct. It does not address the federal criminal *mens rea* standard in Section 242, which for too long has allowed law enforcement officers to evade criminal liability for excessive use of force. It does nothing to address qualified immunity, which both Republicans and Democrats agree has unjustly served as an almost complete barrier to recovery for individuals who have had their constitutional rights violated by law enforcement officers. There are no provisions to ensure that law enforcement agencies who engage in unconstitutional patterns and practices can be held accountable at the federal or state level; and there are no provisions to support independent investigations at the state level into deadly use of force by law enforcement officers. It is absolutely imperative that any meaningful policing reform contains accountability provisions to ensure that no one, including law enforcement officers, is above the law – and the *JUSTICE Act* does nothing to meet that urgent need.

Second, in addition to lacking any accountability provisions, the *JUSTICE Act* does not provide the transparency into police misconduct necessary to ensure communities have access to the information necessary to hold their own law enforcement officers accountable. For too long, the disciplinary and misconduct records of officers who pose a knowable threat to public safety have been shielded from the public in a manner that has resulted in great harm to the communities they are

¹ Jordain Carney, *McConnell signals he will not negotiate police reform with Democrats before bringing up bill*, The Hill (June 16, 2020), <https://thehill.com/homenews/senate/503002-mcconnell-signals-he-will-not-negotiate-police-reform-with-democrats-before>.

entrusted to protect. It is critical that a public national misconduct registry be implemented at the federal level to enable not just communities, but law enforcement agencies to prevent dangerous officers from escaping detection by moving from one jurisdiction to another.

Third, while the *JUSTICE Act* requires some data collection, it does not go far enough to ensure *all* of the necessary data is collected to enable Congress to conduct the necessary oversight and ensure communities are no longer roiled by the tragic killing of an unarmed individual at the hands of law enforcement. That includes collecting *all* use of force data, and data related to religious and racial profiling.

Fourth, the *JUSTICE Act* does nothing to end harmful policing practices, like racial and religious profiling, no knock warrants in drug cases and the use of chokehold and carotid holds. If we are to meaningfully reform and reimagine policing, legislation must take on the harmful practices that have resulted in countless senseless tragedies at the hands of police.

Finally, the *JUSTICE Act* does not create a national use of force standard. If we are to fundamentally change the nature of policing in this country, we have to shift the paradigm of policing. Law enforcement officers' use of force should be evaluated not on whether it was *reasonable*, but on whether it was *necessary*.

The Senate is uniquely positioned to lead when it comes to reforming and reimaging policing in this country. If we are to do so – we cannot start with a floor vote on the *JUSTICE Act*. Instead we must begin by considering real and meaningful reforms, such as those found in the *Justice in Policing Act*, a bicameral bill with 231 House and 37 Senate co-sponsors that will be put to a vote on the House floor this week.

This is a serious challenge requiring serious solutions. Bringing the *JUSTICE Act* to the floor of the Senate is a woefully inadequate response, and we urge you to bring meaningful legislation to the floor for a vote.

Thank you for considering this request.

Sincerely,



Cory A. Booker
United States Senator



Kamala D. Harris
United States Senator



Charles E. Schumer
United States Senator