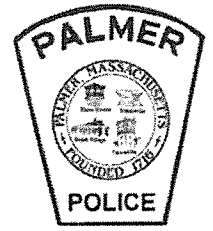


Town of Palmer, Massachusetts

POLICE DEPARTMENT



Christopher J. Burns
Chief of Police

Telephone: (413) 283-8792
Facsimile: (413) 289-1422

July 17, 2020

Honorable Aaron Michlewitz
Committee on Ways and Means
State House Room
Boston, Ma. 02133

Honorable Claire Cronin
Committee on Judiciary
243 State House Room 163
Boston, Ma. 02133

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

On behalf of the members of the Palmer Police Department please accept the following testimony with regard to SB2820 - An Act to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color:

As it relates to Section 4, I believe that one of the first elements of empathy is an understanding of others. A requirement to train officers in all areas of conflict resolution must span all cultures and all aspects of the human condition to be most effective. While I wholeheartedly support this provision, I find it offensive and counter-productive that the legislature would essentially statutorily define law enforcement agencies as "Racist institutions" by making them the exclusive entity required to participant in such training.

As it relates to Section 6 (police Officer standards & Training) I am sure that you are aware that the state of Massachusetts is one of only four other states in the country without a POST or POSAC type system. It is reasonable that police, like many other professions in Massachusetts, require some type of certification and or licensing. This concept has been wholeheartedly supported by the Massachusetts Chiefs of Police as well as other law enforcement practitioners for many years now. As a Chief of Police, I am a strong advocate for a POST like system that would work to enhance police training by setting minimum standards, setting standards of maintenance for certification and licensure as well as provide regulation for training programs

and curricula. Additionally, the creation of a system that would require departments to track fired and problematic officers to make sure they are not unknowingly hired by a department would be beneficial to all police agencies and the profession as a whole.

Of concern in section 6 is the ambiguous language as it relates to *“independent investigations and adjudications of complaints of officer misconduct.”* The failure to specify what *“misconduct”* is will result in application of this section that is very subjective. It lacks any mechanism of oversight which subjects it to a high level of scrutiny. The legislature should endeavor to use language that is clear, unequivocal, and expresses to the best of their abilities their intentions so as to avoid misapplication of this provision.

The language used in this section as well as elsewhere in this Bill eliminates just cause protections for police officers, thereby eliminating Due Process Rights. Due process requires that the procedures by which laws are applied must be evenhanded, so that individuals are not subjected to the arbitrary exercise of government power. However, the language in this Bill would legalize bias against individual police officers by creating a board of non-law enforcement arbiters who are inherently political and arguably anti-police. This is contrary to all other professional boards in the commonwealth that consist of a majority of a specific trade’s practitioners, those best suited to judge performance.

A board consisting of individuals with a background in law, use of force, psychology, defensive tactics, and force science would be much more reasonable and, would ensure the due process rights of police officers. I am sure that you would agree, allowing unqualified civilians who lack experience and expertise in policing as well as use of force situations, to judge police officers who are acting under extreme conditions in rapidly evolving events, lacks common sense and would be unjust. The results of such a process would bring irreversible harm to the policing profession and do nothing to reform it.

In relation to Section 10: The doctrine of qualified immunity requires a purposeful, in depth evaluation prior to enacting any changes. Qualified immunity is in no way an “absolute immunity” that would protect an illegal action by police officers. In instances where clear

guidance is not provided by existing laws, qualified immunity protects the officer (and ALL other public officials). Abolition of qualified immunity would have a negative impact on all public employees as well as on the taxpayers of the commonwealth. There is nothing in the doctrine of qualified immunity as it is written that presently works to protect the illegal and unconstitutional actions of any police officer. This doctrine is only available when a reasonable official would not have known that their actions would violate a constitutional right that was clearly established at the time of incident. Therefore, I do not support any changes to the doctrine of qualified immunity.

As it relates to section 50, I am opposed to any changes to chapter 71 section 37P. The Criminal Justice reform act of 2018 is very specific as to the role of police officers in our schools. This act ensures that SROs do not use police powers to address traditional school discipline issues, including non-violent disruptive behavior and restricts law enforcement action in response to certain school-based offenses. Our School Resource Officers are well respected in our schools, working alongside school personnel to ensure that all students are safe and treated fairly.

As it relates to Section 55, Massachusetts officers are not trained or authorized to use choke holds or any type of neck restraint that impedes an individual's ability to breathe to be used during the course of an arrest or restraint situation. However, As it relates to a total ban on so-called "choke holds," or, "*or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow,*" I believe that a total ban is an extreme response that lacks logical consideration of the dynamics of use of force situations.

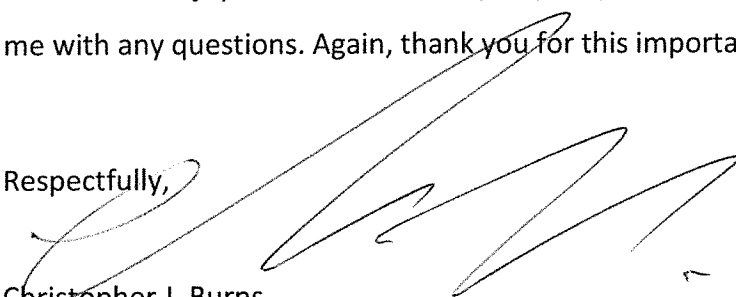
In the context of policing where the use of lethal force is constitutionally reasonable under certain circumstances where officers are faced with imminent serious bodily injury or death, a total ban is not practical or logical. A more reasonable approach would include legislation that clearly defines and, limits the use of chokeholds to situations where deadly force is required. Such legislation that is less ambiguous as to the definition of a "choke hold" could include categorizing all types of neck restraints, qualifying them as reasonable only in situations that merit deadly force. A total ban on choke holds or, more specifically, "*other action that involves*

the placement of any part of law enforcement officer's body on or around a person's neck,"

reduces the non-lethal options available to police in extreme situations which could result in a scenario where lethal force is now the only available option.

I look forward to working with you to find solutions to make Massachusetts a place where all citizens can enjoy the freedoms and prosperity of this great country. Please feel free to contact me with any questions. Again, thank you for this important exchange of ideas.

Respectfully,



Christopher J. Burns
Chief of Police
Palmer Police Department

Office: 413-283-5818

Cell: 413-575-7013