

## WASHINGTON RAMPS UP POLICE REFORM EFFORT AS LOCAL LEADERS ALSO ACT

In response to the wave of protests against police brutality across the country, Congress has turned toward legislative action that seeks to overhaul existing police statutes. Lawmakers have begun to coalesce behind several reforms aimed at reducing discrimination and the excessive use of force among police officers by way of enhanced training, accreditation standards, and conditioning of federal funding to police reform. Officials are also aiming to boost transparency, oversight, and accountability for law enforcement agencies, notably throwing their weight behind a national police misconduct registry as well as more funding for police body cameras.

Lawmakers across the country at the federal, state, and local level are feeling pressure to respond amid widespread calls for action during the protests. Federal officials have largely looked to sidestep the debate on some of the more radical policies — namely so-called defunding police departments — yet have expressed open-mindedness with respect to certain policing reforms. It remains to be seen whether the two sides can coalesce behind a bipartisan proposal that clinches meaningful reforms.

### WHAT COULD A COMPROMISE POLICING REFORM PACKAGE LOOK LIKE?

#### Areas of Agreement

- Transparency
- Accountability
- Oversight
- Anti-Lynching
- Limiting Use-of-Force
- New Grant Programs
- Conditions for Federal Funding



#### Areas of Disagreement

- Qualified Immunity Reform
- Limiting Transfer of Surplus Military Equipment
- No-Knock Warrant Ban
- Chokehold Ban

#### Scott Introduces JUSTICE Act

Most recently, Senate Republicans, led by Sen. Tim Scott (R-SC), officially released their police reform legislation ([text](#); [section-by-section](#); [summary](#)) this morning, outlining their official counteroffer to the House Democrats' Justice in Policing Act. The Just and Unifying Solutions to Invigorate Communities Everywhere (JUSTICE) Act largely aligns with the executive order issued by the Trump administration yesterday, focusing on incentivizing — rather than mandating — certain policing forms such as limiting use of force tactics such as the chokehold, boosting transparency and

accountability through data reporting, "consensus development" of best practices for community-support policing models, and boosting access and training for law enforcement officials with respect to mental health, homelessness, and addiction issues.

Majority Leader Mitch McConnell (R-KY) announced that the Senate will take up the bill next week, with hopes of striking a bipartisan compromise ahead of the July 4 district period. While the legislation does include some areas of bipartisan agreement — specifically on federal anti-lynching legislation, increasing police body camera policies, and conditioning federal grant funding to the adoption of certain reforms — the JUSTICE Act represents a more modest police reform vision compared to the House Democrats' bill. Key policy provisions in the Senate GOP package include:

- **Incentives.** The bill contains provisions that would incentivize state and local governments to report use-of-force data collection on an annual basis to the Federal Bureau of Investigation (FBI). It also encourages these entities to report data on the use of no-knock warrants — rather than banning them outright — by tying federal funding conditions to the adoption of these reforms. A new grant program authorized at \$112 million would be made available to states and localities to assist with these reporting requirements.
- **COPS Office.** The bill would authorize an annual appropriation of \$20 billion to the Department of Justice's (DOJ) Community Orienting Policing Services (COPS) Office. Traditionally, the bulk of COPS funding has been used to help local communities hire more police officers. The program would also be tasked with developing training programs on alternatives to use-of-force, de-escalation, and responding to behavioral health crises.
- **National Criminal Justice Commission.** The bill would establish a new National Criminal Justice Commission to undertake a comprehensive review of the U.S. criminal justice system, including law enforcement officer engagement on issues related to mental health, homelessness, and addiction, among other things. The Commission will also be tasked with reaching a consensus development of best practices and recommendations for policing tactics, employment processes, community transparency, and administration.
- **Mental Health.** The Senate bill seeks to utilize existing programs — such as the COPS Office to develop training curriculums for law enforcement agencies to train officers on addressing behavioral and mental health issues. From there, the Attorney General would publish a public list of agencies that train their officers in alternatives to use of force, de-escalation, and response to behavioral health crises.

#### *Executive Order on Safe Policing for Safe Communities*

Earlier this week, President Donald Trump issued an [executive order](#) on targeting an overhaul of existing police laws. The order provides a framework for reforming policies that govern law enforcement conduct, including: (1) limiting the use-of-force policies such as chokeholds; (2) creating a database to track use-of-force instances at the federal, state, local, and tribal level; (3) conditioning federal funding on certification, accreditation, and training of police forces; and (4) building community-support policing models that boost access to mental health, addiction, and social

services within law enforcement agencies; and (5) establishing federal grant programs that would provide law enforcement agencies with tools and resources to build and maintain community-support models. While GOP lawmakers and law enforcement stakeholders applauded the move, Democrats were critical of the executive action for “falling short” on achieving comprehensive reform.

### *The Justice in Policing Act*

As we previously described, House and Senate Democrats introduced a sweeping package ([text](#); [summary](#)) of policing legislation on Jun. 8. Lawmakers on the House Judiciary Committee have held hearings and markups on the measure with the goal of consideration on the floor on Jun. 25 and 26. Key policy proposals in the Democrats’ policing package pertain to:

- **Discrimination and Police Misconduct.** The bill seeks to address discrimination in police forces by prohibiting federal, state, and local law enforcement from racial, religious and discriminatory profiling. It would condition federal funding to state and local law enforcement to adopting policies that discourage and combat discriminatory profiling. The legislation would also amend the federal criminal statute from “willfulness” to a “recklessness” standard to successfully identify and prosecute police misconduct, as well as reform “qualified immunity” so that individuals are not barred from recovering damages when there’s an alleged violation of constitutional rights.
- **Grants.** The bill offers various funding opportunities for state and local governments to pursue reform certain reform efforts. It would establish a public safety innovation grant program for community-based organizations to create local commissions and task forces to help communities develop modernized public safety approaches. The measure would also create a grant program for state attorneys general to aid them in crafting policies that will facilitate independent investigations into certain problematic law enforcement agencies.
- **Training.** The bill would mandate training on discriminatory profiling for police departments throughout the country, conditioning federal funding on the establishment of this training at the state and local level. It would create several development and training programs to develop best practices, as well as accreditation standard recommendations based on the [final report](#) from the Obama administration’s Taskforce on 21st Century Policing.
- **Use of Force.** The bill seeks to crack down on the excessive use of force by banning chokeholds, carotid holds and no-knock warrants, conditioning federal funding on the implementation of these policies. It would also look to limit the transfer of military-grade equipment to state and local law enforcement. Additionally, state and local law enforcement agencies would be required to report use of force data, disaggregated by race, sex, disability, religion, and age.

- **Oversight** The bill would require the U.S. Attorney General to collect data on: (1) investigatory actions and detentions by law enforcement agencies; (2) racial distribution of drug charges; (3) use of deadly force by and against law enforcement officers; and (4) traffic and pedestrian stops and detentions. It would establish a Department of Justice task force to coordinate the investigation, prosecution and enforcement efforts of federal, state and local governments in cases related to law enforcement misconduct.
- **Transparency.** The bill mandates the use of dashboard cameras and body cameras for federal offices, and requires state and local law enforcement to use existing federal funds to ensure the use of police body cameras. It would also create a National Police Misconduct Registry to track problematic police officers who were fired or left their agency.
- **Mental Health.** The bill includes a [measure](#) from Rep. Ro Khanna (D-CA) that would require the Attorney General to promulgate guidance on use of force for: (1) persons with mental, behavioral, or physical disabilities or impairments; (2) persons experiencing perceptual or cognitive impairments due to use of alcohol, narcotics, hallucinogenic, or other drugs; and (3) persons suffering from a serious medical condition.

#### Local Context and Perspective

As Congress deliberates on a best path forward, leadership may ultimately come from state and local officials to determine which policies are best suited to fit the needs of their specific communities. Some communities are already taking steps at addressing the situation. For example, the District of Columbia City Council last week passed emergency legislation against the wishes of the Mayor and the police union. [Reports](#) indicate that the legislation will ban the hiring of officers with a history of serious misconduct elsewhere, require release of the names and body-camera footage of officers who use force on civilians, remove control of the officer disciplinary process from the police union, and ban the use of chemical irritants or rubber bullets on peaceful protesters. The legislation will also allow felons incarcerated in the D.C. jail the right to vote and will make it a felony for a police officer to use a neck restraint on someone. These types of actions at the local level could become more prevalent should Congress struggle to clinch meaningful, bipartisan reforms.