

introduced—includes that are not included in the Republican bill: Criminal liability under the Civil Rights Act—we changed the standard to make it truly an attainable standard on the Democratic bill; qualified immunity; civil rights investigations; the power of subpoena, which we give to the Department of Justice; the use-of-force investigation; grants for independent investigation; and—this is a measure I have worked on for a while and am so glad it is included here—banning racial profiling once and for all.

I want to salute a former colleague from Wisconsin, Russ Feingold. He was one of the earliest on this whole issue of profiling, a courageous position on his part at that moment in history. Finally, we include it in our bill.

It is not included in the Republican bill. Instead, what they offer are commissions, data collection, and a couple of other criminal offenses, each of which is worthy of consideration but should not be enough to divert us from our goal.

I am going to conclude by saying this. I feel blessed to be here in the U.S. Senate at this moment in history. I feel fortunate to have a chance, with my colleagues on both sides of the aisle, to change the history of this country in the right direction. My goodness, it is so long overdue. After all of the 400 years of slavery, when it first came to our shore, and the greed and racism that fed it as that insidious original sin of our country, now is our chance to do something in our generation to make a difference for those future generations that march in the street and look to us for real change.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Ms. HIRONO. Madam President, I share the strong words and position and perspective of my wonderful colleagues, colleagues who spoke before me just now—Senators HARRIS, BOOKER, and DURBIN—calling for real policing reform, not the bill that is coming before the floor tomorrow.

#### THE EQUALITY ACT

Madam President, this morning I would like to turn to another issue that should concern all of us and that deserves our attention. On December 17, 1990, Genora Dancel and Ninia Baehr walked into the Hawaii Department of Health in Honolulu to apply for a marriage license.

They had met earlier that year in a Honolulu parking lot and felt an immediate connection. Their first date lasted for 9 hours. They eventually fell in love and got engaged, despite knowing that the law prohibited their marriage.

They faced a choice: Give up their dream of getting married or take their fight to court to demand that they be treated equally. Although, up to that point, Ms. Dancel had led a private life and her family was unaware of her sexual orientation, for her the choice was clear. She later recalled: “I had been

discriminated against and was living as a second-class citizen. All of that, emotionally, came to mind. For me it was a no-brainer decision. This was something I had to fight for, and I had to do my part.”

The courts in Hawaii agreed with Ms. Dancel and Ms. Baehr. On May 5, 1993, the Hawaii Supreme Court issued a historic decision that changed the course of the LGBTQ rights movement. It ruled that denying same-sex couples the right to marry violates the equal protection clause of the Hawaii constitution unless the State could prove a compelling State interest.

This ruling sparked a chain reaction that eventually resulted in the U.S. Supreme Court’s 2015 decision in *Obergefell v. Hodges*, which affirmed the right of same-sex couples to marry. It was a hard-won victory for the LGBTQ community in its long fight for equality.

In July 2017, the Trump administration sought to undermine this victory for equality. It intervened in a court case to argue that LGBTQ individuals are not protected from employment discrimination based on their sexual orientation. This position directly contradicted the position of the Equal Employment Opportunity Commission, which had made clear in 2015 that discrimination based on sexual orientation was illegal.

Last Monday, the Supreme Court rejected the Trump administration’s efforts and held that the Federal civil rights statute prohibiting employment discrimination—title VII—does protect LGBTQ individuals. While the decision was another major victory for equality, the fight is far from over.

The Trump administration has not only sought to undo protections for LGBTQ individuals before the court, but Donald Trump and Senator MCCONNELL have also been busy working to undermine LGBTQ equality through the judges—the judges whom this Senate confirms—themselves.

Over the past 3 years, Donald Trump and Senator MCCONNELL have been busy packing the court with judges who have demonstrated hostility toward the rights of LGBTQ individuals. In fact, so far, about 40 percent—40 percent—of Trump’s circuit court judges have anti-LGBTQ records, and another one, Cory Wilson, is set to be confirmed this week. As a State legislator, Wilson voted for a bill that would allow businesses and people to deny services to LGBTQ individuals. The Human Rights Campaign called that bill “the worst anti-LGBTQ state law in the U.S.”

Another example: Recently confirmed to the Ninth Circuit, Trump Judge Lawrence VanDyke previously claimed that “same-sex marriage will hurt families, and consequently children and society.” His actions have reflected these views. He has opposed same-sex marriages and supported businesses that discriminate against same-sex couples.

Similarly, Trump Judge Stephen Menashi in the Second Circuit and

Trump Judge Andrew Brasher, Eleventh Circuit, have argued for the right of businesses to discriminate against LGBTQ individuals.

With the Federal courts stacked with Trump judges like these, it is critical that Congress act now to fully enshrine equality and protections for LGBTQ individuals into law.

The Supreme Court has now made clear that employers cannot discriminate against LGBTQ people in the workplace. But other legal protections against discrimination, such as in healthcare, education, housing, and financial credit, are at risk of being eroded by the Trump administration and Trump judges.

In fact, the Trump administration is doing just that. Just 2 weeks ago, it finalized a rule that eliminated nondiscrimination protections under Federal law for LGBTQ people receiving healthcare and obtaining health insurance.

Last month, the Trump administration issued a letter ruling that title IX requires schools to ban transgender students from participating in school sports based on their gender identity. In 2002, Congress renamed title IX in honor of my friend, Congresswoman Patsy T. Mink. Patsy was a champion for gender equality and nondiscrimination and would certainly be appalled by the Trump administration’s interpretation of title IX.

The Trump administration has already banned most transgender people from serving in the military. It has rescinded protections for transgender students that allowed them to use bathrooms corresponding with their gender identity.

The Trump administration’s attacks against LGBTQ equality make it all the more urgent that Congress needs to make explicit that Federal law protects against discrimination based on sexual orientation and gender identity.

More than a year ago, the House did that by passing the Equality Act with bipartisan support. The Equality Act would prevent the Trump administration from exploiting any ambiguity in the law by adding clarifications in existing civil rights laws to make explicit that sexual orientation and gender identity are prohibited bases for discrimination. This includes the Civil Rights Act of 1964, the Fair Housing Act, the Equal Credit Opportunity Act, the Jury Selection and Services Act, and other civil rights statutes.

The Equality Act would also amend the Civil Rights Act of 1964 to prohibit discrimination in public places and services and federally funded programs on the basis of sex, including sexual orientation and gender identity.

In addition, the Equality Act would update the types of public spaces and services covered under current law to expressly include stores, shopping centers, online retailers, banks, and places that provide legal services, transportation services, and other types of services.

The Equality Act is a critical safeguard against an administration determined to erode the rights of LGBTQ people. The Senate must do its job and pass the Equality Act without delay.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRUZ). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent that I be allowed to complete my remarks before we recess for the lunch hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE JUSTICE ACT

Mr. CORNYN. Mr. President, over the last several weeks, Americans have marched, protested, and demanded justice not just for George Floyd but for Breonna Taylor and a long list of individuals who, unfortunately, had been killed while in police custody. While the energy behind this movement is not new, the problems that created it are also not new. We know that the racial injustices that have existed for generations and that originated during our country's founding have created a whole range of problems that have continued to persist in our society—in everything from education, to healthcare, to housing.

While I hope and expect we will have ongoing discussions about the most effective way to root out these inequalities and provide equal justice, which is our Nation's mantra and aspiration, one of the most important places to begin delivering these reforms is in our police departments.

Across America, we have about 18,000 Federal, State, county, and local law enforcement agencies. Some of these agencies have one officer, and some have as many as 30,000. It is safe to say that a one-size-fits-all approach would not work for all of them. The policies and practices that make sense for the Houston Police Department, for example, are going to look a lot different than those of a small town out in West Texas.

Yet there are basic practices and principles—best practices—that should be standard across the board, and they are something that Congress can help with. There are steps we can take to make our police forces more transparent, more accountable, and better trained so as to, hopefully, avoid encounters like we saw with George Floyd and the Minneapolis Police Department. While there are differences of opinion on the best way to deliver those changes, the good news—and there actually is good news—is that both Republicans and Democrats share this overarching goal. That is a strong start.

A couple of weeks ago, our Democratic colleagues introduced their version of a police reform bill, and, last week, the Republicans introduced ours. While our colleagues on the other side of the aisle seem interested in focusing on the differences, the truth is there is a whole lot in common, a whole lot of overlap.

First are the changes in policing practices. As I mentioned, a one-size-fits-all approach isn't the right method, but in some areas, there is a clear need for uniformity. One great example is training. Many police departments already require deescalation training and give them an array of tactics to cool down a potentially dangerous encounter. Both Republicans and Democrats agree this should be the standard, and it is included in both bills. On the flip side, there are certain practices that should never be used, like choke holds. That is already the case in most major police departments—they ban choke holds. This bill ends that across the board.

Reforming police practices is only part of the equation. In order to restore the broken trust between law enforcement and our communities, we need accountability, and these two bills take similar steps there too. They include a focus on diversity hiring so that police forces look a lot more like the communities they serve. They improve hiring practices so that departments can move to effectively weed out weak or bad candidates and ensure that we have the best possible talent among our men and women in blue.

Both of these bills take steps to better educate officers on racial bias and the systemic challenges that face communities of color. They take steps to promote transparency and to give the public greater access to information about America's law enforcement activities.

Both bills require public reporting on use of force and require better information on how law enforcement agencies are being run. They both prioritize relationship building between law enforcement and the communities they serve.

While there are some differences in the methods of achieving these shared goals, that doesn't change the fact that we largely agree on the problems that exist, and that alone is not insignificant.

Two weeks ago, Senator SCHUMER, the Democratic leader, called on Leader MCCONNELL to bring a police reform bill to the floor before July 4, and, tomorrow, we will do exactly what Senator SCHUMER requested. Now I hear that our colleagues on the other side of the aisle aren't interested in passing the JUSTICE Act as is, and I get that, but I have also been surprised by reports that suggest they may just block us from proceeding to the bill altogether, which, obviously, is not conducive to our passing any police reform bill.

Speaker PELOSI has made comments that I view as encouraging. She said

she is interested in going to conference between the House and the Senate on a police reform bill. It is clear that our colleagues in the House are willing to work with us to come up with a consensus bill, but that means the ball is now in the Senate Democrats' court.

The way I see it, they have two options. One is to work with us on a bipartisan basis. If the Democrats vote tomorrow to begin debating the JUSTICE Act, we can spend time looking at all of the areas in which we have overlapping goals and nail down specific solutions, and we can do what the Senate was built to do, which is to be a forum for debate, for offering amendments, and for voting on those amendments, which would, hopefully, improve the product. If we are going to be successful in getting a bill to the President's desk and delivering on the reforms we are after, we have to get on the bill tomorrow.

Option No. 2 is for the Democrats to do nothing—to tell the American people, even though they have said for weeks that they are desperate for action, that they themselves are the ones preventing that action. I think the choice is pretty obvious, and I can't imagine it is not obvious to our Democratic colleagues. These past several weeks have shone a light on the problems that exist within some of our police departments, and we have an opportunity to work together and show the American people we are capable of working together to try to address this national priority. We can officially begin this process with a simple "yes" vote here on the floor tomorrow.

My simple request to our Democratic colleagues is to, please, please, work with us. Let's debate the bill and continue to try to find common ground, and let's get something we can be proud of on the President's desk that he can sign into law without there being any more delay.

Over the last several weeks, the American people have marched, protested, and demanded action. This week, we have an opportunity to deliver the changes they are requesting and ensure that "Equal Justice Under the Law" is more than just a phrase engraved on the Supreme Court building across the street. I am proud of the work we have been able to do in working with Senator SCOTT, who has led our efforts in the Senate. I thank him and Senator MCCONNELL for their commitment to taking action and for Senator MCCONNELL's willingness to do precisely what Senator SCHUMER requested in getting a police reform bill on the floor of the Senate before July 4.

We will have the opportunity tomorrow to begin debating the JUSTICE Act. I can only hope our Democratic colleagues will make the right decision and commit to working with us to deliver real reforms.

I yield the floor.