



THE INITIATIVE[™]
ADVANCING THE BLUE & BLACK PARTNERSHIP[™]

WRITTEN TESTIMONY OF
THE INITIATIVE: ADVANCING THE BLUE AND BLACK PARTNERSHIP
BEFORE THE NEW JERSEY SENATE LAW AND PUBLIC SAFETY COMMITTEE

July 15, 2020

My name is Nadine Jones and I am the co-founder and executive director of The Initiative: Advancing the Blue and Black Partnership (“*The Initiative*”). I am a 2003 graduate of Howard University School of Law. I worked as an associate at a major Washington, D.C. law firm, and also served on a temporary Congressional commission. For the last 8 years I have been the Vice President of Compliance and Corporate Counsel for a multibillion-dollar logistics company, with US headquarters based in Jersey City, NJ.

First and foremost, I want to thank the Senate Law and Public Safety Committee, and Senator Greenstein in particular, for giving me and my organization the opportunity to have a voice in these critical discussions. The opportunity is not lost on us and we are grateful for the chance to provide input today.

Next, allow me to explain a little bit about who we are and why we are in this space.

A group of Howard University alumni and their friends founded The Initiative to end police violence and implement a collaborative approach to building healthy, scalable, and immediately actionable, community policing models. *The Initiative* builds upon the long history of civil rights advocacy and education at the Howard University School of Law and our collective corporate training.

Many of us also are parents of Black children, and parents of Black sons, in particular. This year has been challenging for all of us, dealing with the unknown virus of COVID-19 and the eventual shutdown of the country. We were watching the death toll rise from this virus across our nation – these images of numbers climbing each night representing the loss of human lives. Then, we saw another horror that will no doubt forever be seared into our consciousness. We witnessed the horrendous killing of Ahmaud Arbery by a former police officer while he was jogging in Brunswick, GA. It piled on yet another layer of distress to a country already weakened by enormous pain.

When George Floyd was killed, for many of us, at least, for those of us who founded The Initiative, we simply could no longer sit by the sidelines on this issue. The fear of Black Americans, born out of the history of negative interactions with the police, is a fear that mostly every parent of Black children share. For us, we had reached our emotional, mental, physical, and spiritual maximum capacity of what we could bear. In addition, we felt compelled to act



because we knew we could draw upon our professional training, experience and network to effectuate a meaningful and impactful solution. We had no choice but to act.

I am sharing this with the Senate so that you can understand our “why.” Many of us in the Black community have normalized this fear of police interaction with our children, and have accepted it as being inevitable. Each parent of a Black child knows that it is imperative to have “the talk” with our children about how they should interact with the police, or how to ride through a community, or not to carry backpacks in stores in order to avoid interactions where they are viewed with suspicion, which could ultimately save their lives. This “talk” isn’t the normal talk that most parents of children of all races have – namely, stay away from drugs, get good grades, don’t text and drive, don’t bully or let someone know if you are being bullied; don’t let anyone touch you in an inappropriate way, and last but not least, make sure you know what to do if there’s a school shooting. Sadly, these are universal fears that all parents of children of all races share. But “the talk” to which I am referring is the discussion that parents of Black kids have, over and above the other fears that other parents might have – that teaches Black children what to do if stopped by the police. We consider this talk to be imperative to them surviving the encounter. I respectfully submit that there is no age-appropriate time for a parent to have this “talk” with their children when the basis for this discussion is the color of their skin.

Understanding this backdrop will better allow you to understand why our approach to police reform leans heavily on taking immediate, actionable steps, as a necessary corollary to solutions that rely on more traditional approaches such as long-term protracted litigation. We support the latter and understand that advocacy and litigation are important to advancing civil rights and human rights. But the benefits of these efforts likely will not be seen for many years to come. Our approach contemplates immediate, qualitative improvements in the relationship between the police and the Black and Brown communities they serve.

So, The Initiative, and our approach, is unique and it is unique for three reasons:

1. We seek to implement change at the ground level – i.e., at a local level – in a manner that can generate demonstrable and measurable results in the near or immediate future. Why does that make us unique? It means that we are operating at a different frequency than many others operating in this space. For example, we wholeheartedly support changes to legislation that would ensure that qualified immunity cannot be abused by the law enforcement officers that the doctrine exists to protect. But to the extent there is federal or state legislation on this issue we should anticipate there will be challenges to that legislation, if passed, in courts up to and including the U.S. Supreme Court (should certiorari be granted). While we support these legislative and judicial processes; that is not the frequency at which the Initiative seeks to operate. In fact, it is clear from recent public protests that our society is demanding faster action. We would seek to implement



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measures that can more immediately restore public trust in the police while the legislative and court challenges to immunity are underway. At its root, the renewed interest in revising or even eliminating qualified immunity for police stems from the fact that a significant portion of the public has lost trust in the judgment of the police. If this trust can be restored, or at least improved upon in the near future, it allows for an immediate improvement to police-community relations that may actually create a basis for successfully addressing the qualified immunity challenges.

2. The second approach that makes us unique is that we are applying a corporate, compliance-based, scalable approach to solving this problem. Professor Barry Friedman, Director of the Policing Project at the NYU School of Law who is an advisor to The Initiative, notes that this is a key distinguishing feature of our program that simply does not exist in police departments today. The Federal Sentencing Guidelines provides companies with a roadmap for developing an effective compliance program (the “Guidelines”). The Guidelines, as recently revised, make specific reference to the need to promote a culture that “encourages ethical conduct” and a commitment to “compliance with the law.” Companies all over the country, and indeed all over the world, have developed a systematic and scalable approach to compliance that will be the basis for our community policing model. In fact, businesses today recognize that a “culture of compliance” goes well beyond annual mandated trainings. To be effective, compliance rules and principles of ethical behavior must be embedded into everyday workflows. It also often involves persuading relevant stakeholders at all levels that infusing these policies and values into how they carry out their functions *benefits* them. Our approach will show stakeholders that this compliance-based approach to community policing actually inures to their benefit. We will pilot and test our compliance program in 3 – 5 cities, then we will scale and implement across cities and states through the use of Interstate Compacts, similar to those that are currently used in the emergency management context. This local first strategy is espoused by the 21st Century Policing Report
3. The third element of our approach necessitates collaboration amongst key stakeholders to develop a shared vision of community policing. We intend to work with state and local legislators, state and local leaders (governors and mayors), police leaders and police unions, and Black and Brown community leaders to develop and implement our proposed solution. Furthermore, we will also be working closely with the Thurgood Marshall Civil Rights Center at the Howard University School of Law (the “Civil Rights Center”) to ensure the long-term viability of our approach.



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Now that you have a better idea of The Initiative, who we are, why we are in this space, and what our approach will be, we want to propose the key areas of police reform that we believe can be actionable by the Senate.

Mental Health First Responders

In many cities and states, the police officers are the catch-all of 911 service calls. If a call does not fit within the scope of EMT or Firefighters, then it goes to the police. It is well documented through calls-for-service reports that many of these calls are not appropriate for the police to handle in that it falls outside of the scope of the training that police receive. Mental Health-related service calls are one of those calls that we believe would be better served by a Fourth Arm of First Responders.

New Jersey is far ahead of many other states, because it does have the equivalent of mental health 24/7 first responders in the form of PerformCare. As you know, “PerformCare New Jersey is the Contracted System Administrator (CSA) for the State of New Jersey’s Department of Children and Families, Children’s System of Care (CSOC).” PerformCare offers mobile response stabilization services (MRSS) to come to a caller’s home 24 hours a day, 7 days a week. This first-responder offering is an alternative to calling 911 in situations where there is not an immediate threat of “serious and sudden medical, emotional, or behavioral health situation that, if not given immediate professional attention, could lead to your child being severely harmed or possibly harming someone else.”

We applaud New Jersey’s progressive stance in this area and offer the following recommendations:

- Create a statewide version of PerformCare for New Jersey residents over 21 years old;
- Implement a public awareness campaign to teach residents about this alternative to 911 and when it would be appropriate to use it; and
- Get an easier phone number for PerformCare (and for any corollary services offered to residents over 21 years old)! The current number is 1-877-652-7624. That is too difficult of a telephone number for citizens to remember should the Senate agree that PerformCare should be more widely known and used by residents as needed. That is just a branding issue.
- We would also advocate allowing 911 operators to direct calls to PerformCare as one of their triage options (similar to the approach that is used in Eugene, Oregon by CAHOOTS (Crisis Assistance Helping Out On the Streets)).



Incentivize Departments that Obtain Year-Over-Year Reduction in Misconduct Lawsuits and Settlements

An important element driving the movement to reform or revoke qualified immunity for police is the need to make officers more accountable for their wrongful actions. As stated before, The Initiative supports the healthy exchange of ideas in this area, and believes dialogue amongst key stakeholders on this issue is critical. Accountability for misdeeds is critical to restoring trust between the police and the communities they serve. And, the police need to be able to do their jobs without the overhang of personal liability for missteps as we acknowledge the chilling effect that the threat of personal prosecution could have on recruiting and retaining officers.

The reality, however, seems to be that police officers are seldom required to pay damages, not because of qualified immunity, but because local governments indemnify officers or otherwise pay damages out of local government coffers. As one news article stated, “Plaintiffs know most officers do not have the financial resources to satisfy large awards, and so they find other ways to recover damages — from other defendants or from the municipality.” Washington Post, “Suing police for abuse is nearly impossible,” by Joanna C. Schwartz (June 3, 2020), at <https://www.washingtonpost.com/outlook/2020/06/03/police-abuse-misconduct-supreme-court-immunity/>.

As the qualified immunity reform and litigation unfold, we recommend that the Senate consider the following stop-gap measures to incentivize police accountability:

- Track police departments’ number of excessive force lawsuits and corresponding settlements or judgments;
- Freeze budget increases for police departments with excessive force complaints/lawsuits exceeding X number (to be determined);
- Increase the budgets for police departments that are able to achieve a year-over-year reduction in the number of excessive force complaints/lawsuits and number of settlements/judgments;
- Each police division must pay, out of their budget, 10% of settlements or judgments arising from excessive force lawsuits due to conduct by that division’s local police.

Why do we think this approach will be successful? The Police Departments themselves will be incentivized to identify officers with a high number of citizen complaints for excessive use of force, because there is a natural progression from complaints to lawsuits. If a Police Department’s budget will be tied to the number of lawsuits filed and settled, then there is internal motivation to identify, intervene in, or even remove officers that are not able to perform their duties without evoking a high number of citizen complaints and/or excessive force lawsuits.

Conversely, Police Departments that are able to show reduced excessive force complaints and excessive force lawsuits year-over-year will be eligible for budgetary increases the next fiscal



year. These Departments will be able to offer more training, have more advancement opportunities, and will be incentivized, as a group, to recruit and retain police officers who can perform their duties without evoking excessive force complaints, lawsuits, and settlement payouts.

Qualified immunity for the police officer remains in place, but the incentive to train, re-train, intervene in other ways, or even remove, police officers for excessive force violations also will be in place.

Effective Community Policing Should be Heavily Weighted in Performance and Promotion Evaluations

There are New Jersey cities doing remarkable things in the area of community policing. To be sure, we are not advocating performative, PR-related photo ops community policing. But rather, community policing that results in demonstrable improvements, such as reduced citizen complaints, crime reduction, and tracking and rewarding officer interventions where police misconduct is observed. Similarly, tickets for minor offenses should be tracked, with the goal of reducing over-policing, which can be an unintended consequence of increasing police presence and interactions. Camden, New Jersey's police department has received high-praises and national attention for its effective community policing. Also, Newark, New Jersey has shown measurable progress attributable, at least in part, to successful community policing.

We think that these NJ cities and police departments will prove to be gold standards for other communities across the country. Our organization seeks to increase the profile of these successes in New Jersey cities to a national level by creating and maintaining a database of best practices in community policing through our partnership with Howard University. Our only recommendation to the Senate is that it takes steps to ensure that police departments heavily weight community policing efforts in internal performance evaluations or promotional paths. We believe that the alignment of performance evaluations and promotional opportunities to effective community policing will:

- 1) Ensure community policing remains an important element of policing; and
- 2) Eventually elevate those police officers who have a natural gift, leadership skills, and talent for policing in this manner.

It is important to reward officers who do this well, as well as encourage those officers for whom community policing does not come naturally to develop these skillsets to advance through the ranks.



Transparency and Encourage Citizen Feedback

We wholeheartedly support increased transparency to the community. It is clear that the police, as an industry, is suffering from a credibility crisis with a wide swath of the American population. This has a negative impact on recruiting and retention, and is ultimately unhelpful for the long term viability and effectiveness of our police departments. Increased transparency could help to restore that credibility.

The evidence is clear that policing should not be disconnected from the primary consumers of those services – namely, the community. There should be frequent invitations to the community to share their experiences with the police – be it good or bad – to ensure that policing is being performed in a manner that results in residents feeling safer and respected by their local police.

In the interest of greater transparency and citizen feedback, we propose the following:

- Citizen complaints, and how those complaints were resolved, should be made public. It is important to demonstrate that complaints are taken seriously, investigated, and resolved. There should be an explanation for the resolution taken, even if the resolution was to close the complaint as having “no merit,” or explain why an officer was reprimanded but not terminated. There might have been internal intervention measures taken to help the officer get on the right course. If so, the public needs to see that complaints are being addressed appropriately. This will help to restore trust.

Finally, as outlined below, it is clear that New Jersey has already adopted legislation designed to ensure safer police/community interactions, including those that were announced on June 7, 2020. Consistent with this legislative action, we propose that the Senate consider reviewing the state’s Use of Force and other Policies with the goal of adopting any of Campaign Zero’s #EIGHTCANTWAIT policies that are not already in place. This approach has already been adopted in the city of Fairlawn, NJ.

- Ban chokeholds & strangleholds
- Require de-escalation
- Require warning before shooting
- Require all alternatives are exhausted before shooting
- Duty to Intervene
- Ban shooting at moving vehicles
- Require use of force continuum
- Require comprehensive reporting

We are grateful for the many steps that you have already taken to ensure safe and healthy community policing in the State of New Jersey, and The Initiative stands ready to help through our collaborative, measurable, and scalable approach to continue to move the needle forward.



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In conclusion, I want to say that there is not a community in America today that does not want to feel safer, or a police officer who does not want to feel supported. The time to act is now.

Thank you again for allowing us to share our thoughts and recommendations. I am available at your convenience should you have questions.