

U.S. House of Representatives  
Washington, DC 20515

May 13, 2023

Re: Oppose H.R. 2494, the POLICE Act of 2023

We write to express our strong and unequivocal opposition to H.R. 2494, the “Protect Our Law enforcement with Immigration Control and Enforcement Act of 2023,” or the “POLICE Act of 2023.” The POLICE Act continues a legacy of racial inequity in past and current crime bills that must be firmly rejected. This overly broad, vaguely worded bill will do nothing to improve public safety. Instead, it will needlessly inflict suffering on immigrants and their families, while contributing to inflammatory and hateful rhetoric that puts immigrant communities at risk.

The bill would add a new ground of deportability that would subject anyone convicted of “the essential elements of assault on an officer” to exile from their home and community. Under the terms of the bill, “assault” counts as whatever the local jurisdiction defines as “assault.” Given that the common law definition of “assault” is to cause a person to believe they will experience some offensive contact,<sup>1</sup> that could be very minor conduct. Indeed, for an action to be assault, it does not require any violence; it does not even require any physical contact at all.

That an assault charge requires so little basis makes it especially susceptible to abuse, and officers do abuse resisting arrest and assault on an officer charges.<sup>2</sup> Police also disproportionately overcharge people of color with these offenses.<sup>3</sup> For example, in a four-year study of tens of thousands of traffic stops in Greensboro, North Carolina, police arrested *four times as many* Black people as white people on the sole charge of resisting arrest<sup>4</sup>; while a seven-year study of arrest data in San Diego showed that Black people were *ten times* as likely to face resisting charges than white people.<sup>5</sup>

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<sup>1</sup> Cornell Law School, Legal Information Institute, Wex Legal Dictionary, “assault,” <https://www.law.cornell.edu/wex/assault>.

<sup>2</sup> See, e.g., Utah Association of Criminal Defense Lawyers’ Letter in Opposition to SB 131: Increased Penalties for Assaults on Police Officers, [https://www.uacdl.org/assets/docs/increased\\_penalties\\_assault\\_on\\_police\\_sb\\_131.pdf](https://www.uacdl.org/assets/docs/increased_penalties_assault_on_police_sb_131.pdf), (“UACDL members report that police officers unnecessarily charge this crime when arresting persons for other offenses. Rarely will police officers charge a person solely with the crime of assault on a law enforcement official. Rather, that crime almost always occurs when the police arrest a person for some other crime and that person does not fully cooperate while being detained. Thus, persons being arrested for an entirely separate matter commonly face the additional charge of assaulting a police officer when those persons resist submitting to an arrest.”)

<sup>3</sup> Lisa Cacho & Jodi Melamed, *How Police Abuse the Charge of Resisting Arrest*, Boston Review (Jun. 29, 2020), <https://www.bostonreview.net/articles/lisa-cacho-jodi-melamed-resisting-arrest/>.

<sup>4</sup> Sharon LaFraniere & Andrew W. Lehren, *The Disproportionate Risks of Driving While Black*, The New York Times (Oct. 24, 2015), <https://www.nytimes.com/2015/10/25/us/racial-disparity-traffic-stops-driving-black.html>.

<sup>5</sup> Mari Payton & Dorian Hargrove, *African-Americans Arrested for Resisting Arrest at a Larger Rate in San Diego*, NBC7 (Feb. 9, 2020), <https://www.nbcsandiego.com/news/local/african-americans-arrested-for-resisting-arrest-at-a-larger-rate-in-san-diego/2260289/>.

It is easy to imagine multiple scenarios that lead to such overcharging. Officers are often dispatched to address a distressed person experiencing a mental health crisis.<sup>6</sup> A person in crisis might yell or behave erratically, and officers have, based solely on words and gestures, charged people with assault on an officer in such circumstances.<sup>7</sup> Police also have used assault on an officer charges to cover their own excessive force and misconduct. In opposing a state bill that would have increased the penalties for the offense of assault on an officer, the Utah Association of Criminal Defense Lawyers raised exactly this concern and noted that they were aware of “at least two elderly men in their 80’s who were brutally beaten by police officers and then blamed for assaulting them.”<sup>8</sup> Worse, even the most spurious assault on an officer charges often result in convictions, because “the only evidence in support of the charges comes from police officers themselves. Judges almost always believe police officers over arrested persons when accusations of mistreatment occur.”<sup>9</sup>

That is, people who suffer police brutality are often themselves charged with and convicted of assault on an officer. H.R. 2494 would layer on another cruel injustice – deportation. If officers already use assault charges to cover up their own violence, H.R. 2494 would give them a new tool for impunity against an already marginalized population, and one already disproportionately subject to police misconduct. Moreover, U.S. immigration laws are already extremely and unduly punitive, and people face permanent separation from their families for offenses as small as jumping a turnstile.<sup>10</sup> Making them more punitive moves us in the wrong direction. Likewise, giving police officers another tool to evade accountability would double down on our violent and racist criminal legal system, and undo years of hard-fought progress to check police power.

H.R. 2494 is political grandstanding, creating powerful tools for abuse in order to solve a problem that does not exist, and lending credence to rhetoric that exposes immigrant communities to harm and violence. We strongly oppose this misguided, harmful proposal.

For questions about this letter, please contact Sirine Shebaya at [sirine@nipnlg.org](mailto:sirine@nipnlg.org) or Heidi Altman at [heidi@heartlandalliance.org](mailto:heidi@heartlandalliance.org).

Sincerely,

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<sup>6</sup> See, e.g., Nicholas Turner, *We Need to Think Beyond Police in Mental Health Crises*, Vera Institute of Justice, Apr. 6, 2022, <https://www.vera.org/news/we-need-to-think-beyond-police-in-mental-health-crises> (detailing the pervasive, national problem of police responses to mental-health crises).

<sup>7</sup> See, e.g., Kate Masters, *One in 10 Virginians Charged with Police Assaults Have a History of Mental Illness*, Virginia Mercury, June 14, 2022, <https://www.viriniamercury.com/2022/06/14/one-in-10-virginians-charged-with-police-assaults-have-a-history-of-mental-illness/> (specifying examples of gestures, including throwing an onion ring, that were the basis of assault-on-an-officer charges against people experiencing mental-health crises).

<sup>8</sup> See *supra* n. 2.

<sup>9</sup> *Id.*

<sup>10</sup> Max Rivlin-Nadler, *Yes, New Yorkers CAN Be Deported for Jumping a Turnstile*, The Village Voice, (Feb. 27, 2017), <https://www.villagevoice.com/2017/02/27/yes-new-yorkers-can-be-deported-for-jumping-a-turnstile/>.

#DetentionKills Transparency Initiative

Acacia Center for Justice

African Communities Together (ACT)

Alliance San Diego

American Civil Liberties Union (ACLU)

American Friends Service Committee (AFSC)

American Immigration Lawyers Association

American-Arab Anti-Discrimination Committee (ADC)

Amnesty International USA

Asian Americans Advancing Justice - Asian Law Caucus

Asian Americans Advancing Justice | AAJC

Asian Americans Advancing Justice-Atlanta

ASISTA Immigration Assistance

Asociación Guatemaltecos Sin Fronteras inc

Bend the Arc: Jewish Action

Benevolence Farm

Black and Brown United in Action

Black LGBTQ+ Migrant Project (BLMP)

Bridges Faith Initiative

Carolina Migrant Network

Center for Disability Rights

Center for Gender & Refugee Studies

Center for Law and Social Policy

Center for Popular Democracy

Center for Victims of Torture

Centro de Trabajadores Unidos

Centro Legal de la Raza

Chacon Center for Immigrant Justice at Maryland Carey Law

Church World Service

Civil Rights Education and Enforcement Center

Clemency Coalition of New York

Coalition for Humane Immigrant Rights (CHIRLA)

Communities United for Status & Protection (CUSP)  
Community Asylum Seekers Project  
Community Change Action  
Comunidades Unidas en una Voz  
Connecticut Shoreline Indivisible  
Detention Watch Network  
Dolores Street Community Services  
Drug Policy Alliance  
Equal Justice USA  
Families for Freedom  
Family Voices  
First Friends of New Jersey & New York  
Florence Immigrant & Refugee Rights Project  
Freedom for Immigrants  
Georgia Latino Alliance for Human Rights  
Grassroots Leadership  
Haitian Bridge Alliance  
Houston Immigration Legal Services Collaborative  
Human Rights Initiative  
Human Rights Watch  
Immigrant Action Alliance  
Immigrant Defenders Law Center  
Immigrant Defense Project  
Immigrant Justice Network  
Immigrant Legal Defense  
Immigrant Legal Resource Center  
Immigration Clinic, University of Miami School of Law  
Immigration Equality  
Immigration Hub  
INCLUDEnyc  
Inter-Faith Committee on Latin America  
ISLA: Immigration Services and Legal Advocacy

Japanese American Citizens League  
Just Future Project  
Just Futures Law  
Just Neighbors  
Justice Strategies  
Keep Tucson Together & The Justice For All Initiative  
Campaign  
La Resistencia  
La Union del Pueblo Entero  
LatinoJustice PRLDEF  
Lawyers for Good Government  
Legal Aid Justice Center  
Louisiana Organization for Refugees and Immigrants  
Mariposa Legal, program of COMMON Foundation  
Minnesota Freedom Fund  
Mommieactivist and Sons  
MomsRising  
Muslim Advocates  
National Association of Criminal Defense Lawyers  
National Council on Alcoholism and Drug Dependence-  
Maryland Chapter  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Project (NIPNLG)  
National Korean American Service & Education Consortium  
(NAKASEC)  
National Organization for Women  
National Partnership for New Americans  
NETWORK Lobby for Catholic Social Justice  
New Jersey Alliance for Immigrant Justice  
New Sanctuary Coalition  
NorCal Resist  
Organized Communities Against Deportations

Oxfam America  
Public Defender Coalition for Immigrant Justice  
Robert F. Kennedy Human Rights  
Service Employees International Union (SEIU)  
Society of the Flora, Fauna & Friend  
Sojourners  
Southeast Asia Resource Action Center (SEARAC)  
Southeast Asian Defense Project  
Southern Border Communities Coalition  
SPAN Parent Advocacy Network  
Students for Sensible Drug Policy  
The 5ive Pillars Organization  
The Advocates for Human Rights  
The Black Alliance for Just Immigration (BAJI)  
The Border Network for Human Rights  
The Bronx Defenders  
The Festival Center  
The Leadership Conference on Civil and Human Rights  
The Mami Chelo Foundation  
The Parents' Place of MD  
The Porchlight Collective SAP  
The Young Center for Immigrant Children's Rights  
Transformations CDC  
Unitarian Universalists for Social Justice  
United Church of Christ, Justice and Local Church Ministries  
United We Dream  
Vital Immigrant Defense Advocacy and Services  
Washington Association of Criminal Defense Lawyers  
Washington Defender Association  
Wind of the Spirit Immigrant Resource Center  
Woori Juntos  
YWCA of Kalamazoo

