

March 4, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin, and Ranking Member Grassley:

On behalf of the International Association of Chiefs of Police (IACP), I am writing to express our concerns over certain provisions of the George Floyd Justice in Policing Act (H.R. 1280). While the bill contains several positive provisions, there are also several elements in this legislation that are problematic and that would, if passed by the Senate in its current form, be detrimental to policing and its continuing ability to safeguard the public.

The IACP voiced concerns over several of these provisions in the 116th Congress and we continue to have significant concerns over the following provisions in H.R. 1280:

- Section 102: Qualified Immunity Reform:** The IACP strongly supports the doctrine of qualified immunity and opposes this provision or any such provision that would limit, reduce, or eliminate this essential protection for police officers. Unlike elected officials, judges and prosecutors, police officers do not have absolute immunity, and they can be held liable when they knowingly violate a clearly established constitutional right.

Qualified immunity allows police officers to respond to incidents without pause, make split-second decisions, and rely on their training and the current state of the law in making those decisions. The loss of qualified immunity protection would have a profoundly chilling effect on police officers and would limit their ability and willingness to respond to both critical incidents and everyday calls for service without hesitation. Abolishing qualified immunity would likely result

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in a higher cost of government due to financial risks, vicarious liability, and litigation costs. Furthermore, the elimination of qualified immunity will further hinder efforts to enhance the hiring and retention of police officers.

IACP is concerned with the bill's language under Section 101 that would amend the mens rea (state of mind) requirement in 18 U.S.C. Section 242 from a "willfulness" to a "recklessness" standard, thereby making it easier to prosecute officers for a federal criminal violation.

- **Section 364: Peace Act (Use-of-Force):** The IACP strongly believes that all agencies must incorporate into their mission, vision, goals, ethics, and oaths that a fundamental principle of all police officers and agencies is to value and preserve human life. The IACP opposes modification of the use of force standard set forth in *Graham v. Connor*. Requiring police use of force only when "necessary" is presuming a level of officer influence over circumstances that does not exist and strives to create a level of perfection that cannot possibly be obtained. Additionally, altering the standard to only when "necessary" jeopardizes officer safety, and therefore community safety, as it will cause second-guessing, hesitation, and potential confusion in situations of danger where not only the officer's life is in jeopardy but also those of bystanders.

The IACP supports federal adoption of the [National Consensus Policy on Use of Force](#) as well as continual funding for training for law enforcement officers in de-escalation and calming techniques, crisis intervention techniques, and response tactics for calls related to persons who are threatening harm to themselves and do not pose danger to others.

- **Section 201: Establishment of National Police Misconduct Registry.** The IACP supports a registry of police misconduct, but not as currently written in the George Floyd Justice in Policing Act. No misconduct registry/database should include claims that were determined to be unfounded or not sustained. Additionally, rather than create a new index the IACP supports funding for the [National Decertification Index](#) managed by the International Association of Directors of Law Enforcement Standards and Training (IADLEST). The IACP is also opposed to any effort to make the database publicly available and searchable, because of officer safety concerns.
- **Section 365: Stop Militarizing Law Enforcement Act.** The IACP is opposed to this provision and any legislation that would limit the ability of state and local law enforcement agencies to obtain necessary equipment to aid in the protection of police officers, community members, and important infrastructure like the U.S. Capitol and state capitols.

The IACP welcomes the opportunity to discuss these concerns, as well as the positive provisions in H.R. 1280, in greater detail and we stand ready to assist as the Senate considers police reform legislation.

Sincerely,



Chief Cynthia Renaud (Ret.)
IACP President