The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
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Dear Chair Michlewitz and Chair Cronin:

First, let me express my deepest appreciation to you and your staff for all the hours you are putting in to draft legislation on police reform before July 31st. Thank you also for taking the time to receive the public and member's feedback. I am reaching out today to respectfully request that the following provisions be included in the House Ways and Means version of S.2820:

1. The provisions within Representative Miranda's *An Act to Save Black Lives and Transform Public Safety.* This includes, but is not limited to, the following:
    a. Updates to existing law to ensure that police misconduct investigations and their outcomes are public records.
    b. Stronger data collection, reporting requirements, and a mandate for an external investigation by the Attorney General's office of cases with officer-involved injuries and deaths.
    c. The *elimination* of no-knock warrants. **The Senate bill only restricted their use; we must eliminate no-knock warrants entirely. No-knock warrants lead to dangerous situations for residents and officers and the use of a no-knock warrant directly led to the murder of Breonna Taylor.**
    d. The entirety of Section 5 which establishes new "duty to intervene" requirements; prohibits the use of choke holds, tear gas, chemical weapons, and other weapons of war; limits the use-of-force and requires de-escalation; among other critical protections.
    e. A mandate that the Department of Public Health promulgate regulations to create a mechanism for physicians and health care providers to report officer-involved injuries and deaths.

2. **Qualified Immunity (QI)** provisions as written in the Senate bill and based on the language of Representative Mike Day's legislation which was reported favorably out of the Judiciary Committee earlier this session. There will invariably be something in this bill that creates push back from police officers. I have already received emails and calls from officers and Police Chiefs in my district raising their opposition to this provision. While I understand that it is uncomfortable to disagree with our municipal police departments, State Representatives cannot cow to any one constituency when lives are on the line. Police are not above the law. If they grossly violate a person's constitutional rights, the victim or victim's family should have the ability to sue that officer's employer for damages. Unfortunately, under current law, that is nearly impossible in Massachusetts.

   We will not see real change in policing without accountability. Reforming qualified immunity provides the bare minimum of accountability. Colorado fully eliminated qualified immunity and the state's police officers and public employees are not suddenly drowning under a deluge of lawsuits or having their homes taken away. I understand that people are scared and confused by the misinformation being peddled on QI by its defenders, but we must be the moral leaders in this moment by setting the record straight on QI and including its reform in the final bill.

3. **Standards for decertifying officers.** The Senate's version of POST uses a "clear and convincing" standard to decertify officers, a much higher bar than the "preponderance of the evidence" standard that is supported by our Republican Governor. The House should remove the Senate's language and use the "preponderance of evidence" standard instead.

   The House should keep the Senate's language that allows the Police Officers Standards and Accreditation Committee (POSAC) to receive and investigate misconduct complaints about officers. Accountability cannot be achieved if the state relies solely on internal investigations; giving the POSAC teeth will be key to the success of POST.

4. **Justice Reinvestment Workforce Development Fund.** In 2012, there were 11,723 prisoners in the Massachusetts Department of Corrections. In 2019, the number dropped to 8,784, a 25% decline. Yet amazingly, the budget for the DOC continues to climb precipitously year after year.

   Protesters across Massachusetts, the country, and our world have been clear in their messaging to us: reforming the police is not enough. Budgets are a reflection of our values and unfortunately Massachusetts has valued incarceration more than our Black and LatinX communities for far too long. Now is the time to change this. We can begin

this critical work by reallocating funds from the DOC and House of Corrections to support job training, education and skill building programs in the communities hardest hit by divestment that leads to over policing and incarceration. The House should include the Justice Reinvestment Workforce Development Fund in its final version and **eliminate the Senate's arbitrary cap of $10 million for the Justice Reinvestment Fund.**

5. I also request that the language proposed by Representative Holmes to **reform the civil service exam and processes** (H. 2292) is included as well as revisions to H. 1440 proposed by Representative Elugardo which will establish a **special commission on structural racism**.

6. **Moratorium on facial recognition technology.** Research on facial recognition technology indicates that this technology is frequently unable to distinguish the faces of our Black friends and neighbors putting them at risk of being mistakenly identified as a person of interest by police. Given this, the use of facial recognition technology would be reckless and discriminatory at this time.

Again, I deeply appreciate you taking the time to listen to your House colleagues and for your efforts on putting together a strong bill. Please let me know if I can be of any assistance during this time.

Respectfully,

Tami L. Gouveia
State Representative
14th Middlesex District