



LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
UNDER LAW

LDF Legal
Defense
Fund



National
Urban League

NAACP



The Leadership
Conference



March 27, 2023

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Biden:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), the American Civil Liberties Union (ACLU), Color of Change, the Lawyers' Committee for Civil Rights Under Law, The Leadership Conference on Civil and Human Rights, National Association for the Advancement of Colored People (NAACP), National Action Network (NAN), and the National Urban League, we write to urge you to publicly oppose H.J. Res. 42 prior to a vote, and to veto the bill should it pass. H.J. Res. 42 would strike down Washington, D.C.'s Comprehensive Policing and Justice Reform Amendment Act of 2022, D.C. Act. 24-781,¹ which enacted essential police accountability measures that are consistent with your administration's policies and goals. H.J. Res. 42 is emblematic of larger efforts to allow state and federal legislatures to exert control and authority over Black localities and roll back democratically-authorized criminal legal reforms.² This demonstrates yet another example of the way the civil rights of District residents are undermined in the absence of their full enfranchisement. Your leadership is needed to stop this effort to undermine democratic values, civil rights, and police accountability and transparency.

H.J. Res. 42 is the latest in a series of renewed attacks on the political power of Black localities. In Missouri, the state House of Representatives approved bills that would effectively give the Governor control of the police department in majority-Black St. Louis³ and strip power

¹ D.C. Act. 24-781 (2022), <https://code.dccouncil.gov/us/dc/council/acts/24-781>.

² Meagan Flynn & Ellie Silverman, D.C. Leaders Begin Lobbying Congress Against Effort to Block Policing Bill, WASH. POST (Mar. 18, 2023), <https://www.washingtonpost.com/dc-md-va/2023/03/18/dc-congress-lobby-policing-bill/>. D.C.'s Black population ranks the highest among other races, despite ongoing gentrification. See 2022 Demographics, Race Data for City: District of Columbia, D.C. Health Matters, <https://www.dchealthmatters.org/demographicdata?id=130951§ionId=940>. (last visited on Mar. 21, 2023).

³ Summer Ballentine, *Missouri governor would control St. Louis police under bill*, AP NEWS (Mar. 1, 2023), <https://apnews.com/article/police-st-louis-governor-control-6db34267452b42b248f9578a757c5ce6>.

from St. Louis' elected prosecutor.⁴ In Mississippi, the state House approved a measure that would expand the jurisdiction of the state-run Capitol Police over the majority-Black city of Jackson, and create a new court district whose judges would be appointed by the Chief Justice of the Mississippi Supreme Court rather than elected by the people of Jackson.⁵

In the case of Washington, D.C., Congress—a body in which the District has no voting representation—is moving to override the will of the people by relitigating acts that have been put in place through a robust democratic and legislative process. For decades, Congress has respected duly-enacted legislation passed by the D.C. Council. H. J. Res. 42 is a disturbing departure in the opposite direction and continues a dangerous precedent.

D.C. Act 24-781 made necessary reforms to address the concerns of local D.C. residents and heeds your administration's calls for states and localities to go further to improve police accountability. Many of these reforms echo your administration's policies and were initially enacted as temporary measures following the murder of George Floyd in 2020, and have been in effect for almost three years.⁶

The bill codifies policies similar to the George Floyd Justice in Policing Act, including banning police use of chokeholds, requiring additional law enforcement training on racial bias and de-escalation tactics, and restricting access to military-grade weapons. In addition, the bill creates an officer misconduct database similar to the National Police Misconduct Database created by Executive Order 14074⁷ and is limited to sustained allegations of misconduct. D.C. Act. 24-781 also includes important measures that outline additional procedures for consent searches, prohibit the use of less-than-lethal weapons during peaceful protests, and require police to make video from body-worn cameras public following officer-involved deaths.

D.C. Act 24-781's opponents have tried to characterize the bill as anti-police and pro-crime. However, holding police accountable for excessive force, abuse of power, and racial bias, in fact, restores public confidence in law enforcement by both deterring such behavior and demonstrating that law enforcement is not above the law. In 2022, D.C. Police Chief Contee commented on the difficulty he had firing officers, who had been accused of misconduct or criminal activity, because of the collective bargaining agreement, which D.C.'s Comprehensive Policing and Justice Reform Amendment Act of 2022 resolved. Moreover, holding police officers

⁴ Summer Ballentine, *St. Louis prosecutor faces mounting criticism over crash*, AP NEWS (Feb. 27, 2023), <https://apnews.com/article/missouri-st-louis-crime-e17ad3d46aadd6f08cd9225239ce8ea5>.

⁵ Emily Wagster Pettus, *Mississippi House OKs court with unelected judges in Jackson*, AP NEWS (Feb. 7, 2023), <https://apnews.com/article/mississippi-state-government-district-of-columbia-jackson-3bd552916edaba479bd828e1ae21b63b>.

⁶ Meagan Flynn, et al., *House Republicans launch effort to block D.C. police reform*, WASH. POST (Mar. 9, 2023 7:38 p.m.), <https://www.washingtonpost.com/dc-md-va/2023/03/09/dc-police-bill-house-republicans-block/>.

⁷ Executive Order 14074, Executive Order on Advancing Effective, Accountable Policing and Strengthen Public Safety, <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/05/25/executive-order-on-advancing-effective-accountable-policing-and-criminal-justice-practices-to-enhance-public-trust-and-public-safety/>.

accountable for violating the law and their department policies does not lead to an increase in crime.⁸

We commend your encouragement to state and local governments to take stronger action on police accountability. Nationwide, year after year, police killings of Black people in America continue to occur with alarming frequency.⁹ Other acts of misconduct and racial profiling remain chronic problems within law enforcement systems. The recent killings of Tyre Nichols and Keenan Anderson by law enforcement officers have reignited discussions about the failures of our public safety system and the need for police transparency and accountability. While your administration has taken steps to address the pressing need for transformational changes in policing by issuing Executive Order 14074,¹⁰ more must be done. We appreciate your ongoing commitment to take administrative action and pass legislation that improves racial equity¹¹ and law enforcement accountability,¹² and commend you for committing in your State of the Union to “finish the job on police reform.”¹³ The D.C. Council is heeding your call to take action.

We urge you to publicly oppose H.J. Res. 42 prior to a vote and to veto it if it comes to your desk. Allowing H.J. Res. 42 to become law would overrule District residents who have come together to solve pressing local problems with local solutions. It would send a dangerous message that majority-Black localities around the country should not be empowered to govern their own communities and would threaten their efforts to improve police accountability and address the needs of their residents.

Thank you for your time and consideration on this important matter. We seek to meet with members of your team to discuss this critical issue more fully. If you have questions or concerns, or would like to schedule a follow up meeting, please contact Kristina Roth, Senior Policy Associate, at krth@naacpldf.org.

Sincerely,

⁸ Kenny Lo & Sarah Figgatt, *Violent Crime Rates Declined in 10 Jurisdictions Following Comprehensive Police Reform*, CTR. FOR AM. PROGRESS (Nov. 16, 2020), <https://www.americanprogress.org/article/violent-crime-rates-declined-10-jurisdictions-following-comprehensive-police-reform/>.

⁹ Fatal Force, WASH. POST (last visited Mar. 15, 2023), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>.

¹⁰ Executive Order 14074, Advancing Effective, Accountable Policing and Strengthen Public Safety (May 25, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/05/25/executive-order-on-advancing-effective-accountable-policing-and-criminal-justice-practices-to-enhance-public-trust-and-public-safety/>.

¹¹ Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

¹² See also Statement by President Joe Biden on the Tyre Nichols Case (Jan. 26, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/26/statement-from-president-joe-biden-on-the-tyre-nichols-case/>; Statement by President Joe Biden on Police Reform Negotiations (Sept. 22, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/22/statement-by-president-joe-biden-on-police-reform-negotiations/>.

¹³ Remarks of President Joe Biden – State of the Union Address as Prepared for Delivery (Feb. 7, 2023), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/02/07/remarks-of-president-joe-biden-state-of-the-union-address-as-prepared-for-delivery/>.

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