

June 16, 2020



The Honorable Jerrold Nadler
Chair, House Committee on the Judiciary
2132 Rayburn House Office Building
Washington, DC 20515

The Honorable Mary Gay Scanlon
Vice Chair, House Committee on the Judiciary
1535 Longworth House Office Building
Washington, DC 20515

Re: The Justice in Policing Act of 2020 (H.R. 7120)

Dear Representative Nadler, Representative Scanlon, and Honorable Members of the House Committee on the Judiciary,

Drug Policy Alliance (DPA) appreciates the opportunity to comment on the Justice in Policing Act of 2020 (H.R. 7120). We are grateful for congressional leadership in introducing this timely and long-overdue reform of law enforcement structures and practices in the United States. There are many favorable provisions in this bill, including provisions to help end racial profiling, ban chokeholds, curb the use of no-knock raids, and create a national database tracking police misconduct and use-of-force incidents. We commend the Committee for taking on this issue with the seriousness and urgency this moment requires.

Unfortunately, this bill does not go far enough in addressing police militarization and policing practices that disproportionately target people of color, especially in drug investigations. In particular, we are concerned that this bill fails to prohibit the use of quick-knock raids and end the Department of Defense "1033 Program" that facilitates the transfer of military equipment to state, local and tribal law enforcement agencies. We call on members of the House Committee on the Judiciary to strengthen this bill and include these necessary changes.

The Justice in Policing Act prohibits the use of no-knock raids for drug cases, but it does not address quick-knock raids, a policing strategy that can be just as deadly. In a quick-knock raid, officers knock and/or announce their presence and intention to enter a residence, but do not give residents sufficient time to open the door before forcibly entering. The U.S. Supreme Court has been purposefully vague in defining the legality of quick-knock raids; in 2003, the Court ruled that 15-20 seconds was a reasonable time to wait before forcibly entering.¹ However, the amount of time considered reasonable can be influenced by situational factors. Notably, it is more acceptable for police to wait a shorter amount of time when conducting drug raids. In practice, this results in officers waiting only 3-5 seconds before entering a residence. Quick-knock raids frequently turn

¹ *United States v. Banks*, Supreme Court of the United States, 2003.

violent, leading to civilian casualties and unnecessary property damage.² Between 2010 and 2016, at least 81 civilians and 13 law enforcement officers died in unannounced, military-style raids.³ Over half of the civilian deaths were members of minority groups. Banning no-knock raids in drug cases is an important first step, but the effects will not be felt until quick-knock raids are banned as well. Doing so will increase community safety and prevent the needless endangerment of civilians and law enforcement alike. Further, we believe the prohibition on no-knock warrants and quick-knock raids should be tied to funding from the Edward Byrne Memorial Justice Assistance Grant Program (Byrne JAG) in addition to Community Oriented Policing Services (COPS). This would help ensure greater compliance from law enforcement departments.

Additionally, the Justice in Policing Act fails to end the 1033 Program. While placing more restrictions on the program is a welcome development, it is insufficient. The origins of the 1033 program are rooted in counternarcotic activities. Over the years, the program has facilitated the transfer of more than \$7 billion worth of equipment from the Department of Defense to state, local and tribal law enforcement agencies.⁴ It has contributed to the militarization of policing in the United States, and the rise of the warrior cop mentality against Black and Brown communities. It has paved the way for militarized police responses to protests against police violence, like we witnessed in the summer of 2014 in Ferguson, Missouri when people protesting the killing of Michael Brown at the hands of a police officer were met with law enforcement equipped with tanks and riot gear. Data has shown that the increased transfer of equipment through the 1033 program increases the number of police killings in communities, particularly in the context of SWAT drug raids.⁵

Moreover, the 1033 program has been notoriously mismanaged through the years. As one example, in 2017, the Government Accountability Office (GAO) created a fictitious police department and was able to secure \$1.2 million worth of military equipment through the 1033 Program, including night-vision goggles, simulated rifles, and simulated pipe bombs, which could be modified into potentially lethal items.⁶ GAO found a routine lack of identity verification during transfers and that the program was lacking rigorous fraud risk assessments. The 1033 program is beyond repair and should be abolished. As for non-military equipment, like microwaves and filing cabinets, Congress should consider transferring those items through a new agency and program that makes this equipment available to community organizations and stakeholders beyond law enforcement.

Finally, we implore members of this Committee to reimagine public safety. Instead of continuing to divert public funds to failed police reform strategies and law enforcement,

² Data for Progress and the Justice Collaborative Institute, "End No-Knock Raids," 2020.

³ Kevin Sack, "Door-Busting Drug Raids Leave a Trail of Blood," *New York Times*, 2017.

⁴ Defense Logistics Agency, Law Enforcement Support Office, see

<https://www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement.aspx>.

⁵ ACLU, "War Comes Home: The Excessive Militarization of American Policing," 2014.

⁶ U.S. Government Accountability Office, "DOD Excess Property: Enhanced Controls Needed for Access to Excess Controlled Property," 2017.

we ask this Congress to invest in services and infrastructure that contribute to a safe and healthy society, such as access to quality education, affordable housing, good paying jobs, harm reduction programs and mental health services. We also ask this Committee to reconsider funding streams, like COPS grants, which are used for little more than hiring police for streets and schools. We ask that this Committee reexamine and redirect Byrne JAG and other federal grants that currently fund our failed criminal legal system. And Congress must also end policing practices, such as civil asset forfeiture, that contribute to bloated police budgets and fuel police misconduct at the expense of communities.

Our nation desperately needs bold solutions in this moment that will protect our communities while ensuring dignity and respect for people of color and other marginalized individuals. We call on the House Committee on the Judiciary to improve upon the Justice in Policing Act by banning the use of quick-knock raids and ending the 1033 program. We look forward to continuing to work with Congress to improve and strengthen the Justice in Policing Act of 2020 and other police reform measures.

Sincerely,

Maritza Perez
Director, National Affairs
Drug Policy Alliance