September 30, 2022

Dear New Jersey Senators and Assemblymembers

New Jersey Communities for Accountable Policing (NJ-CAP) is a coalition of New Jerseyans, faith leaders, community organizers, attorneys and criminal justice advocates who write to you today to applaud the recent passing of the police licensure bill (S2742/A4194)) and urge you to use this legislation as a foundation for building full police accountability and transparency in New Jersey.

The police licensing bill provides a much-needed framework for assessing law enforcement conduct. However, without attendant, critical reforms, the framework cannot meet its legislative intent, which is to assure authentic accountability. NJ-CAP believes that full transparency of police disciplinary records, strong community involvement in police oversight, and eliminating outdated and unfair laws, including ending qualified immunity for law enforcement and banning and criminalizing law enforcement use of chokeholds, are the necessary next steps toward full police accountability and transparency.

Adopt nationally accepted standards for police disciplinary records transparency: First, it is essential that we pass S371/A996, which makes police disciplinary records available through the Open Public Records Act. We need to shine a light on secret police discipline by identifying police officers with histories of violent or racist policing or responsible for wrongful convictions and ensuring that this conduct does not continue. Nationally, police misconduct played a significant role in 35% of more than 3,000 wrongful convictions that occurred since 1999. Indeed, it is often only after innocent people have been exonerated and pursue civil litigation that the system learns of extensive disciplinary histories of the police officers responsible for their wrongful convictions, far past the point when the misconduct could have been acknowledged and further misconduct prevented. Transparency is key to preventing patterns of misconduct and harm. Making disciplinary histories of misconduct publicly available is a key part of making our criminal legal system more just. New Jersey is among the minority of states that keep police disciplinary records hidden from the public. Without access to these records, the licensing law will not meet its goals as it will be starved of the very information that would enable its success.

Enact strong community oversight: Next, we must pass S2295/A1515. This legislation will enable trained community members to investigate police misconduct and hold police officers accountable through civilian complaint review boards, or CCRBs. However, for CCRBs to truly serve as a check on police rather than act as accountability theater, these boards must have subpoena power, authority to investigate concurrently with internal affairs investigations, and legitimate power to recommend discipline. It is past time for communities — who also want to be safe from crime and harm — to have a meaningful voice in upholding standards around how their own communities are policed. Further, their perspectives and observations will assure an independent assessment of officer conduct as opposed to a structure that permits the police to police themselves.

Follow other states' leads regarding qualified immunity: Third, we need to pass S375/A1006. This legislation would have New Jersey follow the lead of states like Colorado and New Mexico to reform legal avenues to hold police officers accountable. Qualified immunity is an outdated and overreaching

legal doctrine that makes it nearly impossible for people to obtain financial damages against the government for violations of an individual's civil rights — including wrongful convictions and the use of excessive force — if the officer's actions fall under a broad category of sufficiently similar conduct or "clearly established" law. This sidesteps the real question: whether a reasonable officer should have known that their behavior was unlawful. Unless the Legislature acts, qualified immunity will continue to be an unalloyed failure of policy, law, and morality that allows police officers to skirt accountability for harmful and unlawful acts.

Codify current use of force practice for the future: Police officers are the only government employees tasked with the responsibility of carrying a gun and are sanctioned to use force against members of the public. Because of this enormous responsibility, New Jersey statute must provide clear standards about when and how police may use force. In December 2020, then Attorney General Grewal released a new statewide use of force policy, with two subsequent addendums that took a major step in establishing those standards. While not perfect, the Attorney General's Use of Force policy is very strong and represents a significant improvement to New Jersey's statutory provisions on the use of force. At a minimum, we are calling to have the Attorney General's Use of Force Policy codified as the policy has been vetted by law enforcement experts and advocates and is currently the law of the land. If codified, it would protect the significantly strengthened protections against the use of force beyond this current Administration and would make New Jersey a national leader with some of the strongest statutory prohibitions and guidance on the use of force in the country.

Follow other states' leads regarding chokeholds: Lastly, we urge the Legislature to pass George Floyd's Law, A2431/S265, a law to ban and criminalize police chokeholds. Chokeholds are dangerous and unnecessary maneuvers that should have no place in modern policing. Currently, New Jersey police are not trained to use chokeholds. In fact, the New Jersey Police Training Commission does not train recruits on how to use chokeholds. Also, several New Jerseyans have been killed by law enforcement chokeholds, including MoShowon Leach and Darrell Smith. Furthermore, law enforcement chokeholds burden taxpayers with costly lawsuits. For example, the township of Lindenwold paid $5,000,000 to settle one law enforcement chokehold lawsuit. Penns Grove also paid $2,000,000 settle another law enforcement chokehold lawsuit. New York has already taken steps to ban and criminalize chokeholds through the Eric Garner Anti-Chokehold act. New Jersey must take a stand on this issue as well.

Meaningful, authentic change is challenging to enact, but its impacts are felt for generations. At a time when all civil liberties are under attack, we must find the political courage to take on the hard work of passing these bills together to protect people from police misconduct, prevent wrongful convictions and begin the process of building trust between our communities and law enforcement.

We want to collaborate with you, our elected officials, to take on this work for justice and help educate and organize all community stakeholders move towards full police accountability and transparency. To accomplish this, we are asking for regular meetings with your offices so that we can use our collective power to assist wherever necessary.

Sincerely,

New Jersey Communities for Accountable Policing (NJ-CAP)

New Jersey Communities for Accountable Policing is a coalition consisting of: ACLU of New Jersey, Antiracism in Action, Black Community Watchline, Black Lives Matter NJ, Black Lives Matter Paterson, Faith in New Jersey, Innocence Project, Integrated Justice Alliance, Ironbound Community Corporation, Latino Action Network, League of Women Voters, Make the Road New Jersey, New Jersey State Conference NAACP, Newark Branch NAACP, New Jersey Institute for Social Justice, New Jersey Policy Perspective, New Jersey Prison Justice Watch, Office of the Public Defender, Our Revolution – Trenton Mercer, People's Organization for Progress, Salvation and Social Justice, Southern Burlington County NJ NAACP, National Association of Social Workers – New Jersey Chapter, Partners, NJ Coalition to End Domestic Violence (NJCEDV), and 32 BJ SEIU.