



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

MARIA DUAIME ROBINSON
STATE REPRESENTATIVE
6TH MIDDLESEX DISTRICT
FRAMINGHAM

Committees:
Technology and
Intergovernmental Affairs
Cannabis Policy
Export Development
State Administration
and Regulatory Oversight

STATE HOUSE, ROOM 22
TEL: (617) 722-2140
Maria.Robinson@MAhouse.gov

Chair Aaron Michlewitz
Room 243, State House
Boston, MA 02133

Chair Claire D. Cronin
Room 136, State House
Boston, MA 02133

Dear Chairs Michlewitz and Cronin,

Thank you for holding open the opportunity to submit testimony on S.2820. It has been a turbulent few weeks for us as legislators, being close to our communities who are demanding change -- even if they are not 100% sure what that change looks like. In Framingham, we have a difficult history that involves nationally known no-knock warrant cases such as the case of Antoinette Callahan and the fatal shooting of Eurie Stamps Sr., who died needlessly during a drug raid targeting another person.¹

As we reckon with issues such as the naming of an after Woodrow Wilson and rethinking of the use of Student Resource Officers in the schools, we at the state level are left to tackle these larger issues. I have seen a significant evolution of the Framingham Police Department over the years, with the addition of the state's first juvenile jail diversion program, which is a model being used across the Commonwealth. Our community recognizes that across the state policing is imperfect but many individual departments have worked hard to seek improvement.

That being said, we're faced with a moment in time when it has become clear that the most violent actions of officers are not held to account. While we in Massachusetts often pride ourselves on being better than most other places in the country, we recognize that these awful actions have and will take place here. The goal for me and for many others is to hold misconduct accountable.

Listening to Leaders of Color

On June 2, I had the privilege of standing with Black and Latino leaders of color from across the state as they rolled out the 10-point plan for Massachusetts, focusing on discrete actions to be taken at each level

1

<https://www.washingtonpost.com/news/the-watch/wp/2015/01/06/still-waiting-for-justice-after-swat-team-member-kills-innocent-grandfather/>

of government. With other members of the Framingham delegation, I publicly committed to supporting the four points aimed at the legislative level. I maintain this firm commitment to the four pillars originally announced that day:

- 1) I was encouraged to see the POST standards commission set up even more thoroughly than what was originally drafted in H.2146. I support maintaining this language in the House version of the bill, especially with the commission makeup as currently proposed.
- 2) The civil service review commission as proposed by Representative Holmes should be included in the House version of the bill. Regarding civil service, my own City of Framingham intends to remove itself from civil service for hiring for the Department of Police in part because of the limitations associated with civil service, particularly around diversity in hiring.
- 3) The commission on structural racism should be included in the initial House version of the bill as opposed to being added via amendment. I defer to Representative Elugardo who has worked on this section extensively.
- 4) Representative Miranda's HD.5128 should be included in full, including strengthening the S.2820 language around fully banning chokeholds and tear gas. Over the past two months, I have heard from many constituents and friends about how harmful tear gas is. Many participated in peaceful protests across the country and found the experience of being tear gassed to being treated as inhuman. I strongly recommend the committee consider banning teargas and chokeholds entirely, beyond what S.2820 suggests and more aligned with Rep. Miranda's language.

Establishing Duty-to-Intervene:

For many of us, one of the most despicable parts of the George Floyd video was watching the other officers stand by while the victim was clearly in distress from the fatal use of force being used. As an Asian American, it was especially disturbing to watch a person of color stand by and do absolutely nothing to stop the action. As with any position, there is a certain amount of expected support and collegiality, whether in a police force, a school building, an office, or even in our own Legislature. While we often defer to trusted colleagues' own decision making, we must make it so that any clear violation of an oath of office taken by a public servant should be stopped and reported. We have this in inspector generals and whistleblowing in other professions, but we need to make it especially clear in policing.

Banning No-Knock Warrants:

This is a common sense policy to enact from both sides of the aisle. It is such a straightforward policy that both Rand Paul and U.S. House Democrats introduced language at the federal level to ban no-knock warrants.²

Public Records:

There are many professions where workplace mistakes could be a life or death situation; I think specifically about the NECC compounding pharmacy scandal here in Framingham from about a decade ago that led to a fatal meningitis outbreak. We want to ensure that the people involved in that case no longer can practice in the pharmaceutical industry; we should hold our public servants to the same

² <https://www.paul.senate.gov/news/sen-rand-paul-introduces-justice-breonna-taylor-act>;
<https://www.nbcnews.com/politics/congress/pelosi-top-democrats-unveil-police-reform-bill-n1227376>

standard. However, police officers' records from previous positions are not readily available and in this concealment reduces transparency of previous transgressions. When an officer that was dismissed from a department in one part of the state wants to be re-hired in another part of the state, all involved parties, including the public, should be made aware of any previous issues.

Justice Reinvestment Workforce Fund:

Covid-19 has exacerbated the issues we see in our correctional facilities; here in Framingham, we hear from families begging for their loved ones to be released for fear of infection. However, the larger struggle is where the formerly incarcerated can go, even if they are granted release. The Justice Reinvestment Workforce Fund will provide much needed supports to allow the formerly incarcerated to successfully re-enter society and find solid work opportunities, reducing recidivism.

Facial Recognition Ban:

While potentially not within the scope of the House's bill, I fully support a lasting ban on facial recognition technology.

Banning Sexual Intercourse with People Held in Custody:

I strongly support Rep. Khan's bill that is generally included in Section 57 of S.2820 to ban any law enforcement professional from having any kind of sexual relationship with a person in their custody. This is a straightforward issue that Massachusetts is behind on and should be able to fix easily. In 2020, we better understand that any sexual relationship happening with an extremely skewed power dynamic is not consensual. I hope to see this section included in the House bill.

Qualified Immunity:

Caveat: I am neither a lawyer nor an expert in 4th Amendment issues. I have heard a great deal on both sides from my district about qualified immunity. My understanding is this: right now, we as the Legislature could pass the strongest laws in the country around use of force, yet we may not be able to actually prosecute those in violation of the laws because of our existing statutes around qualified immunity. To be clear, I am not interested in taking away specific indemnity for any public servant (a conversation to be had at the local level anyway). I am not interested in frivolous lawsuits or the ability to take away a public servant's personal possessions. I have heard from folks in my district who believe the qualified immunity language in S.2820 would do that, but lawyers I speak with indicate that as long as the indemnity stays in place (as it does in S.2820), that will not happen. What can happen is that by removing the "clearly established" prong of the qualified immunity doctrine, unusual cases involving use of force would no longer be thrown out of court because there was no exact case law precedent. To me, that means justice could be served -- assuming that the person in question is actually found guilty in said civil suit. By adopting the S.2820 language, nearly exactly what Representative Day had filed earlier in session that was given a hearing and passed successfully out of committee, we would simply be moving to the reasonableness standard and away from the clearly established test, which would allow civil rights prosecution to move forward in some of the most egregious and unusual cases. Assuming I am correctly portraying the effects of the language, I would support keeping the S.2820 language around qualified immunity.

The Eurie Stamps Sr. case I referenced earlier is a rare situation where a request for qualified immunity was denied,³ but it makes the strong case for banning no-knock warrants.⁴ Ultimately the family was given a settlement by the then-town, but it is a poor substitute for a loving family member lost too soon. I am confident that other communities throughout the Commonwealth have experienced similar trauma as the Stamps family, and many more families have experienced trauma that may not have resulted in fatalities. Regardless, we as the Legislature need to tackle these issues head on to improve all of our communities. Our constituents deserve equity and the ability to stay safe from those sworn to protect them. I have great faith in your leadership to help get us there, and I respectfully ask that you consider my views when crafting the House version of this bill.

Best,



Maria D. Robinson
State Representative
6th Middlesex District

³ <https://caselaw.findlaw.com/us-1st-circuit/1725054.html>

⁴

<https://www.patriotledger.com/news/20160929/family-of-framingham-man-killed-by-police-receives-375-million-settlement>