



THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE JUSTICE DIVISION

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COMMITTEE ON PUBLIC SAFETY

Hon. Adrienne E. Adams, Chair

April 22, 2021

RESO. NO. 1372-2020:

By Council Members Cumbo and Chin

TITLE:

Resolution calling upon the United States Congress to pass, and the President to sign, H.R. 1280/S. 3912, the George Floyd Justice in Policing Act of 2021

I. INTRODUCTION

On April 22, 2021, the Committee on Public Safety, chaired by Council Member Adrienne Adams, will hold a hearing on Reso. No. 1372-2020, in resolution calling upon the U.S. Congress and the President to sign H.R. 1280/S. 3912, otherwise known as the George Floyd Justice in Policing Act of 2021.

II. BACKGROUND

On July 17, 2014, Staten Island resident Eric Garner was killed after an interaction with NYPD Officer Daniel Pantaleo related to an arrest for selling untaxed cigarettes. During this interaction, Officer Pantaleo used what is commonly known as a “chokehold” on Mr. Garner, and a video of Pantaleo using this “chokehold” filmed by a bystander, while Mr. Garner repeatedly stated “I can’t breathe,” was widely distributed in mainstream and social media.¹ A Staten Island Grand Jury declined to indict officer Pantaleo for any criminal charges.² Over five years after Mr. Garner’s death, Officer Pantaleo was fired by the New York Police Department.³

On May 25 2020, in Minneapolis, Minnesota, George Floyd was killed by a Minneapolis police officer who knelt on his back and neck while he was face down on the ground for over 8 minutes while he repeatedly told them he could not breathe.⁴ The four officers on scene, who were

¹ E.g., Mark Morales, David Shortell and Holly Yan, “Chants of 'I can't breathe!' erupt as the officer in the Eric Garner case won't face federal charges,” CNN, July 19, 2019, available at <https://www.cnn.com/2019/07/17/us/eric-garner-no-federal-charges-against-officer-reaction/index.html>

² “Grand Jury Declines to Indict NYPD Officer in Eric Garner Chokehold Death,” NBC, December 3, 2014, available at: <https://www.nbcnewyork.com/news/local/grand-jury-decision-eric-garner-staten-island-chokehold-death-nypd/1427980/>

³ “Daniel Pantaleo, Officer Who Held Eric Garner in Chokehold, Is Fired,” NYTimes, August 19, 2019, available at: <https://www.nytimes.com/2019/08/19/nyregion/daniel-pantaleo-fired.html>

⁴ “8 Minutes and 46 Seconds: How George Floyd Was Killed in Police Custody,” NYTimes, May 31, 2020, available at: <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>

arresting Mr. Floyd in relation to a counterfeit \$20 bill⁵, were fired the day after the incident.⁶ The officer responsible for kneeling on Mr. Floyd's neck, Derek Chauvin, was charged with second-degree murder, third-degree murder, second-degree manslaughter, and convicted on all counts on April 20, 2021,⁷ while the other three are charged with aiding in Mr. Floyd's death.⁸

These incidents, as well as many others, and a history of tension between police departments and communities of color, prompted widespread protests across the country and in New York City over the summer of 2020.⁹ This popular unrest has raised questions regarding the regulation of the conduct of police officers.¹⁰ One issue that has risen to the forefront of public discourse and consciousness is qualified immunity, a doctrine created by courts that shields public officials who are performing discretionary functions from civil liability.¹¹

III. ANALYSIS

On June 6, 2020 California Representative Karen Bass and New Jersey Senator Cory Booker introduced H.R. 7120 and S. 3912 to the U.S. House of Representatives and the Senate.¹² The bill's purpose is to "enhance public safety, ensure police accountability, and repair frayed police-community relations."¹³ Among the bill's numerous provisions, of particular note is the

⁵ "What Happened in the Chaotic Moments Before George Floyd Died," *NYTimes*, May 29, 2020, available at: <https://www.nytimes.com/2020/05/29/us/derek-chauvin-george-floyd-worked-together.html>

⁶ "I Can't Breathe": 4 Minneapolis Officers Fired After Black Man Dies in Custody," *NYTimes*, May 26, 2020, available at: <https://www.nytimes.com/2020/05/26/us/minneapolis-police-man-died.html>

⁷ "Derek Chauvin Trial: Chauvin Found Guilty of Murdering George Floyd," *NYTimes*, April 20, 2021, available at: <https://www.nytimes.com/live/2021/04/20/us/derek-chauvin-verdict-george-floyd>

⁸ "New Charges for Former Minneapolis Police Officers as Protests Persist," *NYTimes*, June 3, 2020, available at: <https://www.nytimes.com/2020/06/03/us/george-floyd-officers-charged.html>

⁹ "Why the Killing of George Floyd Sparked an American Uprising," *Time*, June 4, 2020, available at: <https://time.com/5847967/george-floyd-protests-trump/>

¹⁰ Congressional Research Service, *Policing the Police: Qualified Immunity and Considerations for Congress*, CONGRESSIONAL RESEARCH SERVICE (June 25, 2020), at 1, available at <https://crsreports.congress.gov/product/pdf/LSB/LSB10492>.

¹¹ *See id.*

¹² H.R. 7120 and S. 3912, available at: <https://www.congress.gov/bill/116th-congress/house-bill/7120>

¹³ "George Floyd Justice in Policing Act of 2020" Committee Report, pages 37-38, available at: <https://www.congress.gov/116/crpt/hrpt434/CRPT-116hrpt434.pdf>

elimination of qualified immunity for federal, state and local law enforcement officers, a broadening of the Department of Justice’s ability to investigate both individual officers and law enforcement offices, the creation of a national law enforcement misconduct registry, a ban on the use of chokeholds and no-knock warrants in drug cases, regulations regarding the sale of military-grade equipment to local law enforcement agencies, and easing the restrictions against prosecuting law enforcement officers for misconduct.¹⁴ On March 3, 2021 the House passed H.R. 1280 by a vote of 220 to 212.¹⁵ S. 3912 has not yet been voted on by the Senate.

This sweeping overhaul of the federal government’s relationship to policing incorporates numerous reforms that the Council has passed over the past year. Int. 2220,¹⁶ passed by the Council on March 25, 2021, created a local right of action for excessive force without qualified immunity for local law enforcement officers. Similarly, on June 8, 2020 the Council passed Local Law 66 of 2020,¹⁷ which made it a crime for officers to restrain an individual by sitting, kneeling or standing on their back or chest or by restricting their ability to inhale.

¹⁴ Id.

¹⁵ “The House passes a policing overhaul bill named for George Floyd , whose death spurred nationwide protests,” Nicholas Fandos, Catie Edmondson and Karen Zraick, NYTimes, March 4, 2021 available at: <https://www.nytimes.com/2021/03/04/us/george-floyd-act.html>

¹⁶ Int. 2220-2021, available at:

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4771043&GUID=32ED0C83-7506-45F9-81AA-F5144FCA193A&Options=&Search=>

¹⁷ Int. 536-B, available at: <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3343958&GUID=B782804F-680A-4156-9E64-8BF88CF7BBD8>

Res. No. 1372

Resolution calling upon the United States Congress to pass, and the President to sign, H.R. 1280/S. 3912, the George Floyd Justice in Policing Act of 2021.

By Council Members Cumbo and Chin

Whereas, H.R. 1280/S. 3912, the George Floyd Justice in Policing Act of 2021, sponsored by Representative Karen Bass and Senator Cory Booker, respectively, were introduced in the U.S. House of Representatives and Senate to hold police accountable, end racial profiling, change the culture of law enforcement, empower impacted communities, and build trust between law enforcement and communities by addressing systemic racism and bias across the country to help save lives; and

Whereas, H.R. 1280/S. 3912 were introduced in the wake of numerous uprisings across America, including in New York City, spurred by the reported involvement of police in the unjust killings of Black Americans across the country, including George Floyd, who died after Officer Derek Chauvin kneeled on his neck for nearly nine minutes in Minneapolis Minnesota and Breonna Taylor, who was shot eight times by officers executing a no-knock warrant in her home in Louisville Kentucky, among several other victims; and

Whereas, The Justice in Policing Act of 2021, will, if made law, improve police accountability by holding police accountable in court, eliminating qualified immunity for law enforcement; bolstering federal and state abilities to investigate police misconduct; requiring data collection on police misconduct and use-of-force; mandating the use of body cameras; and making lynching a federal crime; and

Whereas, This legislation will also transform law enforcement culture, by prohibiting all racial and religious profiling; creating accreditation standards for police departments; banning chokeholds and no-knock warrants; limiting military-grade equipment transfers to state and local

law enforcement; and empowering communities to create new public safety approaches through grants for community based organizations; and

Whereas, The U.S. House of Representatives has already passed H.R. 1280 and the Senate and President should immediately follow suit; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to pass, and the President to sign, H.R. 1280/S. 3912, the George Floyd Justice in Policing Act of 2021.

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