



Barnstable County Fire Chiefs' Association, Inc.
1875 Falmouth Road
Centerville, MA 02632
(508) 790-2375



July 17, 2020

To: Members of the Massachusetts House of Representatives
From: Chief John Burke, President – Barnstable County Fire Chiefs Association
Re: Qualified Immunity – Police Reform Legislation

The Barnstable County Fire Chief's Association is compelled to call your attention to what we feel is as an unintended consequence of one provision in legislation currently under consideration. The abolition of "qualified immunity" will adversely affect all governmental workers, not just police officers. Even the various modified language provisions reportedly under consideration will create a difficult future for Fire Chief's to navigate. It will take years before this state's highest courts interpret this new language, and in the meantime all Chiefs and other municipal personnel will be exposed to frivolous lawsuits.

To the best of our knowledge, Fire Chiefs across the Commonwealth have never abused qualified immunity. In our research, there has only been one reported case involving a violation of this state's Civil Rights Act that a Fire Department employee was protected by qualified immunity. That instance involved an order to test probationary firefighters for drugs. In this case the Massachusetts Supreme Judicial Court ruled that the City Manager and Fire Chief were entitled to qualified immunity from a lawsuit on claims against them under Massachusetts Civil Rights Act and from invasion of privacy stemming from subjecting probationary firefighters to compulsory urinalysis at random time since at the time it was not clearly established that such testing was unlawful. *Duarte V Healy*, 405 Mass.43,537 N.E.2d 1230 (1989).

The Supreme Court, in creating qualified immunity, was trying to cut down on the number of frivolous suits. Abolishing qualified immunity will invite lawsuits alleging that many forms of discipline, and other day to day and emergency decisions made by Fire Chiefs, are violations of any number of unspecified "rights". Fire Chiefs should not have to worry that they will be sued every time they impose discipline, not only by the offending firefighters but members of the public that claim much later that the punishment should have been more severe. If the legislature makes all Fire Chiefs hesitant to impose discipline, or fearful that their imposition will be second-guessed many years later, this will clearly undermine the exercise of their management rights. Additionally, the cost of defending these frivolous suits will be devastating to Cities and Towns that are already facing mounting deficits due to factors related to the current pandemic.

I would ask you to take a long and hard look at how any legislation involving the abolition of "qualified immunity" will adversely affect governmental entities and workers as a whole and not simply the narrow target this legislation seems to be aimed at. The Barnstable County Fire Chief's Association feels this type of broad-brush legislation will have dire consequences with Fire Service operations and affect our ability to do our job effectively, which is to protect life and property across the Commonwealth.

We look forward to discussing this matter further one-on-one through the public hearing process an issue of this magnitude requires and deserves.

Respectfully,

John J. Burke
President
Barnstable County Fire Chief's Association
Fire Chief – Sandwich Fire Department

State Rep. Thomas Petrolatti,

As your constituent, I write to you today to express my strong opposition to many parts of the recently passed S.2820. I hope that you will join me in prioritizing support for the establishment of a standards and accreditation committee, which includes increased transparency and reporting, as well as strong actions focused on the promotion of diversity and restrictions on excessive force. These goals are attainable and are needed now.

I am, however, concerned at the expansion of this legislation, targeting fundamental protections such as due process and qualified immunity. This bill in its present form is troubling in many ways and will make an already dangerous and difficult job even more dangerous for the men and women in law enforcement who serve our communities every day with honor and courage. Below are just a few areas, among many others, that concern me and warrant your rejection of these components of this bill:

(1) Due Process for all police officers: Fair and equitable process under the law demands the same rights of appeal afforded to all citizens and fellow public servants. Due process should not be viewed as an arduous impediment, but favored as a bedrock principle of fundamental fairness, procedure and accountability.

(2) Qualified Immunity: Qualified Immunity does not protect problem police officers. Qualified Immunity is extended to all public employees who act reasonably and in compliance with the rules and regulations of their respective departments, not just police officers. Qualified Immunity protects all public employees, as well as their municipalities, from frivolously lawsuits. This bill removes important liability protections essential for all public servants. Removing qualified immunity protections in this way will open officers, and other public employees to personal liabilities, causing significant financial burdens. This will impede future recruitment in all public fields: police officers, teachers, nurses, fire fighters, corrections officers, etc., as they are all directly affected by qualified immunity protections.

(3) POSA Committee: The composition of the POSA Committee must include more rank-and-file police officers and experts in the law enforcement field. If you're going to regulate law enforcement, up to and including termination, you must understand law enforcement. The same way doctors oversee doctors, lawyers oversee lawyers, teachers oversee teachers, experts in law enforcement should oversee practitioners in law enforcement.

In closing, I remind you that those who protect and serve communities across Massachusetts are some of the most sophisticated and educated law enforcement officials in the nation. I again implore you to amend and correct S.2820 so as to treat the men and women in law enforcement with the respect and dignity they deserve.

Thank you,

Sgt. Brian Clapprood

Massachusetts State Police Springfield

4 Watson Ln Ludlow MA 01055

Massachusetts Environmental Police Officers Association

The Honorable Claire Cronin
House Chairwoman
Joint Committee on the Judiciary
State House, Room
Boston, MA 02133

RE: SB 2820, Police Reform Legislation

Dear Chairwoman Cronin:

On behalf of the men and women that make up the Massachusetts Environmental Police Officers Association ("EPOA"), please accept this testimony in regard to SB 2820, the so-called police reform legislation.

While well intentioned, the EPOA believes that SB 2820 goes too far in certain areas, most notably with regard to placing limits on the doctrine of qualified immunity. The legal doctrine of qualified immunity is complex, and often misunderstood. Despite what may be frequently reported, qualified immunity does not serve to protect illegal activity by law enforcement. Instead, the doctrine safeguards all public officials in situations where the law is unclear and does not provide them with adequate guidance. It already allows lawsuits to move forward if a police officer had fair notice that his or her conduct was unlawful, but acted anyway. This is a reasonable protection afforded to law enforcement officers performing one of the most difficult jobs in government, often under incredibly dangerous and stressful situations.

Proponents of limiting qualified immunity have not been able to point to any cases in Massachusetts where wrongful conduct by a police officer has been protected by qualified immunity. As previously mentioned, the legal doctrine of qualified immunity is complex and changes should be made only after there has been thorough and lengthy study of the subject. It should certainly not be rushed to try and beat a legislative clock. Abolishing or restricting qualified immunity will have many unintended consequences. And since the doctrine applies to all state employees, not just police officers, the consequences will be wide ranging. As such, we urge the Massachusetts House of Representatives to be deliberate in their review before any changes are made. As such, the EPOA is ready and willing to participate in any meaningful deliberations by the Committee.

From: Melissa Greener <corma14@hotmail.com>

Sent: Wednesday, July 15, 2020 9:04 PM

To: Michlewitz, Aaron - Rep. (HWM); Cronin, Claire - Rep. (HOU); hwmjudiciary@mahouse.gov

Subject: [External]: Police reform

Hello Representatives -- I hope this email finds you well and that you actually read this and it is not lost in the shuffle....As the first female sergeant and first female lieutenant in my department, I am volunteering to testify in person or zoom as it is, before the House on this very important police reform bill. Please call or write and I will respond.

I am in complete disgust that the police reform bill passed in the Senate with limiting qualified immunity. I'm in complete dismay that the public did not get to weigh in, including the black and minority police officer's union. Surpassing the legislative process that our democracy was built on. Nearly all of the senators said they are strong proponents of the police. This bill, in particularly the qualified immunity amendment, does not support the police! This bill puts handcuffs on the police as opposed to the criminals that deserve them. Please strongly consider striking down this bill and forming a bill that is not rushed, pushed by political pressure or agenda, and crunched by the turning pages of a calendar just to get something done.

I wanted to throw my two cents in as a concerned resident of Braintree and as a south shore police Lieutenant. I take issue with a lot in this bill but will only touch on one very important piece. As a police officer for the past 15.5 years, with more than half of my career in supervisory rank, I will adjust to legislation that makes the law enforcement profession harder. A lot I can tolerate in the bill, yet can still disagree with, but can learn to adapt to it. But ridding or even limiting of qualified immunity I cannot stomach. As I hope you are aware, qualified immunity ONLY protects good cops. Bad cops, cops like the one that murdered George Floyd are not covered under that umbrella. There is no cop in the country, and especially not in my Town or the surrounding cities/towns, that agree with what was done to Mr. Floyd. I like so many officers have never even heard of a choke hold in our business! Of note, police officers in the northeast, particularly in Massachusetts are well trained and very educated and we don't use force like the rest of the country -- President Obama concluded that during the 21st century policing task force. However, we want change. We want improved relations. We want more training. We want to be held accountable because we are public employees. What we don't want and need is frivolous law suits that hinder our jobs at protecting the communities that we love and work in. If qualified immunity is taken from good cops that is exactly what will happen - lawsuits just because, "ambulance chasers" if you will, law suits because the average person doesn't understand that years and years of constitutional law back what we can and cannot do. Good cops WILL second guess being proactive police officers and WILL second guess jumping into action based on having limited qualified immunity. Let me give you an example...right now as police officers we can break someone's door down to administer emergency aid to someone in their homes. In a state without or limited qualified immunity, that citizen can and now will sue the officer for trespassing and destruction of property. Officers will now second guess running in to help because they

are afraid of the repercussions against them financially and the impact on their families and their livelihood with their jobs. As a society, we cannot afford split second decisions being ignored or delayed for these decisions made by police officers (split second) are what we do day in and day out to help our communities. This law is reckless and only endangers the community. As a citizen, I am horrified that a police officer may second guess doing something to protect my family because they may become a defendant in a frivolous lawsuit. This law was supposed to help with community relations with the black community. It does not do that in the slightest bit -- what in it does? Instead it will get lawyers to be drooling with frivolous law suits against the police. Imagine a good cop doing everything "by the book" than being sued for plainly doing what the constitution and laws told him to do. It will happen and happen often, officers trying to do the right thing to defend the very communities that are against them right now will be sued over nothing.

Recruitment has been tough over the past 5 years or so because of how the police are portrayed in the media, by politicians, or by people that have no clue what real police work is. Retention of officers has also been down in recent years. Officers just aren't staying until retirement age (55 years old with 32 years of service -- which is a discussion that should also be changed). Young officers are leaving to join the business world where they aren't yelled at constantly or called racist for protecting victims. Ridding of or limiting qualified immunity will hamper recruitment and retention even more! Civil service was designed to help minority populations. The Quinn Bill was made to attract educated and well-rounded applicants and that was taken away. This bill will hamper efforts to attract qualified applications of all races and ethnicities because why would anyone take this job that the law doesn't protect.

I love my job. I strive everyday to make my department the best we can be but know we can always improve. I love my community that I work in. I lived there most of my life and have strong family ties to it to this day. I am proud that we are the most diverse community around and I want the Town to excel. I want to be a part of the change and bring all different communities of people together, and most importantly as a police officer, I want to keep EVERY resident and EVERY commuter that comes into the community safe! I am afraid that taking qualified immunity away from police officers will impact community safety. I believe the majority of people want law and order and to feel safe where they live. And I strongly believe that the men and women I work with and the men and women that work in Braintree want that too. We have all taken the same oath - to uphold the laws of the constitution, especially the Massachusetts Bill of Rights - for those cops who break that oath, they should be punished. For those of us who honor that oath with our hearts, we want to be protected to do our jobs the best we can - with improved training, improved equipment, new techniques in dealing with different populations, etc etc etc - qualified immunity helps to back our mission of doing what is right. I cannot emphasize it enough -- Qualified Immunity ONLY protects officers who do their jobs constitutionally, within the law -- good officers. Qualified Immunity does NOTHING for bad officers. Limiting this protection does nothing to weed out bad officers, they will still be "bad". It is the good officers that have everything to lose by taking away or even limiting qualified immunity. I have never seen or even heard of a police officer not intervening, or covering for an officer, or not coming to the aid of civilian that needs it. I can assure you that ALL good police officers want the bad out just as much as the average person because it makes our jobs so much harder. Hold the bad cops accountable and not punish the acts of very few to

the mass of good police officers everywhere. If a child gets in trouble in school, we don't punish the entire class, we deal with that student. Limiting qualified immunity does nothing to teach a lesson. It only hurts good cops trying to help.

Doctors and judges are reviewed by doctors and judges. Hold us accountable; but please make sure that accountability comes from other law enforcement officers who know all the intricacies of the profession. There is no reason why we can't be reviewed by other law enforcement officers. If there were a few civilians on the board, I can get behind that as long as they are willing to learn. We hold people's livelihoods in our hands and it is a large responsibility. There are thousands of case law decisions that outline what we can and cannot do, I would want the civilians to realize that.

To paraphrase some major case law - police officers make split second decisions in ever evolving, dynamic, and sometimes life-threatening situations. Then it is scrutinized in 20/20 hindsight. Being a police officer is one of the toughest jobs in the world. Policing in Massachusetts isn't the news, a tv show, a movie, or even like any other place in the country. We train differently, **we are well educated**, we already have strict laws here (criminal justice reform act, juvenile justice reform act, sro laws, domestic violence bills etc etc). I speak for thousands of police officers across the State when I say we want reform, more training, more techniques, standards, etc etc. And most importantly we want to be able to be protected to do what we all love and that is our jobs protecting the public. Please help protect the "good cops". Thank you for your time.

Melissa Greener
Randolph Police Department
781-858-5712

Below is a standard form letter in opposition of the bill that is coming to your House in the coming days. Above is written from my heart.

As your constituent, I write to you today to express my staunch opposition to S.2800, a piece of hastily-thrown-together legislation that will hamper law enforcement efforts across the Commonwealth. It robs police officers of the same Constitutional Rights extended to citizens across the nation. It is misguided and wrong.

Like most of my neighbors, I am dismayed at the scarcity of respect and protections extended to police officers in your proposed reforms. While there is always room for improvement in policing, the proposed legislation has far too many flaws. Of the many concerns, three, in particular, stand out and demand immediate attention, modification and/or correction. Those issues are:

(1) Due Process for all police officers: Fair and equitable process under the law. The appeal processes afforded to police officers have been in place for generations. They deserve to maintain the right to appeal given to all of our public servants.

(2) Qualified Immunity: Qualified Immunity does not protect problem police officers. Qualified Immunity is extended to all public employees who act reasonably and in compliance with the

rules and regulations of their respective departments, not just police officers. Qualified Immunity protects all public employees, as well as their municipalities, from frivolously unrealistic lawsuits.

(3) POSA Committee: The composition of the POSA Committee must include rank-and-file police officers. If you're going to regulate law enforcement, up to and including termination, you must understand law enforcement. The same way doctors oversee doctors, lawyers oversee lawyers, teachers oversee teachers, law enforcement should oversee law enforcement.

In closing, I remind you that those who protect and serve communities across Massachusetts are some of the most sophisticated and educated law enforcement officials in the nation. Let me remind you that in 2015 President Obama recognized the Boston Police Department as one of the best in the nation at community policing. I again implore you to amend and correct S.2800 so as to treat the men and women in law enforcement with the respect and dignity they deserve.

Melissa Greener

Sent from my Verizon, Samsung Galaxy smartphone

Dear Massachusetts legislators,

My name is Jennifer Fairbairn. I graduated from Assumption College with a B.S. in Political Science. I will also be pursuing a Masters in Political Science in the Spring of 2021, in Washington, D.C. I have worked at the Worcester Regional Research Bureau and other public policy think tanks in the Washington, D.C. area over the last year.

First, I'd like to say thank you for the opportunity to give feedback on Massachusetts's police reform legislation. I apologize if this testimony is brief and not very detailed – I was not given enough time to write this testimony, as I just found out this morning at 10AM that Massachusetts is allowing for public input into the issue.

I believe police reform is crucial for holding police accountable for misconduct and abuse of power. Instances like the specialized narcotics unit of the Springfield, Massachusetts, Police Department using excessive force in violation of the Fourth Amendment of the Constitution is despicable. And we should hold those officers accountable.

My objection, however, is that what is done by a few police officers, or one unit, should not be the cause for a state-wide reform. I believe Reform Bill S.2800¹ has been passed with a lack of transparency and time for input from the public. Eddy Chrispin, president of Massachusetts Association of Minority Law Enforcement Officers, stated that "Not only am I a police officer, I am a black man and I am probably better able to speak to concerns of people of color than Senator (William) Brownsberge."

I would also like to give some input on the four points to Rep. Garlick's bill, specifically on point #4 which states, "Adoptiong clear statutory limits on police use of force and requiring an independent investigation of officer-related deaths."

I think it is imperative that we do investigate officer-related deaths. This includes both death of persons being detained and deaths of officers who die while on duty. In May, The FBI Released the 2019 Statistics on Law Enforcement Officers Killed in the Line of Duty.² The report showed that 48 officers died as a result of felonious acts. The statistics additionally show:

Of the 48 officers,
45 were male
3 were female
40 were white
7 were black/African American
1 was Asian.

Of the 48 officers feloniously killed,

¹ <https://malegislature.gov/Bills/191/S2800>

² <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2019-statistics-on-law-enforcement-officers-killed-in-the-line-of-duty>

15 died as a result of investigative or law enforcement activities
9 were involved in tactical situations
5 were involved in unprovoked attacks
4 were responding to crimes in progress
3 were attempting to restrain/control/handcuff the offender(s) during the arrest situations
3 were assisting other law enforcement officers
3 were responding to disorders or disturbances
3 were involved in vehicular pursuits
2 were ambushed (entrapment/premeditation)
1 was serving, or attempting to serve, a court order (eviction notice, subpoena, etc.).

Violence to our law enforcement needs to be taken seriously because these men are not police officers for the wealth or fame. They do it because they genuinely care about the people. If we care about our most vulnerable community, we must ensure that our law enforcement have the means to do their job. We can see my New York City's example that without law enforcement, the most vulnerable in our community are affected.

Additionally, I do not think we should abolish qualified immunity. This is because we already can investigate officers for misconduct, even with qualified immunity. In *Pierson v. Ray* (1967), the Supreme Court justified the need for qualified immunity; and in *Harlow v. Fitzgerald* (1982), qualified immunity standards were expanded from an official's subjective state of mind to whether or not a reasonable person in the official's position would have known their actions were in line with clearly established legal principles. After 1982, even with qualified immunity, numerous civil suits have been filed. This shows that qualified immunity does not need to be abolished to hold police officers accountable.

Let me also point to the fact that many have objected to the bill. Likewise, the June debates in Congress show that this issue is far from clear-cut.

Moreover, Worcester has published a guide for police use of force already in 2018.³ It can be found [here](#). The report relies on the national standard of “objectively reasonable” response to the situation, judged by the police officers at the scene. With that said, the Supreme Court has ruled that there is great difficulty in delineating clear statutory limits on police use of force. Consider the 1989 Supreme Court case *Graham v. Connor* (1989)⁴ where the Court ruled unanimously that

The notion that all excessive force claims brought under 1983 are governed by a single generic standard is rejected;

and

³ <http://www.worcesterma.gov/wpd-policy-manual/operations/use-of-force.pdf>

⁴ <https://caselaw.findlaw.com/us-supreme-court/490/386.html>

The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are '*objectively reasonable*' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions.

I hope that you take this into consideration when you vote on the police reform bill. If we truly care for our most vulnerable community, we need to work with law enforcement, not against them.

Thank you for allowing for public input on the issue.

Please reach out with any questions at 617-774-7999; or via email at j.6171393@gmail.com.

Respectfully,
Jennifer Fairbairn

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is Richard Mellon and I live at 1795 Bay St. Taunton, Ma. 02780. I work at Old colony Correctional Center and am a Correction Officer. As a constituent, I write to express my opposition to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

Qualified Immunity: Qualified immunity doesn't protect officers who break the law or violate someone's civil rights. Qualified Immunity protects officers who did not clearly violate statutory policy or constitutional rights. The erasure of this would open up the flood gates for frivolous lawsuits causing officers to acquire additional insurance and tying up the justice system causing the Commonwealth millions of dollars to process such frivolous lawsuits.

Less than Lethal Tools: The fact that you want to take away an officer's use of pepper spray, impact weapons and K9 would leave no other option than to go from, yelling "Stop" to hands on tactics and/or using your firearm. We are all for de-escalation but if you take away these tools the amount of injuries and deaths would without a doubt rise.

Civilian Oversight: While we are held to a higher standard than others in the community, to have an oversight committee made of people who have never worn the uniform, including an ex convicted felon is completely unnecessary and irresponsible. When this oversight board hears testimony where are the officer's rights under our collective bargaining agreement? Where are our rights to due process? What is the appeal process? These are things that have never been heard or explained to me. The need for responsible and qualified individuals on any committee should be first and foremost.

I am asking you to stop and think about the rush to reform police and corrections in such haste. Our officers are some of the best and well-trained officers anywhere. Although, we are not opposed to getting better it should be done with dignity and respect for the men and women who serve the Commonwealth. I ask that you think about the police officer you need to keep your streets safe from violence, and don't dismantle proven community policing practices. I would also ask you to think about the Correction Officer alone in a cell block, surrounded by up to one hundred inmates, not knowing when violence could erupt. I'm asking for your support and ensuring that whatever reform is passed that you do it responsibly. Thank you for your time.

Sincerely,

Richard Mellon



Yarmouth Police Department

Excellence in Policing

Frank G. Frederickson
Chief of Police

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

I have been a Police Officer for more than 40 years. I am also the son and father of a Police Officer. Over the past few weeks I have been working with Law Enforcement professionals and community members trying to make sense of SB2820. I know you have probably received many a large amount of written testimony so I will keep it short.

As written, SB2820 will be disastrous to the safety and security all communities across Massachusetts. No educated Police Officer would perform the necessary duties in order to keep our communities safe. "Tinkering" with qualified immunity would have the desired effect of removing Police from our communities which I can tell you is NOT what the vast majority want. The risk of being personally liable for performing their job and within training and procedures is too much for those who already perform amazingly well in the risky situations.

We want to have a bill that produces the best policing in the country! Exposing Officers to personal liability as written in this bill will do the opposite and turn Massachusetts in to a near lawless state where criminals and others such a drunk drivers will be allowed to operate freely to the detriment to our community members.

Respectfully,

Chief Frank G. Frederickson

There are many benign provisions In the bill, but the alarming ones include :

- prohibit schools from cooperating with law enforcement agencies
- allow individuals to expunge more than 1 charge before their 21st birthday
- prohibit the use of biometric surveillance
- remove the requirement for a school resource officer
- authorize the AG to bring civil lawsuits against officers
- allow a person to bring civil lawsuits against officers
- remove monetary claims from qualified immunity

This bill does not take into account the input from pertinent organizations and will result in resentment and an unsafe environment for everyone. The process in which this bill was undertaken is troublesome, with no public





Living in Freedom Together
Empowering and Elevating Survivors

Nicole Bell
Chief Executive Officer
Living In Freedom Together-LIFT Inc
34 Cedar St Suite 301
Worcester, Ma 01609

To the Massachusetts Judiciary Committee,

My name is Nicole Bell and I am the Chief Executive Officer of Living In Freedom Together-LIFT Inc and I am writing to express my support for Section 37 of S.2820 the Reform, Shift, and Build Act. At LIFT we support victims of commercial sexual exploitation a vulnerable population who have been over policed, criminalized, and incarcerated. Due to the over criminalization of the women we work with we have expanded our work to support survivors of prostitution within the courts and criminal justice system.

Many of the women we work with at the jail are set up for failure when released from the correctional facilities. Though the facility they are incarcerated in provide healthcare and access to programming they are not being provided with access to education or job training due to their brief sentences and are essentially released in a worse situation than when they were brought into jail. Most women in prostitution entered the sex trade between twelve and fourteen years old, most have not graduated high school, and the majority have little to no job training or skills. Not only are we incarcerating them for their own victimization but when we do so we are placing an additional hurdle of having a criminal record in front of them to attain employment. Even if employment is attained it is typically a very low paying job which they cannot support themselves with and they are forced back into the sex trade and ultimately end up relapsing with substances and end back in the correctional system.

The Reform, Shift, and Build Act will empower survivors and provide them with access to education and job training as opposed to them facing extreme violence within the sex trade and the trauma of incarceration. The prison budget continues to increase all the while the prison population is decreasing and survivors of commercial sexual exploitation are denied access to jobs and education simply because they do not exist in our communities. It is time to invest in our communities and empower individuals whom have experience incarceration to join workforce and show them they are deserving and capable of viable employment opportunities.

In addition to being the Chief Executive Officer of LIFT I am also a person whom was arrested over 30 times, incarcerated more times than I can remember, and a survivor of prostitution myself. I can tell you that over the ten years I was in and out of state, and county jails I was never afforded the opportunity to get an education or job training. I often wonder if I had access to these resources in my community if I could have escaped the violence of prostitution much sooner, but I will never know that because I didn't. I implore you to support Section 37 of S.2820 and provide access to opportunity for the survivors we support and women like myself so we can be free of the violence of the sex trade and a part of the workforce and our community.

Thank you for your consideration,

Nicole Bell
Founder and Chief Executive Officer



Richard MacKinnon Jr.
President

Billy Cabral
Secretary-Treasurer

Professional Fire Fighters of Massachusetts

Affiliated with the International Association of Fire Fighters AFL-CIO CLC

The Massachusetts Senate Has Turned Their Backs on Public Employees and Organized Labor

When myself, and the over 12,000 members of the PFFM are called to respond at 4:11AM, it is to handle an emergency. We are either "running into a burning building when everyone is running out" or saving a life on a medical call or motor vehicle crash. We respond no matter what the conditions or what the outcome may be to ourselves. The Senate was called this morning at 4:11AM to respond to an emergency and they let the labor movement down.

The PFFM is confused, disappointed, and concerned with the actions of the Massachusetts Senate as it relates to the process under-taken in the recent social justice and police reform debate. We remain supportive of the core principles contained in this legislation: the promotion of diversity, bans on chokeholds and excessive force, standardized training of procedures and protocols, and an independent body including law enforcement experts to oversee accreditation and certification.

However, by foregoing a public hearing process, not inviting all stakeholders into the discussion, and rushing to pass this bill despite a legislative deadline that can be adjusted, the Massachusetts Senate essentially engaged on an attack directed at public employees and the rights and protections that organized labor has fought for since its inception. The legislation as passed has serious and immediate implications, related to qualified immunity, due process and collective bargaining. This is a dangerous precedent, while perhaps well intentioned; it strikes at the very core of public service.

The PFFM will join our brothers and sisters in the public sector and labor, to ensure our voices are heard as this debate moves to the House.

Fraternally,

Richard MacKinnon, Jr.
President
Professional Fire Fighters of Massachusetts

2 Center Plaza
Suite 4M
Boston, MA 02108

● 617.623.4506

● 877.470.7336

PFFM.ORG



07/17/2020

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

Honorable Claire Cronin
Committee on Judiciary
243 State House Room 136
Boston, MA 02133

Dear Chairman Michlewitz and Chairwoman Cronin:

My name is Nicholas Gasperini. I am a lifelong Massachusetts resident. I am a police officer in Western Massachusetts for the last 20 years. I would consider myself as a liberal democrat and have voted as such my whole life, as well as donated funds to Democratic candidates through ActBlue.

We all know that there are some positive changes that are coming in the field of law enforcement. Most police officers I know encourage these changes. However, I have heard concerns from my fellow officer's and I wanted to voice my concern about the speed of the Act to Reform Police Standards and some of the proposals in S2820. I believe some of these proposals, while well intentioned, will have a severe negative impact on law enforcement professionals, as well as, future recruitment of new police officers.

Take the time to listen to the professionals in the field, whether they be Law Enforcement Use of Force Instructors, criminal justice professors, District Attorneys, defense attorneys, social workers and police officers have had little to no input into this process. I am concerned that lawmakers may not understand the job and dynamic calls officers handle on a shift. Have any lawmakers conducted a "ride-a-long" with any police departments? Have any lawmakers asked the MPTC to try out the "FATS" machine, which is an interactive use of force scenario-based training system? I feel this would give lawmakers a unique prospective about the job.

I am concerned about the make up of the Board. It is imperative that the members of this board have some knowledge about policing, the training and experience. Again, I would suggest the makeup of the Board be in fields that have experience with policing such as judges, professors, District Attorneys, defense attorneys, probation officers, social workers. To do otherwise would be to abandon your Massachusetts law enforcement officers.

My large family and those family members of other police officers in Massachusetts will not forget when it comes time to vote during elections, the speed, the disregard of the input of law enforcement members that members had.

Respectfully,



Nicholas Gasperini

- Many MCRA complaints in the Commonwealth are brought against non-law enforcement personnel and do NOT involve allegations of police misconduct.
- The Senate bill and specifically its language on qualified immunity is a **direct threat** to the thousands of hard-working and dedicated municipal officials, commission appointees and employees in all 351 cities and towns across Massachusetts.
- The consequences of the Senate bill would be damaging and disruptive to the Commonwealth.
 - State courts would be flooded with civil actions – as plaintiffs who would otherwise pursue civil actions in federal court seek an advantage in state courts.
 - Cities and towns across Massachusetts would be forced to absorb massive legal costs in defense of the municipality’s role in the action – and almost certainly indemnify public employees against damages.
 - Municipalities will almost certainly incur burdensome legal costs – including plaintiff attorney fees – from litigation and settlement of meritless claims that would have been weeded out by QI.
 - The massive new financial burdens would come at the worst time possible: as cities and towns are bracing for devastating budget impacts from the COVID-19 pandemic and related economic shutdowns
 - Federal courts have a large body of case law on which to base interpretations and analysis of new QI cases. Under the proposed Senate bill changes, the state courts will have to develop a whole new body of case law to interpret the new language. This will lead to uncertainty for municipalities, public employees and plaintiffs for years to come.

The Truth About Qualified Immunity and Public Servants

- Qualified immunity does NOT protect illegal actions by police officers.
- Abolishing or modifying qualified immunity will have severely negative unintended consequences for ALL Massachusetts citizens, courts, and public officials – NOT just police officers.
- Qualified immunity is NOT an absolute immunity from civil suit.
- The Massachusetts Civil Rights Act of 1979 (MCRA) allows civil actions against public officials who use force, intimidation or coercion to interfere with Constitutional or statutory rights.
- Current law – unchanged – still allows individuals to file suit against a police officer or other public official granted Qualified Immunity if they use force, intimidation or coercion to interfere with an individual's rights.
- The Senate bill approved at 4 a.m. on July 14 (S. 2800) would *dramatically lower the standards* under which a civil action could be brought against a public official with qualified immunity. Lawsuits against public officials would increase exponentially.
- This would send a chill through all areas of local government where public servants must deal directly with citizens:
 - Town managers
 - Selectmen
 - Fire chiefs
 - Commission appointees
 - Educators and school administrators
 - Police officers
 - Others



Massachusetts Correction Officers Federated Union

159 South Main Street • Suite A
Milford, MA 01757-3255

Phone # 1-774-396-6477

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President- Derek P. O'Connor
Vice President- Ted Slattery
Treasurer- William E. Gleason
Executive Secretary- Corey J. Scafidi
Business Agent – Phillip C. Matthews
Grievance Coordinator- James R. Wilder
Legislative Representative – Kevin M. Flanagan

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is Kevin Flanagan and I am the Legislative Representative for the Massachusetts Correction Officers Federated Union. I represent approximately 4000 Correction Officers in the Department of Correction along with several counties. With that said, MCOFU is strongly opposed to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

Qualified Immunity: Qualified immunity doesn't protect officers who break the law or violate someone's civil rights. Qualified Immunity protects officers who did not clearly violate statutory policy or constitutional rights. The erasure of this would open up the flood gates for frivolous lawsuits causing officers to acquire additional insurance and tying up the justice system causing the Commonwealth millions of dollars to process such frivolous lawsuits.

Less than Lethal Tools: The fact that you want to take away an officer's use of pepper spray, impact weapons and K9 would leave no other option than to go from, yelling "Stop" to hands on tactics and/or using your firearm. We are all for de-escalation but if you take away these tools the amount of injuries and deaths would without a doubt rise.

Civilian Oversight: While we are held to a higher standard than others in the community, to have an oversight committee made of people who have never worn the uniform, including an ex convicted felon is completely unnecessary and irresponsible. When this oversight board hears testimony where are the officer's rights under our collective bargaining agreement? Where are our rights to due process? What is the appeal process? These are things that have never been heard or explained to me. The need for responsible and qualified individuals on any committee should be first and foremost.

I am asking you to stop and think about the rush to reform police and corrections in such haste. Our officers are some of the best and well-trained officers anywhere. Although, we are not opposed to getting better it should be done with dignity and respect for the men and women who serve the Commonwealth. I ask that you think about the police officer you need to keep your streets safe from violence, and don't dismantle proven community policing practices. I would also ask you to think about the Correction Officer alone in a cell block, surrounded by up to one hundred inmates, not knowing when violence could erupt. I'm asking for your support and ensuring that whatever reform is passed that you do it responsibly. Thank you for your time.

Sincerely,

Kevin Flanagan
MCOFU Legislative Representative



**CITY OF PITTSFIELD
POLICE DEPARTMENT**

POLICE HEADQUARTERS, 39 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201 (413) 448-9700, FAX (413) 448-9733
OFFICE OF THE CHIEF OF POLICE (413) 448-9717

PROFESSIONALISM • ETHICS • INTEGRITY • SENSITIVITY • ACCOUNTABILITY

July 17, 2020

Via e-mail to: Testimony.HWMJudiciary@mahouse.gov

Re: Concerns to Senate 2820 as Amended

Dear Chairwoman Cronin and Chairman Michlewitz:

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 a professional police leader, I and my colleagues will continue to embrace the challenges that lay ahead, instill strong values into our respective agencies at all ranks, hold ourselves completely accountable for all our actions, and work through these difficult and turbulent times to build a more cohesive future for our communities. With that, I and we would very much like to be part of this continuing conversation as it pertains to any contemplated police reform, fully realizing that time is of the essence as the legislative formal 2019-2020 session begins to wind down rather quickly.

The list that follows corresponds to the Section Numbers in Senate 2820 with the applicable line numbers:

- SECTION 4 (line 230): Under (iv), the provision states that there shall be training in the area of the “history of slavery, lynching, racist institutions and racism in the United States.” While I appreciate and support training on these topics, if mandated, this training should be required for all government employees and special employees.
- SECTION 6 (line 272): The language suggested in the written testimony submitted by the Massachusetts Chiefs of Police Association (MCOA) regarding the use of the phrase POST (Peace Officer Standards and Training) should be implemented to avoid confusion.
- SECTION 6 (line 321) : It appears from the language of the POSAC provision that the committee shall have the power to conduct what is referred to as “independent investigations and adjudications of complaints of officer misconduct” without any qualifying language as to how that would be implemented in terms of what type of alleged misconduct (law violations, use of force, injury, rude complaints, etc.) and when

and under what circumstances will adjudications be subject to review resulting in a proposed oversight system that could go down the slippery slope of becoming arbitrary and capricious at some point and subject to a high level of scrutiny and criticism.

- SECTION 10(c) (line 570): Section 10 of “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” (the Act) is problematic, not only for law enforcement in the Commonwealth, but all public employees. The written testimony submitted by MCOPA details several issues created by the proposed language, including recent United States Supreme Court decisions that have reversed attempts to undermine these long established protections.
- SECTION 39 (line 1025): The provision to inform both the appointing authority and the local legislative body of the acquisition of any equipment and/or property that serves to enhance public safety makes perfect sense. However, informing the general public as to the specific equipment possessed and available to police departments will place communities at increased risk, by informing those with ill intent what resources they may be confronted with.
- SECTION 49 (line 1101-1115): This provision prevents school department personnel and school resource officers (who actually work for police departments), from sharing information with law enforcement officers – including their own agency – when there are ongoing specific unlawful incidents involving violence or otherwise. This quite frankly defies commonsense. School shootings have been on the rise since 2017. Did the Senate quickly forget about what occurred in Parkland, Florida on February 14, 2018? The learning environment in our schools must continue to be safe and secure as possible and information sharing is critical to ensuring that this takes place. Public Safety 101.
- SECTION 50 (line 1116): The only reason why officers are assigned to the schools are because they have been “requested” to be there by the school superintendents. The 2018 Criminal Justice Reform Act has very specific language that outlines the qualifications of an SRO, the joint performance evaluations that are to be conducted each year, the training that they shall have and the language specific MOUs that must exist between the Schools and the Police Department.
- SECTION 52 (lines 1138-1251): The Hands Free/Data Collection Law was signed into law only a few months ago before the onset of the pandemic. The new law contains a comprehensive system of data collection, benchmarking, review, analyses and potential consequences. This language appears to be what did not make its way into the Hands-Free Law which as you know was heavily debated for several months based strictly on the data collection component.
- SECTION 55 (line 1272): To be clear, the Municipal Police Training Committee (MPTC) does not teach, train, authorize, advocate or condone in any way that choke holds or any type of neck restraint that impedes an individual’s ability to breathe be used during the course of an arrest or physical restraint situation. That said, we respect the discussion and concern pertaining to what is now a national issue based on the

tragedy in Minneapolis. Under part (d) the language states that “[a] law enforcement officer shall not use a choke hold. [...]” What should also be included is a commonsensical, reasonable and rational provision that states, “unless the officer reasonably believes that his/her or another’s life is in immediate jeopardy of imminent death or serious bodily injury.” There needs to be a deadly force exception to eliminate any possible confusion that this could cause for an officer who is in the midst of struggling for their life or protecting someone else’s and needs to avail themselves of any and all means that may exist to survive and to control the subject. This is a reasonable and fairly straightforward recommendation.

I appreciate the opportunity to weigh in with Massachusetts Police Chiefs’ concerns and recommendations and hope that you would give due consideration to what has been outlined above. Should you have any follow up questions and/or concerns please do not hesitate to contact me in the days or hours that lay ahead.

Massachusetts Police Officers will continue to be bound by our duty to public service, our commitment to the preservation of life, and our responsibility for ensuring our communities are safe. We will not waver. Thanks again for your diligent efforts in drafting this comprehensive legislation for the House and in continuing to add credibility and transparency to our valued partnership in serving our respective communities.

Respectfully Submitted,

A handwritten signature in black ink that reads "Michael J. Wynn". The signature is written in a cursive, slightly slanted style.

Michael J. Wynn
Chief of Police

Dear Representative Scaccia,

My name is Rene Sanchez and I live in West Roxbury. I am writing this letter to voice my concern that again no public hearing was held on this matter and given no other choice, I am submitting this letter as my written testimony. As your constituent and a super voter, I write to you today to express my disagreement with any hastily-thrown-together legislation that will hamper law enforcement efforts across the Commonwealth and encourage you to vote against Senate bill 2800 submitted to the House of Representatives. It deprives police officers of Massachusetts any basic protections afforded to all other public employees in Massachusetts. It is a rush to judgment being unfairly developed behind closed doors. Issues of policing, health and human services, and race are too important to be rushed. Of the many concerns, the following in particular, stand out and demand immediate attention, modification and/or correction. Those issues are:

1. The senate version will seriously undermine public safety because police officers may become more concerned about personal liability than public safety.

The proposed changes to QI will have a serious impact on critical public safety issues.

Unintended and unnecessary changes to QI will hamstring police offices in the course of their duties because they will be subjected to numerous frivolous nuisance suits for any of their actions. Officers may second guess doing what is necessary for public safety and protecting the community because of concerns about legal exposure.

2. The process employed by the senate of using an omnibus bill with numerous, diverse, and complicated policy issues coupled with limited public and policy participation was undemocratic, flawed and totally nontransparent.

The original version of the bill was over 70 pages and had multiple changes to public safety sections of the general laws. It was sent to the floor with no hearing and less than a couple of days for Senators to digest/caucus and receive public comment. This process was a sham.

3. Police support uniform statewide training standards and policies as well as an appropriate regulatory board which is fair and unbiased.

The Governor and supports of the bill promised to use the 160 or so professional regulatory agencies as a guide for police certification. The senate instead created a board without precedent. The 15-member board proposed to oversee, and judge police officers includes no more than six police officers and four of those police officers will be management/Chief representatives. The remainder of the committee will be dominated by groups critical of law enforcement, if not parties that regularly sue police and law enforcement. The civilian members on the board will lack any familiarity with the basic training, education or standards that apply to police officers. All the other 160 boards include a strong majority of workers from the profession supplemented by a few individuals to represent the general public. Imagine if police officers were appointed to a board to oversee teachers licenses!

4. The removal or any change to Qualified Immunity is unnecessary if the Legislature adopts uniform statewide standards and bans unlawful use of force techniques that all police personnel unequivocally support.

All police organizations support major parts of the bill: strengthening standards and training; having a state body that certifies police officers; banning excessive force techniques and enhancing the diversity process. Once we have uniform standards and policies and a statutory ban of certain use-of-force techniques then officers and the public will know the standards that apply to police officers and conduct that is unaccepted and unprotected by QI.

This will also limit the potential explosion of civil suits against other public employee groups. Thus reducing costs that would otherwise go through the roof and potentially have a devastating impact on municipal and agency budgets.

5. Police Officers Deserve the same Due Process Afforded to all Other Public Employees

Public employees and their unions have a right for discipline to be reviewed by a neutral, independent expert in labor relations – whether an arbitrator or the Civil Service Commission. This bill makes the Commissioner’s decisions or the new Committee’s decisions the final authority on certain offenses.

We should affirm the right of all employees to seek independent review of employer discipline at arbitration or civil service.

Thank you for your attention to this important matter.

Sincerely,

Rene Sanchez

35 Running Brook RD

West Roxbury, Ma 02132

July 17, 2020

To: Chair Aron Michlewitz, Chair Claire Cronin

Re: S2820 Written Testimony

At the end of everyday as a caring person you should look in the mirror and ask yourself if you did the right thing and accomplished a goal through your day. You, as State Representatives, of this fine Commonwealth need to accomplish that as S2820 is now before you. You need to ask yourself if this proposed legislation will “reform police standards and shift resources to build a more equitable, fair and just Commonwealth that values Black Lives and communities of color”.

S2820 has a fancy headline but after reading it, anyone with common sense will realize S2820 is full of smoke in mirrors that will do absolutely nothing but grab headlines, put kids at risk, and penalize public employees. It will place extra cost on all 351 Cities and Towns and limit the ability for them to find excellent, young candidates to become police officers, school teachers and firefighters.

Let’s face it, if you really want to help people you need to help them long before they have a negative police interaction. This bill does not include any funding to target education, health care, and housing needs. This bill does not do anything to help or further fund social service agencies that already rely on the police for help every single day! Furthermore, this bill has ZERO funding for anything.

Deerfield is a small community we only have two police officers working at a time and we have done our very best to recruit educated, progressive, and diverse police officers to serve our community. Our town chose to fully fund the Quinn Bill after you defunded it, because we know that we want educated caring and progressive police officers and higher education is one of the best ways to accomplish that goal. Now you’re going to put an even higher cost on our community if this bill passes with additional unfunded mandates that will do nothing to accomplish the headline of the bill.

You need to face the fact, there is no emergency and no need to rush any legislation as result of a murder in another state. Massachusetts leads the nation in progressive community-based policing, diversity and de-escalation training, and it is successful.

By stripping Qualified Immunity, you will hurt all public employees. If this bill goes through teachers will be getting sued for giving bad grades, and firefighters will be getting sued because a house burnt down. Look in the mirror, you don’t want to be sued for passing bad laws and your Qualified Immunity isn’t affected by this bill.

Does it make sense to set up a group of doctors to determine if a teacher should remain licensed? Take a good look at the Police Officer Standards and Accreditation Committee part of the bill and ask yourself that same question.

Massachusetts Police Departments lead the nation in cohesion with school systems to have guided school resource officer programs to protect kids from violent shootings, but also to be there as ear for kids and parents. We cannot let a few people change the law to remove school resource officers, have you forgotten about school shootings? Have you added up the number of people shot in schools to the number of unjustified police involved shootings?

If you want to live up to the headline of this bill put S2820 in the trash. Pass legislation to help where it is actually needed: education, housing, social services and healthcare.

If you want to continue to improve policing lets work together, to bring back full funding of the Quinn Bill. Create a retirement bill to make Massachusetts competitive with other states. Give local officers the same benefits of the 25/75 retirement plan of State Troopers. Communities need to be able to recruit and retain the next generation of police officers that will make excellent choices, talk to people, and keep use of force to an all-time low. S2820 and the actions of many law makers is disheartening, parents are telling kids to stay away from public service and if S2820 passes it is just going to make it even worse.

Respectfully Submitted,

Adam Sokoloski

6 Bloody Brook Driver South Deerfield, MA

413-665-2606

Written Testimony re: S2820, 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

Dear Chairs Cronin & Michlewitz,

I am a resident of Boston and I am writing to urge you to include language addressing the four state-level priorities of the Massachusetts Elected Officials of Color:

1. Implement a statewide Peace Officers Standards and Training (POST) system that certifies police officers and enables de-certification for misconduct and abuse (inspired by H2146 - Reps. Holmes & Vieira);
2. Establish an Office of Diversity and Equal Opportunity to establish guidelines and review for diversity plans for all state agencies and establish a peace officer exam advisory board to review examinations for appointment and promotion of peace officers (H2292 - Rep. Holmes);
3. Establish a commission to study how the systemic presence of institutional racism has created a culture of structural racial inequality which has exacerbated disproportionate minority contact with the criminal justice system in Massachusetts (H1440 - Rep. Holmes); and
4. Adopt clear statutory limits on police use of force, including choke-holds and other tactics known to have deadly consequences, require independent investigation of officer-related deaths, and require data collection and reporting on race, regarding all arrests and police use of force by every department (HD5128 - Liz Miranda)

In addition, we must reform qualified immunity to ensure that people have recourse when their constitutional rights are violated. I fear that these reforms will mean nothing if there is no way for victims of police brutality to have their day in court to hold officers accountable for violating their constitutional rights. Under the current system, MA residents who have been beaten, sexually assault, or had their property and homes destroyed by law enforcement in violation of their civil rights must bear the cost of medical bills, counseling services, and even funeral services because they are barred from bringing a case against officers in most circumstance. There has been much misinformation that officers would be personally liable for damages, but the indemnification statute would allow for municipalities to pay for the damages should victims of police violence prevail in court. While I worry about the effects this may have on municipal budgets, I am more worried about victims of police violence having no resource to redress the wrongs that have been committed against them. It is my belief that allowing civil suits against officers who violate civil rights will not only provide some level of justice for the victims but also act as a deterrent to excessive use of force and violence.

Thank you for taking testimony on this important legislation. It is time to answer the call that Black Lives Matter, and pass legislation that creates systemic change to keep Massachusetts residents safe from police violence.

Sincerely,

Jaime Watson

July 16, 2020

Dear Chair Michlewitz, Vice-Chair Garlick and members of the House Ways and Means Committee,

Black lives are under attack in our country and our commonwealth. This includes the life of Black immigrants from Brazil, Haiti, Cape Verde, the Dominican Republic, and Jamaica. Each of these is among the top 15 home countries for undocumented immigrants in Massachusetts. So we thank you for your leadership for taking up *S.2820, 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*. We do have one important suggestion to continue the work of dismantling systemic racism in all of its forms.

Include language in the reforming police standards legislation that would grant driver's licenses to immigrants without status. We know that for Black immigrants, over-policing has grave consequences as families and communities are torn apart through detention and deportation. We know that for law enforcement this addition would promote trust between communities they serve and allow for officers to consistently identify who's behind the wheel.

There is no doubt that the socially damaging and unsafe linkage of driving privileges to immigration status is a part of the systemic racism that continues to hold back Black communities. There is also no question that law enforcement understands that tested and insured drivers make the roads safer for everyone. That's why the Massachusetts Major City Chiefs of Police Association, several District Attorneys, sheriffs, and individual police Chiefs have endorsed giving driving licenses to immigrants without status. Mobility is necessary.

Through the COVID-19 pandemic, the work of immigrants without status has been deemed essential. Through the reopening, it is only appropriate that the dignity of their lives also be deemed essential. Whether it is working in healthcare, construction or the food supply chain, we need to protect the health and safety of immigrants who live and work in every corner of our Commonwealth. The time is now to offer the essential tool of mobility to immigrants who are part of our economic fabric. As we prepare for the second wave of the COVID-19 pandemic, we must learn the lessons from the first. Where there is a risk to one, there is a risk to all.

We represent over 3,500 members in Western Massachusetts. Many of our members and their families would directly benefit from this legislation, especially given the lack of transportation options in general.

Signed,

UAW Local 2322

July 17, 2020

The House Judiciary Committee on Ways and Means

RE: Police Reform Bill S.2820

Robert Kalin

Springfield Police Department

(413) 315-0730

I am submitting this letter as written testimony in opposition of this bill that was rushed through and passed in the senate. This bill was rushed through and voted on in the very early morning hours. I believe the senate didn't want to take the time to properly see this bill through due to the longer this bill was out there, the more probable someone or the more persons would have come to their senses and voted in opposition of it.

I am a police officer and have been one for twenty-seven years. I consider it to a very prestigious position in the community I serve. At a very young age, I knew what I wanted to be when I grew up. I am grateful that I got my chance to fulfill my childhood dream. I give one hundred percent everyday and sometimes ten hours, worth the work in my eight hour tour.

I am appalled just like every other police officer on the actions of the officers in Minneapolis when dealing with Mr. Floyd. That should have never happened and I am positive I stand with every officer in this country or even the world. I don't want to get into Monday Quarterbacking but anyone there could have intervened, which could have caused the outcome to be totally different. With social media the way it is today, people would rather stand there and video the incident or event rather than stepping in and trying to end it. It is totally sad that this is what society has come to.

Anytime an unfortunate incident occurs, police officers are always judged on their actions. The investigation can take several months or even years to complete, when the officer(s) only had fractions of seconds to respond or take action. This is an unfortunate reality.

Officers go out there everyday to uphold and enforce the laws put in place to make society a safer place for all. Unfortunately, in today's climate, some politicians seem to put the blame on police officers. The general public, some of which can not make a decision on their own, listen to these false accusations and prejudge the police. This has made the job, much tougher. One example, is the several officers in the past few years that were shot and killed while responding to assist or investigate a motor vehicle crash. These Officers were responding with caring for the injured in mind and suddenly, they're taking fire or being assaulted.

It has been alleged that all police officers are racist. There has been study after study done and I haven't heard of any evidence confirming or upholding these accusations. It is alleged that police officers treat or judge a certain person or group differently based on the actions of one. I believe that is what is being done to police officer(s) specifically in Massachusetts are being treated by the actions of those across the country.

I believe the modifications in the bill made by the senate are not necessary and needed. They jumped on the bash wagon, the police are the problem, train. Police Officers deserve and should have due process, which the modification would greatly prohibit. Another is the modification to eliminate Qualified Immunity.

Officers will not receive or qualify for the Qualified Immunity (as currently written) if they are found to have acted improper. This qualified immunity protects police officers from frivolous or false claims. A police officer should not have to go to work having this on his mind. A police officer has enough on his mind already. He/She are going to work to provide for their family.

If this modification is passed, it is going to get more police officers hurt or killed. Officers are going to be afraid to act or second guess themselves, giving the person who they are dealing with added time for an assault. Officers that are near retirement are not going to wait. They will retire immediately just short of their time. Why hang around? After putting in thirty or so years, just to lose it all over a possible false claim.

Also person(s) once interested in pursuing a career in law enforcement, will no longer pursue a career in law enforcement. I have had several teenagers reach out to me who are looking to pursue a career in law enforcement, to ask me my opinion. This is due to all the confusion being broadcast from the media.

In closing, I hope you investigate this issue till exhausted, as it will have severe consequences not just in the law enforcement community, but in every community in the Commonwealth of Massachusetts.

Respectfully Submitted,

Robert Kalin



Testimony regarding Racial Justice and Police Accountability

July 17, 2020 (via email)

The Honorable Aaron Michlewitz
Chair, House Committee on Ways & Means
State House, Room 356
Boston, MA 02133

The Honorable Claire Cronin
Chair, House Judiciary Committee
State House, Room 136
Boston, MA 02133

Dear Chair Michlewitz, Chair Cronin, and Members of the Committees:

I offer this written testimony regarding Racial Justice and Police Accountability in the hopes that I can provide information that will be of value as you work to counter social and economic disparities tearing at the fabric of our commonwealth. As MassINC research focuses on corrections, I narrow my remarks to criminal justice reform and the work that remains to improve public safety in communities of color disproportionately impacted by incarceration.

Below I detail the importance of faithfully implementing the data sections of the landmark 2018 criminal justice reform law, enhancing the law's expungement provisions, creating a new justice reinvestment fund, and raising the age.

A. Criminal Justice Information Systems and Racial and Ethnic Disparities

Provisions overhauling the state's criminal justice information systems stand out as the civil rights bedrock of Massachusetts' remarkable 2018 criminal justice reform law. Sections 5, 10, and 13 ensure that we have the data necessary to eliminate racial bias. Equally important, these provisions improve data collection, allowing us to develop a more accurate understanding of whether correctional agencies are appropriately utilizing evidence-based rehabilitative services to reduce recidivism. People released from correctional facilities disproportionately return to communities of color. For far too long, we have released individuals without adequate preparation and support, which leads to further crime and victimization in communities of color.

Unfortunately, very little progress has been made over the past two years bringing the state into compliance with these crucial data provisions. The Senate version of the IT bond bill (S. 2790) currently in conference includes resources (8000-2027) to help agencies undertake the work required by the 2018 law. Beyond appropriating funds, it is critical that the legislature monitor progress and hold the agencies accountable, especially as the Oversight Board tasked with this function has met irregularly over the last two years.

Implementing these data provisions is particularly important in light of the study of racial disparities in Massachusetts' criminal justice system Chief Justice Gants asked Harvard Law School to undertake in

2016. This analysis, which took nearly four years to carry out because of extensive data quality issues, is nearly complete. According to those who have reviewed drafts, the report finds strong evidence of racial bias in sentencing and enumerates a number of serious and widespread data deficiencies that make it difficult to root out these racial disparities. They include: no information on the defendant's race in one-quarter of all criminal cases; an incomplete record of whether the defendant is held pretrial; no way to distinguish between cases dismissed in District Court and those moved to Superior Court; no way to track when charges are reduced; no record of fines imposed by offense; and no consistency between the offense codes used by DCJIS and those recorded by the trial court.

In order to function effectively, the people must have trust in the criminal justice system. Until we improve data collection and address the problems reliable data plainly reveal, people of color will have good reason to question the aims of our institutions.

B. Expungement

The 2018 reform law included provisions allowing for expungement of criminal records, giving people greater ability to pursue education and career opportunities unimpeded by encounters that they had with the justice system at a young age. Unfortunately, the law provided narrow eligibility, making it difficult for most people to take advantage of this opportunity for closure.

Expungement is important to remedying well-documented racial disparities in our justice system. Legislation can help advance racial justice by removing the limit to a single charge or incident and distinguishing between dismissals and convictions.

C. Justice Reinvestment

MassINC has carefully documented high concentrations of incarceration in communities of color, noting rigorous peer-reviewed research that shows these neighborhoods have passed the threshold where, rather than increasing public safety by removing people who harm the community, elevated levels of incarceration are actually destabilizing communities and leading to higher overall levels of crime. This is a product of failed tough on crime policies. Addressing this legacy will require reallocating resources to more effective community-based rehabilitation and crime prevention activities. Section 37 of S. 2820 would direct savings from criminal justice reform to evidence-based workforce development programs.

While this is a strong foundation, placing an arbitrary cap of \$10 million could undermine the intent. We must commit to realizing all of the savings possible from falling correctional populations and commit the bulk of these resources to reduce crime in communities where high levels of incarceration have fractured families, undermined public safety, and reduced upward economic mobility.

D. Raise the Age

Racial disparities in the Massachusetts criminal justice system are widest among residents age 18 to 24. The report released by the taskforce on emerging adults catalogued the many compelling arguments for utilizing models that meet the developmental needs of justice-involved young adults. While there are multiple ways to accomplish this goal, keeping older teens in the juvenile system is the most certain to yield immediate results.

The juvenile system has worked for over a decade to build a culture grounded in rehabilitation and developmentally-appropriate evidence-based practices and it has the capacity to serve older teens.

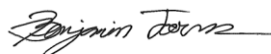
As legislator's work to craft racial justice and police accountability legislation, it is paramount to recognize the racial disparities we confront. According to 2018 Census data, black residents were 5.5 more likely to be incarcerated than white residents in Massachusetts; Latinos in Massachusetts were 4 times more likely to be incarcerated than whites.

We must also consider the impact these high levels of incarceration have for police officers working in communities of color. A system that does not provide adequate rehabilitation or reentry supports puts officers at risk. In recent years, a number of officers have been killed by individuals that our corrections system did not successfully rehabilitate (and quite likely made more dangerous). It is notable that we did not investigate any of these tragic instances to examine where the system failed and what could be done better to prevent repeat occurrences.

Notwithstanding this need to individually troubleshoot such catastrophic failures, strong evidence supports the beneficial impacts improved data collection, expungement, justice reinvestment, and raise the age will have not just for people of color, but also for police officers working to support public safety in communities that bear the scars of racism and decades of ineffective tough-on-crime criminal justice policies.

Thank you for this opportunity to submit testimony, and for all of the public service that legislators and staff are providing on behalf of our commonwealth at this especially challenging time.

Respectfully submitted,



Benjamin Forman
Research Director
MassINC

Committee on the Judiciary

House Committee on Ways and Means

The State House

Boston, MA 02133

Dear Chair Cronin, Chair Michlewitz, Vice Chair Day, Vice Chair Garlick and House members of the Judiciary and the House Ways and Means Committees,

I am writing you today in support of:

- H2141 (Rep. Tyler) An Act improving data collection in the juvenile justice system which requires transparency and accountability by reporting race/ethnicity data at each major decision point of the juvenile justice system
- S2820 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.
- Specific updates to improve S2820

My name is Kathy Reboul and I am constituent of Vice Chair Michael Day. My experience includes:

- working within the juvenile justice system at three different Department of Youth Services facilities
- serving on the board of the Criminal Justice Policy Coalition for 4 years
- volunteering with individuals who are currently or formerly incarcerated in the Department of Correction facilities. Most recently at MCI Norfolk in the area of Restorative Justice.
- a contributing author to the Crime Classification Manual: A Standard System for Investigating and Classifying Violent Crime

And I am an active member of:

- Massachusetts Coalition for Juvenile Justice Reform
- High Risk Youth Network
- Massachusetts Restorative Justice Task Force
- National Association of Social Workers-Criminal Justice Committee (MA Chapter)
- Coalition for Effective Public Safety (CEPS)
- Working Group for Criminal Justice Reform

I strongly support H2141 (Rep. Tyler) An Act improving data collection in the juvenile justice system. I know that the Massachusetts Coalition for Juvenile Justice Reform that I am part of has provided you with a lot of statistics and data to support that this Legislation is necessary. Since I am part of their group, I was part of reviewing their letter and believe it makes the case from a statistical viewpoint.

I want to share from another level why I believe this Legislation is so important. I am a White woman who grew up in a predominately White upper/middle-class community. When I attended the High School I was told, it was one of the top 10 high schools in Massachusetts. When I was about 22 years old, I began working in a Department of Youth Services facility.

I still remember being hired as a teacher in a Department of Youth Services facility and the complete shocked I felt as I walked into my classroom and saw that almost all my students were Black and Latino. I wondered why they were so many Black and Latino youth and so very few White youth. At first, I put this out of my mind by assuming that it must be because Black and Latino youth were committing significantly more crime. But as I got to know my students, I noticed that many were incarcerated for things that had not gotten my White peers from high school incarcerated. Then I started to see more and more national data of racial disparities in incarceration at both the juvenile and adult levels.

Because I thought of Massachusetts as a progressive State so I assumed this would get resolved. So it made sense that advocates were attempting to get data from the various points in the juvenile justice system so they could look at which parts of the system were contributing to the problem. But they keep on running into governmental entities that would not give them demographic data. So 16 years ago an advocacy group I was part of, Citizens for Juvenile, started asking the Legislature to require transparency and accountability by reporting race/ethnicity data at each major decision point in the juvenile justice system. So far this has not been made legislation and it seems about time.

As a white woman who grew up in predominately white town, I grew up assuming that getting arrested, convicted and the length of the sentence was fair. The longer I have had contact with the juvenile and adult correctional systems, the more I see the arbitrary nature the outcomes of people who come in contact with the juvenile and adult justice system.

1. I remember hearing a high-ranking officer in a predominately White community saying "We don't want to give these youth records, so we have them do community service." That is stark when compared to the data from the ACLU that shows how youth of color in Boston are disproportionately stop and frisked.
2. I remember learning from a man in Western Mass that my predominately White Upper-middle class town was famous for how the many people in the town protected a youth who had committed a vehicular homicide. His police academy had studied the case because of the extreme lengths that members of the town had gone to protect this youth. That is in contrast to hearing about case after case in Boston where people who have served decades in prison, are eventual exonerated.
3. I remember reading in my local paper about the efforts of the police to track down someone who stole money so they could return it. The amount was high enough that in would have been considered a felony. They did not want her to get in that much trouble. I do not hear similar stories of urban police departments.

I grew up being given many advantages. People assumed I would make something of my life, and gave me the resources to achieve. I went onto college as almost all of my peers did.

I saw many of the DYS youth I worked with had not received those advantages and then be viewed as potential criminals. Not just young people who made mistakes and deserved another chance, like the youth from my town who sweep the floors of the police department, because the police “did not want to ruin their futures with a record”. My belief is that if this Legislation is passed, that Citizens for Juvenile Justice and other organization, can begin to track down where the disparities occur and then we can begin the important work of making sure that the color of a youth’s skin stops being a major determinant in their incarceration and sending them onto a path of a harder life that early incarceration can easily lead to.

So I ask that all of you vote for improving data collection in the juvenile justice system so we begin to have a level playing field.

I am also asking you to support S2820 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 recent events have shown us, black communities do not receive the same treatment from police.

So I am asking you to support S2820 and pass reform that ALSO INCLUDES:

- * Implementing Police Officer Standards and Training with certification and decertification (please eliminate from the Senate bill S2820 the provision to allow police to extend the time frame for a year.)
- * Civil service access reform so that Blacks and other people of color have equal opportunity
- * Create a Commission on Structural racism per Rep Holmes
- * Clear Statutory Limits on police use of force per Rep Miranda
- * Qualified Immunity Reform so there is not language in the Legislation that means is still incredibly hard for a Massachusetts citizen who has had their civil rights violated to receive justice.

Thank you for considering this.

Sincerely,

Kathy Reboul, MSW

781 301-1947

Bill No. S2820

Title: 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.

I would ask that you consider a nay vote on this bill as it is proposed. I do absolutely want you to support an amended bill that makes our profession of policing more professional and accountable. I believe we are overdue for that. However, I also believe that the senate version of this bill as written will seriously undermine public safety by limiting a police officer's ability to do their jobs while also allowing loopholes for criminals. Furthermore, the process employed by the Senate to push this through with such haste without public hearing or input of any kind was extremely undemocratic and nontransparent.

I was born and raised in Mattapan (during the early years of forced busing) and until just a few years ago I resided in Roslindale. I now live in Representative Garlick's district in the suburbs. I could easily sit and say that I don't care because I don't live there anymore. But I will not do that. I cannot do that. I moved out of Boston just a few years ago, in my early fifties. I spent my life in the city that will be hit hardest by the unintended outcome of a short-sighted bill. I grew up in a community of color and have spent the last 24 to 25 years of my life serving those same communities. The people in these communities want us there. They want us to be accountable but they don't want us to become invisible.

I saw on the news this morning that Berkeley, California is eliminating the ability for police officers to conduct car stops. I would like to think they realize the negative effects of a move like that on their community, but I am not sure they are thinking that clearly. I know that we are smarter than that here in Massachusetts. You as our elected officials are smarter than that. I beg you to please think long and hard with an open mind about all the decisions that each of you make in regard to this bill. I am of the age where I can retire but I don't want to. There are a lot of officers like me. We love our profession. We love the people in the city whom we work for. However, the talk of late is how fast officers can leave. That is not a good sign for any of us, certainly not for the communities where crime and violence is present. We have a commitment to fight crime and improve the quality of life in all the communities of Boston, and I for one, want to continue doing so.

I honestly don't think it even needs to be pointed out that Massachusetts police officers are among the most highly educated and trained in the country. Police all across this great commonwealth support uniform training standards and policies. I believe we absolutely should be accredited/licensed. I, along with all my sister and brother officers, support any reform that will make us more professional. However, I believe that those reforms should hold us accountable without opening us to unfair discipline and lawsuits. Not only do I believe it is unfair to us as officers, but unintended consequences of an overreaching bill it is even more detrimental to the communities we serve.

What I have seen over the years is that support for a bill like this one will negatively change the lives of the very people it is purporting to be written for. Unfortunately, the mastery of words by many elected officials will get most people to support it without really looking at the true end effect. I am not saying that these politicians are lying. I am saying that the use of the right words can be used to push people into supporting their agenda, and quite effectively I might add.

Not one police officer to whom I have spoken has an issue with improving race relations, our tactics and our procedures. What we do have an issue with is the manner in which it is happening. The fact that we are being held accountable for what a police officer did over 1100 miles from our city is, in many people's opinions, insane. We would never hold a member of the public accountable here in Boston for a crime that another person committed 1100 miles away. You would condemn us if we as police officers did anything even remotely like that. And quite frankly you would be correct to do so. That is in essence what is happening here with the murder of George Floyd, which every police officer to whom I have spoken, condemns.

The people around the city that I have spoken to and continue to listen to, are the intended beneficiaries of this bill and although they also agree there is room for change and improvement, they don't want to see the high quality of policing that they have become accustomed to, to stop. What I have witnessed over my time in this department is that those who have been convicted of crimes have a much louder voice than those who have been the victims. If you don't believe me come spend some time in a Boston courtroom for a few days and you can see for yourself. I am not saying that those who are suspected or convicted of crimes should not have a voice. However, the people who are victimized in their communities and homes by the criminal elements should have a voice also. It is their quality of life that is going to suffer if this bill is not HONESTLY debated and improved.

The issues on this bill cannot and should not be made and enacted at the pressure from a mob rule type of atmosphere. The residents of the communities of the 351 cities and towns in Massachusetts should not have the quality of their everyday life effected by a piece of legislation that has not been completely and honestly vetted just

because there are only a few days left in the legislative calendar. The residents of this great state deserve more than that.

This bill directly attacks qualified immunity and due process of the police officers. Qualified immunity does not protect bad officers. It protects good officers from civil lawsuits. I believe that you as elected officials should want our officers to be able to act to protect our communities without fear of being sued at every turn. Most law enforcement officers do the right thing and are good officers, yet there seems to be a real push to open good officers up to frivolous lawsuits because of the actions of a few who, by their own actions, would not and should not be covered by qualified immunity anyway.

Changes to qualified immunity would be unnecessary if the legislature adopted a uniform statewide standard and bans unlawful use of force techniques which all police personnel unequivocally support. If the senate bill is passed in its current form the costs to municipalities and the State will skyrocket from frivolous lawsuits and potentially having a devastating impact on budgets statewide.

There are a lot of officers who are proactively trying every day to make a positive impact in the respective communities that they patrol. If you lessen the qualified immunity for these officers, I am not sure if they would continue to be proactive. And by the way, proactive policing makes a lot of difference in what happens in a community. Why would they put themselves at risk?

Also, the Senate version of a regulatory board is unacceptable as it strips officers of the due process rights and does away with protections currently set forth in collective bargaining agreements and civil service law. The Senate created a board that is dominated by anti-police groups who have a long-detailed record of biases against law enforcement and preconceived punitive motives toward police.

Their proposed makeup of the oversight board is one sided and biased against law enforcement. It is unlike any of the other 160 regulatory boards across the Commonwealth and as currently proposed, I believe the board will be incapable of being fair and impartial.

The purpose of this letter is not to state every section that I agree or disagree with. I am writing this letter because I respect and support the way our government operates and I am just asking that a fair process be employed with an honest result coming out in the end. The process should never be hijacked if we want to make laws that protect and serve all our residents and visitors, and police officers are also this state's residents.

And I totally believe that all lives cannot matter until black lives matter.

I respectfully thank you for taking the time to read my letter,

Frank McLaughlin
Detective, Boston Police Department
Homicide Unit
617-594-7535



Trust
Community
Respect

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

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”.

My name is Deb Crafts and I am the Director of Public Safety/Chief of Police at Northern Essex Community College in Haverhill and Lawrence. I am also the Vice President of the Massachusetts Association of Campus Law Enforcement Administrators (MACLEA) and I have been a campus police officer for over 30 years in the Commonwealth. During my career the profession has changed but one thing has always been consistent; my commitment to the people I serve. Law enforcement in general, and campus law enforcement in particular, in Massachusetts has always valued training and education. Working in an academic institution gives campus officers a unique perspective on education, in our jobs everything is about a teaching moment. I have been lucky enough throughout my career to be at Universities with brilliant minds working on diversity and inclusion, police studies, and human behavior; many of whom have volunteered to teach my staff. I am not alone, many of my colleagues are committed to making sure the collective knowledge of our communities are incorporated into our officers training and daily interactions. As you probably know, I am also fortunate enough to have an academy on the Haverhill campus, seeing those recruits working so hard to learn reminds me each day what incredible men and women there are in the profession. We WANT excellent training, we WANT good police officers to be able to succeed, and I am simply stating that campus police have a unique perspective that bonds policing and education.

As an executive board member of MACLEA, I'd ask that our organization have a seat at the table in designing the next generation of policing. MACLEA seeks to include a representative of the Association to serve on the Police Officer Standards and Accreditation Committee created by section 6 of Senate Bill 2820. MACLEA's member departments are responsible for the safety and wellbeing of the hundreds of thousands who live, learn, work, and visit our member institutions. We are in favor of the creation of a Police Officer Standards and Accreditation Committee (POSAC) and our representation on this committee would add valuable insight and information. It would also ensure that the safety and security of all of those on campuses across the Commonwealth are the highest priority.

In closing, I just want to reiterate that the hard working professionals in law enforcement truly want to do the right thing. I have always believe that recruiting officers who love the job will allow our agencies to thrive. I am concerned that good officers will be scared away and we won't be able to bring in the individuals who really want to make a difference. I truly hope that you will consider all of the testimony from the many agencies that will be weighing in in support of the police, we really do want to do the right thing.

*Deb Crafts, Director of Public Safety/Chief of Police Northern Essex Community College,
Vice President of the Massachusetts Association of Campus Law Enforcement Administrators*

ATTN

Claire Cronin, Chair, House Judiciary Committee
Aaron Michlewiz, Chair, House Ways and Means Committee

CC

Robert A. DeLeo, Speaker of House
Ron Mariano, House Majority Leader
Rep. Carlos Gonzalez, Chair, Black and Latino Legislative Caucus

RE: Testimony in Regards to Police Reform Bill (S.2820)

While this current bill has some good aspects, such as the establishment of a database and the ban on some force. Qualified Immunity is an integral element that needs to be included in the reshaping of policing in American. We recommend that an enhanced version of this Senate Bill get adopted with a much stricter banning or limitation on qualified immunity.

All NAACP Branches across the state of Massachusetts are calling for the abolition of qualified immunity. In this new world, we must change or modify all laws that seek to limit or stop a victim's right for justice and allow for violators actions to go unaccounted for. Qualified Immunity is just one piece of the puzzle, but it is an important one when criminal charges against the police are often difficult to prove or abandoned, leaving civil lawsuits as the only way for victims to seek redress.

1. By allowing courts to dismiss these cases without even ruling on constitutional claims allows officers to shoot first and think later. It also tells the public that egregious conduct can go unpunished.
2. We cannot allow unsubstantiated fears about an increase in frivolous lawsuits, undue financial burden on officers, and the notion that candidates will shy away from government jobs, as a reason to maintain a doctrine that goes against our common law principles.
3. The Qualified Immunity Doctrine has and will continue to discourage attorneys from bringing cases where a victim has had his or her constitutional rights violated. This doctrine as it stands has sent a very clear message to plaintiffs' attorneys that their cases will be dismissed even with the most egregious of facts.
4. Limiting Qualified Immunity will allow for more tracking of data in these types of cases. Officers names, underlying facts and amounts paid can help make policy and supervision decisions aimed at reducing the costs of those types of cases in the future.

We urge you to pass an enhanced version of S.2820 with more emphasis on the abolition or limitation on qualified immunity. It is imperative that a bill passes to ensure that police in the Commonwealth are held accountable for misconduct and sends a clear message that from now on, nobody is above the law.

Sincerely,

Zane T. Crute
zcrute@gmail.com

President, Mystic Valley Area Branch NAACP

(201)-294-1624

Asst. Secretary, New England Area Conference NAACP

By email: Testimony.HWMJudiciary@mahouse.gov

July 17, 2020

Honorable Aaron Michlewitz, Chair, House Ways and Means Committee

Honorable Claire Cronin, Chair, Joint Committee on the Judiciary

RE: **Testimony in Support of Police Accountability (S.2820)**

Dear Representatives Michlewitz and Cronin:

Night after night -- after we watched the video-recording of George Floyd's death and learned of a disturbing number of similar incidents -- there were street protests in Massachusetts, in the rest of the nation, and around the world against these injustices. The just-released U.S. Department of Justice report on the Springfield police is a timely reminder that we cannot assume that Massachusetts is immune from such injustices.

The House of Representatives has an historic opportunity to right these wrongs. I hope that you will make maximum use of this opportunity and quickly move ahead a bill modeled on Senate Bill 2820 that was adopted after many hours of debate.

I will highlight a few of the critical pieces of a new police accountability bill, recognizing that many House members have sponsored individual bills that address these issues. I speak from the perspective of an Access to Justice Fellow who has volunteered in support of criminal justice reform in the current and prior legislative sessions.

- ***Specify statutory restrictions on the use of force (e.g., banning chokeholds) with a mandate to intervene to stop misconduct, new police officer training requirements (including de-escalation training), a state Police Officer Standards and Accreditation Committee (POSAC) to investigate misconduct, and a modified***

qualified immunity standard that retains the existing statutory indemnification provision. The police deserve to know what we expect of them; the public needs an oversight body to assure that the standards are followed; and injured parties deserve a fair opportunity to seek redress in our courts.

- ***Ban racial profiling, collect data on all police stops, and educate about our historic racism.*** Equity is a fundamental principle in law enforcement; supervisors and the public need data to know if fair treatment exists in practice; police officers (like all of us) will benefit from an understanding of our past.
- ***Fund justice reinvestment by creating a Justice Reinvestment Workforce Development Fund.*** Corrections costs ought to decline with fewer crimes, fewer prisoners, and a shift toward treatment and diversionary programs away from harsher sentencing practices. The dollars saved should be reinvested in our poorest communities and the people that have been most affected by past practices to build a better future.
- ***End the school-to-prison pipeline.*** Restore school disciplinary systems that are not over-criminalized and adversely affect the future of students. School resource officers (police) should be present only at the school superintendent's invitation, not by a state mandate.
- ***Strengthen expungement of juvenile and criminal records for young offenders.*** A criminal record can ruin lives unnecessarily, especially for young people who have not yet developed impulse control but who will age out of the criminal justice system. The existing expungement rule is unworkable in practice because it is limited to a single charge, while the police often bring more than one charge arising out of a single incident.
- ***Stop facial recognition equipment.*** Evidence shows it is racially biased; more study is essential.

- ***Ban non-disclosure settlement agreements in police misconduct cases.*** A lesson from the child sex abuse scandal in Massachusetts is that secret settlements allow repetitive injuries to go unchecked.
- ***Restrain police use of military equipment.*** Make clear that police departments and communities are not at war with each other.

Thank you for your close attention to these issues. I would be pleased to offer further input if that would be helpful.

Sincerely,

John E. Bowman, Jr.
Access to Justice Fellow
10 Still Street
Brookline, MA 02446
Tel. 617-731-5395

THE WORKFORCE SOLUTIONS GROUP

EMPath (Economic Mobility Pathways)
Massachusetts AFL-CIO
Massachusetts Business Roundtable

Massachusetts Communities Action Network
Massachusetts Workforce Association
SkillWorks: Partners for a Productive Workforce

Public Testimony on S.2800 to the House Ways and Means and Judiciary Committees

Dear Chair Cronin, Chair Michlewitz, Vice Chair Day, and Vice Chair Garlick,

The Workforce Solutions Group is a statewide advocacy coalition of business, labor, community and workforce groups working to improve job training and education systems in MA so that employers can find the skilled talent they need and residents can build family sustaining careers. We are writing to ask for your consideration to expand the existing expungement law (MGL Ch 276, Section 100E) as the House takes up S.2800 to address Racial Justice and Police Accountability. S.2800 includes this expansion and we hope you will consider it as it directly relates to the over-representation of young people of color in the criminal legal system and their ability to get jobs and build careers.

Our criminal justice system is not immune to [structural racism](#) and we join you and all members in the great work needed to set things right. The unfortunate reality is that people of color are far more likely to be arrested for the same crimes committed by whites. Black youth are three times more likely to get arrested than their white peers and Black residents are six times more likely to go to jail. Criminal records are meant to be a tool for public safety but they're more often used as a tool to hold communities of color back from their full economic potential. Expungement can be an important tool to rectify the documented systemic racism at every point of a young person's journey through and past our justice system.

Young adults have the highest recidivism rate of any age group, but that rate drops as they grow older and mature. Young people's circumstances and cases are unique and the law aptly gives the court the discretion to approve expungement petitions on a case by case basis, yet the law also categorically disqualifies over 150 charges from being considered. Additionally, anyone who is innocent of a crime should not have a record, but the current law doesn't distinguish between a dismissal and a conviction. It's for these three main reasons we ask you to consider these important clarifications to the law.

We respectfully ask the law be clarified to:

- Remove the limit of a single charge or incident. Some young people may need multiple chances to exit the criminal justice system and the overwhelming majority do and pose no risk to public safety.
- **Distinguish between dismissals and convictions** because many young people get arrested and face charges that get dismissed. Those young people are innocent of crimes and they should not have a record follow them forever.
- **Remove certain restrictions** from the 150+ list of charges and allow for the court to do the work the law charges them to do on a case by case basis especially if the case is dismissed of the young person is otherwise found "not guilty."

Refining the law will adequately achieve the desired outcome from 2018: to reduce recidivism, to remove barriers to employment, education, and housing; and to allow people of color who are disproportionately represented in the criminal justice system and who disproportionately experience the collateral consequences of a criminal record the opportunity to move on with their lives and contribute in powerfully positive ways to the Commonwealth and the communities they live, work and raise families in. Within a system riddled with racial disparities, the final step in the process is to allow for as many people as possible who pose no risk to public safety and who are passionate to pursue a positive future, to achieve that full potential here in Massachusetts or anywhere.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Katherine Mainzer', written in a cursive style.

Katherine Mainzer, Executive Director
Workforce Solutions Group
617-592-9275

Sarah Coughlin, LICSW, EADC-I, President
Rebekah Gewirtz, MPA, Executive Director

July 16, 2020

Honorable Aaron Michlewitz, Chair House Ways and Means
Honorable Claire Cronin, Chair House Judiciary Committee
State House, Boston

**NASW-MA TESTIMONY on SB2820
Social Work Response and Recommendations on Police Reforms**

Dear Honorable Chairs Michlewitz and Cronin and Members of the Committees:

Thank you for taking testimony on 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*. There is a disconnect between police and the communities they serve. Community members predominantly interact with police systems over non-criminal matters^[1]. Consider the context by which police may be dispatched: homelessness, substance use, mental illness, domestic disputes, landlord/tenant disagreements, wellness checks, and other related social service issues. These are complicated issues that often require coordinated and trained social service response. However, routine encounters with police responding to calls like these have had consequences as dire as death. This demonstrates that police are ill-equipped to respond to such matters.

The National Association of Social Workers - Massachusetts Chapter (NASW-MA) offers this testimony in support of many provisions with SB2820 and urges the House to adopt these provisions in legislation that would change current practices of police brutality and racist practices embedded in police systems and culture.

Specifically, we ask that the House retain and strengthen provisions of the bill that echo HD5128 and HB3277, two bills NASW-MA has previously endorsed. Both of these policy solutions create police accountability, aim to earn and restore the community's confidence and trust in universal public safety, and advance racial justice. Specifically these provisions:

- Limit qualified immunity
- Create a process for certifying and decertifying police officers
- Require officers to employ de-escalation techniques prior to use of physical force, with physicality being employed only in extreme circumstances proportionate to what is appropriate
- Prohibit the use of deadly force
- Create disciplinary mandates for officers who engage in excessive force

Sarah Coughlin, LICSW, LADC-I, President
Rebekah Gewirtz, MPA, Executive Director

- Terminate employment of officers who engage in excessive force that results in serious bodily and psychological injury or death
- Restrict re-hiring of officers disciplined for use of excessive force
- Ban the use of chokeholds, tear gas, rubber bullets, and other dangerous weapons and tactics
- Establish a duty to intervene, mandating that officers who witness officer-led excessive force report these incidences
- Publicly release all police disciplinary records

Additional provisions included in SB2820 that NASW-MA asks remain in the House version of the bill:

Make school resource officers optional.

Seventy-one percent (71%) of nationwide public schools have sworn officers installed in the school system^[3]. Data has shown that school police are more likely to refer children to law enforcement, even for benign or less serious offenses^[4]. Even more, the great majority of the students subject to criminal justice discipline are students of color^[5]. This significantly increases the likelihood of children being tracked into the criminal justice system and the school-to-prison pipeline.

Recently, a school police officer's body camera captured the rough handcuffing of a sobbing Black six-year-old girl in Florida^[6]. Similarly, a school officer was found to have physically assaulted an 11-year-old Black boy, by slamming his head into the ground, in an unprovoked response to 'misbehavior'^[7]. These examples are used to draw a comparison to the known incidents of police brutality across the United States. Unfortunately, research shows that having police in schools does not make students any safer. On the contrary, the American Federation of Teachers, in 2018, proposed a resolution to separate school safety and policing^[8]. They did so by acknowledging that students felt infinitely less safe and targeted with officers embedded in the fabric of their school system.

Evidence-based practices have been proposed at both local and national levels, as an alternative to school police. **Restorative justice programs are heralded as an appropriate, continuous, and communal response to student-centered conflict^[9]**. Remarkably, such interventions are known to prevent gun violence, and increase trust between students and staff, allowing students to reach out or speak up if they feel unsafe or at risk. At its core, alternative strategies have been investigated and empirically tested, and are shown to create safer and more welcoming environments for students. **Demonstrable evidence supports the call to remove police from school systems in deference of students' health, safety, and livelihood.** Removing police from schools will also make more resources available for social services, which are ideally delivered by social workers. **The National Association of Social Workers has recommended a minimum ratio of one social worker for each 50-250 students, depending on student need.**

Sarah Coughlin, LICSW, EADC-I, President
Rebekah Gewirtz, MPA, Executive Director

Require the collection of racial data for all police stops.

As detailed in Social Work Speaks (2018-2020), NASW supports ongoing advocacy to address racial disparities in every aspect of the US criminal justice system. This includes data collection on all traffic stops in an effort to curb racially motivated “routine” traffic stops for “suspicious behaviors.”

Expansion of the youth expungement law.

This expansion would allow for multiple cases on a youth’s record to be considered for expungement. It would also distinguish between cases that are dismissed and cases that lead to convictions. Currently, someone who has had their case dismissed still faces the same collateral consequences as if they were convicted. Social workers know firsthand the difficulties justice involved youth and young adults can experience based on their juvenile records. This expansion has the potential to remove major barriers for thousands of young people including access to jobs, housing, education, and other important services.

Create a Community Policing and Behavioral Health Advisory Council, to which NASW-MA is named, that makes recommendations for creating a crisis response and continuity of care system that delivers non-police alternative emergency services and programs.

Recently, social workers have been called upon to lead an alternative approach to community safety. Social workers are trained to respond to individual problems in the context of their environment and are skilled in partnering with communities to leverage resources for people rather than locking them away. Social work ethics mandate that social workers value social justice, including developing skills related to oppression, cultural humility, and racial diversity. This means that social workers cannot address community needs without community partners and any response that shifts from police to social workers must be in partnership with communities, many of whom are already doing this work.

The disconnect between police and their communities requires a revisioning of how best to ensure community safety. To do so will require addressing the root causes of harm, such as racism, inability to meet basic needs, trauma exposure, and poor health. Investments in racial justice, mental health, social welfare, and restorative justice can and do prevent harm and reduce arrests and incarceration in the long term. Such investment could take the form of:

- Funding housing initiatives to respond to issues of homelessness
- Increasing and expanding the number of trained and available mental health and social workers in communities
- Creating job programs
- Expanding the scope and availability of substance use treatment facilities
- Ensuring availability and access to fresh and healthy food sources
- Ensuring availability and access to community health centers and providing preventative screenings
- Passing legislation to lift kids and families out of deep poverty

Sarah Coughlin, LICSW, EADC-1, President
Rebekah Gewirtz, MPA, Executive Director

We understand that even in a society where people's basic needs are met and services are available, emergencies and disputes will still arise. However, we also know that historically, the police often respond to such emergencies in a way that exacerbates the conflict. **We must unbundle community calls for help from police work.** Every day, multiple times a day, police respond to calls involving homelessness, mental health, substance use, domestic disputes, child behavioral concerns, and other social service-related issues, none of which police are qualified to triage. To unbundle would be to reposition these calls for help from law enforcement to agencies or units that are uniquely qualified to attend to them. **The creation of an external (non-police) emergency service rapid response team, designed to thoughtfully, empirically, and collaboratively respond to these emergent, community issues will reduce improper police response, while simultaneously better responding to community needs.**

NASW-MA is also advocating for the inclusion of several provisions not included in SB2820, but are core to acknowledging the direct links between racism and the prison pipeline.

Raise the age of juvenile jurisdiction to 21.

We ask that the House end the automatic prosecution of older teens as adults by incorporating elements of HB3420 into SB2820. Massachusetts' youth of color bear the harshest brunt of our legal system with their over-representation in the adult criminal justice system. By raising the age at which a teenager can be automatically tried as an adult, we can hold young people accountable in a more developmentally appropriate setting, giving them a better chance to succeed and turn away from offending and reduce the harms of legal system involvement all while reducing crime in our communities. HB3420 is a priority bill for NASW-MA.

Ban the use of facial recognition technology.

We echo ACLU Massachusetts in asking that the House ban facial recognition technology, which is notoriously bad at recognizing individuals with darker skin. Facial recognition technology is dangerous and lends itself to racist policing. H1538, which is related legislation, is a supported bill for NASW-MA.

Conclusion

Social workers are trained to address the root causes of social problems. Every day social workers confront these problems head-on without the use of weapons or force. Social workers know how to deescalate people when they are feeling volatile, and they know that addressing the environmental and systemic causes of that volatility is the solution. Police reform efforts to-date have failed due to law enforcement's biased and disproportionate impact on people of color in the United States. Current police tactics have proven ineffective, and as such, precise policy aimed at abolishing unnecessary and punitive power wielded by police will prevent future tragic outcomes, as well as encourage and uphold systemic change in law enforcement. **We urge you to join us in imagining a world where social problems can be solved at their root through**

Sarah Coughlin, LICSW, LADC-1, President
Rebekah Gewirtz, MPA, Executive Director

community-led social change rather than through punishment in the criminal-legal system.

A different way is possible, and we can move toward a safer, healthier society by moving away from our reliance on police and moving toward a broader social welfare system that proactively responds to social problems. There are already people in our communities who know how to implement this vision; it is time to invest in those community members instead of police.

As social workers we are ready to join with our community leaders in the fight for a better future. We ask you to include our recommendations in House legislation that would reform police standards, and build a more equitable and just Commonwealth that values Black lives. The policy solutions detailed here would immediately effect change and improve the health and well-being of disaffected communities.

As a Commonwealth dedicated to improving the lives of all of its residents, we must immediately pass comprehensive police reform legislation that creates police accountability and advances racial justice. Thank you for your consideration.

Sincerely,

Rebekah Gewirtz, MPA
Executive Director

Sarah Coughlin, LICSW, LADC-1
Board President

^[1] https://www.bjs.gov/content/pub/pdf/cpp15_sum.pdf

^[2] <https://www.justice.gov/opa/pr/justice-department-announces-findings-investigation-baltimore-police-department>

^[3] <https://www.edweek.org/ew/projects/2017/policing-americas-schools/student-arrests.html#/overview>

^[4] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2577333

^[5] <https://www.edweek.org/ew/projects/2017/policing-americas-schools/student-arrests.html#/overview>

^[6] <https://www.nytimes.com/2020/02/27/us/orlando-6-year-old-arrested.html>

^[7] <https://www.buzzfeednews.com/article/juliareinstein/school-resource-officer-slammed-middle-school-north-vance>

^[8] <https://www.aft.org/news/aft-expands-anti-racism-efforts-calls-separating-police-and-schools>

^[9] <https://www.npr.org/2019/11/27/782902802/active-shooter-drills-may-not-stop-a-school-shooting-but-this-method-could>

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Chair Aaron Michlewitz
Chair Clair Cronin
House Judiciary Committee
Via e-mail

Testimony in Support of S. 2820 and Request that it be Strengthened to Provide for
Greater Protection to the Populace

July 17, 2020

Dear Chairs

I enthusiastically support S. 2820 and ask that it not be weakened in the House.
Instead, this Bill should be strengthened in several important ways:

1. The right and power of the people to sue police who violate the law should be increased by allowing for the award of punitive damages. We need accountability and that is the opposite of immunity. Immunity condones wrongdoing and prevents its condemnation.
2. Because some police contracts contain provisions that allow arbitrators to overrule discipline, it should be immediately unlawful for there to be any contract provision which might allow disciplinary actions of the independent commission to be circumvented.
3. The temporary ban on facial recognition and biometric identification equipment should be made permanent. If, at some point in the future, these can be made reliable, then there should be a new statute allowing the use of this technology but only after a warrant is sought and obtained. This ban should be expanded to cover all electronic surveillance devices like automated license plate readers, cell phone trackers, key stroke monitors and computer search spy gear. We are growing far too close to Orwell's 1984 and a Big Brother mosaic of the universal spy. None of these devices or their like should be permitted without a narrowly drawn search warrant of the sort suggested by Chief Justice Gants in his

concurring opinion in *Commonwealth v. Almonor*, 482 Mass. 35 (2019). See also Hennessey, *The Extraordinary Massachusetts Constitution of 1780*, 873, 875-876 (1980).

4. Restrictions on police use of potentially lethal force should be broadened to make it unlawful for police to use clubs or truncheons to strike the heads of people they encounter.

Based on my 47 years of law practice and extensive experience in dealing with police, S. 2820 is a wonderful and necessary breath of fresh air. For far too long, the scales of justice have been out of balance allowing police to act improperly against African American, Hispanic and other minority communities and, frankly, to be disrespectful to motorists and others whom they encounter, especially teens and young adults. Far too often, police act like an occupying army to the detriment of the people they were supposed to protect and serve. That approach is not fair to the people and is counter-productive to preventing crime and apprehending criminals. Because many in the communities fear and distrust police, they will not now cooperate with the police. To many, the police are like the Black & Tan of the British Boot during Ireland's troubles. Far too many police put loyalty to the Blue Wall and their own financial interests over their sworn duties. If enacted and strengthened, this Bill should change the police culture.

I'm offended by the way in which many police have acted in opposing these reforms. Some of their demonstrations and other communications seem calculated to bully and intimidate those seeking change.

Police must be taught that the use of force, especially deadly force, is often not the appropriate solution to problems. Although to a hammer every problem is a nail, police must be taught to de-escalate confrontations and resort to the threat of force or the use of force only when no other approach is available.

The approach now in effect for police discipline has failed to eliminate or control police who use violence, intimidation or commit other wrongful acts from the forces. Instead of cooperating with disciplinary investigations and proceedings, police resort to the Blue Wall of Silence, putting loyalty to their peers over their oaths. I applaud the creation of an independent police officer standards and accrediting committee composed of people from a broad variety of constituencies. The independent committee should function much like the Board of Bar Overseers, the Board of Registration in Medicine and the Cosmetology Board. I can see now reason why police accused of misconduct should be given greater deference than lawyers, doctors or cosmetologists.

All of these Boards afford subjects of investigations and disciplinary actions full and fair administrative hearings and the right to judicial review of an adverse determination.

One of the best and most important reforms in S.2820 is the elimination of immunity for police in civil litigation. Police should be liable to those whom they've harmed so that their victims can be fully compensated for their losses.

This provision does not go far enough. Police who intentionally violate civil rights should also be liable for punitive and exemplary damages. Punitive damages are a powerful tool to compensate the wronged and to deter future similar wrongdoing. A jury's award of punitive damages will inform all just how reprehensible the people believe police misconduct to be.

Aleo v SMB Toys, Inc. decided by the Supreme Judicial Court in 2013 makes the point. Several years ago, a seller of recreational goods bought a pool slide in China and sold it to a consumer in Massachusetts. The seller did none of the required safety inspections. When a young mother used the slide at a family gathering, she broke her neck, became a quadriplegic and died the next morning. The jury awarded \$18,000,000 in punitive damages and \$2.6 million in compensatory damages. That decision sent a loud message that irresponsible conduct would subject the wrongdoer to a harsh reality. If S.2820 is amended to allow for punitive damages, then if a murder like the Floyd case in Minnesota were to occur here, a Massachusetts jury could and should send the same message. Intentional misconduct will be harshly punished.

Please strengthen S. 2820 and pass it along to the Governor to be signed into law.

Sincerely,

s/Henry P. Sorett

July 17, 2020

Honorable Chairman Aaron Michlewitz
Chair Claire Cronin
Vice Chair Denise Garlick,
Vice Chair Michael Day
House Ways & Means Committee
The Massachusetts House of Representatives
The Statehouse
Boston, MA 02133

RE: Support for Youth Protections Built into SB2820

Dear Representative:

As you consider the house version of Senate Bill 2820, we urge you to fully support and keep in place the language that protects youth.

I write on behalf of Strategies for Youth (SFY), a national nonprofit policy and training organization dedicated to improving police/youth interactions and reducing racial disparities in the juvenile justice system. It is our experience that the lack of oversight and accountability of law enforcement in MA need to be strengthened. We write today to **express our support of SB2820 bill.**

In particular we urge you to support these specific provisions affecting youth:

- **Expand the Use of Force Protections for Youth in Rep. Miranda's bill (HD.5128)**
As written, SB2820 does not provide any language that would require law enforcement to distinguish between use of force on children and youth from that used on adults. We urge the House to go beyond the Senate's bill, which provides only minimal language requiring non mandatory training, but no language that requires law enforcement to use developmentally appropriate de-escalation techniques, and use of force that is proportionate to a minor child's age, physical and mental capacity.
The results of the investigation of the Springfield Police Department conducted by the U.S. Department of Justice on July 9th, as well as the recent case involving the beating of a 12-year old in Holyoke, illustrate the need for stronger protections for youth.
- **Data transparency in the juvenile justice system (Rep. Tyler's bill, H.2141);**
- **Expanding expungement eligibility for youth** to rectify the well documented over-criminalization of Black and Latinx youth (**Rep. Decker's bill, H.1386** and as passed by the Senate);
- **End monitoring and electronic surveillance of students in schools** through local, state and federal shared law enforcement databases (as passed in Section 49 of S.2820);

- **Require school committee approval by public vote for decisions regarding deployment of SROs to schools**, and require that law enforcement officers be stationed in a police station and on-call for schools, rather than being stationed on school property (as passed in Section 50 of S.2800)

We also support two amendments that increase training for police in engaging youth and students:

- **Amendment 25** (Boncore): Requires specific training for SROs to be developed in consultation with experts, and to be required before an officer can be assigned as an SRO.
- **Amendment 41** (Friedman): Requires police training on developmentally appropriate de-escalation and disengagement tactics and alternatives to the use of force for minor children.

The cost of training law enforcement officers should be borne by the MPTC. The MPTC must be authorized to sanction officers who do not attend training, as 62% of Massachusetts officers did not do, per the Office of the State Auditor's report in 2018.

We urge you to go further: **training is necessary but not sufficient and rendered less meaningful when it is not accompanied by policies and laws that support it.**

We are grateful for your consideration of our recommendations. And we thank you for promoting this array of legal and institutional reforms to improve accountability, professionalism and justice in Massachusetts.

Very truly yours,



Lisa H. Thureau,
Executive Director

Dear Members of the House,

I'm writing to share my concerns about S.2800 which deals with shifting resources for equity. More specifically, it works to reform police standards, which I think many of us take no issue with. My following email deals with two things; 1) the aspect of ending qualified immunity for ALL PUBLIC EMPLOYEES as outlined on page 20 of the legislation S.2800. I am surprised at the broad language inserted that removed this protection for all public employees, **including teachers, paras, school cafeteria workers, etc.** 2) The blurring of lines for public safety officials.

First, in addressing the former, I want to outline what I understand qualified immunity to be for me as a teacher. Specifically, qualified immunity protects me (a government official) from lawsuits that allege that I violated a plaintiffs rights that were **not yet clearly established**. Qualified immunity does not currently prevent me from being sued, but rather ensures that courts analyze whether a law was already a law at the time of the violation, not the law in effect or made when the court considers the case. In essence, it prevents people from bringing cases against me that are not yet clearly established violations of a law, using me to create those case laws and then hold me financially responsible. In this time of remote learning, where clearly established laws surrounded FAPE have not yet been made, and regulations are constantly changing, this is especially pertinent to teachers, but in reality, it is always impactful.

While S.2800 deals primarily with police reform, page 20, clearly notes that qualified immunity will end for all public by the addition of section (b) and (c) (lines 419 to 433) to Chapter 12, Section 11 of the current Massachusetts General Laws.

I'd like to remind you that in April and early May, people gathered at 7pm on Friday evenings to clap for essential workers, including police officers and other public servants. The public's trust can change quickly. I have witnessed enough examples of accusations against my colleagues during "normal life" when we were able to be with our students face to face and I know that frivolous accusations were thrown out against teachers and paras in the best of times when we were able to be with our students face to face. *Please note that the average cost to defend oneself in these cases is \$10,000, which as you know, is approximately half of most para's take home pay.* This is an unnecessary and undue burden on all of us, but especially on those who are paid the least, and to dismiss this possible financial burden and not alert all public employees to a change in their working conditions is an egregious misstep.

While I'd like to believe that parents and guardians trust us so much that my worry is unnecessary, I would have to be far removed from teaching and specifically from the feedback districts have received for remote learning, to believe this. We are entering unprecedented times as educators, where parts of FAPE with distance learning, are **not yet clearly established** (QI, it seems, would protect us from being sued if something has not yet been clearly established). Additionally, educators will be expected to unpack the social emotional implications of the past six months when we are together with our students again in

September. It will be us having the difficult and emotional conversations with our students to help understand this intersection of a pandemic and racial justice. None of us can foresee how these conversations will go or anticipate every possible outcome. Anticipating DESE updates (especially within Special Education) and having these conversations without some semblance of protection against being sued based on our best practices on how to support our students during these unprecedented times, is unsettling. Remember, we don't actually have to do something wrong to have a suit filed against us if we lose the protection of qualified immunity. A parent or guardian can use us to create caselaw or even simply file suit to prove a point.

To my second point (the blurring of lines for public safety officials), we have witnessed the murder of George Floyd at the hands of officers of the law. There is no person in the United States who can or should defend this. All four are now criminally charged and can be civilly sued in court for breaking the law. I hope the full force of the law comes down against them for so cavalierly taking a life. I cannot deny that there are officers like this in our country and am glad to see our legislature working to prevent these people from wearing a uniform, and harming others by creating oversight committees. I am happy to see discussions around the types of things we use our officers for and community based solutions, such as using social workers and drug counselors instead, building community green spaces, and creating youth jobs **but I challenge you to define the purpose of police in our society**. Today we use them for every ill and then criticize them for their handling of the issues we could not, or would not, handle ourselves.

Some of the amendments you are proposing put our officers and the public at risk. There is no way, that as reasonable people, you cannot see that **some of these amendments put lives at risk**. For instance, bill SD.2968, line 230 and 231, would allow anyone who believes a police officer is using too much force to physically intervene against the officer. Let me remind you that this is a subjective opinion and one often impacted by extreme emotion. Before making decisions on this and all related bills, I suggest you all stop and think about those moments when we call the police. We (from grocery store workers, to educators, to legislatures, to doctors, to social workers, to librarians, to waitstaff, etc.) call them when we feel we can no longer safely handle a situation. We call them when we feel we are no longer physically safe. And we count on them to handle the situation for us, to keep us physically safe. If we allow others to jump in and attack the people that we are calling to physically protect us, then that layer of protection is reduced. We are castrating our police force because we are making legislation in moments of extreme emotion. I cannot claim to know what officers encounter each shift but it should be a requirement that each of you does a ride along with your local police force for an entire shift (the busiest shift of the week) to fully inform yourselves of the impacts of this legislation on, not only the officers, but the public. I want you to imagine what can occur when there is a 200 person party on a street, a neighbor calls the police because they think they saw a gun there, or simply because they consider it a quality of life issue, the police arrive and try to arrest someone and the rest of the crowd is given free rein to determine if the police are using too much force so that they can intervene. Physical harm, to officers and

bystanders at that moment, will be on your hands. And I hope that, if that is the case, you will waive your legislative immunity so that the families affected can hold you accountable.

In closing, we have elected you to make these decisions for us. I know you have a difficult and complex task ahead of you. I ask you to create legislation unmotivated “in substantial part by anger, malice, retaliation or any other intent unrelated to a law” as would be required by officers in SD.2968. While we are all angry at this time, and thankfully recognize the need for reform and transition of power, your role requires you to separate those feelings of anger to make logical, practical and fair decisions for all constituents. **I urge you to think through and debate all possibilities of all of the changes you are considering and to publicly give up your own legislative immunity to show you are confident that you have done so.**

Sincerely,
Jane Miller

Thank you to Chair Michlewitz, Chair Cronin, and the Massachusetts House of Representatives for accepting and considering my testimony pertaining to S.2820 “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.” My name is Jonathan Corey and I am the President of AFSCME Local 419 at the Suffolk County Sheriff’s Department. The goal of my testimony is to assist you in analyzing this proposed Bill and outline the portions that are beneficial and critical to protecting the rights and lives of the citizens and employees of the Commonwealth of Massachusetts. In this testimony I will first narrate and analyze valuable language within this Bill that we, as employees of the Suffolk County Sheriff’s Department, currently adopt in our policy and effectively ensures a safe and placatory environment for the population within our custody. I will follow by explaining some concerns I have and cite specific examples of where pieces of this Bill could not reasonably be applied, and in some cases conflict with current laws and rights that we as public employees are protected by. I will attempt to present my testimony in a list form which should be more practical to follow:

Sections to Support:

Section 1 (72)- I like the insight of this committee; however, I would like to include Law enforcement officers who are Black and Latino on the committee to bridge the gap between citizens who sit on this committee.

Section 4 and Section 66- Currently, at the Suffolk County Sheriff’s Department, our officers participate in extensive training (40+ hours) in Crisis Intervention Training (CIT). This training, which is similar to what is outlined in these sections, helps de-escalate most situations before force is utilized. In addition, our facility proactively utilizes mental health clinicians to de-escalate situations where force could be utilized when feasible; especially when there is prior information that the inmate or detainee has a known mental health diagnosis. The director of CIT training, state wide, is in fact a Sergeant at the Suffolk County Sheriff’s Department. By studying these types of techniques, I believe that departments across the Commonwealth can minimize unnecessary force situations.

Section 5- Develop additional training for all officers to differentiate approach techniques for adolescent adults compared to actual adults. We as correctional professionals would not be opposed to including us in such training for we have interactions, primarily in the transportation of juveniles to Juvenile Courts throughout the commonwealth.

Section 16- These health officials can pose a tremendous help to enacting policies and procedures regarding the interaction between law enforcement officials and citizens with mental health diagnosis.

Section 37 Section 2IIIII- The funding for these programs to support mental health inmates within our custody to seek the help and treatment could become a reintegration benefit and a means of lowering recidivism.

Section 55 (Section 3)- this is by far the most important and applicable piece of language within this legislation. Our duty to intervene when someone is acting outside the realm of their duty is the moral and obligatory basis of what we do as sworn in law enforcement officials. I can proudly say that at the Suffolk County Sheriff's Department, this policy has been in effect for decades and is an integral piece of language that holds people accountable. I am glad that this WILL BE state law and criminally punishable when ignored.

Section 57- It is undeniable and concerning that this piece of legislation has to be added to state law. There should be a zero tolerance by the state within this profession and like in Section 55, I am glad to see that the individuals charged for these crimes will be criminally prosecuted for such malicious behavior.

Section 67- I am proud that our legislatures are attempting to study, specifically in this section, the social indicators of health in both department staff and incarcerated persons within prison and jail facilities. Additionally, providing educational opportunities for officers and incarcerated persons. My only request is that county corrections, not only state corrections, are represented in this study group.

Section 78- As stated above, I believe that stress management and peer support resources outlined in this section provide a level of assistants that will be as described as "collaborative" which will promote the use of resources outside one's facility. The ability to talk to strangers and have the security that an officer's personal issues or status are not given to their peers will promote seeking support rather than deflecting it.

Sections to Alter or Eliminate

Section 6 (Specifically pertaining to Section 221)- The independent police officer standards and accreditation committee specifically cites "deputy sheriffs" in defining a "law enforcement officer;" however, there are no Sheriff's Departments at the county level represented on the committee. This makes us the only individuals that are not appointed to represent on the committee, but are held accountable by the committee. Also as a requirement, all members of the committee should have to attend a law enforcement training academy such as the State Police training Academy, NERPI, or other accredited academy. The purpose is that the individuals can properly assess or determine if the officer or officers under review or investigation acted within the scope of their duties based on their training. If the committee is needed, then rank and file officers and supervisors are the ones who can make an educated analysis of officers' actions.

Section 222- The accreditation committee's power to revoke, renew, certify or otherwise modify the certification of any law enforcement officer without the right to appeal federally violates the National Labor Relations Act in addition to the Collective Bargaining Agreements established state wide by Unions. To eliminate due process and the grievance arbitration procedure you are effectively eliminating the checks and balance ideologies that this country is founded on. Also,

there is not a statute of limitations on how far the committee can go back to examine an officer or instance in question.

Section 224 (b)- I question that it is possible to subpoena information without the whole committee deciding. By only requiring 3 members to act it is eliminating the checks created by establishing a balanced committee.

Section 225- The committee clearly has too many powers on how it can restrict officers for certain non job related implications. The enforcement of revocation for non job related items (as outlined in sections a and b) are intrusive in nature and if an officer has served for years, should not retroactively be enforced. Additionally, the requirement should be changed from “preponderance of the evidence” to “beyond a reasonable doubt” in section (f).

Section (h)- This section deems that a revocation of a law enforcement officer (deputy sheriff) would also result that “an officer shall not be eligible for appointment as a correction officer.” This specific subsection would restrict any current officer to return as a correction officer if there is an incident outside our facility. It again includes correction officers in the impact of the police officer standards and accreditation committee’s decision making without representation in the said committee.

Section 10- Qualified immunity for all public workers- Qualified immunity protects all public employees who act within the scope of their duty defined by the rules and regulations outlined by their employers. This essential protection, in no way protects employees who act outside the realm of their duties, contrary to popular belief. Our employers, by the current standard, can separate from protection if they are deemed to act in a manner contrary to their obligations or policies. The main concern, in law enforcement specifically, is that the individuals in our custody have nothing but time to pursue frivolous lawsuits in attempts to inflict financial instability on our staff and for their own possible gain. I personally have even been sued for actions on a date that I was not even present at work! Although I would have ultimately won the lawsuit and been cleared, the cost to obtain legal representation and file motions to dismiss would have been detrimental to myself and my family. As politicians, my hope is that if you do intend to remove qualified immunity, you do so by leading by example and not exclude yourselves. Please join the law enforcement officers, teachers, nurses, firefighters, public works officials, first responders, and countless other employees and families who will become financially and emotionally burdened by this section. Much like Section 55 is so important to include, I believe Section 10 is so important to remove.

Section 2jjjjj- The effects of the reallocation of these funds could have a huge negative impact on the population we have custody of. As a correctional officer I believe that if funds are pulled from our facility’s programs that the state is essentially “giving up” on our inmate population and moving programs from within our walls further restricting them to non-offenders. This will cause detrimental statistics on recidivism.

Section 58- I cannot see where serving “no-knock” would put the public at risk in any way. By ending such warrants, the state is only putting law enforcement officers at risk by allowing

alleged suspects the opportunity to prepare themselves to harm officers or to discard possible evidence.

Section 63- I believe that the civilians sitting on the Corrections Review Committee outlined in this section should have to partake in a formal academy process to fully understand the training and policies outlined by each county corrections facility within the state. Paralleling my analysis of the POSA Committee, I believe it is unrealistic for a civilian without formal training to analyze the actions taken by my officers in situations they have neither encountered nor comprehended.

Section containing Both Positive and Negative Aspects

Section 55 (Chapter 147A)- A majority of the language and definitions used within this section are currently adopted in the Suffolk County Sheriff's Department Use of Force Policy and are a good groundwork for Departments who are not as progressive. The only concerning piece is section (d) where "choke holds" would be banned in any force situation. While we are not trained in choke holds, by stating that they can never be utilized, particularly in a deadly force situation is worrisome. My fear is that an individual who is physically overcome by a suspect that may have the ability to restrict an airway and put themselves at a position of advantage, will instead utilize a more lethal deadly force option in their firearm. As someone trained in the use of force continuum, taking away force options lead to the most dangerous force option, which is the discharge of one's firearm. Additionally, by limiting the use of chemical agent and canine tools we are only limiting the amount of less lethal force options law enforcement officers can utilize. This will again, in my opinion, result in more discharges of firearms and ultimately lead to more unnecessary uses of deadly force.

In conclusion, I thank you for taking the time to read my testimony and consider the modification of S.2820. Every sensible law enforcement and corrections officer must see the need for changes in policies and laws within our field. It is just my hopes that you, as the leaders of the Commonwealth, do so in an educated and responsible manner. The decisions you will make today will affect the citizens of this great state and the individuals you entrust to protect it. I am proud to serve this state, and the members of my Local. Please be proud in the final product you create to effectively reform legislation.

In Solidarity,

Jonathan Corey
President Local 419



**BRISTOL COMMUNITY COLLEGE
POLICE DEPARTMENT**

777 ELSBREE STREET, FALL RIVER, MA 02720
HUDNALL ADMINISTRATION BUILDING ROOM 110



July 17, 2020

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

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”.

MACLEA seeks to include a representative of the Association to serve on the Police Officer Standards and Accreditation Committee created by section 6 of Senate Bill 2820. MACLEA’s member departments are responsible for the safety and wellbeing of the hundreds of thousands who live, learn, work, and visit our member institutions. We are in favor of the creation of a Police Officer Standards and Accreditation Committee (POSAC) and our representation on this committee would add valuable insight and information. It would also ensure that the safety and security of all of those on campuses across the Commonwealth are the highest priority.

Respectfully,

Chief Mark T. Nataly
Bristol Community College
777 Elsbree St.
Fall River, MA 02720
508-357-2218

LOCAL 364
INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

P.O. Box 3988
Springfield, MA 01101-3988
(413) 731 7292

July 16, 2020

Rep. Aaron Michlewitz
Chair, House Committee on Ways and Means
State House, Room 243
Boston, MA 02133

Rep. Claire Cronin
Chair, Joint Committee on the Judiciary
State House, Room 136
Boston, MA 02133

RE: Senate Bill 2820

Dear Representatives:

Local 364, IBPO represents all full time, permanently employed police officers of the Springfield Police Department. There are presently approximately four hundred twenty members. Our members are deeply concerned by numerous provisions of Senate Bill 2820. We believe that bill was drafted by persons unfamiliar with police issues, and passed with no public input which could have allowed the flaws in the Senate bill to be discussed and corrected. We appreciate the opportunity which the House is offering us to comment.

We urge the House to make no attempt to legislate limits on qualified immunity. This body of case law is well-developed in the federal courts to fairly hold police officers accountable in the inevitable dilemmas which they face in situations where the law is unclear. Recent criticism of qualified immunity seems based on the assumption that it unfairly limits officers from liability. This is simply untrue. Qualified immunity merely protects an officer in situations where the law is unclear. Officers must often act in urgent, dangerous situations. If the law is unclear in that situation, and the officer makes a good faith, reasonable decision, they should not be held liable because some appellate court, with the benefit of extensive legal briefs, legal memos from highly qualified law clerks, and months to mull the law, vote 5 to 4 that the officer should have acted differently, in the split second they had to act. Moreover, any legislative change in qualified

Page Two

Immunity will affect only claims based on state law, and result in different qualified immunity standards for federal and state claims. Typically, civil rights claims proceed in federal court with both state and federal claims. Jury instructions in such cases are already so confusing and cumbersome that juries are hard-pressed to digest them. If the Legislature changes the elements of qualified immunity for state law claims, a judge will have to give different instructions for the state and federal claims, further risking jury confusion.

The proposed composition and role of the Police Officer Standards and Accreditation Committee (POSAC) is a problem. As contained in the Senate bill, the POSAC would be composed primarily of persons with no familiarity with or expertise in police issues. The composition of the POSAC should be balanced by persons with familiarity and expertise in policing issues. Further, the group would sit in judgment of police officers, who would have no right to an impartial review. Appeal pursuant to G.L.c. 30A is extremely limited, and does not afford a de novo hearing before an impartial adjudicator. A c.30A appeal can only reverse a most egregious flaw in the POSAC proceeding, and cannot review credibility determinations. POSAC should conduct no hearings. Any hearings regarding licensure for certification should be referred by the POSAC to the Division of Administrative Magistrates to conduct the hearing.

In addition, the Senate bill does not require the POSAC to defer to the disciplinary appeal procedures. When the Civil Service Commission or an arbitrator finds there was no just cause for discipline imposed by the employer, that finding is binding on the employer for all purposes. It should be binding on the POSAC as well. An officer now must face a hearing before the employer, if appealed a hearing before a Civil Service hearing officer or an arbitrator. If the Senate bill is adopted, the officer would then face a third hearing before POSAC at which license or certification, and thereby employment, is at risk. This is unfair. The outcome of any appeal of discipline by an officer should be binding on the POSAC.

The concerted effort, stimulated by events occurring outside our state, to improve police training and procedures should produce beneficial changes in policing in Massachusetts. The headlong rush to just do “something” by July 31 is turning this opportunity into too-hasty, poorly vetted, flawed legislation. Something this important should go through the normal process of soliciting meaningful input from all stakeholders.

The Executive Board,
Local 364, International Brotherhood of Police Officers



**TOWN OF ASHFIELD
POLICE DEPARTMENT
OFFICE OF THE CHIEF OF POLICE**

Dear Chair Aaron Michlewitz and Chair Claire Cronin, 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.

For background purposes, the Town of Ashfield is a rural hill town community, it is approximately 42.03 square miles, with a general population of 1,800. In the summer this rises due to the number of summer homes located in our Town. The Police Department is small with a very limited budget (\$24,190.00 expense, \$52,746 reserve wages). This Department exists with one full time officer (Chief), six part time officers and two auxiliary officers who do not patrol.

A little over three years ago, I was appointed as Police Chief to this lovely Town. Over these three years, the officers and I have worked tirelessly to make us a part of the community. I strongly agree with the principles of Robert Peel's Community Policing, one that stands out is the police are the public [community] and the public [community] is the police. As a young officer (in 1988), I was fortunate enough to have a Chief that practiced community togetherness with the police.

I brought this concept to the Town of Ashfield and have not looked back since. The officers participate in many community functions: Kids market, Fall Festival, Ice cream social (we made sundaes), holiday party for our elementary school children, delivering food from the Hill town Food Pantry, Elder TRIAD visits, even hand delivering masks to our elders, these are a few examples of our commitment to our Town and our residents.

I am deeply concerned as to the direction this bill may take. Part time officers are the back-bone of my Department, this is a fact. Our officers not only complete the mandated training by the MPTC they also participate in many, many hours of additional training on their own time. This enables them to be the best, most informed being highly trained officers. They are self-sufficient and must rely on themselves to mediate, calm and deescalate many situations. Officer back up is not readily available which, can be up to 45 minutes away, coupled with radio service that is scattered at best, and virtually no cell service. We know the risks and because we are dedicated to this Community, we met them head on every day.

Many officers may feel that they are unable to carry on and will turn in their badge due to the changes in Qualified Immunity. It seems to me that the honest, ethical and good police officers are being penalized. They have done their job, treating all with respect and dignity. I expect no less from them.

We cannot lose those that are good in this profession.

We are proactive in community policing. We want to be here. We want to support our Town. We want to keep our residents safe and secure.

I agree with a certification process. An officer deserves an appeal process with a decision of decertification. No one knows what happens to another, there are reasons and circumstances that arise that are out of our control, we are human.

Education and knowledge are essential to an officer. It is essential to all. We need to teach our history to all, starting in the schools. United States History shows us our past mistakes and our successes, from this we learn to not make these

same mistakes again. There has always been a certain type of non-selection when it comes to our history, as an example, during my time in high school (early 1980's) they did not teach about the Viet Nam Conflict, my father being a veteran of this war, felt undignified and forgotten for his service. No matter what we feel about history it is ours. We cannot forget our past and go forward.

As a Chief, I am in support of educating my officers, training is an important part of our job, learning new ideas and new information so we can do our jobs to the best of our ability.

We have one elementary school and there is no school resource officer. Our community outreach officer is active in the school in a limited capacity, teaching safety and DARE. This officer is integral in showing that we, as police officers, are here to support and help our community. In the past, I have witnessed a young child so scared of me he was shaking. I was in the school sitting in a tiny chair talking about Halloween safety. The teachers brought in my two children to show him I was a mom and a person as well. This child came over to me and put his hand on my knee and you could see a weight had been lifted from him and he smiled. There was a reason he was fearful; I can only guess there had been interactions with law enforcement in his family setting that were scary for him. This one interaction showed him that I at least was not just a uniform.

Small town policing is more than upholding the laws of the Commonwealth, it is supporting our community and working with them, not against them. Treating all with dignity and respect, while doing our job.

Many times, prior to COVID-19, I have had residents into the station, they sit down next to me and we talk. This could be about a criminal issue or a personal issue. After listening, we try to come up with a plan and how to execute that plan. This is community.

I would request that all think long and hard about this bill and the ramifications that it brings to those hard working, ethical and dedicated police officers. Massachusetts has always been ahead of the game when it has come to mandated training and law enforcement requirements, and our policing reflects that.

I also extend to all, an opportunity to come to Ashfield, meet the Department, see how we interact, see how we deal with situations, and watch us serve and protect our community.

Thank you for this opportunity to express my concerns and some of my experiences.

Chief Beth Ann R. Bezio

Ashfield Police Department



TOWN OF DEDHAM

COMMONWEALTH OF MASSACHUSETTS

MICHAEL J.
D'ENTREMONT
CHIEF OF POLICE

DEPARTMENT OF POLICE

600 High Street
Dedham, MA 02026
Phone 781-751-9300
Fax 781-751-9330
www.dedhampolice.org

July 17, 2020

Via e-mail to: Testimony.HWMJudiciary@mahouse.gov

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

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.

I have reviewed the original SB2800 and a summary of provisions in SB2820. I concur with the concerns submitted by the Massachusetts Chiefs of Police Association on this matter dated July 16, 2020. I also offer the following comments:

I am not clear as to what the Legislature means with regards to “shift resources” as included in the title to this bill. Police training has been and remains underfunded by the Legislature. It is my understanding that the Fire Service receives significantly more training funds than police. The job of a police officer is complex and dynamic. Human behaviors which officers interact with on a daily basis are often unpredictable and not easily measured. The proposed bill includes multiple areas of training, yet there is no specific mention of funding to support training.

Section 52 includes a requirement to document all stops and frisks, even if consensual. I am concerned for officer safety in this regard. Will officers risk their own safety by hesitating to frisk for weapons? Will officers avoid encountering individual creating a risk to public safety?

Section 55 includes restrictions on the use of chemical agents. It appears that even the use of oleoresin Capsicum (OC) spray would only be allowed if the presented definition of “imminent harm” is met. This is a risk for both officer and public safety.

The mission of the Dedham Police Department is to protect and serve the citizens of Dedham through collaboration, preventative programs and the judicious enforcement of the laws of the Commonwealth of Massachusetts and the by-laws of the Town of Dedham.



TOWN OF DEDHAM

COMMONWEALTH OF MASSACHUSETTS

MICHAEL J.
D'ENTREMONT
CHIEF OF POLICE

DEPARTMENT OF POLICE

600 High Street
Dedham, MA 02026
Phone 781-751-9300
Fax 781-751-9330
www.dedhampolice.org

I am concerned with regards to the impacts this legislation may have on officer retention and future recruitment.

This bill appears to be a hasty reaction to issues that would be better suited to be examined in depth individually. Rushing such legislation in order to meet a Legislative Session deadline is not a productive path to follow.

Respectfully submitted,

Michael d'Entremont
Chief of Police

The mission of the Dedham Police Department is to protect and serve the citizens of Dedham through collaboration, preventative programs and the judicious enforcement of the laws of the Commonwealth of Massachusetts and the by-laws of the Town of Dedham.

To whom it may concern,

My name is Sergeant Nicholas D. Galluzzo and I am an 18 year veteran of the Hull Police department. During my tenure I have seen the “Police” world evolve and in many cases not for the better. Police Departments have been saddled with more paperwork, more societal issues to handle, many of which we are not properly trained to handle, law changes that have made our jobs more difficult, more budget cuts and severe staffing and training issues that have occurred as a result. One other trend that I have noticed in my time is that things are very slow to change in the “Police” world, but when they do change the pendulum swings completely to the opposite direction usually in a knee jerk reaction to some tragedy or misconduct. These types of changes rarely come with the proper training to empower us as Police Officers to efficiently handle the new changes and responsibilities that are basically just dropped on us.

Please understand that I do support certain aspects of reform bill S2820 because I believe there is always room for improvement and growth for Police departments. Positive and meaningful improvements will translate to a better service to our communities which will result in a better quality of life. Having said that, there are certain elements of S2820 that make no sense and will only hurt the Police and the communities we serve.

In this day and age where the actions of the very small minority seem to dictate the punishment of the vast majority we need to step back from a knee jerk type of reaction that can be destructive. Instead, we need to work side by side with our communities to hear their voices, and let them hear ours as well so we can reach a realistic conclusion that will be beneficially constructive to all parties. The majority of people who have never been employed in law enforcement, or have a family member or close friend in law enforcement or been in the military do not and cannot understand the rigors and high requirements of doing the job. Many of those people form their opinions of their Police Officers and Officer in general based on the mostly negative messages fed to them on a daily basis by the press. Let’s take a moment to be honest, how often do you see stories in the news of the actions of a bad Police Officer versus how many times you see the actions and heroism of the majority of good Police Officers. Every profession from the most menial to the most prestigious has its share of bad apples, but they are the minority, not the majority. Police Officers are “blanket” judged through bad press that seems to dominate any news of Police Officers even though nobody dislikes a bad Officer more than a good Officer.

If you choose to vote for passage of reform bill S2820 then you will be voting to hurt the majority. It’s already bad enough that most departments, especially smaller towns, are suffering from razor thin or insufficient budgets and staffing, but to add to that the possibilities of being sued for anything and everything, especially if you did your job by the book and according to department policy will further reduce the number of qualified and sought after candidates applying for the job. I have already seen a steep decline in the number of people taking the civil service exam over the last ten years. Instead of seeing two thousand or more people seeking a

career as a Police Officer we are seeing only a few hundred people showing up for the civil service exam. The main reasons for that are the constant bad perception of us created by the main stream media, everyone constantly filming us with their cell phones and posting to social media trying to make us look bad, attempts to take away details, incentives and pensions and the world generally becoming a more violent place with more and more cases of Police Officers being targeted and killed. Additionally with many Police departments being understaffed Officers are being forced to work overtime shifts that they don't want and in many cases force them to miss important family time and scramble to arrange care for their children.

Passing reform bill S2820 will only further exacerbate the situation and decrease the pool of qualified and sought after candidates even further to the point where we will see a far lesser quality of candidate, many of whom will not be fit for the profession but will be hired because of the deficit created by this knee jerk reaction of a reform.

If you want the opportunity to make real and effective reform to Policing now is the time. Public support is high but common sense is not. Taking away qualified immunity and due process is not going to stop the bad apples it will only hurt the good majority and create a huge financial burden that many departments will not be able to function with. This in turn will then trickle down to the quality of service to our communities and in turn to their quality of life.

The first victim of budget cuts is always training, and now more than ever what we as Police Officers need is more training. Instead of rushing this bill through just to say, "Look how quickly we acted", I implore you to re-read the bill and take a common sense approach that will be far more effective than this anti-Police piece of legislation. Police Officers don't need to be hindered any further, we need to be properly funded, properly staffed and properly trained with the protections we have in place now to minimize frivolous law suits and the precious time and money that they waste.

I can honestly tell you that morale is at an all time low as many Officers feel as though the individual and his contributions no longer matter; we are just bodies to fill spots in a profession that is now being run more like a business than a Police department. Real change will only come through common sense and cooperation, not through hatred, bashing and a one sided argument made without due process. Please take the time to pause and re-think what you may be about to do and ask yourselves, would these types of drastic and dangerous changes seem fair at your employment?

Respectfully submitted,

Sergeant Nicholas D. Galluzzo

Hull Police Department

781-925-1214

Written public testimony for S2820

Dear Chairs Cronin & Michlewitz,

I am writing to express my support for reforms to qualified immunity and the urgent need to allow victims of police brutality an opportunity to hold officers accountable for their crimes. Allowing civil suits to be brought against officers when they commit crimes is the strongest way to deter police violence and excessive use of force.

Thank you so much for taking my testimony on this legislation and working to keep our residents safe from police violence.

Sincerely,

Christopher Gerlings

32 Worcester Square #5, Boston, MA, 02118



Keeping the Commonwealth's air, water, environment, health & infrastructure safe.

JOSEPH DORANT, PRESIDENT
PATRICK RUSSELL, VICE PRESIDENT

ALLEN BONDESON, SECRETARY
MICHAEL GALVIN, TREASURER

July 17, 2020

Representative Aaron Michelewitz, Chair
Joint Committee on Ways and Means
Representative Claire D. Cronin, Chair
Joint Committee on the Judiciary

Dear Chair Michelewitz and Chair Cronin:

As President of the Massachusetts Organization of State Engineers and Scientists (MOSES), an employee organization representing 3,400 scientists and engineers across the Commonwealth, I submit this testimony regarding SB 2820, *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*. MOSES represents thousands of dedicated public servants employed at various state agencies across the Commonwealth. Our talented membership includes construction and civil engineers at the Massachusetts Department of Transportation (MassDOT), environmental analysts and hazardous materials team members at the Department of Environmental Protection (DEP), epidemiologists at the Department of Public Health (DPH), building and engineering inspectors at the Division of Professional Licensure (DPL) and Department of Fire Safety (DFS), as well as Forensic Scientists at the State Police Crime Lab. Regardless of their specific job duties, all MOSES members share a common commitment to enhancing the quality of life for all who live in Massachusetts.

While we fully support changes to improve policing procedures and combat discrimination in the Commonwealth, we have serious concerns with the changes included in this bill that open the door to onerous risks to and burdens upon public employees performing their duties in good faith. The specific section we find troublesome is Section 10, which lowers the threshold for qualified immunity for not just law enforcement but ALL public employees. We want to ensure that our members can perform their job functions soundly without the possibility of being liable in civil court when acting within their reasonable understanding of the law.

We as an organization stand strongly for a legislative package that brings thoughtful and meaningful reform to address police misconduct and racial injustice in the Commonwealth. However, we do not support reducing aspects of qualified immunity to public employees and it is our hope that this section

will not be part of the final piece of legislation. The proposed changes in the current bill will open the door to unforeseen issues and will cause greater cost to the Commonwealth and its citizens in the long run. Please reach out to Steven Smalley, Legislative Director for MOSES, at (617) 367-2727 or ssmalley@moses-ma.org with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Joe Dorant". The signature is fluid and cursive, with the first name "Joe" and last name "Dorant" clearly legible.

Joe Dorant, President
Massachusetts Organization of State Engineers and Scientists

A Letter regarding Bill S2820

I, David Ricci, as a member of The Topsfield Police Department, am writing to express that I am opposed to Massachusetts Senate Bill (S2820). If passed, this bill would prohibit officers from effectively executing their duty each day.

The main areas of concern, among others, are the following:

Due Process: Under the law, Police officers deserve the same due process that are given to citizens and have been in place for years. All law enforcement employees deserve the right to an appeal, the same right given to other public servants.

Qualified Immunity: Contrary to what most think, qualified immunity does not protect bad police officers. What it does is keep officers, acting in good faith while making split second decisions, out of frivolous lawsuits that not only waste time, but millions of tax - payer dollars. All officers are bound to policy and procedures within their department and are subject to internal investigations.

Police Officer Standards Accreditation Committee: People have the right to be judged by their peers. It is difficult for any person to judge situations which they are not familiar with, or have never been involved in. In order to properly review Police conduct one must understand the role of being a police officer. Being tasked with regulating police action, including termination should be done by those who have an intimate knowledge of the profession.

At this time Massachusetts Police Officers are among the most trained Police Officers in the country. There have been no acts toward the public by any law enforcement officials that warrant such sweeping legislation. I urge you to reconsider the parameters of S2820. Please provide the men and women of Massachusetts law enforcement with the respect they deserve.

Respectfully,

David Ricci
17 Pocahontas Drive, Peabody, Ma 01960
978-979-6368

A Letter regarding Bill S2820

I, Alex MacMullen, as a member of The Topsfield Police Department, am writing to express that I am opposed to Massachusetts Senate Bill (S2820). If passed, this bill would prohibit officers from effectively executing their duty each day.

The main areas of concern, among others, are the following:

Due Process: Under the law, Police officers deserve the same due process that are given to citizens and have been in place for years. All law enforcement employees deserve the right to an appeal, the same right given to other public servants.

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Respectfully,

Alex MacMullen
12 Benham St. Groveland, MA, 01834
978-387-2866

A Letter regarding Bill S2820

I, Brendan E. Gahagan, as a member of The Topsfield Police Department, am writing to express that I am opposed to Massachusetts Senate Bill (S2820). If passed, this bill would prohibit officers from effectively executing their duty each day.

The main areas of concern, among others, are the following:

Due Process: Under the law, Police officers deserve the same due process that are given to citizens and have been in place for years. All law enforcement employees deserve the right to an appeal, the same right given to other public servants.

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At this time Massachusetts Police Officers are among the most trained Police Officers in the country. There have been no acts toward the public by any law enforcement officials that warrant such sweeping legislation. I urge you to reconsider the parameters of S2820. Please provide the men and women of Massachusetts law enforcement with the respect they deserve.

Respectfully,

Brendan E. Gahagan
529 Bennington Street
East Boston, MA 02128

A Letter regarding Bill S2820

I, Joseph Levasseur, as a member of The Topsfield Police Department, am writing to express that I am opposed to Massachusetts Senate Bill (S2820). If passed, this bill would prohibit officers from effectively executing their duty each day.

The main areas of concern, among others, are the following:

Due Process: Under the law, Police officers deserve the same due process that are given to citizens and have been in place for years. All law enforcement employees deserve the right to an appeal, the same right given to other public servants.

Qualified Immunity: Contrary to what most think, qualified immunity does not protect bad police officers. What it does is keep officers, acting in good faith while making split second decisions, out of frivolous lawsuits that not only waste time, but millions of tax - payer dollars. All officers are bound to policy and procedures within their department and are subject to internal investigations.

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At this time Massachusetts Police Officers are among the most trained Police Officers in the country. There have been no acts toward the public by any law enforcement officials that warrant such sweeping legislation. I urge you to reconsider the parameters of S2820. Please provide the men and women of Massachusetts law enforcement with the respect they deserve.

Respectfully,

Joseph Levasseur
6 Leslie Road, Rowley, MA 01969
978-380-2022

A Letter regarding Bill S2820

I, Eric Giordano, as a member of The Topsfield Police Department, am writing to express that I am opposed to Massachusetts Senate Bill (S2820). If passed, this bill would prohibit officers from effectively executing their duty each day.

The main areas of concern, among others, are the following:

Due Process: Under the law, Police officers deserve the same due process that are given to citizens and have been in place for years. All law enforcement employees deserve the right to an appeal, the same right given to other public servants.

Qualified Immunity: Contrary to what most think, qualified immunity does not protect bad police officers. What it does is keep officers, acting in good faith while making split second decisions, out of frivolous lawsuits that not only waste time, but millions of tax - payer dollars. All officers are bound to policy and procedures within their department and are subject to internal investigations.

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At this time Massachusetts Police Officers are among the most trained Police Officers in the country. There have been no acts toward the public by any law enforcement officials that warrant such sweeping legislation. I urge you to reconsider the parameters of S2820. Please provide the men and women of Massachusetts law enforcement with the respect they deserve.

Respectfully,

Eric Giordano
46 Warehouse Lane Rowley, MA 01969
781.249.5025

Executive Director
Jeremy Burton

July 17, 2020

President
Stacey Bloom

The Honorable Rep. Aaron Michlewitz
Chair, House Committee on Ways and Means

**First
Vice President**
Scott Gilefsky

The Honorable Rep. Claire D. Cronin
Chair, Joint Committee on the Judiciary

Secretary
Samantha Joseph

Dear Chairs Michlewitz and Cronin,

Treasurer
Frank Litwin

On behalf of the Jewish Community Relations Council, I write to thank you for your commitment to taking up legislation to promote racial justice and secure meaningful police reform and accountability. We are grateful that each of you are helping to shape this monumental and needed bill, as our communities need healing.

Board of Directors
Rabbi Laura Abrasley
Nicole Gann
Samuel Gechter
Alex Goldstein
Fredie Kay
Jonathan Klein
Rabbi Claudia Kreiman
Edward Kutchin
Lon Povich
Leah Robins
Nathan Rothstein
Craig Slater
Kathy Weinman
Amiel Weinstock
Andrew Zelermyer

We would like to lift up a few of the provisions in S.2820 necessary to increase police accountability. We urge you to:

1. Adopt strict limits on police use of force,
2. End qualified immunity, because it shields police from accountability and denies victims of police violence their day in court.

Past Presidents
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Susan A. Calechman
Ruth B. Fein
Bill Gabovitch
Rae M. Ginsburg
Jill Goldenberg*
Geoffrey Lewis
Joel M. Reck
Stuart T. Rossman
James W. Segel
Donald J. Siegel
Kenneth A. Sweder
Adam Suttin*
Justin L. Wyner

The Jewish Community Relations Council has a long history of speaking out in support of policies that promote racial justice and work to dismantle systemic racism. At this moment in history, our partners in the Black community and people of color in our own community are united in their call to finally address police violence. As Jews, we say that antisemitism is not a Jewish problem, but rather a failure on the part of the greater society; that too rings true about racism. It is our obligation to speak up, speak out and follow the lead of the Black community to end this scourge.

*voting member

George Floyd's murder by Minneapolis police brought hundreds of thousands of people into the streets all around the country to demand fundamental changes to policing and concrete steps to address systemic racism. This historic moment is not about one police killing or about one police department. Massachusetts is not immune. Indeed, Bill Barr's Department of Justice recently reported that a unit of the Springfield Police Department *routinely* uses brutal, excessive violence against residents of that city. We must address police violence and abuses, stop the disparate policing of and brutality against communities of color and Black people in particular, and hold police accountable for civil rights violations. These changes are essential for the health and safety of our communities here in the Commonwealth.

Massachusetts must establish strong standards limiting excessive force by police. When police interact with civilians, they should only use force when it is absolutely necessary, after attempting to de-escalate, when all other options have been exhausted. Police must use force that is proportional to the situation, and the minimum amount required to accomplish a lawful purpose. And several tactics commonly associated with death or serious injury,

JCRC engages the Jewish community in public life and builds solidarity across the broader community to meet the critical challenges of our times.



Executive Director
Jeremy Burton

including the use of chokeholds, tear gas, rubber bullets, and no-knock warrants should be outlawed entirely.

President
Stacey Bloom

First Vice President
Scott Gilefsky

Of critical and urgent importance: Massachusetts must abolish the dangerous doctrine of qualified immunity because it shields police from being held accountable to their victims. Limits on use of force are meaningless unless they are enforceable. Yet today, qualified immunity protects police even when they blatantly and seriously violate people's civil rights, including by excessive use of force resulting in permanent injury or even death. It denies victims of police violence their day in court. Ending or reforming qualified immunity is the most important police accountability measure in S2820.

Secretary
Samantha Joseph

Treasurer
Frank Litwin

There is broad consensus that we must act swiftly and boldly to address police violence, strengthen accountability, and advance racial justice. We urge you to pass the strongest possible legislation without delay, and to ensure that it is signed into law this session.

Board of Directors
Rabbi Laura Abrasley
Nicole Gann
Samuel Gechter
Alex Goldstein
Fredie Kay
Jonathan Klein
Rabbi Claudia Kreiman
Edward Kutchin
Lon Povich
Leah Robins
Nathan Rothstein
Craig Slater
Kathy Weinman
Amiel Weinstock
Andrew Zelermyer

Sincerely,

Aaron Agulnek

Director of Government Affairs
Jewish Community Relations Council of Greater Boston

Past Presidents
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Ruth B. Fein
Bill Gabovitch
Rae M. Ginsburg
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James W. Segel
Donald J. Siegel
Kenneth A. Sweder
Adam Suttin*
Justin L. Wyner

*voting member

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Executive Director

Jeremy Burton

President

Stacey Bloom

First

Vice President

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Donald J. Siegel
Kenneth A. Sweder
Adam Suttin*
Justin L. Wyner

*voting member

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617.457.8600

www.jcrcboston.org
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supported by



An agency of Combined Jewish Philanthropies and a United Way beneficiary

Hanson Police Association

May 8, 2018

July 17th, 2020

Re: Concerns Regarding S2820

Dear Representative Cutler,

The Hanson Police Association and its 19 members are concerned. We are concerned for the future of policing in the commonwealth of Massachusetts. This bill has numerous changes that are detrimental to both our brother and sisters Officers and the communities we serve. We see the changes in the way we police our communities coming and welcome them, if they are properly vetted, reasoned, and understood.

Our largest concern is the language in regards to qualified immunity. There is a false narrative about the doctrine of qualified immunity created by those looking to remove it. It is believed that the doctrine of qualified immunity prevents people who allege that they were mistreated by the police from bringing lawsuits against those Officers. This is simply not true; Police Officers are often successfully sued for their on duty conduct. Qualified immunity is a doctrine that not only shields Police Officers, but all public and government employees, from personal liability in civil lawsuits unless they violate “clearly established” legal principals.

In cases alleging false arrest, an officer must have arguable probable cause for the arrest to escape liability and in cases claiming excessive force an Officer’s use of force must be reasonable under the Fourth Amendment in order to avoid liability. Qualified immunity prevents frivolous and unnecessary litigation for actions taken during the course of a Police Officer’s job. Simply put and explained, if an Officer performs CPR and saves an individual’s life, but in said course of action, that Officer broke the individuals rib, that Officer would now be held personally liable for the breaking of the individual’s rib.

Qualified immunity does not protect a dishonest Police Officer. Qualified immunity does protect the honest Police Officer who performs his or her duty to the best of their ability lawfully.

This bill is extremely rushed and the authors are not properly informed. We ask that the House of Representatives take the necessary time and appropriate education on the matters they wish to change and adjust.

Hanson Police Association

May 8, 2018

Thank you for your time and consideration of our concerns regarding these changes and their effects on our union members and brother and sister Officers.

Officer Daniel Godwin
President, Hanson Police Association

Officer Derek Harrington
Vice President, Hanson Police Association

Dear MA House of Representatives,

As your constituent, I write to you today to express my strong opposition to many parts of the recently passed S.2820. I hope that you will join me in prioritizing support for the establishment of a standards and accreditation committee, which includes increased transparency and reporting, as well as strong actions focused on the promotion of diversity and restrictions on excessive force. These goals are attainable and are needed now.

I am, however, concerned at the expansion of this legislation, targeting fundamental protections such as due process and qualified immunity. This bill in its present form is troubling in many ways and will make an already dangerous and difficult job even more dangerous for the men and women in law enforcement who serve our communities every day with honor and courage.

Below are just a few areas, among many others, that concern me and warrant your rejection of these components of this bill:

(1) Due Process for all police officers: Fair and equitable process under the law demands the same rights of appeal afforded to all citizens and fellow public servants. Due process should not be viewed as an arduous impediment, but favored as a bedrock principle of fundamental fairness, procedure and accountability.

(2) Qualified Immunity: Qualified Immunity does not protect problem police officers. It protects the good ones. Qualified Immunity is extended to all public employees who act reasonably and in compliance with the rules and regulations of their respective departments, not just police officers. Qualified Immunity protects all public employees, as well as their municipalities, from frivolously lawsuits. This bill removes important liability protections essential for all public servants. Removing qualified immunity protections in this way will open officers, and other public employees to personal liabilities, causing significant financial burdens. This will impede future recruitment in all public fields: police officers, teachers, nurses, fire fighters, corrections officers, etc., as they are all directly affected by qualified immunity protections.

(3) POSA Committee: The composition of the POSA Committee must include more rank-and-file police officers and experts in the law enforcement field. If you're going to regulate law enforcement, up to and including termination, you must understand law enforcement. The same way doctors oversee doctors, lawyers oversee lawyers, teachers oversee teachers, experts in law enforcement should oversee practitioners in law enforcement.

In closing, I remind you that those who protect and serve communities across Massachusetts are some of the most sophisticated and educated law enforcement officials in the nation. I again implore you to amend and correct S.2820 so as to treat the men and women in law enforcement with the respect and dignity they deserve.

Thank you,
Patrick Johnson
26 Windchime Drive
Mansfield, MA
pmjmansfield@yahoo.com

As your constituent and a mother of a police cadet presently training, I write to you today to express my strong opposition to many parts of the recently passed S.2820. I hope that you will join me in prioritizing support for the establishment of a standards and accreditation committee, which includes increased transparency and reporting, as well as strong actions focused on the promotion of diversity and restrictions on excessive force. These goals are attainable and are needed now.

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Thank you,

Kimberly A Lederer
24 Old Broad Street
Jefferson, MA 01522
oldbroad24@charter.net

Honorable Representatives,

I write to you today to express my strong opposition to many parts of the recently passed S.2820. I hope that you will join me in prioritizing support for the establishment of a standards and accreditation committee, which includes increased transparency and reporting, as well as strong actions focused on the promotion of diversity and restrictions on excessive force. These goals are attainable and are needed now.

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POSA Committee: The composition of the POSA Committee must include more rank-and-file police officers and experts in the law enforcement field. If you're going to regulate law enforcement, up to and including termination, you must understand law enforcement. The same way doctors oversee doctors, lawyers oversee lawyers, teachers oversee teachers, experts in law enforcement should oversee practitioners in law enforcement. There are only six law enforcement members on this committee of the fifteen members.

As a tax payer I am also greatly concerned with the cost of this bill which is not articulated in the bill.

The following Commissions are created by this bill with many of them allowing staffers to include lawyers being hired, reimbursement for expenses to include obtaining office space, and

contracts with academic institutions. Many of these Commissions are allowed to take donations to subsidize themselves and carry funds over from one fiscal year to the next.

Commission of the Status of African Americans- 11 members
Commission of the Status of Latinos- 9 members
Police Officer Standards and Accreditation Committee- 14 members
Community Police and Behavioral Advisory Council- 21 members
Criminal Justice and Community Support Trust Fund
Justice Reinvestment workforce Development Fund- 14 members
Commission to Review and Make Recommendations for training protocols- 15 members
Law Enforcement Body Camera Task Force- 17 members
Special Commission to study Facial Recognition- 14 members
Commission to study to dismantle structural racism- 31 members

These new ten commissions have at least 150 positions and each commission has a mission assigned to it which will cost the tax payer. There is no price tag in this bill for this because the price tag is unknown. Where are the tax dollars going to come from to fund all of this? Even with a low ball figure of a cost of 3-5 million per commission we are at 30-50 million dollars. But we all know that the cost will be much higher. This bill is being advertised as a Police Reform package but policing is only a small part of this bill. Five of the ten Commissions have nothing directly to do with law enforcement.

This bill allows for the Colonel of the State Police to be hired from outside the agency with a minimal requirement of ten years in law enforcement or the military and only five years of senior management experience. This will make the Colonel of the State Police a political appointee and not someone who has worked their way through the ranks of the State Police. When you look around at some of the best police chiefs around the country the majority have come up the ranks from inside that organization. Further, why would the Commonwealth want to hire a Colonel who has no allegiance to the organization? Why would we want the Colonel of the State Police to have no police academy training as is outlined in S2820 on Lines 788-790:

“No person, except the colonel, shall exercise police powers as a uniformed member of the department until they have been assigned to and satisfactorily completed the training program.”

The creation of a State Police Cadet program as created in lines 674-722 and 732-741 has me very concerned. What is going to be their function? Has this been negotiated with the State Police Association of Massachusetts? Will the cadets be performing functions that a fully trained trooper should be doing? Further, these cadets can be hand selected to enter the State Police Academy by the Colonel who by S2820 passing will be a political appointee. I can fathom that many of this new Colonel's selections will be to appoint friends of friends so as to avoid the Civil Service Testing process.

I remind you that those who protect and serve communities across Massachusetts are some of the most sophisticated and educated law enforcement officials in the nation. I again

implore you to amend and correct S.2820 so as to treat the men and women in law enforcement with the respect and dignity they have earned and deserve.

Respectfully,

Patrick Silva

781-443-4805

Retired - Mass. State Police

A Letter regarding Bill S2820

I, Justin Slattery, as a member of The Topsfield Police Department, am writing to express that I am opposed to Massachusetts Senate Bill (S2820). If passed, this bill would prohibit officers from effectively executing their duty each day.

The main areas of concern, among others, are the following:

Due Process: Under the law, Police officers deserve the same due process that are given to citizens and have been in place for years. All law enforcement employees deserve the right to an appeal, the same right given to other public servants.

Qualified Immunity: Contrary to what most think, qualified immunity does not protect bad police officers. What it does is keep officers, acting in good faith while making split second decisions, out of frivolous lawsuits that not only waste time, but millions of tax - payer dollars. All officers are bound to policy and procedures within their department and are subject to internal investigations.

Police Officer Standards Accreditation Committee: People have the right to be judged by their peers. It is difficult for any person to judge situations which they are not familiar with, or have never been involved in. In order to properly review Police conduct one must understand the role of being a police officer. Being tasked with regulating police action, including termination should be done by those who have an intimate knowledge of the profession.

At this time Massachusetts Police Officers are among the most trained Police Officers in the country. There have been no acts toward the public by any law enforcement officials that warrant such sweeping legislation. I urge you to reconsider the parameters of S2820. Please provide the men and women of Massachusetts law enforcement with the respect they deserve.

Respectfully,

Justin Slattery
6 Kingdom Ct.
Peabody, Ma 01960
978-290-2432

Testimony in support of:
Bill S.2800- 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

Submitted by:
ZAANISH PIRANI
22 ROYAL ST. APT 1
BOSTON 02134

Rep. Aaron Michlewitz, Rep. Claire D. Cronin, and members of the House Committee on Ways and Means and the Joint Committee on the Judiciary for the police reform bill above:

My name is ZAANISH and I am a resident of BOSTON, MA. I am writing to voice my strong **support for** Bill S.2800.

Bill S.2800 is important because I think it is extremely important to have more accountability for cops. I also think there needs to be less aggressive and kinder behavior towards communities of color who have historically been oppressed from our society. We also need more resources in communities of color that are easily disseminated and accessed. This is key to having a fair and secure future for all Americans, not just white Americans.

I think everything listed below is very important and need to be addressed with this bill.

- Banning chokeholds and use of tear gas; reduces institutionalized violence
- Shifts resources to communities historically negatively impacted by aggressive policing
- limiting qualified immunity and holding cops accountable
- Proposes a statewide certification system for officers
- limits use of face surveillance technology
- It would also create a Police Officer Standards and Accreditation Committee, which would be empowered to monitor and investigate police conduct, license law enforcement, and *revoke* licenses for violent or racist behavior and other misdeeds
- Police would need to be re-certified every three years, and the state would maintain a searchable database for police departments hiring new officers to review an applicant's history.

A brief case in point/personal anecdote is always helpful.

I respectfully urge you, Reps Michlewitz and Cronin, and the members of the joint committees to support this very important legislation.

Thank you.

Zaanish Pirani

Lowell Police Superior Officers Association, Inc.
50 Arcand Drive
Lowell, Massachusetts 01852

Sent via Electronic Mail to Testimony.HWMJudiciary@mahouse.gov

July 16, 2020

State House
Chairwoman Cronin and Chairman Michlewitz
24 Beacon Street
Boston, Massachusetts 02133

Re: S. 2820, 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

Dear Chairwoman Cronin and Chairman Michlewitz:

I write to you on behalf of the Lowell Police Superior Officers Association, Inc., concerning the aforementioned bill. The Lowell Police Superior Officers Association, Inc. represents Lowell Police Sergeants, Lieutenants and Captains. All positions are regulated by Massachusetts Civil Service Law. All are subject to a current Collective Bargaining agreement with the City of Lowell.

I direct your attention to the Constitution of the Commonwealth of Massachusetts, the model used for the United States Constitution, one of the oldest operating constitutions in the world. The same states "The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquility their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain and establish the following *Declaration of Rights, and Frame of Government*, as the **CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS**.

As you are well aware, the Senate passed this bill without any type of public hearing. Passing such sweeping legislation without public input is repugnant to both public policy and democracy. Such action is completely contrary to government by the people, for the people. It is in direct contradiction with both Constitutions, which have withstood the passage of time. The acts and behavior in the wee hours of the morning by the 2020 Senate is the exact type of behavior by the government the Constitutions protect citizens from.

The Emergency Preamble in the Senate bill states “ Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.” I, as well as all of my colleagues, are unaware of any specific event/s that have transpired in the Commonwealth of Massachusetts that support this assertion.

The Massachusetts Constitution, Part the First, A Declaration of Rights of the Inhabitants of the Commonwealth of Massachusetts, Article 1 states “All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.” The language of the emergency preamble seems to contradict this.

Section 10 of the bill states “Said chapter 12 is hereby further amended by striking out section 11I, as appearing in the 2018 Official Edition, and inserting in place thereof the following section:

Section 11I. (a) A person whose exercise or enjoyment of rights secured by the constitution or laws of the United States or the constitution or laws of the commonwealth has been interfered with, or attempted to be interfered with, as described in section 11H may institute and prosecute in their own name and on their own behalf a civil action for injunctive and other appropriate equitable relief as provided for in said section 11H, including the award of compensatory money damages. A person who prevails in an action authorized by this subsection shall be entitled to an award of the costs of the litigation and reasonable attorneys’ fees in an amount to be determined by the court.

(b) A person whose exercise or enjoyment of rights secured by the constitution or laws of the United States or the constitution or laws of the commonwealth has been interfered with by a person or entity acting under color of any statute, ordinance, regulation, custom or usage of the commonwealth or, or a subdivisions thereof, may institute and prosecute in their own name and on their own behalf a civil action for injunctive and other appropriate relief, including the award of compensatory monetary damages. An action under this subsection shall be instituted either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which the person or entity whose conduct complained of resides or has a principal place of business. A person who prevails by obtaining significant relief after the filing of an action under this subsection shall be entitled to an award of the costs of litigation and reasonable attorneys’ fees in an amount to be determined by the court.

(c) In an action under this section, qualified immunity shall not apply to claims for monetary damages except upon a finding that, at the time the conduct complained of occurred, no reasonable defendant could have had reason to believe that such conduct would violate the law.” Neither myself, nor my colleagues in law enforcement are aware of any legal definition of “reasonable defendant.” None of my bar colleagues are aware of a legal or layman’s definition of the term. The 2020 version of the Massachusetts Senate has inserted a term into a bill, passed in the early morning hours, without a public hearing. §10 of the Bill calls for a draconian change in qualified immunity for all public officials, not just police officers. Qualified Immunity exists for obvious reasons, to protect public employees being subjected to frivolous and nonsensical lawsuits. Qualified Immunity is just that, Qualified. It appears that the sponsors of this bill refer to Unqualified Immunity, which means it is legally impossible to file suit against certain, individual government actors, such as judges and clerk magistrates. Police officers in the Commonwealth can be, and are sued in both federal and state courts. Qualified Immunity only provides for certain protections. The 2020 version of the Massachusetts Senate, with this bill, eradicates over 50 years of case law, case law that has worked well, all without any public input whatsoever.

The term reasonable defendant appears to be in direct contrast with the term “Reasonable Police Officer,” which is defined in the Seminole United States Supreme Court case *Graham v. Connor*, 490 US 386 (1989). As Justice Rehnquist opined “As in other Fourth Amendment contexts... the "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." The Court also cautioned, "The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." The 2020 version of the Massachusetts Senate completely ignores the United States Supreme Court, all without a public hearing.

Massachusetts has one of the lowest annual rates for deadly use of force incidents in the Nation, at only 1.2 incidents per million people. Far more people suffer harm as the result of medical malpractice than at the hands of law enforcement. “And one in 20 U.S. adults who seek outpatient care will experience a diagnostic error each year, with about half of the errors considered potentially harmful.” *Singh H., Meyer A.N.D., Thomas E.J. The frequency of diagnostic errors in outpatient care: estimations from three large observational studies involving US adult populations. BMJ Quality & Safety. 2014; 23(9): 727-731.*

The proposed legislation, if passed into law, will have a profound effect on the quality of life of every single person in the Commonwealth. There is far too much at stake to pass a bill of such magnitude with little, or no input from the public. I would respectfully request that the matter be referred to committee, and studied prior to passage. Expediency of this bill will harm the Commonwealth far greater than it will help. As a citizen of the Commonwealth, and as a police officer, I ask that this matter be considered carefully, without a rush to judgment. There are far too many potential unintended consequences of this bill to rush its passage.

Democracy is a value men and women have given, and will continue to give, their lives for. I would ask that the Legislature honor democracy, and those who defend and die for it, by deferring this bill to committee for further study.

I thank you in advance for your attention to this matter.

Very truly yours,

/s/ Thomas D. Kennedy

Thomas D. Kennedy, President, Lowell Police Superior Officers Association, Inc.

cc: Representative Colleen Garry
Representative Thomas Golden
Representative David Nangle
Representative Rady Mom

Massachusetts Communities Action Network (MCAN)
14 Cushing Ave, Dorchester, MA 02125
www.mcan.us (617) 470-2912

Worcester Interfaith
111 Park Avenue, Worcester MA 01603
781-913-4904 – isabel@worcester-interfaith.org

Testimony to House Judiciary and House Ways and Means on
Senate 2800 7/17/20

July 16, 2020

Dear House Judiciary Chair Claire Cronin and House Ways and Means Chair Aaron Michlewitz and Committee Members,

I am the Reverend Judith K. Hanlon senior pastor at Hadwen Park Congregational Church in Worcester Massachusetts. Please, please pass this bill.

It is my belief that the history of policing has built a system that acts more military than protective. And, I believe that after the Emancipation Act, police were a part of the system that continued to enslave black people by rounding them up for prison for no reason and creating the work force that slavery was intended to eradicate.

I think it is very hard for even the very best police officers to protect and serve rather than catch and jail.

Sadly, I can support my opinion. Our church houses a ministry called the LGBT Asylum ministry. Thus, for 11 years, our church has been blessed to be multi-racial, multi-cultural and intergenerational. When some of our young black asylum seekers began to tell me how many times they had been stopped for traffic violations (or no reason) I couldn't believe it. One of our ministers, Al Green who is a black man from Jamaica and a graduate of Worcester Poly Tech as a civil engineer, has been stopped many times. One of the times, he was asked repeatedly if the car was his. I have never ever, when young or now as an older person, been asked if the car was mine. Al gave him the registration and license and the police officer continued to ask if this was his car. Al was so surprised because the car was nothing that he would have chosen to drive except that he was a student and struggling to both work and complete his degree. The cop did not arrest him but he was ashamed with the assumption of poverty and crime aimed at him.

One of our young Ugandan men was picked up by State Police. He was not cited for any grievance, but they wanted to see his driver's license. He was driving, as is legal, on his Ugandan license. He was unable to get a license here because he did not yet, have a social security number. The law offers immigrants one year to drive on their license from their home country. I found him distraught and frightened. I met him at the towing company where his car was. I told

them that his license was valid. They didn't care, of course. Told me to talk to the State Police. They would not accept my call. The only way for him to get his car was for me to pay \$200.00 out of my pocket. If I didn't, the cost would increase daily. I paid it. Michael went to court and of course, the State Police were wrong! I was never able to receive my \$200. There is no question that Michael was racial profiled. They refused to listen to him and simply took him in! Who were they serving and protecting?

A gentleman from Uganda who was a doctor there, was stopped 6 times in two months. I don't think anyone who hasn't worked with these amazingly courageous people understand how traumatizing it is to be targeted. One man said to me, "Pastor Judy, in Uganda, I was tortured and beaten by the police because I was gay; in the USA, I fear being tortured and beaten by the police (even killed) because I am black."

Another young man pulled over on Main Street in Worcester at about 11pm, because his mom from Uganda called him on his cell phone. He was arrested and accused of prostitution. He is gay! He begged the office to look at his phone and see his mother's number to prove that he was talking to his mom. He was shamed and the police refused to listen to him. He was black, in a neighborhood where prostitution was happening, but the police officer refused to simply look at his phone.

I could go on and on. We have had black folks speak in church since the death of George Floyd. We have heard from a black police officer who left the force due to racist slurs and pressure from other police officers in the Worcester police department. From them, he was called the "N" word daily!

Please, please reform. I do not believe that we can simply have some training packets and tell racist cops to follow the rules. We need a re-do on what it is to be a police officer and we need a re-do on who we hire.

All that being said, I would not want to be a police officer today. I believe that reform will help good police officers who wish to do a good job while working under archaic and abusive guidelines.

I would be glad if this law is passed. I hope that many more will be coming in the future that will protect my good and beautiful parishioners; God's children who were made wonderfully by the God of diversity.

With respect and hope.

The Reverend Judith K. Hanlon



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

DAVID M. ROGERS
STATE REPRESENTATIVE
24th MIDDLESEX DISTRICT

STATE HOUSE, ROOM 544
TEL: (617) 722-2637
Dave.Rogers@MAhouse.gov

To the Honorable Chairs,
Aaron Michlewitz & Claire Cronin
24 Beacon Street,
Boston, MA 02133

RE: Written testimony for - S.2820: 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.

July 17, 2020

Dear Chairs Michlewitz and Cronin,

On May 25, 2020, after the murder of George Floyd by police officers, our world changed. Sadly, this state-sanctioned violence is nothing new and that is why I have been a champion of profound changes to our criminal justice system ever since first joining the Legislature. There have been countless instances of violence against minorities in the United States, but the George Floyd video frightened and angered Americans and showed in horrifying detail why we need police reform now and why racial justice policies cannot wait to be implemented. Even with the importance of our coronavirus response, these racial justice initiatives and police reforms are critically important to ensure the safety of the citizens of the commonwealth. For far too many residents of the Commonwealth, racism – among its many other terrible consequences -- is a public health issue.

I want to thank the Speaker's office and both of you for making this issue a priority and for receiving written testimony from the public. Many of the issues are complex and deserve time for public comment and I applaud the House for holding this hearing. I also appreciate the effort of the members of both the Judiciary Committee and the Committee on Ways and Means, and their staff, in their diligent efforts on these important issues.

My colleagues in the Massachusetts Black and Latino Legislative Caucus have put out an excellent 10-Point Plan to Address Police Violence and Advance Racial Justice. I support this legislative platform and hope we can implement as many reforms as possible. In addition, I hope that the House will consider a series of other issues associated with racial justice and police reform not mentioned in the MBLLC's plan. Separately, I plan to share my views on these other issues with you and other members of the House.

Also, given the renewed and pressing interest in these issues, it shines a new light on a number of legislative initiatives. I believe that a number of bills that may not have had significant traction earlier in the session now deserve a second look while drafting the current reforms.

The policies embodied in legislation that I filed will drive the state forward in dismantling systemic racism and offering greater legal protections to our minority communities. I urge you to consider incorporating these ideas into the broader criminal justice legislation.

I look forward to working with your offices as we take up these legislative ideas. Thank you for your time and consideration.

Sincerely,

David Rogers
State Representative
24th Middlesex District

[*An Act relative to unregulated face recognition and emerging biometric surveillance technologies*](#) –

I filed this bill because – just like in countless other areas of policy – the rapid advance of technology has outpaced the law dramatically in the area of facial recognition. Facial recognition **has been shown to misidentify people of color and women disproportionately**. And so this bill establishes a moratorium on unregulated government use of face recognition and other biometric monitoring technologies, which can screen, identify, and surveil people from a distance without their awareness and without any privacy protections. Obviously serious Fourth Amendment issues are also raised by the use of facial recognition and other biometric technologies. We should press the pause button on government use of these technologies until a body of law and regulation is developed. Frankly, a permanent ban on many uses may well prove to be the wisest course of action.

[*An Act relative to improper and discriminatory police reporting*](#) –

Filed along with our colleague Representative Frank Moran, and in part based on the law passed in New York state in their recent police reform bill, we filed this legislation to ensure that the civil rights of individuals who have been wrongly targeted are preserved. Every citizen in Massachusetts deserves to feel safe in public, regardless of the color of their skin or any other basis of discriminatory bias. This bill ensures that calls to the police based on discriminatory/racist bias will not be tolerated and that individuals who do make these calls can be held accountable.

[*An Act relative to the qualification of voters*](#) –

While the Massachusetts Constitution precludes imprisoned felons from voting in some state

elections, this bill restores one of our most basic civil rights to those incarcerated for low-level, non-violent felonies. Because we know the criminal justice system disproportionately impacts people of color, it follows that policies inside our jails and prisons also disproportionately impact them. Disenfranchising people for low level non-violent felonies is racist. It should end.

An Act relative to clarity and consistency for the Justice Reinvestment Oversight Board –

This bill builds on and modifies data collection requirements in the 2018 Criminal Justice reform law. It harmonizes language in two places in statute, the authorizing language for the new Justice Reinvestment Oversight Board (JROB) and the language outlining the responsibilities of the Secretary of Public Safety regarding data collection and reporting. It also includes the DAs in the list of entities required to collect and report data. It is really important that we have this data if we are to make good on the promise of equal protection of the law.

An Act requiring audiovisual recordings of certain police interrogations –

This legislation requires that custodial interrogations of suspects in the most serious crimes be filmed. With this video record, jurors will be better able to discern false confessions and prosecutors will have accurate evidence when there is an authentic confession.

An Act relative to life without parole –

More than one out of ten prisoners in Massachusetts is serving a Life Without Parole sentence. Denying prisoners the opportunity to ever apply for parole not only robs them of hope and denies their capacity to rehabilitate, it wastes public resources and does little to promote public safety. This bill seeks to address this issue by banning mandatory life without parole, returning discretion to the judiciary to determine on an individual basis that a person eligible for a life without parole sentence may instead be permitted to see the parole board after serving 35 years in prison. This bill will not apply retroactively.

via mail: Testimony.HWMJudiciary@mahouse.gov

Committee on the Judiciary
House Committee on Ways and Means
The State House
Boston, MA 02133

Subject: Testimony on S.2820 Reforming Police Standards

Dear Chair Cronin, Chair Michlewitz, Vice Chair Day, Vice Chair Garlick and House members of the Judiciary and the House Ways and Means Committees,

Thank you for the opportunity to submit written testimony. We comprise a group of retired judges who strongly recommend the inclusion of a provision in the House racial equity and reforming police standards legislation to gradually raise the age at which a young person is automatically prosecuted as an adult from age 18 to age 21. Our group includes seasoned jurists and trial practitioners with extensive experience in juvenile and criminal court sessions. Some of us have spent their entire careers in child welfare and juvenile justice. All of us are committed to redressing critical systemic racial and ethnic disparity and sincerely believe that raising the age of juvenile court jurisdiction will further that goal while significantly reducing recidivism.

Racial and ethnic disparities exist in both the juvenile and criminal systems, but, according to a 2016 Prison Policy Initiative study, African Americans are six times more likely to enter Massachusetts jails and prisons than whites. This is one of the highest rates of disparity in the country. Treating emerging adults in a juvenile court system with a focus on positive youth development and a Department of Youth Services with much lower recidivism rates is good public policy and more consistent with racial equity.

The US Supreme Court has established that youth are categorically different than adults, and psychological and scientific research has indicated that adolescent brain development may continue until age 25. The state's Task Force on Emerging Adults noted that emerging adults are "a unique population that requires developmentally tailored programming and services."

The emerging adult population also has the highest rate of recidivism. Emerging adults constitute 10 percent of the state's population but more than 29 percent of arrests. According to the National Center of State Courts, 76 percent of emerging adults released in 2011 from Massachusetts jails and prisons were back in court within three years. By contrast, the recidivism rate is approximately 25 percent for youth discharged from the Department of Youth Services. While racism and ethnic disparities plague all systems, the juvenile court's more rehabilitative philosophy allows for consideration of the structural factors that contribute to court involvement.

The risk of further criminal involvement for this age group is exacerbated by the collateral consequences of a criminal record, which adversely affects their ability to continue their education and obtain housing and employment. Juvenile court diversion options allow for pre-arraignment dismissals which do not generate a record.

The lawyer and activist Bryan Stevenson has said that each of us is more than the worst thing we have ever done. An example of not only the juvenile court's power on a young person's life, but the wider range of tools available in the juvenile court, is exemplified by the case of a teenager arrested in school who was able to have her case diverted without a stigmatizing record, which enabled her to avoid expulsion and go on to graduate. She subsequently graduated first in her class from community college and invited the juvenile court judge who oversaw her case to attend the ceremony last year. On the other end of the spectrum juvenile court jurisdiction includes all felonies other than murder allegations involving youth fourteen years of age or older. District court jurisdiction is limited to misdemeanor and a limited number of felony cases. Youthful offender jurisdiction until age twenty-one confers the same scope of sentencing authority to juvenile court as occurs in superior court which means a juvenile court judge can sentence in a youthful offender case to state prison for any term of years.

Keeping young people from returning to jail is important, but it is not the only reason to raise the age. For many years, the Department of Youth Services has been promoting the so-called positive youth development model, which engages youth in their communities, schools, and families in a manner that supports healthy development.

Supporting prosocial development has short and long-term benefits. It provides opportunities for educational continuity, including access to specialized education plans and family engagement. DYS and the juvenile court also partner with the Juvenile Detention Alternative Initiative, which attempts to reduce unnecessary detention and address racial and ethnic disparities. There is no analog in the criminal system.

Some argue we should create some form of youthful offender jurisdiction in the district court, but that would require substantial planning and infrastructure that already exists in the more rehabilitative juvenile system. Approximating this model in the criminal court, other than providing for a crude youth discount in sentencing, could take years. There are other constraints as well. Criminal cases often involve the question of parole or probation violation and the possibility of further court appearances. Everyone in the DYS system is discharged, the equivalent of being paroled, at the age of 18 in delinquency cases, or 21 in youthful offender matters. Over half of youths who are discharged continue to receive services voluntarily.

The juvenile court already deals with older adolescents up to age 21 in youthful offender cases and hears serious felony cases the district court cannot. Juvenile court judges hear child welfare as well as delinquency cases. Many adolescents are involved in both juvenile and the child welfare systems and the juvenile court can understand the issues they face with greater context.

Child welfare jurisdiction extends to age 22 for youth who are in the care of the Department of Children and Families, which enables the court to monitor these young people as they age out of care. Adolescents who leave care without such oversight are at a significant risk of becoming homeless and then entering the criminal justice system.

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the 18- and 19-year-old adolescents who now appear in district court are still in high school, treating them in the more rehabilitative juvenile court makes common sense.

DYS has the capacity to handle raising the age. In November of 2019, prior to the pandemic, the Juvenile Justice Policy And Data board reported that juvenile arraignments had declined by 43 percent, and Trial Court data indicates that prior to the pandemic care and protection filings had decreased by approximately 11%. In addition, during the last year and detention and commitment rates have dropped dramatically. While jail numbers have also decreased, the decreases in DYS have been much more dramatic. Currently, there are less than 100 youth being held in detention; their average age is between 16 and 17. An important part of the decrease in arraignments is attributable to significantly expanded diversion opportunities in juvenile courts, which allow for first-time offenders who would face a jail sentence of six months or less to have their cases dismissed without a record. Emerging adults in the juvenile court would be treated similarly. To the degree that capacity is indeed an issue it is better public policy to address that by supporting the juvenile court rather than to continue policy which is not adequately addressing the needs of adolescents and protecting the public.

In 2018, Vermont became the first state in the country to raise the age from 18 to 21, phased in over a over a three-year period. An important part of Vermont's legislative scheme was creating a presumption that first-time offenders of non-violent crimes would have their cases diverted. This mirrors current Massachusetts juvenile court practice.

We all remember when the Commonwealth raised the age of juvenile court jurisdiction to include seventeen-year old youths. There were dire predictions that we would need to increase D.Y.S. capacity by 200 beds. Given declining arraignment, detention and commitment rates this projection proved to be inaccurate and the sky didn't fall. There is little doubt that if we raised the age to include emerging adults in phases, perhaps starting with including eighteen- year old adolescents there would be no problem. Raising the age in the more rehabilitative and developmentally oriented juvenile court is better for youth, costs the public a lot less, and better protects public safety. Let's be smart on crime and join Vermont.

Thank you for considering our testimony. Please feel free to contact anyone of us if you have any questions or wish to discuss these issues in further detail.

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(jayblitzman@gmail.com); (617) 823-4487)

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Honorable Judith Locke, former Associate Justice of the Hampden County Division of the Juvenile Court (Ret.)
(locke.judith@gmail.com; (413) 884-3747)

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Committee on the Judiciary
House Committee on Ways and Means
The State House
Boston, MA 02133

Subject: Testimony on S.2820 Reforming Police Standards

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Representative Aaron Michlewitz, Chair
Joint Committee on Ways and Means
Room 243, State House
Boston, MA 02133

Representative Claire Cronin, Chair
Joint Committee on the Judiciary
Room 136, State House
Boston, MA 02133

RE: S.2820 Reforming Police Standards

July 17, 2020

Dear Chair Michlewitz, Chair Cronin, Vice Chair Garlick, Vice Chair Day, House members of the Joint Committee on Ways and Means and House members of the Joint Committee on the Judiciary:

We were excited to see and are thankful for the passage of the Criminal Justice Reform Act of 2018 and more recently, all the energy from Massachusetts Legislators work toward further reforms. Because of our experience helping young men and women turn their lives around, we've been strong advocates of the Raise the Age to 21 legislation and we respectfully request that a provision to gradually raise the age at which a young person is automatically prosecuted as an adult from age 18 to age 21 be included in the House version of legislation regarding Racial Justice and Police Accountability.

Raising the age is a unique opportunity to make a meaningful change – a change that would have a strong impact statewide and a particularly strong impact on the Commonwealth's young men of color. We are confident that this reform will improve community safety, advance positive outcomes for young adults, and create a more economically prosperous Commonwealth by saving money on prison costs for returning offenders in the long-run.

Roca has been serving justice-involved young people in Massachusetts since 1988. Over the past year alone, we have served over 1000 high-risk young men ages 17-24, who are all involved in the criminal and juvenile justice systems. Roca operates in 21 communities across Massachusetts, with offices in Boston, Springfield, Chelsea, Holyoke, and Lynn. We are privileged to partner with the Commonwealth on SSYI and the Massachusetts Juvenile Justice Pay for Success Project.

Like our partners, we know that for 18, 19, and 20 year olds are more susceptible to peer pressure, but also highly amenable to rehabilitation. CDC research has shown that similar adolescents had a 34 percent lower recidivism rate when they were in the juvenile v. adult system. In Massachusetts, the recidivism rate for formerly incarcerated young people is lower for those committed to DYS compared to those incarcerated in the adults system (26% vs. 55% reconviction rate). We know that something needs to be done about this group—18 to 24 year olds are the highest risk, and need solid rehabilitation plans, which are tailored and developmentally appropriate.

On a daily basis, we witness the struggles and challenges of young people in the criminal justice system. The fact that 76% of 18-24 year olds in Massachusetts are re-arraigned within three years of release is unacceptable. The status quo is not making us any safer. We understand that this recidivism rate is also a nightmare for police officers and other law enforcement officials—namely, having to deal with the same young people that come out of prison and go back onto the streets, often times more dangerous because they were exposed to criminals in adult prisons, which has been shown to often increase offending. Our model recognizes this, and our youth workers are knocking on these young people’s doors, bringing them into programs, and forming long term and meaningful relationships. This helps young people stay out of jail, and it assists police and probation officers in their work. After Roca participants have gone through the first two years of our intervention model, 97% of them had no new arrests.

We’ve spent a number of years now delving into what allows for that change to take place—how you go from a traumatized young man caught up in the cycle of violence and poverty, to a hopeful, hardworking, and law-abiding young adult. One thing we’ve looked at is the brain development of young adults. As many of you all here today already know, the brain doesn’t complete development until age 25, and actually one of the highest times of plasticity in the brain is from 18 to 24 years old. What’s encouraging to us is the fact that when you repeat and practice new behaviors—positive behaviors—you can change the pathways in your brain. So, if you decide to raise the age to 21 so that 18, 19, and 20 year olds would be in juvenile centers instead of adult prisons, you’re giving them the opportunity to have the time and space to develop and change those pathways for the rest of their lives.

We understand, though, that many people are concerned that young adults will not be held accountable for their crimes if we raise the age and move 18, 19, and 20 year olds to juvenile prisons. So, the most serious crimes will continue to be eligible for adult sentences. As is currently law, young adults facing murder charges would still be tried in adult court, and prosecutors can seek a “youthful offender” indictment in other serious offenses. If adjudicated a youthful offender, the judge has the power to impose (1) a juvenile sentence (until age 21); (2) an adult sentence; or (3) a combination of juvenile and adult sentencing past their 21st birthday. It is clear that these young adults will NOT be let off the hook.

We also know some lawmakers are worried about DYS’s capacity to handle 18-20 years olds. However, Massachusetts DYS agency is national model and already serves this age group. 80% of new commitments to DYS are for young people age 16 to 20. Moreover, the number of youth entering DYS facilities has also decreased steadily since 17-year-olds were brought into the juvenile justice system in 2014.

We also realize that some individuals are concerned that older teens would interact with younger teens. Currently, providers have a variety of program models that ensure younger teens do not interact with older ones. Older, more serious offenders are kept in certain facilities, while young offenders are put in more community-based places. Federal laws that protect the rights of juveniles in the justice system – the Prison Rape Elimination Act and the Juvenile Justice Delinquency and Prevention Act – would allow young adults, as long as they were under the jurisdiction of the Juvenile Court, to be considered a “juvenile” for compliance purposes.

Finally, we would not be the first state to raise the age above 18. In May 2018, Vermont became the first state to set its juvenile justice age threshold above 18. By 2022, with a few minor exceptions, all teens (including 18 and 19 year olds) will be treated as juveniles. This gives us a state to watch and learn from. Moreover, Illinois

signed a bill into law in early 2019 that creates a parole process for people convicted of offenses they committed before 21, providing them review after either 10 years or 20 years depending on the offense category.

We've raised the age before (from 17 to 18 in 2013), and we can do it again. Since the State raised the age from 17 to 18, juvenile crime has declined by 34%, and has seen faster declines in violent and property crime rates than the national average. We also want to commend the Commonwealth, Sheriff's Departments and other state agencies for identifying a need to approach emerging adults in the criminal justice system differently. Young adult units in the Department of Correction and Houses of Corrections, young adult courts and resources allocated to re-entry projects in the state are so important to approach this group of young adults differently.

As always, we invite you join us to explore how we can all work to create a meaningful change and seek better outcomes for our young people, our partners and our communities. Thank you for considering our testimony, please reach out to me if you have any questions or would like to discuss this further.

Respectfully,

Scott Scharffenberg
Massachusetts Executive Director
Roca, Inc.
101 Park Street
Chelsea, MA 02150
Scott_Scharffenberg@rocainc.com

CC: Representative Denise Garlick, Vice Chair, Joint Committee on Ways and Means
Representative Michael Day, Vice Chair, Joint Committee on the Judiciary
House members of the Joint Committee on Ways and Means
House members of the Joint Committee on the Judiciary

July 17, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is Cindy Scanlon and I live at 13 Copper Lantern Lane, Carver, MA 02330. I work at Plymouth North High School and I am a secretary. As a constituent, I write to express my opposition to Senate Bill 2800. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed at the hastiness that this bill passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

Qualified Immunity: Qualified Immunity doesn't protect officers who break the law or violate someone's civil rights. Qualified Immunity protects officers who did not clearly violate statutory policy or constitutional rights. The erasure of this would open up the floodgates for frivolous lawsuits causing officers to acquire additional Insurance and tying up the justice system causing the Commonwealth millions of dollars to process such frivolous lawsuits.

Less than Lethal Tools: The fact that you want to take away an officer's use of pepper spray, impact weapons and K9 would leave no other option than to go from, yelling "Stop" to hands on tactics and/or using your firearm. Officers are all for de-escalation but if you take away these tools, the amount of injuries and deaths would without a doubt rise.

Civilian Oversight: While officers are held to a higher standard than others in the community, to have an oversight committee made of people who have never worn the uniform, including an ex convicted felon is completely unnecessary and irresponsible. When this oversight board hears testimony where are the officer's rights under the collective bargaining agreement? Where are the rights to due process? What is the appeal process? These are things that have never been heard or explained to officers. The need for responsible and qualified individuals on any committee should be first and foremost.

I am asking you to stop and think about the rush to reform police and corrections in such haste. Our officers are some of the best and well-trained officers anywhere. Although officers are not opposed to getting better it should be done with dignity and respect for the men and women who serve the Commonwealth. I ask that you think

about the police officer you need to keep your streets safe from violence, and don't dismantle proven community policing practices. I would also ask you to think about the Correction Officer alone in a cell block, surrounded by up to one hundred Inmates, not knowing when violence could erupt. I'm asking for your support and ensuring that whatever reform is passed that you do it responsibly. Thank you for your time.

Sincerely,
Cindy Scanlon



The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133-1054

July 17, 2020

Honorable Aaron Michlewitz, Chair
House Committee on Ways and Means
Honorable Claire Cronin, Chair
Joint Committee on the Judiciary
State House
Boston, MA 02133

Dear Chair Michlewitz and Chair Cronin,

Thank you for the opportunity to testify on S.2820 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.

I testify to remove Section 11I (c). After consulting with the Fitchburg Chief of Police and Police Union President, I do not believe qualified immunity should be included in the House version of this legislation.

I know you and your staff will be diligent in your efforts to take into consideration all testimony received. I appreciate your efforts and thank you for your consideration.

Regards,
Representative Stephan Hay
3rd Worcester District



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House of Representatives

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July 16, 2020

House Ways and Means and Judiciary Committee,

My name is Timothy O'Toole and I have been a police officer for over 20 years. I am currently employed by the Framingham Police Department with a current rank of a Sergeant and assigned to the Detective Bureau.

I would like to share a few short stories involving my personal experience with police officers and also being employed as a police officer.

When my brother was approximately 5 years old he suffered from epiglottitis, a condition that blocked his airway and prevented him from breathing. Two police officers responded to my mother's desperate call for help to save his life. Due to the quick actions of the police officer's and an emergency tracheotomy my brother is still with us 46 years later.

In 2006, I transferred from the Shrewsbury Police Department to the Framingham Police Department. It was a tough decision, but I was in search of a larger organization with more opportunity. I will never forget my Step-father asking me to stay in Shrewsbury for it was a safer community with less chance of getting hurt or even killed. I am a very modest person but feel it necessary to share a few examples of my experience and for you to understand how dangerous this job is and what a police officer may encounter in any type of community large or small. It is extremely important to support our police officers and not succumb to the false rhetoric that is being spread throughout the country.

During my 20 plus years as a police officer I have encountered approximately 14 individuals armed with firearms. These individuals were involved in either drug dealing, gang activity, armed robberies and murders. But, none of the encounters stand out in my memory as the one below.

On April 14, 2009, coincidentally my brother's birthday, started as every other day. I told my wife and kids I loved them and gave them all a kiss before leaving for my evening shift in uniformed patrol. On the way to work I called my brother and wished him a Happy Birthday (thankful for those two police officers that saved his life many years ago). I arrived at work and went about my daily routine. I put my bullet proof vest on followed by my uniform and duty belt. Roll call was held promptly at 3:50 p.m. Roll call was attended by the 7 Police Officers that would have to rely on one another for the next 8 hours while serving and protecting the 70,000 citizens in the City of Framingham. 1 Police Officer for every 10,000 citizens. If Bill S2800 passes it is a guarantee the ratio will be much worse.

The evening shift was winding down and at approximately 10:30 p.m. I met with my partner for a few minutes before the next call. At approximately 10:40 p.m. the call came in for an armed robbery of a cab driver. We were both around the corner and being a police officer we can't pick and choose what type of call we want or when we want to respond. As we approached, the cab driver walked toward us and gave a quick description of the suspects. I began to check the area with another Officer. We located an individual matching the description and a foot pursuit ensued. As we pursued the suspect down a dark alley he hid and waited around the corner gun in hand. I was approximately 50 feet behind my fellow officer. As we approached the corner the suspect emerged and opened fire striking my fellow

officer in the face and hands. He was flown to a Boston Hospital and after undergoing lifesaving surgery he was able to survive.

My point is, this is a day in the life of a police officer. We start our days and live our lives as most other people. But our lives are vastly different from most people. We are most likely to engage people at their most desperate of times. I have told parents that their teenage child won't be coming home as they drowned in the local quarry, I have told other families that their loved ones wouldn't be coming home because they died in car accidents, I have responded to horrific car accidents where people have been killed. Police officers are taxed with so many responsibilities, whether it is telling someone their loved one has died, or performing CPR on a child that drowned in a pool, or giving Narcan to an overdose victim or chasing down the suspect that just robbed the local convenient store. We are required to work nights, weekends and holidays. We are forced to work overtime shifts even if it is our child's birthday, Christmas etc. Being a police officer is not a job one takes to make a lot of money. It's long hours, working double shifts, or grabbing a couple extra construction details so your kids can get the braces they need, play club sports or to pay for the math tutor.

In every profession there are good employees and bad employees. There are over 700,000 Police Officers in the country. Many politicians have portrayed the local police officer as a thug that violates the rights of the law abiding citizen. This could not be further from the truth. How can we possibly judge the law enforcement officers of Massachusetts by the inexcusable, grotesque act committed by an officer thousands of miles away in Minnesota? Why are we being judged because the uniform we wear and the profession we chose? Isn't this the type of behavior that we prohibit, profiling and judging individuals because of their race, nationality, sexual orientation and the uniform they may wear? Why are we placing all officers under one umbrella? What happened to judging someone by their character? And when they are judged by their character shouldn't it be left to the hierarchy of the organization and or local leaders to discipline their employees on an individual basis. Why am I sitting at home trying to explain to my family that I am not and my fellow co-workers are not what is portrayed in the media? This bill being pushed through is clearly out to punish law enforcement and to pacify those seeking to disrupt our society as we know it. Law enforcement needs your support and courage to stand up against the false rhetoric and vote against this bill and more specifically prevent law enforcement from losing their Qualified Immunity.

This bill is being pushed through at a rapid rate and was passed through Senate under the cover of darkness. This bill, if passed, will have a devastating negative impact on law enforcement. The police officers that have just started their careers will most likely leave for another profession, the older experienced police officers will take an early retirement and those that remain will only stay because they have too much time invested to leave. Each community will lose any proactive law enforcement and the officers that are left will respond only when called. Criminals will know they now have the upper hand. They will be fearless of being caught prior to committing any criminal acts as law enforcement will be encouraged to be reactive. The law enforcement officers will not chance losing their life savings to prevent the sale of drugs (heroin), the theft of merchandise or approaching the suspicious person walking in YOUR neighborhood. The stakes are too high. We go to work knowing we may not return home, but know if that day comes our families will receive the financial assistance to move on. We will now have to worry about the possibility of defending our life savings at every call and encounter with the public. The stress and mental toll on each officer will be too much and everyone in the community will pay the price.

With these stories and opinions in mind I hope you can understand the frustration in the law enforcement community when we have become the target of politicians that would rather pander for votes as opposed to supporting the good hard working police officers of their communities.

Respectfully,

Timothy O'Toole
Husband/Father/Son/Brother and Police Officer

Planned Parenthood Advocacy Fund of Massachusetts, Inc.

**Testimony in Support of Police Accountability -- Use of Force Standards, Qualified Immunity Reform,
and Prohibitions on Face Surveillance July 17, 2020**

Chair Aaron Michlewitz, House Committee on Ways and Means
Chair Clare Cronin, Joint Committee on the Judiciary
State House
Boston, MA 02133

Via email to Testimony.HWMJudiciary@mahouse.gov

Dear Chair Michlewitz and Chair Cronin:

On behalf of Planned Parenthood Advocacy Fund (PPAF), I write in strong support of the many provisions in S.2820 designed to increase police accountability. In particular, our organization urges you to:

1. Adopt strict limits on police use of force,
2. End qualified immunity, because it shields police from accountability and denies victims of police violence their day in court, and
3. Prohibit government use of face surveillance technology, which threatens core civil liberties and racial justice.

PPAF is the advocacy and political arm of the Planned Parenthood League of Massachusetts (PPLM). Formed in 1984, PPAF believes that working within the political process is critical to advancing PPLM's mission to increase equitable access to sexual and reproductive health services and comprehensive sex education for people across Massachusetts.

In response to the horrific deaths of George Floyd, Ahmaud Arbery, Breonna Taylor and the countless other Black people who have been the targets of police violence and murder, a national and statewide movement has erupted, calling for an end to the structural racism that allows police brutality against Black residents to continue. In the midst of a global pandemic that has exposed and exacerbated racial health inequities, addressing structural racism in our state policies is more urgent than ever.

The structural racism in our structures of policing is the same structural racism that gives rise to racial health inequities and leads to the disproportionate impact of COVID-19 on communities of color. We call on the Massachusetts House of Representatives, to include language contained in the following bills as part of a legislative package to strengthen police accountability:

- **An Act to Secure Civil Rights through the Courts of the Commonwealth** (H3277). This important bill, introduced by Representative Michael Day, would strengthen existing state law to hold enforcement officials accountable for violation of people's rights. If the legislation is

Planned Parenthood Advocacy Fund of Massachusetts, Inc.

passed, it would update the Massachusetts Civil Rights Act (MCRA) and place limits on the doctrine of qualified immunity—a judicially created loophole in the law that has made it virtually impossible for police officers to be held responsible for any wrongdoing, no matter how egregious. Fixing the MCRA is critically important to ensure that any new use of force standards, as set out in *An Act Relative to Saving Black Lives*, can be enforced.

- **An Act Relative to Saving Black Lives and Transforming Public Safety** (HD5128/SD2968). Authored by Representative Liz Miranda and Senator Cindy Creem, this bill would establish baseline use of force standards that are missing from Massachusetts laws. It would require police to de-escalate and use minimal force, and would ban extremely violent tactics, such as chokeholds, rubber bullets, attack dogs, tear gas, and other chemical weapons. It would also create a “duty to intervene” when officers witness an abuse of force, ensure that police misconduct investigations and outcomes are public record, establish oversight from the Attorney General for data collection and reporting, and direct MDPH to promulgate regulations for healthcare providers to report officer-involved injuries and deaths.
- **An Act to Improve Police Officer Standards and Accountability and to Improve Training** (H4794), subject to recommended changes. Filed by Governor Baker, this bill would establish a Police Officer Standards and Accreditation Committee (POSAC). While an important first step in requiring police certification and ensuring higher standards for police training, additional measures must be added to the bill in order to guarantee real accountability. PPAF is joining the ACLU of Massachusetts in recommending substantial improvements to H4794, including:
 - Prevent retroactive certification of current officers with serious disciplinary records,
 - Remove financial incentives for advanced training,
 - Expand the scope to include all law enforcement officers (i.e. corrections officers, probation officers, and parole officers),
 - Guarantee compliance with a strong enforcement mechanism,
 - Fix the balance of power on the revocation panel by including 4 non-law enforcement members, 2 law enforcement members and 1 representative from the officers’ bargaining unit,
 - Increase transparency by creating a database, subject to the public records law, to be made available online,
 - Mandate revocation of certification for criminal convictions that carry a penalty of firearm revocation,
 - Allow greater discretion to hold police accountable for conduct that jeopardizes public trust,
 - Require that non-law enforcement appointments to the POSAC represent organizations or academic experts are engaged in police accountability work or advocacy, and
 - Give POSAC authority to investigate and initiate decertification proceedings.

- **An Act relative to unregulated face recognition and emerging biometric surveillance technologies** (H1538). Authored by Representative David Rogers, this bill would prevent the expansion of police powers and budgets by prohibiting government entities, including police, from using face surveillance technologies. Face surveillance technologies have serious racial bias flaws built into their systems. There are increasing numbers of cases in which Black people are wrongfully arrested due to errors with these technologies. We should not allow police in Massachusetts to use technology that supercharges racial bias and expands police powers to surveil everyone, every day and everywhere we go.

There is broad consensus that Massachusetts must act swiftly and boldly to address police violence, strengthen accountability, and advance racial justice. PPAF is proud to join the ACLU of Massachusetts and numerous other organizations in urging you to pass the strongest possible legislation and to ensure that it is signed into law before July 31st.

Sincerely,
Mehreen N. Butt
Associate Director of Policy and Government Affairs
PPAF

Honorable members of the House Ways and Means and Judiciary Committees, I grew up with pictures of Jesus and John F. Kennedy on the walls of my childhood home. I came from a family of proud Democrats. I recall when learning about government in school, I asked my Dad, why are unions good. He replied, "They protect workers from evil people." How ironic as a Police Officer of twenty seven years, I have been protecting people from "evil," but now I find myself losing those very protections that being a Union Member have provided me through Collective Bargaining, such as due process, progressive discipline, and a right to appeal. The new Police Reform Bill S2820 appears to go beyond reforming tactics and procedures, which should be directed to protecting citizens from excessive force, and appears to be being used a subterfuge to begin breaking unions and removing hard fought collective bargaining rights that guarantee employees conditions which provide them with dignity , liberty, autonomy, and due process. My question is who are next, Teachers, Firefighters, and DPW. Is today's message, the working class no longer has clout? How about Police Officers, who literally put their lives on the line day and night; making split second decisions, while protecting the citizens of the Commonwealth from anarchy, violence, and crime.

On the evening of June first of this year I found myself under attack from an unruly crowd who after the conclusion peaceful protest, decided hours later to physically attack Police Officers on Main St. in Worcester. At one point, myself and several officers were alerted to a male on the roof of a business. This male was in the process of trying to light a Molotov cocktail. I could see him struggling to get his lighter to work. The first thought that went into my head was, God I don't want to be burned to death, please not like this God. Was this male in imminent threat to our lives? Yes; however, this male who was in a position to incinerate several officers, was talked out of throwing the bottle of gasoline by a Police Sergeant. I use this example to illuminate and edify you to the amount of restraint I see exhibited every day by the men and women of the Worcester Police department. For the record, No one hates a bad cop more than a good cop. The protections afforded us through collective bargaining allow officers to do their jobs and make split second decisions without apprehension and timidity, which can lead to an officer losing his or her life. Not to mention a sense of apathy which can set in, this would bring the most harm to underserved communities who demand effective, compassionate and empathetic policing in their communities.

In so far as the change to qualified immunity, the Senate's proposed change would leave Police Officers second guessing themselves out of fear of frivolous lawsuits. Colorado is the only state which has curtailed such protections. Based on the Senate's recent debate over the issue of qualified immunity, it is exceedingly clear that there is much confusion and ambiguity as to the unintended consequences of the proposed changes. In any event if the "House," moves to change the language of qualified immunity, it should at the very minimum delineate that city and towns "Will or shall indemnify their employees."

Furthermore, in regards to the makeup of the POSAC board I believe due to the nature, complexity, discretion afforded, and the nuances of our profession, we should be entitled to have those who have had actual law enforcement backgrounds investigating and adjudicating discipline. Not to be glib, but it would not seem reasonable or fair to have a Surgeon go before a board comprised of lay persons who have no background, education, or experience as a surgeon, needless to say another doctor of a different specialty. Police Officers have earned and deserve the right to a fair, unbiased, and informed board.

According to the Senate Ways and Means Chairman Michael Rodrigues, "We took bits and pieces of different ideas, and did what we always do in the Senate: we tried to put together the best piece of legislation as we could." I would respectfully proffer that what was put together was far less than a thorough and thoughtful piece of legislation. This is evinced the use of force standards which were haphazardly taken in a fragmentary manner from the Los Angeles police Departments recent use of force reforms. The following is an excerpt from Senate Bill S2820.

(e) A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportional to the threat of imminent harm to a person. For purposes of this subsection, use of the vehicle itself shall not constitute imminent harm.

Based on this Language, If a Police Officer Observed for instance a motor vehicle maliciously driving into a parade of people and plowing them down, the Officer based on this language, would not be able to stop the vehicle and it's operator by use of a firearm; However the Los Angeles Police had the foresight to anticipate such a tragic event and offered the following language within their policy.

"Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape."

The following is an excerpt taken from Senate Bill S2820.

(b) A law enforcement officer shall not use physical force upon another person unless deescalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to: (i) effect the lawful arrest of a person; (ii) prevent 51 of 71 the escape from custody of a person; or (iii) prevent imminent harm and the amount of force used is proportional to the threat of imminent harm

Based on this language an officer would not be able to use force in an innumerable amount of instances. As an example, an officer would not be able to restrain a person for a mental health commitment per MGL. 123. Section 12. An officer would not be able to physically direct an inebriated person from the

middle of a roadway without placing the person under arrest. An interesting anecdote which I remember should speak volumes. I remember a few years back when Saint Joseph's Church was going to be closed. In an act of civil disobedience, several elderly women stated they would not leave the church until they were either arrested or physically escorted out of the church. The men and women of the Worcester Police Department helped these ladies in making their statement by physically escorting the women out in a passive and professional manner. The ladies were extremely grateful that we were able to assist them in their act of civil disobedience. Again there are innumerable instances where officers may need to use force which does not require an arrest, preventing escape from custody, or to prevent imminent harm. The following again shows how the Los Angeles police Department had foresight, intelligence, and judgement when formulating their revised Use of Force Policy.

Use of Force – Non-Deadly. It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance.*

It is with great respect and humility that I ask you to consider my testimony when promulgating legislation relative to Police Reform.

Respectfully,

Francis P. Assad

Lieutenant Worcester PD.

5084142911

July 16, 2020

The Honorable
Sheila Harrington
First Middlesex District
Mass. House of Representatives
24 Beacon Street, Room 237
Boston, MA 02133

Dear Representative Harrington,

I would like to thank you for meeting with some of the police chiefs from your district. In consideration of debate for a Police Reform addressed by the House of Representatives we would urge you not to change or remove the qualified immunity protection. We ask that you apply language from Amendment #51 to the Senate Bill S.2800 that would have stricken the POSAC section of the Bill S.2800 and replace it with the Governor's language filed in his original POSAC bill.

We are concerned and opposed to efforts to change the qualified immunity protections for police officers. Qualified immunity is a foundational protection for the policing profession and any modification to this legal standard will have a devastating impact on the ability of the Police to fulfill their public safety mission.

Qualified immunity provides police officers with protection from civil lawsuits, so long as their conduct does not violate clearly established law or constitutional rights of which a reasonable officer would have known. Further, qualified immunity does not prevent individuals from recovering damages from police officers who knowingly violate an individual's constitutional rights. Qualified immunity is an essential part of policing and American jurisprudence. It allows police officers to respond to incidents without pause, make split-second decisions, and rely on the current state of the law in making those decisions. This protection is essential because it ensures officers that good faith actions, based on their understanding of the law at the time of the action, will not later be found to be unconstitutional.

Some of the benefits to the language from the Governor's Bill are:

- Included input from Law Enforcement and Black and Latino caucus',
- Creates balanced and objective process for certification and de-certification of police officers,
- Requires POSAC membership 1/2 racially diverse,
- Certifies every officer in Commonwealth,
- Makes Law Enforcement accountable for their conduct

Some of the shortcomings of S.2800:

- Widespread undefined authority: unlimited subpoena power without oversight and authority to conduct investigations,
- Language does not provide process or standard of proof for investigations, could step into DA and police internal investigations,
- Creates an arbitrary process, subpoenas can be issued by the Chair alone or just 3 members,
- There is no standard to the basis for investigation

The Use of Force language moves away from the US Supreme Court case, *Graham v. Connor*, which established that the amount of force used by police had to be Objectively Reasonable is being changed to Necessary. Also, the Reasonable Officer standard is being replaced with Reasonable Person standard. The Senate bill is leaving the “reasonable officer” standard and replacing it with “reasonable person”.

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer rather than with the 20/20 vision of hindsight”. *Graham v. Connor*

The new language changes the amount of force to “Necessary” from “Objectively Reasonable”.

Necessary is subjective (who makes that determination?)

Objectively Reasonable was established under the 4th Amendment decided by USC, *Graham v. Connor*,

- “Allows for the fact that police officers are often forced to make split-second judgements – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.”
- An officer’s evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer’s good intentions make an objectively reasonable use of force constitutional. See *Scott v United States*, supra at 138 citing *United States v. Robinson* 44 U.S. 18 (1973)

These language changes have very serious implications as to how officers perform their duties and how they will be judged in a court of law.

This is very important legislation and we need to get it right and not rush something out just to do something. We appreciate you considering the above points and use of the information when formulating the House of Representatives Police Reform Bill.

Respectfully,

Chief Michael F. Luth, Groton
Chief David Scott, Pepperell
Chief William A. Murray, Ayer

Chief Fred Alden, Ashby
Chief James W. Dow, Dunstable
Chief James P. Sartell, Townsend

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is **John Carlson** and I live in **Braintree MA**. I work at **Old Colony Correctional Center** and am a **Recreation Officer**. As a constituent, I write to express my opposition to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

There needs to be open and public discussion on these crucial topics.

Qualified Immunity: Qualified immunity doesn't protect officers who break the law or violate someone's civil rights. Qualified Immunity protects officers who did not clearly violate statutory policy or constitutional rights. The erasure of this would open up the flood gates for frivolous lawsuits causing officers to acquire additional insurance and tying up the justice system causing the Commonwealth millions of dollars to process such frivolous lawsuits.

Less than Lethal Tools: The fact that you want to take away an officer's use of pepper spray, impact weapons and K9 would leave no other option than to go from, yelling "Stop" to hands on tactics and/or using your firearm. We use and encourage de-escalation but if you remove these tools, the amount of injuries and deaths would skyrocket exponentially.

Civilian Oversight: While we are held to a higher standard than others in the community, to have an oversight committee made of people who have never worn the uniform, including an ex convicted felon is completely unnecessary and irresponsible. When this oversight board hears testimony where are the officer's rights under our collective bargaining agreement? Where are our rights to due process? What is the appeal process? These are things that have never been heard or explained to me. The need for responsible and qualified individuals on any committee should be paramount.

I am requesting that you take the time to think about the rush to reform police and corrections in such blind haste. Our officers are some of the best and well-trained officers anywhere. Although, we are not opposed to getting better it should be done with dignity and respect for the men and women who serve the Commonwealth. I ask that you think about the police officer you need to keep your streets safe from violence, and don't dismantle proven community policing practices. I would also ask you to think about the Correction Officer alone in a cell block, surrounded by up to one hundred inmates, not knowing when violence could erupt. I'm asking for your support and ensuring that whatever reform is passed that you do it responsibly. Thank you for your time.

Sincerely,

John Carlson 781-367-1657

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is **Theodore Barbetto Sr.** and I live at **25 Nelson Drive Bridgewater Ma.** I work at **DOC Special Operations** and am a **Lieutenant** As a constituent, I write to express my opposition to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

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Civilian Oversight: While we are held to a higher standard than others in the community, to have an oversight committee made of people who have never worn the uniform, including an ex convicted felon is completely unnecessary and irresponsible. When this oversight board hears testimony where are the officer's rights under our collective bargaining agreement? Where are our rights to due process? What is the appeal process? These are things that have never been heard or explained to me. The need for responsible and qualified individuals on any committee should be first and foremost.

I am asking you to stop and think about the rush to reform police and corrections in such haste. Our officers are some of the best and well-trained officers anywhere. Although, we are not opposed to getting better it should be done with dignity and respect for the men and women who serve the Commonwealth. I ask that you think about the police officer you need to keep your streets safe from violence, and don't dismantle proven community policing practices. I would also ask you to think about the Correction Officer alone in a cell block, surrounded by up to one hundred inmates, not knowing when violence could erupt. I'm asking for your support and ensuring that whatever reform is passed that you do it responsibly. Thank you for your time.

Sincerely,

Lieutenant Theodore Barbetto Sr.

July 16,2020

Dear Chair Michlewitz and Chair Cronin,

My name is **Cody Thurlow** and I live at **58 Mammoth Rd Lowell Ma 01854**. I work at **Northeastern correctional Center** and am a **Industrial Instructor II**. As a constituent, I write to express my opposition to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

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Sincerely,

Cody Thurlow

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is [Sersia Stott] and I live at [38A Wilbur Street Worcester MA 01606]. I work at [Souza Baranowski Correctional Center, Shirley Ma] and am a [Correctional Program Officer]. As a constituent, I write to express my opposition to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

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Sincerely,

[Sersia Stott]

Dear Massachusetts legislators,

My name is Jennifer Fairbairn. I graduated from Assumption College with a B.S. in Political Science. I will also be pursuing a Masters in Political Science in the Spring of 2021, in Washington, D.C. I have worked at the Worcester Regional Research Bureau and other public policy think tanks in Washington D.C. over the last year.

First, I'd like to say thank you for the opportunity to give feedback on Massachusetts's police reform legislation.

I believe police reform, particularly the four points to Rep. Garlick's bill, is crucial for holding police accountable for misconduct and abuse of power. Instances like the specialized narcotics unit of the Springfield, Massachusetts, Police Department using excessive force in violation of the Fourth Amendment of the Constitution is despicable. And we should hold those officers accountable.

My objection, however, is that what is done by a few police officers, or one unit, should not be the cause for a state-wide reform. I believe Reform Bill S.2800¹ has been passed with a lack of transparency and time for input from the public. Eddy Chrispin, president of Massachusetts Association of Minority Law Enforcement Officers also stated that the recent police reform bill that did not appeal to public input: "Not only am I a police officer, I am a black man and I am probably better able to speak to concerns of people of color than Senator (William) Brownsberge."

I would also like to give some input on point #4 of Rep. Garlick's bill: "Adopting clear statutory limits on police use of force and requiring an independent investigation of officer-related deaths."

I think it is crucial that we do investigate officer related deaths. This includes both death of victims and deaths of officers who die while on duty. In May, The FBI Released the 2019 Statistics on Law Enforcement Officers Killed in the Line of Duty.² The report showed that 48 officers died as a result of felonious acts. The statistics additionally show:

Of the 48 officers,
45 were male
3 were female
40 were white
7 were black/African American
1 was Asian.

Of the 48 officers feloniously killed,

¹ <https://malegislature.gov/Bills/191/S2800>

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- 15 died as a result of investigative or law enforcement activities
 - 6 were conducting traffic violation stops
 - 4 were performing investigative activities
 - 2 were drug-related matters
 - 2 were interacting with wanted persons
 - 1 was investigating suspicious person or circumstance
- 9 were involved in tactical situations
 - 3 were barricaded/hostage situations
 - 3 were serving, or attempting to serve, search warrants
 - 2 were serving, or attempting to serve, arrest warrants
 - 1 was reported in the category titled “other tactical situation”
- 5 were involved in unprovoked attacks
- 4 were responding to crimes in progress
 - 2 were robberies
 - 1 was larceny-theft
 - 1 was reported in the category titled “other crime against property”
- 3 were involved in arrest situations and were attempting to restrain/control/handcuff the offender(s) during the arrest situations
 - 3 were assisting other law enforcement officers
 - 2 with vehicular pursuits
 - 1 with foot pursuit
- 3 were responding to disorders or disturbances
 - 2 were responding to disturbances (disorderly subjects, fights, etc.)
 - 1 was responding to a domestic violence call
- 3 were involved in vehicular pursuits
 - 2 were ambushed (entrapment/premeditation)
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Additionally, I do not think we should abolish qualified immunity. This is because we already can sue officers for misconduct, even with qualified immunity. In *Pierson v. Ray* (1967), the Supreme Court justified the need for qualified immunity. And in *Harlow v. Fitzgerald* (1982), qualified immunity standards were expanded from an official's subjective state of mind to whether or not a reasonable person in the official's position would have known their actions were in line with clearly established legal principles. After 1982, even with qualified immunity, numerous civil suits have been filed. This shows that qualified immunity does not need to be abolished to hold police officers accountable.

Let me also point to the fact that Senate Republicans in Massachusetts have objected to the bill. Likewise, the June debates in Congress show that this issue is far from clear-cut.

Additionally, Worcester has published a guide for police use of force already in 2018.³ It can be found [here](#). The report relies on the national standard of “objectively reasonable” response to the situation, judged by the police officers at the scene. With that said, the Supreme Court has ruled

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that there is great difficulty in delineating clear statutory limits on police use of force. Consider the 1989 Supreme Court case *Graham v. Connor*, 490 U.S. 386 (1989)⁴ where the Court ruled unanimously that

The notion that all excessive force claims brought under 1983 are governed by a single generic standard is rejected;

and

The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are '*objectively reasonable*' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions.

Thank you for allow for public input in the issue.

Please reach out with any questions at 617-774-7999; or via email at zyra3@protonmail.com.

Respectfully,
Jennifer Fairbairn

⁴ <https://caselaw.findlaw.com/us-supreme-court/490/386.html>

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is **John Carlson** and I live in **Braintree MA**. I work at **Old Colony Correctional Center** and am a **Recreation Officer**. As a constituent, I write to express my opposition to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

There needs to be open and public discussion on these crucial topics.

Qualified Immunity: Qualified immunity doesn't protect officers who break the law or violate someone's civil rights. Qualified Immunity protects officers who did not clearly violate statutory policy or constitutional rights. The erasure of this would open up the flood gates for frivolous lawsuits causing officers to acquire additional insurance and tying up the justice system causing the Commonwealth millions of dollars to process such frivolous lawsuits.

Less than Lethal Tools: The fact that you want to take away an officer's use of pepper spray, impact weapons and K9 would leave no other option than to go from, yelling "Stop" to hands on tactics and/or using your firearm. We use and encourage de-escalation but if you remove these tools, the amount of injuries and deaths would skyrocket exponentially.

Civilian Oversight: While we are held to a higher standard than others in the community, to have an oversight committee made of people who have never worn the uniform, including an ex convicted felon is completely unnecessary and irresponsible. When this oversight board hears testimony where are the officer's rights under our collective bargaining agreement? Where are our rights to due process? What is the appeal process? These are things that have never been heard or explained to me. The need for responsible and qualified individuals on any committee should be paramount.

I am requesting that you take the time to think about the rush to reform police and corrections in such blind haste. Our officers are some of the best and well-trained officers anywhere. Although, we are not opposed to getting better it should be done with dignity and respect for the men and women who serve the Commonwealth. I ask that you think about the police officer you need to keep your streets safe from violence, and don't dismantle proven community policing practices. I would also ask you to think about the Correction Officer alone in a cell block, surrounded by up to one hundred inmates, not knowing when violence could erupt. I'm asking for your support and ensuring that whatever reform is passed that you do it responsibly. Thank you for your time.

Sincerely,

John Carlson 781-367-1657

Dear Massachusetts legislators,

My name is Jennifer Fairbairn. I graduated from Assumption College with a B.S. in Political Science. I will also be pursuing a Masters in Political Science in the Spring of 2021, in Washington, D.C. I have worked at the Worcester Regional Research Bureau and other public policy think tanks in Washington D.C. over the last year.

First, I'd like to say thank you for the opportunity to give feedback on Massachusetts's police reform legislation.

I believe police reform, particularly the four points to Rep. Garlick's bill, is crucial for holding police accountable for misconduct and abuse of power. Instances like the specialized narcotics unit of the Springfield, Massachusetts, Police Department using excessive force in violation of the Fourth Amendment of the Constitution is despicable. And we should hold those officers accountable.

My objection, however, is that what is done by a few police officers, or one unit, should not be the cause for a state-wide reform. I believe Reform Bill S.2800¹ has been passed with a lack of transparency and time for input from the public. Eddy Chrispin, president of Massachusetts Association of Minority Law Enforcement Officers also stated that the recent police reform bill that did not appeal to public input: "Not only am I a police officer, I am a black man and I am probably better able to speak to concerns of people of color than Senator (William) Brownsberge."

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Let me also point to the fact that Senate Republicans in Massachusetts have objected to the bill. Likewise, the June debates in Congress show that this issue is far from clear-cut.

Additionally, Worcester has published a guide for police use of force already in 2018.³ It can be found [here](#). The report relies on the national standard of “objectively reasonable” response to the situation, judged by the police officers at the scene. With that said, the Supreme Court has ruled

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Thank you for allowing for public input on the issue.

Please reach out with any questions at 617-774-7999; or via email at j.6171393@gmail.com.

Respectfully,
Jennifer Fairbairn

⁴ <https://caselaw.findlaw.com/us-supreme-court/490/386.html>

July 16,

2020

Dear Chair Michlewitz and Chair Cronin,

My name is **Neal Joyce** and I live at **1 Cityview Lane, Quincy, MA**. I work at **MCI-Concord** and am a **Corrections Officer**. As a constituent, I write to express my opposition to Senate Bill 2820. This legislation is detrimental to police and correction officers who work every day to keep the people of the Commonwealth safe. In 2019 the Criminal Justice System went through reform. That reform took several years to develop. I am dismayed in the hastiness that this bill was passed but I welcome the opportunity to tell you how this bill turns its back on the very men and women who serve the public.

Qualified Immunity: Qualified immunity doesn't protect officers who break the law or violate someone's civil rights. Qualified Immunity protects officers who did not clearly violate statutory policy or constitutional rights. The erasure of this would open up the flood gates for frivolous lawsuits causing officers to acquire additional insurance and tying up the justice system causing the Commonwealth millions of dollars to process such frivolous lawsuits.

Less than Lethal Tools: The fact that you want to take away an officer's use of pepper spray, impact weapons and K9 would leave no other option than to go from, yelling "Stop" to hands on tactics and/or using your firearm. We are all for de-escalation but if you take away these tools the amount of injuries and deaths would without a doubt rise.

Civilian Oversight: While we are held to a higher standard than others in the community, to have an oversight committee made of people who have never worn the uniform, including an ex convicted felon is completely unnecessary and irresponsible. When this oversight board hears testimony where are the officer's rights under our collective bargaining agreement? Where are our rights to due process? What is the appeal process? These are things that have never been heard or explained to me. The need for responsible and qualified individuals on any committee should be first and foremost.

I am asking you to stop and think about the rush to reform police and corrections in such haste. Our officers are some of the best and well-trained officers anywhere. Although, we are not opposed to getting better it should be done with dignity and respect for the men and women who serve the Commonwealth. I ask that you think about the police officer you need to keep your streets safe from violence, and don't dismantle proven community policing practices. I would also ask you to think about the Correction Officer alone in a cell block, surrounded by up to one hundred inmates, not knowing when violence could erupt. I'm asking for your support and ensuring that whatever reform is passed that you do it responsibly. Thank you for your time.

Sincerely,

[Your Name]



TOWN OF HADLEY, MASSACHUSETTS POLICE DEPARTMENT

15 East Street, Hadley, Massachusetts 01035 Telephone 413-584-0883 Fax 413-582-9053

MICHAEL A. MASON
Chief of Police

July 17, 2020

Dear Chair Aaron Michlewitz and Chair Claire Cronin, 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 a Chief for a smaller police department in Western Massachusetts, I have the ability to talk to all of my officers weekly, know them all and their families and be able to have frank and open discussions that maybe larger department Chief's don't have the luxury of having. As I'm sure you are all aware, views on policing have changed and officers now contend with some of the worst times many of us can ever remember. This is difficult enough when trying to keep the morale of officers from falling so low they want to leave this profession. It's worse when those in control of the narrative for our Commonwealth paint them all with a broad brush and make no distinction whatsoever between our officers and those who commit atrocities like what happened in Minnesota. Make no mistake, we are in favor of reform, transparency and we will support efforts to ensure that nothing like that can happen again. But it must be done

responsibly and taking into consideration that you have some of the finest law enforcement officers in the country here in Massachusetts.

I've spent more time trying to encourage my great officers from leaving in the last several weeks than I ever thought I might in my entire career. And in a smaller department, even a few officers leaving will be catastrophic to staffing. Add to that the fact that recruitment numbers are already at an all-time low, this will be detrimental to law enforcement as a whole. This is almost wholly attributed to the thoughtless and kneejerk reaction of the Senate bill to re-word qualified immunity. While there are many other parts of the bill which are insulting and possibly even harmful to the amazing officers in this Commonwealth, none reach the pinnacle of threatening their livelihoods in a profession where sometimes their actual lives are already in jeopardy.

In the interest of time, rather than continue, I would respectfully request that you read the Massachusetts Chiefs of Police Association's full response to this bill but pay the closest of attention to Section 10 on qualified immunity. Please do not confuse this well written tenet which has stood for many years with complete and total immunity. They are not the same. Qualified immunity is a reasonable and well-established law and there is no reason to adjust it, unless the goal is simply punishment of the police. And if that is where we are headed, then I no longer recognize the amazing Commonwealth that I swore to protect.

Respectfully,

Michael A. Mason

Dear Judiciary and Ways and Means Committees,

My name is Mollie Socha and I am a resident of Spencer, MA. My fiancé, Anthony Lombardozi, has been an officer with the Worcester Police Department since April 2017. There is nothing my fiancé loves more than to protect and serve the citizens of Worcester. He is an officer that has only called out of work twice in his whole three year span on the job and is always on time and ready to help protect the people of Worcester. Before he became a law enforcement officer, he served our country as a Marine for four years, completing tours in Afghanistan and Okinawa. He loves America more than anything and puts his life on the line everyday to protect our country and the people living here.

While he has only been on the department for three short years, he has had his experience with dangerous close calls. During his first month on the job, my fiancé was conducting a routine traffic stop. During this stop, the driver had a suspended license and decided to take off. This speeding away resulted in my fiancé having his foot run over. Even after having his foot run over, my fiancé continued to chase after and arrest the driver. He wanted to protect the community and get that dangerous driver off of the street, so that he wouldn't be able to hurt anyone else. My fiancé put himself and his well-being last to do so.

While my fiancé has faced many dangerous situations, he has also been there to save many citizens of Worcester. These actions include and are not limited to: rushing into burning buildings to help occupants out, performing CPR, helping domestic violence victims get the resources they need to get away from their abusers and recovering illegal drugs and guns off of the street.

One notable situation occurred last year while my fiancé was on a detail. While directing traffic on route 20, a car accident occurred where a man drove into a concrete pillar that was being moved by the road crews. My fiancé was alerted of the crash and rushed to the scene with his medical supplies. Upon getting to the car, he saw a man bleeding out from both head and neck trauma. Without a second thought, he quickly applied QuickClot and pressure to the severe neck wound, slowing the bleeding down tremendously. According to the doctors who worked on this man at the hospital, my fiancé's actions saved this man's life. Without my fiancé administering the medical aid he was trained to give, that man would have died. That man later reached out to my fiancé to thank him for saving his life and how appreciative he and his family was for him. My fiancé expected no recognition or special treatment and was very simply "just doing his job".

I live in a terrible reality, where I am petrified every day that the man that I love and am building a life with, won't come on the next morning. However, no matter how dangerous the situation, he remains resilient and continues to put on that badge and go out to protect people; some who have a complete disregard for his life. To say I worry for him and his safety would be the understatement of the year. I pray every night that when he leaves me, I'll get to see him again that

next morning. I shouldn't have to wonder if that kiss will be our last or what our last words to each other would have been.

I'm afraid that if the bill passes as it is written now, he will not be able to continue to protect and serve the city he loves, because the risk of his life and everything he has worked so hard for would be too high. However, the citizens of Worcester will ultimately be the ones to suffer. This bill as it is written now destroys protections that police officers need in order to do their job properly. I am asking that you eliminate limiting qualified immunity for the officers of Massachusetts as it is written in this current bill. All of first responders in Massachusetts deserve to have qualified immunity if their actions do not violate a clearly established law. I think they have earned that right, as their jobs require them to make split seconds decisions that can impact both their own safety and the safety of those they serve to protect. I also ask that you include law enforcement personnel on the POSAC board being proposed within this bill. This will allow a member who has on the job experience to offer valuable insight that someone who has never worked in law enforcement cannot offer.

I request these issues are carefully reviewed, especially due to of the uptick in crime that has occurred over the past few weeks in Worcester. If this police reform bill passes as is into law, crime will run rampant and will resemble what is happening in Chicago, New York City, Atlanta, etc, due to the fact that police officers will have their hands tied and will not be able to do their job properly.

I love my fiancé and the amazing law enforcement officer that he is. He is my hero. His courage, sacrifice and commitment to his city is what makes him stand apart from the rest. I fear that if this bill passes as it is currently written, he will have to walk away from a job that he loves, because it isn't worth the sacrifice of his life and everything that he has worked so hard for. I pray that sound judgment and careful consideration be taken before this bill gets moved along any further. Not only for the lives of law enforcement families, but for the greater good of the Commonwealth of Massachusetts.

Thank you,

Mollie Socha
(508) 335-3873

Dear Judiciary and Ways and Means Committees,

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Thank you,

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July 17, 2020

The Honorable Rep. Aaron Michlewitz
Chair, House Committee on Ways and Means

The Honorable Rep. Claire D. Cronin
Chair, Joint Committee on the Judiciary

Re: Testimony in Support of Police Accountability -- Use of Force Standards, Qualified Immunity Reform, and Prohibitions on Face Surveillance

Dear Chairs Michlewitz and Cronin,

I write in strong support of the many provisions in S.2820 designed to increase police accountability. In particular, our organization urges you to:

1. Adopt strict limits on police use of force,
2. End qualified immunity, because it shields police from accountability and denies victims of police violence their day in court, and
3. Prohibit government use of face surveillance technology, which threatens core civil liberties and racial justice.

I am a primary care physician in Boston who works with patients experiencing homelessness, including many patients of color.

George Floyd's murder by Minneapolis police brought hundreds of thousands of people into the streets all around the country to demand fundamental changes to policing and concrete steps to address systemic racism. This historic moment is not about one police killing or about one police department. Massachusetts is not immune. Indeed, Bill Barr's Department of Justice recently reported that a unit of the Springfield Police Department *routinely* uses brutal, excessive violence against residents of that city. We must address police violence and abuses, stop the disparate policing of and brutality against communities of color and Black people in particular, and hold police accountable for civil rights violations. These changes are essential for the health and safety of our communities here in the Commonwealth.

Massachusetts must establish strong standards limiting excessive force by police. When police interact with civilians, they should only use force when it is absolutely necessary, after attempting to de-escalate, when all other options have been exhausted. Police must use force that is proportional to the situation, and the minimum amount required to accomplish a lawful purpose. And several tactics commonly associated with death or serious injury, including the use of chokeholds, tear gas, rubber bullets, and no-knock warrants should be outlawed entirely.

Of critical and urgent importance: Massachusetts must abolish the dangerous doctrine of qualified immunity because it shields police from being held accountable to their victims. Limits on use of force are meaningless unless they are enforceable. Yet today, qualified immunity protects police even when they blatantly and seriously violate people's civil

rights, including by excessive use of force resulting in permanent injury or even death. It denies victims of police violence their day in court. Ending or reforming qualified immunity is the most important police accountability measure in S2820. Maintaining Qualified Immunity ensures that Black Lives Don't Matter. We urge you to end immunity in order to end impunity.

Finally, we urge the House to prevent the expansion of police powers and budgets by prohibiting government entities, including police, from using face surveillance technologies. Specifically, we ask that you include H.1538 in your omnibus bill. Face surveillance technologies have serious racial bias flaws built into their systems. There are increasing numbers of cases in which Black people are wrongfully arrested due to errors with these technologies (as well as sloppy police work). We should not allow police in Massachusetts to use technology that supercharges racial bias and expands police powers to surveil everyone, every day and everywhere we go.

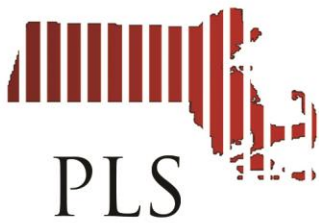
Last summer on Atkinson Street in Boston, police violently rounded up homeless people, throwing away their belongings including medications and wheelchairs—which in addition to being cruel and causing unneeded suffering, created a lot more work and cost for the health care system. To be able to commit violent and hateful actions and walk away free is unconscionable. As a physician, if I were to do something wrong as part of my job—which may even cost a life—I have to face legal inquiry and consequences including termination of employment or even imprisonment. Police officers should have to face the same.

There is broad consensus that we must act swiftly and boldly to address police violence, strengthen accountability, and advance racial justice. We urge you to pass the strongest possible legislation without delay, and to ensure that it is signed into law this session.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Avik', with a stylized flourish at the end.

Avik Chatterjee, MD, MPH



PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

✉ 50 Federal Street, 4th Floor • Boston, MA 02110

🌐 www.plsma.org

📘 fb.me/prisonerslegalservices

📱 @PLSMA

☎ Main: 617-482-2773

📠 Fax: 617-451-6383

State prisoner speed dial: 9004 or 9005 • County prisoner collect calls: 617-482-4124

Testimony of Prisoners' Legal Services regarding S.2820

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

We write today with concerns about this bill moving forward as it is currently written and to urge you to make significant improvements. Before outlining what we believe those improvements should include, it is worth taking a moment to point out that the only reason we are having this debate right now in the midst of the worst global pandemic the planet has seen in a century, is because those who carry the pain of generations of institutional violence and those who stand with them took to the streets and ignited an international movement to prioritize the end to structural racism and the institutional violence it sustains. To advance legislation that largely fails to value those voices enough to have them at the table will have lasting and detrimental effects for the legislature and the work I believe it truly intends to do. Those who most understand and who have witnessed and endured the practices lawmakers aim to address are best positioned to ensure that the legislation is not another failed effort that will require decades of fixing, but a true beginning with a solid foundation for an ongoing commitment to eradicate institutional racism from the Commonwealth.

Most striking to PLS is that policing behind the wall is completely and intentionally left out of the policing provisions of S2820. Prisons and jails are undoubtedly some of the most archaic and damaging examples of institutions that perpetuate racial inequality. The Massachusetts population is approximately 27% people of color, and yet the DOC population is 57% people of color. 11.4% of African American children have an incarcerated parent, whereas only 1.8% of white children have a parent who is incarcerated. Our policing systems lead directly to black and brown people being disproportionately imprisoned and our communities and families bearing the brunt of the traumatic impacts of incarceration.

Further, the expanse and frequency of violence in this system is a public health crisis in and of itself. To draft a bill that says those in our prisons and jails, 70% of whom were victims of trauma before they were incarcerated, are not deserving of protection from state violence is to truly misunderstand why policing is at the heart of the racial justice conversation right now. The fact that law enforcement is allowed to act with impunity at the expense of Black and Brown lives is why we are having this moment. Behind the prison walls, there is far less transparency, a dehumanizing culture, and little accountability. We simply cannot be serious about a racial justice policing bill if we leave out prisons and jails.

With that said, our concerns with S2820 stem from three overarching problems: (1) a lack of community engagement in the process; (2) a failure to protect incarcerated people and eliminate unnecessary barriers to reentry; and (3) a need for strengthening the policing provisions.

I. A lack of community engagement in the process.

We would encourage the Legislature to engage with leadership from impacted communities who can lead in the visioning for change and the drafting or amending of specific provisions. Having those who have been at the center of this movement at the table will give the bill credibility and is more likely to result in meaningful change. We understand that this is a process and a beginning, but it must be inclusive and it must center those whose vision and voices have brought tens of thousands of people out to protest for months.

II. A failure to protect those incarcerated

A) Use of Force

The policing provisions must apply to all public safety officers, including correctional officers. Correctional staff are currently excluded from the definition of “Law enforcement officer” or “officer” in this bill. The Department of Correction and the Sheriff’s Departments are all widely considered to be law enforcement agencies with the attendant legal rights and responsibilities. There is simply no reason to exclude them from this bill, especially if we are serious about racial justice.

Correctional staff use force against incarcerated people on a regular basis. PLS receives over 200 complaints of excessive use of force by officers against prisoners every year. **This year, however, has undoubtedly been the worst year for prison brutality our office has seen since the 1970s.** In January and February of 2020, correctional staff engaged in wide-scale and orchestrated brutality against incarcerated people at Souza Baranowski Correctional Center. In a period of approximately four-six weeks, PLS received 126 complaints of use of excessive force by correctional staff, and 74 complaints related to other extreme conditions of confinement. PLS staff members interviewed close to 100 prisoners about their experiences. Incarcerated people provided consistent reports of assaults by correctional staff with little or no provocation, typically by the Tactical Team and almost always while individuals were locked in their cells or physically restrained. They described being shot with pepper balls and taser guns, sprayed with chemical agents, bitten by dogs, being physically beaten, and being forced to kneel on the ground for hours with no relief. The violence was racialized, with white officers targeting prisoners of color and using racial slurs against them. There has been no accountability for these systematic assaults.

Brutality is not just a state prison phenomenon. Excessive force, often causing permanent damage, happens at the hands of correctional officers in county jails as well. In July of 2019 PLS did a public records request to obtain use of force numbers from the County Sheriffs’ Departments for the previous year, and these were the results:

Agency	# of uses of force	# of uses of force with Chemical agents	# of uses of force with restraint chair	# of uses of force with kinetic/ less than lethal weapons	# of uses of force with K9
Barnstable	74	18	43	0	0
Berkshire	220	14	18	0	0
Bristol	Denied All				

	Data				
Dukes	5	0	0	0	0
Essex	938	28	91 (10 4-5 pt restraints)	0	0
Franklin	30	23	0	2	0
Hampden	27	75-89	46	0	0
Hampshire	38	10	2	0	0
Middlesex	No response				
Nantucket	0	0	0	0	0
Norfolk	51	7	21	0	1
Plymouth	83	37	6	No data	No data
Suffolk	Nashua St. Jail: 255 South Bay: 225	Nashua St. Jail: 7 South Bay: 6	Nashua St. Jail: 21 South Bay: 44	No Data	Nashua St. Jail: 1 South Bay: No Data
Worcester	220	45	“Humane restraints” -- 40	6	No information

Excluding correctional officers from the definition of law enforcement and use of force protections will result in greater impunity and confusion under the law. Does exclusion of correctional officers mean that they may use force without attempting de-escalation? May they use disproportionate force? Are choke holds permissible without restriction where they are used against an incarcerated person? Do correctional staff not have a duty to intervene where they observe excessive force against a prisoner?

Distinguishing between police law enforcement and corrections law enforcement sends a message that use of force inside correctional settings does not warrant the same scrutiny as use of force by police. This distinction is being made in spite of the fact that use of force inside prisons and jails is just as harmful, causes just as much trauma, and has even less accountability. Persons subjected to use of force inside prisons and jails are captive. They are often locked in their cells with nowhere to run and no way to create space between themselves and officers. And when they are assaulted, they have to continue living in close quarters with the person or people who assaulted them and who exercise near total power and control over their daily lives.

B) Barriers to Safety and Reentry that Disproportionately Impact Black and Brown Communities

In addition to use of force matters, this legislation fails to address a number of issues that are fundamental to pursuing racial justice in the Commonwealth and eliminating barriers to reentry which disproportionately impact black and brown prisoners and their loved ones. We strongly encourage the house bill to include provisions that protect communication and community support through better visitation systems (S2662). We should also put an end to financial exploitation which results from fees for telephone calls (S1372). We should ensure that prisoners have baseline entitlements to programming and education (S1391/H2127). These matters are racial justice matters. Families and communities of color are disproportionately low resourced. They are often unable to travel to the remote prisons due to lack of public transportation to those areas or the inability to visit during the limited hours available because of inflexible work schedules or other demands. Many are also excluded from visitation based on current policy due to past arrest records. Similarly, the exorbitant cost of calls is financially burdensome and drives a wedge between families. Maximizing communication with support systems is positively correlated with lower recidivism rates and positive reentry. Likewise, so long as programming and education are considered privileges rather than entitlements, we will continue to see opportunities doled out along racialized lines, excluding prisoners of color who are overclassified into maximum security environments and policed into solitary confinement. If we want to invest in community safety, we must do that within prisons as well as outside them.

III. **The bill's policing provisions must be strengthened.**

The current bill does not go far enough to scale back police impunity in a meaningful way. We would suggest the following changes, as a start.

A) Qualified Immunity:

While we appreciate the current provisions in the bill which would modify the qualified immunity standard so that it would only apply to officer misconduct where "at the time the conduct complained of occurred, no reasonable defendant could have had reason to believe that such conduct would violate the law," they do not go far enough. Qualified immunity is currently described under federal law as warranted if "a reasonable officer could have believed his conduct was lawful." *Olmeda v. Ortiz-Quinonez*, 434 F.3d 62, 65 (1st Cir. 2006). Modification to the standard in the current legislation does not eliminate qualified immunity, but clarifies it and lessens the burden that plaintiffs currently must meet.

Qualified immunity should simply be eliminated. Officers are already protected from reasonable mistake via the underlying legal standard which provides that their actions must be reasonable under the circumstances that face them. Correctional officers are provided even greater legal protection, as they are only barred from using force against convicted prisoners when they act "maliciously and sadistically for the purpose of causing harm." Qualified immunity provides no function other than removing cases against law enforcement from the scrutiny of juries, where they rightfully belong in our legal system. PLS recently had a case dismissed on qualified immunity grounds where the prisoner provided evidence that an officer directed his K9 to bite the prisoner repeatedly while he laid on the ground, not posing any threat to anyone. The judge determined that although a jury could have found excessive use of force, the way the law existed (as it does today) did not clearly establish if unleashing an untrained dog to subdue a

prisoner was sufficiently unreasonable. *Couchon v. Cousins*, No. CV 17-10965-RGS, 2018 WL 4189694, at *4 (D. Mass. Aug. 31, 2018). Qualified immunity deprived our client of the ability to present his case to a jury of his peers to determine if the officer's conduct was reasonable under the circumstances.

B) Use of Force:

The current bill requires that de-escalation must be utilized unless it has failed or is not feasible and force is necessary to (i) effect the lawful arrest of a person; (ii) prevent the escape from custody of a person; or (iii) prevent imminent harm to a person and the amount of force used is proportional to the threat of imminent harm. De-escalation and proportionality are both important principals in use of force, and rules around both already exist through case law and in the vast majority of trainings and policies that govern law enforcement. In order to push the envelope forward the bill must start from a recognition that in spite of rules and law that already bar excessive force, excessive force is pervasive.

Prisoners' Legal Services investigates approximately 60-100 use of force incidents each year which occur in correctional settings. We speak to the prisoners involved, document their injuries, read the reports, watch the videos, review the investigations, and observe the patterns. We have identified a number of substantive areas for change which would immediately improve use of force matters in correctional settings and we would urge that those be included in this bill.

H.D. 5128, "An Act relative to saving black lives and transforming public safety," filed by Representative Miranda, would take important and meaningful steps in the right direction. This bill includes correctional officers in the definition of law enforcement and its protections would apply to incarcerated people. Furthermore, the bill provides specific and concrete reforms that would meaningfully change existing law and increase accountability with respect to use of force matters.

We recommend the following additional changes: First, the bill should require that restraint chairs only be used in correctional settings when they are necessary to prevent harm. Right now, correctional facilities often strap prisoners into restraint chairs as a matter of routine after use of force incidents, a practice that is degrading and traumatic. Second, we recommend that in planned uses of force de-escalation include substantive intervention by a third party who the individual has a positive relationship with, such as a clinician, a program mentor, or clergy. Finally, we recommend the establishment of an independent civilian oversight board, with full authority to enter prisons and jails, review all use of force matters, and weigh in on the discipline of staff.

We encourage the drafters of the house bill to include protections for incarcerated people as mentioned above, including the substantive reforms in H.D. 5128 and amendments 113 and 133 in S2820.

C) Commissions and Transparency

i. *Commission related to corrections use of force and transparency:*

While we appreciate the effort in S2820 to establishes a commission to review and make recommendations related to use of force and transparency in correctional settings, there are ways we can achieve more transparency now and improve the commission so that it is empowered to effectuate further change in this area.

We urge the House to adopt meaningful transparency mechanisms that can be immediately implemented by the Department of Correction and County Sheriffs with respect to use of force. There is an excellent model available in the data and transparency provisions of H.2087 and S.1362 (An Act to

create uniform standards in use of force, increase transparency, and reduce harm, see last two paragraphs) which would, for the first time, ensure public data reporting with respect to use of force and its application against incarcerated persons including race, disability, gender and sexuality, and age information. It also would ensure that incarcerated people and their legally designated representatives would have access to use of force records involving the prisoner, and that such records be considered public records save for the redaction of identifying information.

Prisons and jails do not have the same natural (albeit inadequate) mechanisms of public accountability as police do. Prisoners are unable to utilize cell phones to film incidents and they do not have access to public forums to discuss their experiences with excessive force. Often prisoners are sent to solitary confinement in the immediate wake of use of force incidents, further decreasing opportunities for transparency and accountability. We urge the House to pass these basic transparency mechanisms rather than relegating them to being studied in a commission.

We also suggest that the commission be reconstituted so that it include more than one formerly incarcerated woman, as well as formerly and currently incarcerated men and women. It should be explicit that it includes people who are directly impacted and who are Black and Latinx. Finally, it should ensure that a greater number of community experts have a seat at the table and that they have leadership roles.

ii. Commission related to structural racism

We further appreciate and support the establishment in S2820 of a commission to study structural racism in corrections; this is a step in the right direction. We suggest that this commission be reconstituted to include and elevate to leadership more community groups and members who are not law enforcement but who are nonetheless experts in matters relating to incarceration and who do not have the same investments in maintaining the status quo of the current system.

Conclusion

Incarcerated people cannot be left behind in our struggles towards racial justice. They are among the most dispossessed in the Commonwealth and harmed by a system that is fundamentally interwoven with racism in this Country. We are happy to discuss the contents of this testimony and other meaningful reforms to conditions of confinement and use of force that you may be considering. You may contact me (Elizabeth Matos) at any time, including this weekend, by email or phone. Thank you for the opportunity to submit this testimony regarding “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.” We look forward to working with you on a bill that truly moves the Commonwealth forward towards eliminating structural racism from its institutions.

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July 16, 2020

Hon. Aaron Michlewitz, Chair, Ways & Means Committee
Hon. Claire Cronin, Chair, Judiciary Committee
House of Representatives
Commonwealth of Massachusetts
24 Beacon Street
Boston MA 02133
Testimony.HWMJudiciary@mahouse.gov.

Re: S. 2820

Dear Representatives:

Tuesday the Senate approved, after an exceptional 17 hours of debate, S. 2820, a thoroughgoing reform of policing in the Commonwealth of Massachusetts. All eyes now turn to the House. I am writing to ask you to approve legislation that that matches – and, if possible, exceeds – the reforms made in the Senate Bill.

The going was tough in the Senate. It will be tough in the House as well. But at this moment in our history, we have to act. The embedded racism that shames our society is not just a matter of policing, or even of the operation of the criminal justice system. It seeps into every nook and cranny of our lives together. Nevertheless, it is no accident that police behavior has triggered waves of protest. This is where the racism of our society is most tangible. We must start here, even though we should not end here.

What the police do, they do on our behalf. We act through them. And we have to accept that some policing in our Commonwealth, and our country, dishonors us. It is time to put an end to that. Doing so is an essential first step on a long and even more arduous process of healing the wounds of four centuries of American history. We can no longer pretend to be a great country until we pluck this beam from our eye.

Many police officers in Massachusetts already get it. They have cooperated on community-based initiatives and show themselves every day to be generous and professional individuals. It is on the good will of such officers that we must build.

To some extent, the problem is one of setting forth clear rules of behavior and enforcing them. The Senate bill makes significant progress in this regard. It bans chokeholds and other deadly uses of force except in cases of imminent harm. It also clarifies qualified immunity for excessive use of force and establishes a standards and accreditation committee to standardize certification and discipline police officers.

The problem also has to do with rethinking what we wish police officers to do. The burden of policing often falls on impoverished communities of color. When members of those communities fear their protectors more than the people from whom they are being protected, it is clear that we have gone off the tracks. Here, the issue cannot be ascribed to a handful of bad actors. The problem is that the police mission is ill-conceived and the police are not provided with the training and support they need to do the job we as citizens are asking them to do.

The Senate bill addresses this by expanding community-based solutions to crisis intervention and jail diversion. It also requires new police training on de-escalation tactics and the complexities of race and prohibits racial profiling.

Some will tell you the Senate bill goes too far. I wish it went farther. I would encourage you, for example, to consider restricting qualified immunity still further or perhaps eliminating it. I do not believe that the loss of qualified immunity would harm officers who in good faith make hard decisions in tight situations. Juries in the Commonwealth understand the difficulties that such officers face. Qualified immunity has, however, come to be an essential support of a culture that is ultimately inconsistent with the role we would like the police to play. I would also encourage you to consider whether some of the duties that now fall on the police might be better done by other institutions, working in cooperation with the police. And finally, I would encourage you to think more about what the police need to help them succeed at the mission we wish to entrust to them. Training is part of it, but only a part. There is a question of culture, and behind that a question of providing support for officers who inevitably must function in a sometimes violent world in which society's expectations are unclear. The American military has in recent years also experienced such stress, and progress has been made in providing the mental health and other support that many soldiers need. We might wonder whether resources should be devoted to similar programs designed to support police officers.

The Senate bill is a firm first step in addressing an important part of the problem that the killing of George Floyd and the burden of covid 19 have put in shocking relief. Beyond policing is a fundamentally unjust criminal justice system, and beyond that is the influence of racism, past and present, in housing, education, social services, and health care. This first step needs to be taken, and I hope the House will join the Senate in taking it.

But after that there is so much more to do.

Respectfully,

Patrick M. Hanlon

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7/16/20

Public Testimony on S.2800 to the House Ways and Means and Judiciary Committees

Dear Chair Cronin, Chair Michlewitz, Vice Chair Day, and Vice Chair Garlick,

I am writing to request your consideration to expand the existing expungement law (MGL Ch 276, Section 100E) as the House takes up S.2800 to address **Racial Justice and Police Accountability**. S.2800 includes this expansion and we hope you will consider it as it directly relates to the harm done by over-policing in communities of color and the over-representation of young people of color in the criminal legal system.

Our criminal justice system is not immune to [structural racism](#) and we join you and all members in the great work needed to set things right. The unfortunate reality is that people of color are far more likely to be subjected to stop and frisk and more likely to get arrested for the same crimes committed by whites. Black youth are three times more likely to get arrested than their white peers and Black residents are six times more likely to go to jail in Massachusetts. Other systems where people of color experience racism are exacerbated, and in many ways legitimized, by the presence of a criminal record. Criminal records are meant to be a tool for public safety but they're more often used as a tool to hold communities of color back from their full economic potential. Expungement can be an important tool to rectify the documented systemic racism at every point of a young person's journey through and past our justice system.

We also know that young adults have the highest recidivism rate of any age group, but that drops as they grow older and mature. The law, however, does not allow for anyone who recidivates but eventually desists from reoffending to benefit. Young people's circumstances and cases are unique and the law aptly gives the court the discretion to approve expungement petitions on a case by case basis, yet the law also categorically disqualifies over 150 charges. We also know that anyone who is innocent of a crime should not have a record, but the current law doesn't distinguish between a dismissal and a conviction. It's for these three main reasons we write to you to champion these clarifications and now is the time to do it.

Since the overwhelming number of young people who become involved with the criminal justice system as an adolescent or young adult do so due to a variety of circumstances and since the overwhelming number of those young people grow up and move on with their lives, we are hoping to make clarifying changes to the law. We respectfully ask the law be clarified to:

- **Allow for recidivism** by removing the limit to a single charge or incident. Some young people may need multiple chances to exit the criminal justice system and the overwhelming majority do and pose no risk to public safety.
- **Distinguish between dismissals and convictions** because many young people get arrested and face charges that get dismissed. Those young people are innocent of crimes and they should not have a record to follow them forever.
- **Remove certain restrictions** from the 150+ list of charges and allow for the court to do the work the law charges them to do on a case by case basis especially if the case is dismissed or the young person is otherwise found "not guilty."

Refining the law will adequately achieve the desired outcome from 2018: to reduce recidivism, to remove barriers to employment, education, and housing; and to allow people of color who are disproportionately represented in the criminal justice system and who disproportionately experience the collateral consequences of a criminal record the opportunity to move on with their lives and contribute in powerfully positive ways to the Commonwealth and the communities they live, work and raise families in. Within a system riddled with racial disparities, the final step in the process is to allow for as many people as possible who pose no risk to public safety and who are passionate to pursue a positive future, to achieve that full potential here in Massachusetts or anywhere.

Thank you for your consideration,

Joesiah Gonzalez

New North Citizens' Council Inc.

413-746-4885



The Commonwealth of Massachusetts

MASSACHUSETTS SENATE

SENATOR MICHAEL D. BRADY
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SENATE COMMITTEE ON WAYS & MEANS
JOINT COMMITTEE ON REVENUE
JOINT COMMITTEE ON VETERANS AND FEDERAL
AFFAIRS
SENATE COMMITTEE ON BILLS IN THIRD READING
JOINT COMMITTEE ON WAYS & MEANS

July 17, 2020

The Honorable Aaron Michelwitz
House Committee on Ways and Means
State House, Room 243
Boston, MA 02133

The Honorable Claire Cronin Chair,
House Chair, Joint Committee on the Judiciary
State House, Room 136
Boston, MA 02133

Dear Chair Michelwitz and Chair Cronin,

I am writing today to express my concerns with S2820, “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.”

I believe the changes to qualified immunity were rushed, not properly vetted and ultimately are detrimental to law enforcement. I am also concerned that these changes may have unintended consequences on our public workforce.

Portions of S2820 that focus on standardized procedures and protocols, the promotion of diversity, and independent certification are well intentioned and will be a benefit to our communities.

The changes made to qualified immunity in S2820 would drastically lower the standards under which a civil action could be brought against a public official. Unchanged, qualified immunity is not absolute immunity from a civil lawsuit. Current law allows for civil actions against public officials who use force, intimidation, or coercion to interfere with Constitutional or statutory rights.

The changes have far reaching consequences to all of our public safety professionals as well as professionals in the health care sector that we are more dependent on during this crisis, leaving themselves open to lawsuits that could derail their careers and endanger their families.

I respectfully ask that you seriously consider language that would create a commission of experts to study qualified immunity and make an informed and educated recommendation on how it is best used to ensure due process for everyone in Massachusetts.

Thank you for your time and please contact me with any questions or concerns that you may have.

Sincerely,

Michael D. Brady
State Senator
2nd Plymouth & Bristol District

Massachusetts Communities Action Network (MCAN)

14 Cushing Ave, Dorchester, MA 02125

www.mcan.us (617) 470-2912

Testimony to House Judiciary and House Ways and Means on Senate 2820 7/17/20

Dear House Judiciary Chair Claire Cronin and House Ways and Means Chair Aaron Michlewitz and Committee Members,

This bill the Legislature moves toward passing comes out as a response to the most massive set of marches and rallies Massachusetts has ever had. Tens of thousands of people have been out in streets and squares in cities and towns across the Commonwealth and often more than once. This legislation must have as a goal that it is a response to the reckoning of how we need to reshape our institutions to shed the institutional racism that is there.

There are many good institutions and good people but still so much is not right for too many people. For example, even AG Bill Barr's Department of Justice recently reported that a unit of the Springfield Police Department *routinely* uses brutal, excessive violence against residents of that city.

So we need changes passed. And by July 31. We want to be able to say we did answer the call to respond to the generations of injustices that have occurred on these issues in our state.

Here are some of the elements that we hope will be in the House passed bill:

1. Use of Force: Having strong use of force standards as set out in Rep. Miranda's bill, *An Act to Save Black Lives*, including complete bans on the most violent police tactics.
2. Qualified Immunity Changes: Putting strict limits on qualified immunity to ensure that police can be held accountable when they violate people's rights; the Senate bill has such language towards this goal.
3. Justice Reinvestment: We support including Justice Reinvestment provisions for funding re-entry employment and prevention programs as the prison population declines, and we ask that the legislature be free to allocate more than the \$10 million per year that the Senate set as a cap. Our communities have been decimated by the psychological and economic effects of over-incarceration, and need substantial reinvestment to rebuild. In the face of Massachusetts' \$700 million annual prison

spending, limiting that reinvestment to \$10 million is a slap in the face.

4. Expungement: We support expansion of the right to expunge juvenile records because the current law is unworkable and limits expungement to juveniles who had a single charge on their record although police routinely file more than one charge in cases they file. At present, even charges that were dismissed or ended in a not guilty finding can't be expunged if the person had more than one charge. And young adults often have more than one case. The consequences of saddling youth with a CORI when they turn 18 that will limit their chances to get a job.

5. Banning Facial Recognition: We need to ban the use of dangerous facial recognition technology that would supercharge racist policing.

6. Black and Latino Caucus Recommendations: Please include other recommendations made by the Black and Latino Caucus, some of which are among what's above, and we thank them for their hard work on these issues.

We are a federation of faith based community improvement organizations located in cities and regions across the state. We worked extensively on the Criminal Justice Reform legislation passed in 2018 and other work in this area before and since then. Our affiliates are Brockton Interfaith Community, Essex County Community Organization, Worcester Interfaith, United Interfaith Action of SE MA (Fall River & New Bedford), Pioneer Valley Project (Springfield), Prophetic Resistance Boston, and I Have A Future Youth Organizing Project (Boston).

Massachusetts Communities Action Network (MCAN)

14 Cushing Ave, Dorchester, MA 02125

www.mcan.us (617) 470-2912

Testimony to House Judiciary and House Ways and Means on Senate 2800 7/17/20

Dear House Judiciary Chair Claire Cronin and House Ways and Means Chair Aaron Michlewitz and Committee Members, we are Prophetic Resistance Boston, a group of pastors and congregation members who have come from within the four walls of the church to actively engage communities of color in Boston by listening to individual resident's stories and then moving those stories to action. During the last Suffolk County DA race we made over 14,600 calls to Boston voters to get them out and voting. We represent over ten Boston churches. We want to go on record supporting the list below.

Senate bill 2800 comes out as a response to the most massive set of marches and rallies Massachusetts has ever had. Tens of thousands of people have been out in streets and squares in cities and towns across the Commonwealth and often more than once. This legislation must have as a goal that it is a response to the reckoning of how we need to reshape our institutions to shed the institutional racism that is there.

There are many good institutions and good people but still so much is not right for too many people. For example, even AG Bill Barr's Department of Justice recently reported that a unit of the Springfield Police Department *routinely* uses brutal, excessive violence against residents of that city.

So we need changes passed. And by July 31. We want to be able to say we did answer the call to respond to the generations of injustices that have occurred on these issues in our state.

Here are some of the elements that we hope will be in the House passed bill:

1. Use of Force: Having strong use of force standards as set out in Rep. Miranda's bill, *An Act to Save Black Lives*, including complete bans on the most violent police tactics.
2. Qualified Immunity Changes: Putting strict limits on qualified immunity to ensure that police can be held accountable when they violate people's rights; the Senate bill has such language towards this goal.

3. Justice Reinvestment: We support including Justice Reinvestment provisions for funding re-entry employment and prevention programs as the prison population declines, and we ask that the legislature be free to allocate more than the \$10 million per year that the Senate set as a cap. Our communities have been decimated by the psychological and economic effects of over-incarceration, and need substantial reinvestment to rebuild. In the face of Massachusetts' \$700 million annual prison spending, limiting that reinvestment to \$10 million is a slap in the face.

4. Expungement: We support expansion of the right to expunge juvenile records because the current law is unworkable and limits expungement to juveniles who had a single charge on their record although police routinely file more than one charge in cases they file. At present, even charges that were dismissed or ended in a not guilty finding can't be expunged if the person had more than one charge. And young adults often have more than one case. The consequences of saddling youth with a CORI when they turn 18 that will limit their chances to get a job.

5. Banning Facial Recognition: We need to ban the use of dangerous facial recognition technology that would supercharge racist policing.

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Prophetic Resistance Boston is an affiliate of the MCAN federation of faith based community improvement organizations located in cities and regions across the state. We worked extensively on the Criminal Justice Reform legislation passed in 2018 and other work in this area before and since then. Our affiliates are Brockton Interfaith Community, Essex County Community Organization, Worcester Interfaith, United Interfaith Action of SE MA (Fall River & New Bedford), Pioneer Valley Project (Springfield), and I Have A Future Youth Organizing Project (Boston).

Thank you for your consideration,

Prophetic Resistance Boston



July 17, 2020

Dear Chair Michlewitz, Vice-Chair Garlick, and members of the House Ways and Means Committee,

Black lives are under attack in our country and our commonwealth. This includes the life of Black immigrants from Brazil, Haiti, Cape Verde, the Dominican Republic, and Jamaica. Each of these is among the top 15 home countries for undocumented immigrants in Massachusetts. We thank you for your leadership for taking up S.2820, *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*. We do have one important suggestion to continue the work of dismantling systemic racism in all its forms.

Include language in the reforming police standards legislation that would grant driver's licenses to immigrants without status. We know that for Black immigrants, over-policing has grave consequences as families and communities are torn apart through detention and deportation. We know that for law enforcement this addition would promote trust between communities they serve and allow for officers to consistently identify who is behind the wheel.

There is no doubt that the socially damaging and unsafe linkage of driving privileges to immigration status is a part of the systemic racism that continues to hold back Black communities. There is also no question that law enforcement understands that tested and insured drivers make the roads safer for everyone. That's why the Massachusetts Major City Chiefs of Police Association, several District Attorneys, sheriffs, and individual police Chiefs have endorsed giving driving licenses to immigrants without status. Mobility is necessary.

Through the COVID-19 pandemic, the work of immigrants without status has been deemed essential. Through the reopening, it is only appropriate that the dignity of their lives also be deemed essential. Whether it is working in healthcare, construction, or the food supply chain, we need to protect the health and safety of immigrants who live and work in every corner of our Commonwealth.

Further, granting licenses to undocumented drivers could generate about \$6 million in revenues from license fees, inspections, and registration within the first three years of implementation. It also could generate \$5 million per year in state revenue through motor fuel taxes. Not only will this addition improve community well-being, it will also bring revenue to the state and encourage economic activity through increased mobility.

The time is now to offer the essential tool of mobility to immigrants who are part of our economic fabric. As we prepare for the second wave of the COVID-19 pandemic, we must learn the lessons from the first. Where there is a risk to one, there is a risk to all.

Signed,

Monique Ching, Policy Analyst
Massachusetts Budget and Policy Center

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Captain Andrew J. Turco
Massachusetts Institute of Technology
Boston, MA



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MASSACHUSETTS ASSOCIATION OF CAMPUS LAW ENFORCEMENT ADMINISTRATORS
www.maclea-ma.org

July 17, 2020

Representative Aaron M. Michlewitz
Chairperson, House Committee on Ways and Means
State House, Room 243
24 Beacon Street
Boston, MA 02133

Representative Claire D. Cronin
Chairperson, Joint Committee on the Judiciary
State House, Room 136
24 Beacon Street
Boston, MA 02133

Re: *Senate No. 2820 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*

Dear Sir and Madam:

I write to you as president of the Massachusetts Association of Campus Law Enforcement Administrators (MACLEA). MACLEA represents police and public safety departments at over 80 public and private colleges, universities, and hospitals around the Commonwealth of Massachusetts. Our member departments are responsible for the safety, security, and wellbeing of hundreds of thousands of students, families, faculty, staff, neighbors, and visitors every year.

On behalf of MACLEA, we fully support your decision to address the important issue of police reform in Senate No. 2820 "*Reforming Police Standards.*" We applaud your efforts to seek constructive input by way of written testimony. Our association backs any legislation that will serve and protect our community members, ensure positive and constructive police reform, and improve our training, standards and practices.

The purpose of this letter is to bring to your attention our concerns about certain specific language in the proposed legislation. In particular, we would like to bring the following concerns to your attention:

MACLEA seeks to include a representative of the Association to serve on the Police Officer Standards and Accreditation Committee created by section 6 of Senate Bill 2820.

MACLEA's member departments are responsible for the safety and wellbeing of the hundreds of thousands who live, learn, work, and visit our member institutions. We are in favor of the creation of a Police Officer Standards and Accreditation Committee (POSAC) and our representation on this committee would add valuable insight and information. It would also ensure that the interests of all of those on campuses across the Commonwealth were safer.

MACLEA firmly believes in the value of such a committee and has supported this effort for the past several years. MACLEA has placed a representative on the Police Officer Standards and Training (POST) Task Force, which is chaired by the Secretary of Public Safety and Security, Thomas Turco. Our MACLEA representative on POST has furthered the goal of standardizing police training, creating consistent police standards, and administering the certification and decertification of police officers in the Commonwealth.

There are over 100 colleges and universities in the Commonwealth and providing safety and securities services for those communities is a complex and challenging undertaking. The unique challenges faced by campus law enforcement necessitate our representation in a committee charged with the development of police training and creating police standards. While our police officers share the same law enforcement training and authority as our state and local partners, campus policing is unique in many ways. Young adults on campuses experience higher rates of sexual assault and sexual violence, higher rates of drug and alcohol use and abuse, and higher rates of high risk behaviors. It is vital to POSAC that these unique challenges and circumstances are represented and communicated during the development of police training and creation of police standards through a MACLEA-chosen campus law enforcement representative on the Committee.

MACLEA supports the concept of convening subject matter experts to address this complex issue. While we understand difficulty of your task, we urge the legislature to exercise care in determining the size and composition of the police officer standards and accreditation committee. The drafters have correctly included a "representative of a campus police organization" on the proposed community policing and behavioral health advisory council in section 16 of this legislation. MACLEA firmly believes that campus police must be also represented on the police officer standards and accreditation committee.

Accordingly, we respectfully request that you consider an amendment adding one (1) member to the committee who shall be a above the rank of lieutenant of a Massachusetts college or university police department nominated by the Massachusetts Association of Campus Law Enforcement Administrators.

We at MACLEA cannot emphasize enough how important we take our campus public safety mission. We all pledge to provide a safe environment for all who use our campuses. We welcome the opportunity to discuss this important issue with the Committee and we offer our assistance in working with the legislature to craft effective legislation.

Respectfully submitted,

Captain Andrew J. Turco
President

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The Hon. Curtin Winsor Jr.

FAIR is a nonprofit public interest organization working to end illegal immigration and to set levels of legal immigration that are consistent with the national interest



FEDERATION FOR AMERICAN IMMIGRATION REFORM

July 17, 2020

House and Senate Judiciary Committees

House Ways and Means Committee

The State House

24 Beacon Street

Boston, MA 02133

Dear Chairs Eldridge, Cronin, Michlewitz and other distinguished members of the committees:

My name is Shari Rendall and I am the Director of State & Local Engagement at the Federation for American Immigration Reform (FAIR). FAIR is a non-profit, non-partisan organization of concerned individuals who believe that our immigration laws must be reformed – and enforced – to better serve the needs of current and future generations.

For the past 40 years, FAIR has been offering and advocating for solutions that help reduce the harmful impact of illegal immigration on national security, public safety, the economy, jobs, education, health care, and our environment. Our support base includes over two million diverse members and supporters, including activists, social media followers, and donors.

I write to express FAIR's opposition to Senate Bill 2820, the reforming police standards bill. This bill needlessly hampers law enforcement and it subjects officers to an unelected and unaccountable police officer standards and accreditation committee.

The standards and accreditation committee will give excessive influence to unaccountable advocacy organizations and their policy agendas, which includes mass immigration. It will allow certain non-profit groups to refashion police department objectives. Any law enforcement officer not abiding by its tenets could become a target.

Additionally, the bill includes a provision for community policing principles. These principles include building trust in Massachusetts communities by shielding criminal aliens under the guise that those in the country illegally will not feel comfortable reporting crimes or acting as witnesses to a crime.



There is no documented evidence indicating that any illegal alien has ever been deported solely as a result of reporting a crime or volunteering information to the police. Like everyone else in the United States, illegal aliens can offer information that may be valuable to police investigations on various anonymous “tip-lines.”

Furthermore, if illegal aliens provide helpful information to police, they may qualify for a "S," "T," "U" or "VAWA" nonimmigrant visa, which, in-turn, would allow them to apply for permanent legal status in the U.S.

Finally, FAIR objects to further restricting information to law enforcement officers from the schools. Schools are already generally considered sensitive locations. As a sensitive location, law enforcement officers already usually refrain from enforcement actions unless there is an extraordinary circumstance involving public safety, but they need to retain discretion to act in such extraordinary circumstances.

In *Plyler v. Doe*, the Supreme Court held that a state may not deny access to public education to any child residing in the state, regardless of whether the child is present in this country illegally.

Moreover, it is already a policy that school department personnel and student resource officers do not generally report personal information including immigration status to law enforcement officials. In fact, under the Family Educational Rights and Privacy Act (FERPA), school districts must maintain the confidentiality of all personally identifiable information in education records related to students. 20 U.S.C. §1232g; 34 CFR § Part 99. FERPA does have exceptions which apply only in limited situations.

Exceptions to FERPA which permit school districts to disclose student information include: compliance with a “judicial order or lawfully issued subpoena,” a health or safety emergency, or a student engaged in a crime of violence or a sex offense. These limited exceptions, however, would generally not be implicated by a student illegally in the country who has not engaged in any dangerous activity.

I thank you for the opportunity to provide our input. Please do not hesitate to reach out if we may be of assistance. I may be reached via email at srendall@fairus.org or by phone at 202-328-7004.

Sincerely,

A handwritten signature in black ink that reads "Shari Rendall". The script is cursive and fluid, with the first letters of "Shari" and "Rendall" being capitalized and prominent.

Shari Rendall

7/17/20

Public Testimony on S.2800 to the House Ways and Means and Judiciary Committees

Dear Chair Cronin, Chair Michlewitz, Vice Chair Day, and Vice Chair Garlick,

I am writing to request your consideration to expand the existing expungement law (MGL Ch 276, Section 100E) as the House takes up S.2800 to address **Racial Justice and Police Accountability**. S.2800 includes this expansion and we hope you will consider it as it directly relates to the harm done by over-policing in communities of color and the over-representation of young people of color in the criminal legal system. If passed, this would have the ability to radically transform the lives of the young people I work with daily at UTEC, Inc.

Our criminal justice system is not immune to [structural racism](#) and we join you and all members in the great work needed to set things right. The unfortunate reality is that people of color are far more likely to be subjected to stop and frisk and more likely to get arrested for the same crimes committed by whites. Black youth are three times more likely to get arrested than their white peers and Black residents are six times more likely to go to jail in Massachusetts. Other systems where people of color experience racism are exacerbated, and in many ways legitimized, by the presence of a criminal record. Criminal records are meant to be a tool for public safety but they're more often used as a tool to hold communities of color back from their full economic potential. Expungement can be an important tool to rectify the documented systemic racism at every point of a young person's journey through and past our justice system.

We also know that young adults have the highest recidivism rate of any age group, but that drops as they grow older and mature. The law, however, does not allow for anyone who recidivates but eventually desists from reoffending to benefit. Young people's circumstances and cases are unique and the law aptly gives the court the discretion to approve expungement petitions on a case by case basis, yet the law also categorically disqualifies over 150 charges. We also know that anyone who is innocent of a crime should not have a record, but the current law doesn't distinguish between a dismissal and a conviction. It's for these three main reasons we write to you to champion these clarifications and now is the time to do it.

Since the overwhelming number of young people who become involved with the criminal justice system as an adolescent or young adult do so due to a variety of circumstances and since the overwhelming number of those young people grow up and move on with their lives, we are hoping to make clarifying changes to the law. We respectfully ask the law be clarified to:

- **Allow for recidivism** by removing the limit to a single charge or incident. Some young people may need multiple chances to exit the criminal justice system and the overwhelming majority do and pose no risk to public safety.
- **Distinguish between dismissals and convictions** because many young people get arrested and face charges that get dismissed. Those young people are innocent of crimes and they should not have a record to follow them forever.
- **Remove certain restrictions** from the 150+ list of charges and allow for the court to do the work the law charges them to do on a case by case basis especially if the case is dismissed or the young person is otherwise found "not guilty."

Refining the law will adequately achieve the desired outcome from 2018: to reduce recidivism, to remove barriers to employment, education, and housing; and to allow people of color who are disproportionately represented in the criminal justice system and who disproportionately experience the collateral consequences of a criminal record the opportunity to move on with their lives and contribute in powerfully positive ways to the Commonwealth and the communities they live, work and raise families in. Within a system riddled with racial disparities, the final step in the process is to allow for as many people as possible who pose no risk to public safety and who are passionate to pursue a positive future, to achieve that full potential here in Massachusetts or anywhere.

Thank you for your consideration,

Laura Scarlett-Tavares, Director of Social Enterprise

UTEK, Inc.

508-944-4047 (cell)

**Selected Testimony in Support of H.1538/S.1385
Moratorium on Government Use of Face Surveillance Technologies**

1. American Civil Liberties Union of Massachusetts
2. Joy Buolamwini
Algorithmic Justice League
3. Jameson Spivak
Georgetown Law Center on
Privacy & Technology
4. Jane Doe Inc.
5. NAACP
6. Lawyers for Civil Rights Boston
7. Union of Minority Neighborhoods
8. Massachusetts Law Reform
Institute
9. National Association of Social
Workers Massachusetts Chapter
10. League of Women Voters
Massachusetts
11. Electronic Frontier Foundation
12. Electronic Privacy Information
Center
13. Kendra Albert
Berkman Klein Center for Internet
& Society*
14. Kairos AR, Inc.
15. Cortex Automation, Inc.
16. Sam Polk
Tufts University *
17. Thomas Nolan
18. Nicole Leaver, Ben Ballard, Jackie
Faselt, Alex Leblang, and Dominic
Bertram
Tech@Fletcher*
19. Susan Landau
Fletcher School, Tufts University*
20. Boston Public Library
Professional Staff Association
21. Sohrob Kazerounian
Vectra.AI*
22. Gabriel Teninbaum
Suffolk University Law School*
23. Woodrow Hartzog and Evan Selinger
Northeastern University School of Law
Rochester Institute of Technology*
(respectively)
24. Muslim Justice League
25. Jewish Voice for Peace Boston
26. Massachusetts Transgender Political
Coalition
27. Jocelyn Scheirer
28. Kelsey Brown
29. Nancy Murray
30. Peter Kahn
31. Christie Dougherty
32. Letter of support signed by technology
sector workers, business owners, and
academics
33. Press Pause endorsing organizations



Terence Delehanty
Chief of Police

TOWN OF WINTHROP

POLICE DEPARTMENT

3 Metcalf Square
Winthrop, MA 02152
Tel: (617) 846-1212
Fax: (617) 539-1971

July 17, 2020

Via e-mail to: Testimony.HWMJudiciary@mahouse.gov

Re: Concerns to Senate 2820 as Amended

Dear Chairwoman Cronin and Chairman Michlewitz:

I am writing this morning to say that as a proactive, progressive police chief, I have always embraced change that betters the profession of police officers and enhances the safety of community and police/community relations. However, any organizational change needs to be well thought out, with input from all parties, and the legal/liability concerns considered through an open, public dialogue. I am saddened that the Massachusetts Senate failed to meet those criteria when they voted for broad sweeping changes to the law enforcement profession under the cover of darkness when many of us were asleep. Such action does not bring us closer together but divides us further apart.

In the interest of expediency, I would like to comment on three bulleted issues: qualified immunity, school resource officers, and a new section suggested by Mass. Chiefs, provided to offer practical front line experience and insight to the Senates 89-page bill. While I will address these three limited topics, I want to make my support known of the Massachusetts Chiefs of Police letter dated July 16, 2020 and submitted to this Committee. I fully support their comments in their entirety toward Senate 2820:

Qualified Immunity:

There is a huge misconception around the legal principal of qualified immunity which is that qualified immunity protects bad police officers. Rather, the opposite is true. Qualified immunity protects good police officers who are out protecting their communities in a proactive manner. Qualified immunity only becomes an issue if the law or legal principal is not known and when it does become an issue in any case, the judge "balances two important interests – the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably." *Pearson v. Callahan*, 555 U.S. 223 (2009). There has been over 50 years of jurisprudence that has interpreted qualified immunity. The question becomes why the state would want to change it in the pre-dawn hours, after a long senate session without public input. Rush decisions have significant consequences and several consequences that will indeed happen because of the passage of this language is: increased lawsuits, municipalities not being able to obtain liability insurance which could then lead to municipalities becoming bankrupted. What is not realized is qualified immunity does not just protect individual police officers, but it protects schoolteachers, fire departments, school districts, municipalities, correction institutions, building inspectors, Town Managers, and a slew of other public sector employees.

I would ask you to consider the following hypothetical: What if there was a bill introduced that eliminated absolute immunity for any Senator or member of the House of Representative? How would you vote? It is obvious that you would vote no in order to protect your family, and your assets as you reasonably perform your duties to the citizens of the Commonwealth.

I want to end where I began, which was the huge misconception around qualified immunity, which is qualified immunity protects bad police officers; it does not. What protects bad police officers are bad arbitration decisions that overrule the Chief's discipline of an employee who has violated clearly established rule and regulations. Just in Boston alone, over the last several years, there have been numerous cases in which Officers were reinstated by an arbitrator overturning the Commissioner's discipline. Please do not take my comments as advocacy of elimination of arbitrations for public employees; rather, this is an example of one aspect of what we may and should examine before rushing a bill through the legislature.

School Resource Officers:

School Resource Officers have enhanced school/police relations on every level. The police department in Winthrop, like many others across the state, bring into the school more than a law enforcement presence. We are collaborators in every aspect of the school operation. For example, we are currently working with the Superintendent on school reopening during the current pandemic, we have provided technical assistance and finance resources to ensure school can reopen safely. We have brought into our schools social/emotional support services through our public health/police collaborations. We have established Communities for Restorative Justice to handle discontentment and violations of the law that can be handle through a restorative community approach instead of charging a child and creating a juvenile record. These are the type of things we bring into the school with the cooperation and request of the Superintendent. As mentioned in the Mass. Chiefs letter, we act in "in consultation with" the Superintendent on the assignment of the officer who is placed at the school, provide specific training and the officer's yearly evaluation.

The comments that have been publicly made by the Massachusetts Teachers Association (MTA) are quite frankly irresponsible and reckless. It also shows their ignorance as to what investments Police Departments have made towards the care and education of children. MTA must have forgotten about the school violence that has occurred over the last several years across our nation that has called for more police protection in the schools. Also, let us not forget the lessons that we have learned from students like Phoebe Prince whose death led to sweeping changes about bullying in schools. That legislation requires cooperation between schools and the local police.

Any change to the current legislative mandate to the position of School Resource Officers could further divide and deteriorate the relationship between police and school departments that should be concerned with how we strengthen the relationship for the betterment of the child who wants a safe learning environment.

[Recommended New Section] Amends GL Chapter 32 Section 91(g):

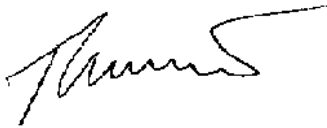
I cannot stress enough how Police Training has and is currently being transformed by the current MPTC Interim Executive Director Robert Ferullo. Director Ferullo has developed forums on Civil Rights and Domestic Violence which has not been the practice over the last several years. He continues to listen to

Chiefs on the need for additional training and specialized training that is specific to Massachusetts Police Officers and not borrowed or brought in from another state that has no practical value to the Massachusetts Police Officer. This has not always been the case when it has come to police training. Director Ferullo's practical street experience, administrative experience and the understanding that each police chief must answer to the community, makes him uniquely qualified to retain this position. After he leaves, other Chiefs with the same experience would be able to fulfill these tasks as well.

So, I urge you to add the section the Mass. Chiefs of Police have suggested which amends G.L. Chapter 32, Section 91(g).

I appreciate the opportunity to give my practical experience and the sentiment and feelings of not just me but my entire staff here at the Winthrop Police Department.

Respectfully Submitted;

A handwritten signature in black ink, appearing to read 'Terence M. Delehanty', with a long horizontal flourish extending to the right.

Terence M. Delehanty
Chief of Police

To Whom It May Concern,

I am writing to express that as a Massachusetts resident, a wife of a police officer, and a town employee who would be effected by portions of this bill, I do not support a "Bill to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color".

Although I believe there is always room for changes that bring improvement to our people and communities, I do not believe those changes occur by targeting life saving professions in such a drastic way. This bill and its future implications have not been thoroughly considered by the government leaders of the Commonwealth.

I have worked side by side with law enforcement officers, fire fighters, EMT's and paramedics, I know many nurses, teachers, and other town employees who will undoubtedly be effected by portions of this bill. In my eight years of employment I have seen officers respond to car accidents, unattended deaths, suicides, drunk driving accidents where people were hurt. I have seen officers arrest people they have known since childhood, I have seen officers offer support to victims, I have seen officers cry, I have seen them laugh, I have seen them numb from the pain that people cause. I have also seen all of these officers return to work day in and day out, with the ultimate goal of making a difference, protecting their residents, and everyday they are willing to put their lives on the line for a perfect stranger.

As a wife of an officer I have seen what the job can do, it hurts me to think that my loving, funny, give the shirt off his back husband is hated by so many across this country simply because he wears a uniform. It hurts me more to think that those we voted into office are willing to pass such a radical bill that in my opinion supports a political movement rather than supporting every person in this state regardless of color, economic status and profession.

There is a way to support Black lives and communities of color, while still supporting first responder's, taking funding from one and giving it to another is not the right way, opening up good people to frivolous personal law suits is not the right way. I would like to think as a society we want equality, we want each person to feel safe at home, at work, and walking through their neighborhoods. Please remember, there are bad people, there are bad police officers, bad fire fighters, bad nurses, bad teachers, bad priests, bad white, black, brown people, but there are also GOOD people and there are far more good people than bad, this bill simply is punishment to the good people, bad people do not care about law, if they did, we wouldn't need police. Please consider the good people, who will now be more afraid than ever to do their jobs effectively which will undoubtedly put their lives and the safety of their communities at higher risk.

As a resident, a wife, and a good person, I urge you to reconsider this bill, work with both sides to find a solution to create equality and protect all good people in this state.

Sincerely,
Megan Sousa

Rowley, MA

Massachusetts Communities Action Network (MCAN)
14 Cushing Ave, Dorchester, MA 02125
www.mcan.us (617) 470-2912

Worcester Interfaith
111 Park Avenue, Worcester MA 01603
781-913-4904 – isabel@worcester-interfaith.org

Testimony to House Judiciary and House Ways and Means on
Senate 2820 7/17/20

July 16, 2020

Dear House Judiciary Chair Claire Cronin and House Ways and Means Chair Aaron Michlewitz and Committee Members,

I am the Reverend Judith K. Hanlon senior pastor at Hadwen Park Congregational Church in Worcester Massachusetts. Please, please pass this bill.

I

it is my belief that the history of policing has built a system that acts more military than protective. And, I believe that after the Emancipation Act, police were a part of the system that continued to enslave black people by rounding them up for prison for no reason and creating the work force that slavery was intended to eradicate.

I think it is very hard for even the very best police officers to protect and serve rather than catch and jail.

Sadly, I can support my opinion. Our church houses a ministry called the LGBT Asylum ministry. Thus, for 11 years, our church has been blessed to be multi-racial, multi-cultural and intergenerational. When some of our young black asylum seekers began to tell me how many times they had been stopped for traffic violations (or no reason) I couldn't believe it. One of our ministers, Al Green who is a black man from Jamaica and a graduate of Worcester Poly Tech as a civil engineer, has been stopped many times. One of the times, he was asked repeatedly if the car was his. I have never ever, when young or now as an older person, been asked if the car was mine. Al gave him the registration and license and the police officer continued to ask if this was his care. Al was so surprised because the car was nothing that he would have chosen to drive except that he was a student and struggling to both work and complete his degree. The cop did not arrest him but he was left to shamed with the assumption of poverty and crime aimed at him.

One of our young Ugandan men was picked up by State Police. He was not cited for any grievance, but they wanted to see his driver's license. He was driving, as is legal, on his Ugandan license. He was unable to get a license here because he did not yet, have a social security number. The law offers immigrants one year to drive on their license from their home country. I found him distraught and frightened. I met him at the towing company where his car was. I told

them that his license was valid. They didn't care, of course. Told me to talk to the State Police. They would not accept my call. The only way for him to get his car was for me to pay \$200.00 out of my pocket. If I didn't, the cost would increase daily. I paid it. Michael went to court and of course, the State Police were wrong! I was never able to receive my \$200. There is no question that Michael was racial profiled. They refused to listen to him and simply took him in! Who were they serving and protecting?

A gentleman from Uganda who was a doctor there, was stopped 6 times in two months. I don't think anyone who hasn't worked with these amazingly courageous people understand how traumatizing it is to be targeted. One man said to me, "Pastor Judy, in Uganda, I was tortured and beaten by the police because I was gay; in the USA, I fear being tortured and beaten by the police (even killed) because I am black."

Another young man pulled over on Main Street in Worcester at about 11pm, because his mom from Uganda called him. He was arrested and accused of prostitution. He is gay! He begged the office to look at his phone and see his mother's number to prove that he was talking to his mom. He was shamed and the police refused to listen to him. He was black, in a neighborhood where prostitution was happening, but the police officer refused to simply look at his phone.

I could go on and on. We have had black folks speak in church since the death of George Floyd. We have heard from a black police officer who left the force due to racist slurs and pressure from other police officers in the Worcester police department. From them, he was called the "N" word daily!

Please, please reform. I do not believe that we can simply have some training packets and tell racist cops to follow the rules. We need a re-do on what it is to be a police officer and we need a re-do on who we hire.

All that being said, I would not want to be a police officer today. I believe that reform will help good police officers who wish to do a good job while working under archaic and abusive guidelines.

I would be glad if this law is passed. I hope that many more will be coming in the future that will protect my good and beautiful parishioners; God's children who were made wonderfully by the God of diversity.

With respect and hope.

The Reverend Judith K. Hanlon

Massachusetts Communities Action Network (MCAN)
14 Cushing Ave, Dorchester, MA 02125
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Testimony to House Judiciary and House Ways and Means on
Senate 2820 7/17/20

July 16, 2020

Dear House Judiciary Chair Claire Cronin and House Ways and Means Chair Aaron Michlewitz and Committee Members,

This bill the Legislature moves toward passing comes out as a response to the most massive set of marches and rallies Massachusetts has ever had. Tens of thousands of people have been out in streets and squares in cities and towns across the Commonwealth and often more than once. This legislation must have as a goal that it is a response to the reckoning of how we need to reshape our institutions to shed the institutional racism that is there.

There are many good institutions and good people but still so much is not right for too many people. For example, even AG Bill Barr's Department of Justice recently reported that a unit of the Springfield Police Department *routinely* uses brutal, excessive violence against residents of that city.

So, we need changes passed. And by July 31. We want to be able to say we did answer the call to respond to the generations of injustices that have occurred on these issues in our state.

Here are some of the elements that we hope will be in the House passed bill:

1. Use of Force: Having strong use of force standards as set out in Rep. Miranda's bill, *An Act to Save Black Lives*, including complete bans on the most violent police tactics.
 2. Qualified Immunity Changes: Putting strict limits on qualified immunity to ensure that police can be held accountable when they violate people's rights; the Senate bill has such language towards this goal.
 3. Justice Reinvestment: We support including Justice Reinvestment provisions for funding re-entry employment and prevention programs as the prison population declines, and we ask that the legislature be free to allocate more than the \$10 million per year that the Senate set as a cap. Our communities have been decimated by the psychological and economic effects of over-incarceration, and need substantial reinvestment to rebuild. In the face of Massachusetts' \$700 million annual prison spending, limiting that reinvestment to \$10 million is a slap in the face.
 4. Expungement: We support expansion of the right to expunge juvenile records because the current law is unworkable and limits expungement to juveniles who had a single charge
- Worcester Interfaith and faith leader's testimony

on their record although police routinely file more than one charge in cases they file. At present, even charges that were dismissed or ended in a not guilty finding can't be expunged if the person had more than one charge and young adults often have more than one case. The consequences of saddling youth with a CORI when they turn 18 that will limit their changes to get a job.

5. Banning Facial Recognition: We need to ban the use of dangerous facial recognition technology that would supercharge racist policing.

6. Black and Latino Caucus Recommendations: Please include other recommendations made by the Black and Latino Caucus, some of which are among what's above, and we thank them for their hard work on these issues.

We are a federation of faith-based community improvement organizations located in cities and regions across the state. We worked extensively on the Criminal Justice Reform legislation passed in 2018 and other work in this area before and since then. Our affiliates are Brockton Interfaith Community, Essex County Community Organization, Worcester Interfaith, United Interfaith Action of SE MA (Fall River & New Bedford), Pioneer Valley Project (Springfield), Prophetic Resistance Boston, and I Have A Future Youth Organizing Project (Boston).

Here is a statement from one of our faith leaders in the City of Worcester.

To Whom it May Concern,

I am the Reverend Judith K. Hanlon senior pastor at Hadwen Park Congregational Church in Worcester Massachusetts. Please, please pass this bill.

It is my belief that the history of policing has built a system that acts more military than protective. And, I believe that after the Emancipation Act, police were a part of the system that continued to enslave black people by rounding them up for prison for no reason and creating the work force that slavery was intended to eradicate. I think it is very hard for even the very best police officers to protect and serve rather than catch and jail.

Sadly, I can support my opinion. Our church houses a ministry called the LGBT Asylum ministry. Thus, for 11 years, our church has been blessed to be multi-racial, multi-cultural and intergenerational. When some of our young black asylum seekers began to tell me how many times they had been stopped for traffic violations (or for no reason) I couldn't believe it. One of our ministers, Al Green who is a black man from Jamaica and a graduate of Worcester Poly Tech as a civil engineer, has been stopped many times. One of the times, he was asked repeatedly if the car was his. I have never ever, when young or now as an older person, been asked if the car was mine. Al gave him the registration and license and the police officer continued to ask if this was his car. Al was so surprised because the car was nothing that he would have chosen to drive except that he was a student and struggling to both work and complete his degree. The cop did not arrest him but he was left, shamed with the assumption of poverty and crime aimed at him.

One of our young Ugandan men was picked up by State Police. He was not cited for any grievance, but they wanted to see his driver's license. He was driving, as is legal, on his Ugandan license. He was unable to get a license here because he did not yet, have a social security number. The law offers immigrants one year to drive on their license from their home country. I found him distraught and frightened. I met him at the towing company where his car was. I told them that his license was valid. They didn't care, of course. Told me to talk to the State Police. They would not accept my call. The only way for him to get his car was for me to pay \$200.00 out of my pocket. If I didn't, the cost would increase daily. I paid it. Michael went to court and of course, the State Police were wrong! I was never able to receive my \$200. There is no question that Michael was racially profiled. They refused to listen to him and simply took him in! Who were they serving and protecting?

A gentleman from Uganda who was a doctor there, was stopped 6 times in two months. I don't think anyone who hasn't worked with these amazingly courageous people understand how traumatizing it is to be targeted. One man said to me, "Pastor Judy, in Uganda, I was tortured and beaten by the police because I was gay; in the USA, I fear being tortured and beaten by the police (even killed) because I am black."

Another young man pulled over on Main Street in Worcester at about 11pm, because his mom from Uganda called him. He was arrested and accused of prostitution. He is gay! He begged the office to look at his phone and see his mother's number to prove that he was talking to his mom. He was shamed and the police refused to listen to him. He was black, in a neighborhood where prostitution was happening, but the police officer refused to simply look at his phone.

I could go on and on. We have had black folks speak in church since the death of George Floyd. We have heard from a black police officer who left the force due to racist slurs and pressure from other police officers in the Worcester police department. From them, he was called the "N" word daily!

Please, please reform. I do not believe that we can simply have some training packets and tell racist cops to follow the rules. We need a re-do on what it is to be a police officer and we need a re-do on who we hire.

All that being said, I would not want to be a police officer today. I believe that reform will help good police officers who wish to do a good job but can't due to the archaic and abusive guidelines under which they work.

I would be glad if this law is passed. I hope that many more will be coming in the future that will protect my good and beautiful parishioners; God's children who were made wonderfully by the God of diversity.

With respect and hope.

The Reverend Judith K. Hanlon

Signors:

Isabel Gonzalez-Webster, Worcester Interfaith
Rev. Aaron Payson, Unitarian Universalist Church, Worcester
Rev. Jose Perez, Rock of Salvation Church, Worcester
Rev. Clyde Talley, Belmont AME Zion Church, Worcester
Scott Larson, President, Straight Ahead Ministries , Worcester
Imam Asif Hirani, Muslim Islamic Center, Worcester
Rev. Mark Nilson, Salem Covenant Church, Worcester
Rev. Brent Newberry, First Baptist Church, Worcester
Rev. Rev. Natalie Webb, First Baptist Church, Worcester
Rev. Judith K. Hanlon , Hadwen Park Congregational Church, Worcester
Rev. Tom Sparling, The Journey Community Church, Worcester
Rev. Lina Michel, United Congregational Church, Worcester
Rev. Jose Encarnacion, Christian Community Church & the Shalom Neighborhood Ctr,
Worcester
Rev. Dr. Sarai Rivera, District 4 City Councilor and Christian Community Church & the
Shalom Neighborhood Ctr.
Rev. Esau Vance, Mt. Olive Pentecostal Church, Worcester
Rev. Dr. Jesse G. Gibson, Throne of Grace Ministries, Worcester
Worcester City Councilor at Large, Khrystian E. King

Massachusetts Association of Minority Law Enforcement Officers, Inc.

M.A.M.L.E.O

61 Columbia Road

Dorchester, MA 02122

Office 617-436-6868 ~ Fax 617-825-8591

Email: MamleoInc@gmail.com Website: www.MAMLEO.org



Dear Sirs and Madames,

We, the members of the Massachusetts Association of Minority Law Enforcement Officers (MAMLEO) feel compelled to express our concern and displeasure with some aspects of Bill s2800.

The Bill seeks to address some of the longstanding problems between law enforcement officers and members of the black population. This historic problem was magnified when the video of Derek Chauvin murdering George Floyd was circulated throughout the country and the world. Sadly, this was the impetus for most of America and the world to finally take notice and realize that the country that we espouse to be the land of freedom, equality and opportunity has not been such for many black and brown people. This is despite the long history of black people talking and telling of their negative, hate filled and racist experiences with police, government, education, and the many aspects of the private sector. This unfortunate incident lead to the expedited effort to get this bill passed before the end of this legislation session.

We, at MAMLEO, despite the fact that we are police officers have for years spoken about issues related to systemic racism by virtue of the many public battles we have fought with the City of Boston, i.e. failure to hire black and brown people, racist discriminatory hair test, lack of diversity in supervisory positions, disparate treatment with internal affair cases, lack of diversity in specialized units, etc. The list is endless, so we too are all too aware of what it is to live in racist system. That said, we were relieved to hear that the legislature was going to embark on landmark legislation to tackle these issues of race.

We engaged with some members of the Black and Latino Caucus to discuss some of the changes that were going to be in this bill. Despite some of the initial reservations, after several discussions with a FEW members of the State Senate we resolved that the bulk of changes would be positive and that those changes would benefit our communities and our colleagues, despite some of their reservations. A few weeks into the process, we were shocked by the introduction of “qualified immunity” in the bill and the limitation of “due process.” The bill was passed shortly thereafter with little public engagement and certainly without much context for how this bill would affect officers and certainly those same officers of color who had advocated for change.

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To give context to our concerns, I hope that the House will consider that for years MAMLEO has consistently invited public officials to assist us and be allies in our battles against systemic racism in policing within the Commonwealth. These conflicts quite often appeared to be the result of a racist application of the rules and/or procedures.

First and foremost, we are concerned about qualified immunity because it will have the “chilling effect” of dissuading young men and women of color from joining a profession that is in dire of need of diversity. Individuals will now have to consider the possibility of being sued even when they are performing their duties in a “reasonable manner.” This is coupled with the harsh language that has been directed at police officers without qualification by many elected officials and public figures. Secondly, we are concerned with the due process component of the bill. Historically, black and brown officers have failed to receive fair and unbiased treatment when referred to Internal Affairs for alleged violations of department rules and regulations and the law. Oftentimes in those cases we have had to exhaust all avenues before getting a fair and unbiased decision that takes into account the lack of equity between how officers of color are treated and judged in comparison to their counterparts. The disparity is CLEAR as evidenced in the following cases.

[MCAD and Defay vs. Boston Police Department](#) and [Court orders Boston police to reinstate fired officer](#)

We hope that the members of the House will consider all that we have explained and will engage us in meaningful conversation before finalizing this bill.

Thank you,

Eddy Chrispin, MAMLEO President

Sgt. Tom Krutka

Southwick Police Department

Southwick, MA 01077

To: Representative Nick Boldyga

Sir, I'm sure I do not have to tell you how concerned most of us in the law enforcement community are regarding all that has been going on in the country in recent weeks/months. It shames me tremendously to think there are police officers wearing the same badge as I committing these crimes, and that is exactly what they are doing, committing crimes. I know I do not have to tell you these officers do NOT represent what the rest of the hard working, caring, good honest police officers in everyone's communities believe in.

I really believe the law enforcement community has become the scapegoat for all of the chaos that is going on. Yes, there has been several incidents that have contributed to this mess, there is no doubt, but the rest, is just, political garbage.

Nick, we don't know each other all that well, but I believe you know me enough to agree with the fact that I have dedicated so much of my life as a police officer and to the Town of Southwick. I have sacrificed my own personal relationships in order to do my job to the upmost best of my ability. I am in no way nor have I ever looked for a "pat on the back", I have never been one to advertise my service for personal recognition. I have however, have been put in the spot light on social media many times throughout my career at the hands of my superiors, especially during my canine days. I was always told, "this is what pays the bills". I cannot say I did not enjoy and or appreciate the recognition from time to time, however, I would rather remain out of the spot light.

I am approaching 17 years of fulltime service and I feel, up to this point thus far, I have had a very good career. In in the beginning I worked regular patrol for three years, Canine officer for 10 years where my partner K-9 "Jax" and I did some amazing things throughout our time together, especially for a small town K-9 Unit and now, I have been promoted to Sergeant and assigned to the detective bureau where I have already had some success in solving a few rather big cases.

I have seen some horrible things in my career, some in which cause me, to this day to wake up in the middle of the night in a cold sweat with the vision of a dismembered kid from one of several very intense fatal motor vehicle accidents I have had the unfortunate pleasure of investigating over the years; one in particular from 2004, I cannot shake!

I have had to witness kids growing up in homes that I would not allow my dog to enter. Over the years I have helped so many kids in this town with addiction problems, some multiple times. I have some success stories and some which chose to end their lives with suicide that now I have to live with as well. I have gotten kids jobs, helped them with their cars, helped some with their relationships with their parents. I have even had to help two kids over the years come out to their parents with the fact they were gay.

This past fall I had to take part in a Westfield murder investigation where one of our (Southwick's) kids, a 17 years old boy was brutally murdered. The vision of his left hand clinched together in a fist as he was fighting for his life is forever engraved in my brain, not to mention the rest of his maimed body.

Aside from what our association has done over the years for those down on their luck, I personally have purchased clothes, shoes and other personal items for several kids in town that did not have very much. Just recently, I assisted a 25-year-old, who was a former student here in town, with getting him into a rehab for Heroin addiction. All he was allowed to bring with him was t-shirts and underwear which he didn't have either except for what he was wearing; so as I was driving him to Pittsfield Medical Center, we stopped at a Walmart and I purchased him socks, boxers and t-shirts because he had nobody else to help him, not even his parents.

A few years ago now, I took part in an escort where we drove to Bradley International Airport to pick up the remains of one of our boys who lost his life while serving in the United States Navy. I met Tanner when he was about 16 years old at which time he was having a lot of personal issues. We would meet often and just talk; it seems as if he was always looking for someone to just listen. As he grew some, life was getting better for him and then he came to me with the idea of joining the Navy. After numerous conversations regarding this idea, we went to his mother and we all sat down and discussed it. Tanner did enlist and he loved it. Tanner was assigned to the USS George Washington Aircraft Carrier and was stationed in Japan. After his deployment he returned to the states and was temporarily stationed in San Diego. Where something went terribly wrong. To this day we are still not quite sure what exactly happened, all we know is there is still an investigation going on by the US Navy investigators.

On his last journey back to Southwick, upon arriving at Bradley, we stood by at attention as his casket was being taken out of the plane and into a hearse. We then escorted him all the way back to Southwick; I think I cried the entire way back as I lead the escort at the request of his mother; I'll never forget it!

Just over a year ago I fought the heroin addiction battle with another 22-year-old boy from town. Jeremy was a young man who I became acquainted with over the years and became someone he trusted very much so. Out of the blue, Jeremy came to me looking for help as his addiction was out of control. He had lost so much weight, if he did not hold up his pants, they would just fall off as he stood. I spoke to his father in length explaining the addiction to him as he did not understand it all that well. Together, we got Jeremy the help he needed. After leaving rehab, Jeremy would text and or message me on Facebook once every couple of weeks as he went from half way houses to different treatment facilities thanking me every time for saving his life; I could not have been happier for him and his dad. I then noticed a couple of months went by and I did not hear from him. I saw his father and asked how Jeremy was doing and if he had heard from him and stated he hadn't heard from him; he did say he knew he met a girl but that was it; his father stated he was kind of worried.

That night I messaged Jeremy on Facebook asking if everything was okay; I did not receive a response from him right away. The next morning while driving to work, I received a message back from him which nearly caused me to crash. All the message said was, "The devil is winning". I frantically tried to message him back, call him on his phone which was disconnected, and a Facebook call, but there was no answer or response. I called his father asking him if he knew where Jeremy was but he didn't; he was pretty much freaking out as well trying to find him.

Two days later I received a call from a Connecticut Police Department informing me they received a call for an unresponsive male party at a residence in their town, it was Jeremy and he had overdosed and died; I cannot tell you how crushed I was, it felt like I had lost a son of my own.

Sir, I am telling you all of this so you can really get a grasp on what the good cops in the Commonwealth of Massachusetts and other states in this great country do on a daily basis and it's not just about traffic stops and speeding tickets!

Sir, after everything I have told you thus far, I have never, ever questioned the fact that I love being a police officer and there is nothing else in the world I'd rather be doing, until now. For the first time in over 20 years, I am worried and having second thoughts of continuing being a police officer.

Now I am no politician; I am not an administrator; I have not always been politically correct, however, I have always been the go to guy to get things done, whether it was at the request of a superior officer, a fellow officer or a member of this community and now, I have to be worried I am going to be sued on a daily basis for every little thing we have to do to enforce the laws of this country and state, not to mention to keep people and their property safe.

One thing I have noticed since all of this mess has begun, not one person, group and or politician has mentioned how out of control society is! Most, including my closest friends cannot fathom some of the behavior and actions committed by society today that we as police officers witness on a DAILY basis, even in small towns like ours; it's pretty scary to see where society is headed. Police actions are getting more intense because of what they are facing on the streets. I cannot even fathom what it's like being a big city cop in places like Springfield, Hartford, Boston not to mention places like Atlanta, Las Angeles etc...

Nick I am not against reform, changes or whatever you want to call it, but law enforcement.....Police officers need to be protected and supported or you're going to see the good cops, after getting beat down, walk away, myself included; and believe me, this is a feeling that I would have never, ever thought would ever enter my mind!

Sir, I am just asking you to please, for the good of all of us, not just the police but for all the of the citizens and or people of every community, to take the time to do what's right by the people.

Thank you for your time,

God Bless,

Tom Krutka

Sirs,

My name is Kevin Cavanaugh, I am a Patrol Officer with the Wilmington Police Department (978-658-5071, c. 978-808-2227) for the past 8 years. As a member of this department I also serve as a Field Training Officer, a CPR/First Responder Instructor, Training Instructor for our Police Explorers program, and also as a Steward for our patrol officers union New England Benevolent Police Association (NEPBA) Local 1. I am also a lifelong Massachusetts resident and work in the same town in which I grew up and still currently reside.

I am writing to you today in opposition to S2820 based on several factors which I find to be of concern. The first and most glaring factor is the haste and lack of transparency in the writing and passing of this bill within the Senate. The wording of the preamble, establishing an emergency basis as a means to bypass the normal democratic process, indicates that the situation is dire and African American lives are in great danger without it. To be blunt this is simply not true. While there have been serious instances of police misconduct and unlawful killings in other parts of the country, the same does not hold true in the Commonwealth. There are always improvements which can be made in how our judicial system works, but to state that this bill must be passed on an emergency basis is disingenuous at best. Emergency bills (H4745 and S2602) offering protections and hazardous duty pay to first responders and essential workers during the Covid-19 pandemic have still not been ratified.

Qualified immunity is one of the areas of municipal law enforcement which S2820 is attempting to change. There are many misconceptions to what qualified immunity is and how it works. Officers are only “qualified for immunity” if the officer is attacking within the law, within the scope of their training, and within the policies and procedures of their department. Qualified immunity does not protect those officers who are committing crimes, or attacking outside the scope of their authority; it is not absolute immunity.

For municipal police officers qualified immunity allows for the courts to dismiss frivolous cases against officers at the early stage of the trial. S2820 takes that ability away and places the officers in a position to have the judge decide if qualified immunity is present as a fact of the case. Essentially S2820 is going to allow many cases to push further along in the legal process, taking up time and resources of the government and the individual officers, before coming to the same conclusion which should have been decided from the beginning, while at the same time making it easier for plaintiffs to claim that their rights were deprived based on bias. S2820 also allows for plaintiffs to seek legal fees during their cases, bringing about a very foreseeable uptick in predatory lawsuits from attorneys and clients who know that they will not have to foot the bill. That bill will have to instead be footed by the municipalities and the officers themselves.

One of the major talking points which I have heard from supporters of the bill is that even without qualified immunity the municipalities can still indemnify their officers. I will direct your attention to the word “can” within that sentence. Municipalities can indemnify their officers, however they are not required to. Legislators, Town Administrators, Judges, DAs, and even the

Massachusetts State Police are statutorily required to be indemnified, however municipal officers are at the whim of their employers.

SECTION 3 and SECTION 4 of S2820 speak to the administration of the Municipal Police Training Committee and changes in training which are to take place. As an officer who is heavily involved in training I will state that I am happy to receive as much training as this Commonwealth can provide. Training in use of force, de-escalation techniques, biased policing, and policing of special populations (such as individuals with mental health issues, individuals with autism, and individuals with other disabilities) is essential to provide high quality professional police services. Fortunately, we are a state in which those trainings are currently being provided. Recruit academy curriculums already offer extensive courses in each of those areas. Annual in-service training curriculums also focus on these areas on a three year rotating basis, with use of force taught every year, and at least one of the other subjects taught yearly. I would be more than willing to receive extra training in these areas on a yearly basis, however I do not see where the funding for those trainings is coming from, or which other classes would be cut during our in-service period.

SECTION 6 establishes an independent police officer standards and accreditation committee which is made up of an unequal amount of non-law enforcement to law enforcement members. 8 members of this committee will not be law enforcement officers, which already guarantees an unfair influence on the committee. Of the 6 members who will be from law enforcement it is only mandated that 1 be from the rank of patrol officer or detective. 3 of these 6 law enforcement appointees will come from only 3 departments. There are no representatives of law enforcement labor unions. Based on its statutory make up this committee will not be independent, as it has mandated members from special interest groups and less actual law enforcement professionals than none law enforcement professionals. It is asinine to have a professional oversight and accreditation committee with the majority of the members not being in that profession.

This committee has also been granted the power to investigate claims of misconduct and issue non-appealable rulings, which impact the individual officer's professional certification. Just think of that for a second; a committee made up of a majority of members who are not law enforcement professionals, is being given the power to make determinations about the rightness of an officer's actions or conduct, and this determination is not subject to appeal. The very thought that a decision made by a biased committee is not subject to appeal is laughable. This committee, which will be a political and not independent one, will now be able to decide appropriate conduct for law enforcement officers in the Commonwealth without any checks and balances. This is the reason that Civil Service and Labor Law are in existence, to be able to make decisions about an officer's conduct that is not tainted or influenced by political pressures. Making this committee's decisions not subject to appeal to a truly independent arbitrator should be shocking to everyone's sense of fairness and justice.

The haste with which this bill has been constructed, the lack of transparency in the process up to this point, and the virtue signaling of many clauses without actual funding to

accomplish them or means of moving forward is discouraging. The people of the Commonwealth of Massachusetts deserve better than this from their legislators. Open dialogue from all sides would be a welcome way to improve law enforcement within the Commonwealth, which is already on the cutting edge of professional policing nationwide. Instead this bill is a thinly veiled attack on law enforcement in general and municipal police officers in particular. When the Senate could have had an inclusive discussion with all stakeholders and figured out an appropriate way to provide for training and oversight, they instead pushed through S2820, which has alienated every officer in this state and made us fearful of the consequences of performing our duties. Duties, which I might add, that the citizens and legislature of this Commonwealth have called on us to do. Duties which force us into tough positions, making split second decisions with few good choices, and the only protections which we feel we have are now being denigrated beyond reason.

Sirs, I ask that you and your colleagues vote “no” on this bill. I ask that you utilize your reason and realize that this is not the answer which is needed to provide more protections for members of minority communities in the Commonwealth. I ask that you understand that by stripping away the protections for the innumerable good officers who serve our citizens you are guaranteeing an exodus of those same officers who are willing to lay down their lives for their communities, but are not willing to face financial ruin for themselves and their families at the same time. Please vote “no” on S2820, and help us move forward with a collaborative process to provide all of the citizens of our great Commonwealth fairness and justice.

Respectfully,
Kevin Cavanaugh
Patrol Officer
Wilmington Police Department

Dear MA House of Representatives,

As your constituent, I write to you today to express my strong opposition to many parts of the recently passed S.2820. I hope that you will join me in prioritizing support for the establishment of a standards and accreditation committee, which includes increased transparency and reporting, as well as strong actions focused on the promotion of diversity and restrictions on excessive force. These goals are attainable and are needed now.

I am, however, concerned at the expansion of this legislation, targeting fundamental protections such as due process and qualified immunity. This bill in its present form is troubling in many ways and will make an already dangerous and difficult job even more dangerous for the men and women in law enforcement who serve our communities every day with honor and courage. Below are just a few areas, among many others, that concern me and warrant your rejection of these components of this bill:

(1) Due Process for all police officers: Fair and equitable process under the law demands the same rights of appeal afforded to all citizens and fellow public servants. Due process should not be viewed as an arduous impediment, but favored as a bedrock principle of fundamental fairness, procedure and accountability.

(2) Qualified Immunity: Qualified Immunity does not protect problem police officers. Qualified Immunity is extended to all public employees who act reasonably and in compliance with the rules and regulations of their respective departments, not just police officers. Qualified Immunity protects all public employees, as well as their municipalities, from frivolously lawsuits. This bill removes important liability protections essential for all public servants. Removing qualified immunity protections in this way will open officers, and other public employees to personal liabilities, causing significant financial burdens. This will impede future recruitment in all public fields: police officers, teachers, nurses, fire fighters, corrections officers, etc., as they are all directly affected by qualified immunity protections.

(3) POSA Committee: The composition of the POSA Committee must include more rank-and-file police officers and experts in the law enforcement field. If you're going to regulate law enforcement, up to and including termination, you must understand law enforcement. The same way doctors oversee doctors, lawyers oversee lawyers, teachers oversee teachers, experts in law enforcement should oversee practitioners in law enforcement.

In closing, I remind you that those who protect and serve communities across Massachusetts are some of the most sophisticated and educated law enforcement officials in the nation. I again implore you to amend and correct S.2820 so as to treat the men and women in law enforcement with the respect and dignity they deserve.

Thank you,

Richard Couture

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07/16/2020

Robert A. Swartz
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Lakeville, MA 02347
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The Honorable Claire Cronin
Massachusetts House of Representatives
Chair, Joint Committee on the Judiciary
24 Beacon St.
Room 136
Boston, MA 02133

The Honorable Aaron Michlewitz
Massachusetts House of Representatives
Chair, House Ways & Means Committee
24 Beacon Street
Room 243
Boston, MA 02133

Dear Chairs Cronin and Michlewitz,

My name is Robert Swartz and I am a resident of Lakeville, Massachusetts. I am in my 31st year working in law enforcement. I have served as a patrolman, a K-9 handler, and currently am a Detective with the Taunton Police Department and the Director of the Southeastern Massachusetts Law Enforcement Councils (SEMLEC) Critical Incident Stress Management (CISM) / Peer Support Team. I am writing to you today to request your support of Section 78 of House Bill #2820 Critical Incident Stress Management and Peer Support Programs. To be transparent, I do not support this bill in its entirety, and have already seen the increasing stress it has caused on Law Enforcement. However, I do commend the Senate for introducing the topic of Police Stress Management as a vital part of reform and support for officers. The implementation of Critical Incident Stress Management and Peer Support Programs is very personal to me.

Eight years ago, I was involved in a shooting, while at work. I was forced to discharge my weapon in defense of my own life and the lives of my community members. Though I had been through countless tactical and professional trainings on how to protect my life and others, nothing prepared me for the aftermath and impact this incident would have on me or my family. That day was life changing. Most, unless they too have been through an officer involved shooting, cannot comprehend the overwhelming stress and physiological changes your body and mind go through. I myself had not been prepared for what the days and weeks following would be like. Unfortunately, there was no Police Critical Incident Support Team in my area at that time, after all, officer involved shootings are not a daily event in our region. Fortunately, with the guidance of a fellow officer I was put in touch with the Boston Police Peer Support Unit. Within days I was connected to a group of Peers and Clinicians who helped me, my wife, and my children weed through our emotions and cope with our new norm. Have you ever had to

explain to your child that you took another person's life? Or explain to your family your need to go back to work after nearly being killed yourself? Peer Support was instrumental in providing us the tools we needed to communicate effectively with our children, teach us how to navigate our emotions, and provide a stable environment both at home and at school to lessen the impact this would have on our lives.

Since that time it became important to me, along with the support of the Southeastern Massachusetts Law Enforcement Council, we establish a Critical Incident Peer Support Unit. Over the last few years our team has conducted over 115 one-on-one peer support sessions, debriefed 30 critical incidents, diffused 32 critical incidents, made 18 trips to mental health facilities that offer programs specific to law enforcement officers, and provided support at 3 officer suicide and 1 line of duty death funerals, as well as sponsored a 2 day wellness symposium attended by over 300 officers. Local agencies already have individual and regional Peer Support and Critical Incident Stress Management Units. The Massachusetts State Peer Support Network oversees several multidiscipline teams, Boston Police have an established Peer Support Unit, Massachusetts State Police have a Stress Unit and several of the Law Enforcement Councils (Southeastern Massachusetts Law Enforcement Council, Metro Law Enforcement Council...) have well established regional teams. These team members are officers from throughout the region and are well versed in assisting officers with mental wellness. And it is still not enough! Currently, there are departments not participating and therefore, their officers are not receiving services.

I feel it is important to get in front of these incidents in Law Enforcement by ensuring Mental Wellness Practices become part of the daily trainings of officers. Training, that is not currently mandatory, should become a requirement. The National Institute of Justice states that an officer, on average nationwide, will be subjected to three traumatic events every six months. Put into perspective that just one critical incident could spiral a person into a lifetime of depression, substance abuse and struggle, yet Police Officers deal with these traumas routinely. To illustrate the point, a police officer with marital problems and financial struggles, whose family stress is compounded by shift work and lack of ability to be present at home or assist in child care. The officer now copes with this real-life situation by drinking and isolating himself. One can see how the combination of all these stressors can significantly affect how an officer responds or behaves. Without a proper outlet, awareness, education, healthy coping mechanisms, and training to relieve the stress and grow through life events, the likelihood of a negative outcome with the community is inevitable.

In closing, I respectfully request that you recognize the importance of, and support support Section 78 of House Bill #2820 Critical Incident Stress Management and Peer Support Teams. Please feel free to reach out to me if I can be of any assistance.

Sincerely,
Robert A. Swartz
Robert A. Swartz

My name is Kristopher Dees and I am employed by the Middleboro Police Department for the past 15 years my current rank is Lieutenant, I hold a Master's degree in Criminal Justice. Before being hired by the Middleboro Police Department I was a soldier and deployed to Afghanistan in 2002-2003. During my time with MPD I have served in patrol, detectives, Detective Sergeant and Detective Lieutenant. I have served several times as a Task force Officer assigned to DEA in Massachusetts and Rhode Island. I have served warrants, seized illegal firearms, narcotics and fought for my life alone in woods and on the side of the road. I have also administered Narcan, helped deliver a child, saved an unresponsive newborn baby by administering back slaps, I saved another small child by using my accumulated drug knowledge to know that a baby was overdosing not choking as the mother continued to tell medical staff. I have investigated dozens of deaths both natural and unnatural. I have had to have those conversations with families about their loved one's deaths.

I am now older and my function as a police officer has changed to a much more administrative role. I have always been willing to give my life for the United States when I was a soldier and for the people of the Commonwealth in my time as a police officer. That being said with the current proposed changes to qualified immunity you are now asking me to put my family's life on the line as well, which many police officers will not be willing to do. Police Officers need Qualified Immunity to protect themselves against frivolous law suits. It's not a shield against criminal wrongdoing as it's being portrayed in the media. It protects me from being sued from minor injury to that child I saved or forcing the door to get to that baby that was dying of an overdose. Please protect my family as hard as I protect all of yours.

Kristopher Dees #105

Detective Lieutenant Middleboro Police

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July 17, 2020

Dear Chair Aaron Michlewitz and Chair Claire Cronin, 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". The Massachusetts Association of Campus Law Enforcement Administrators (MACLEA) seeks to include a representative of the Association to serve on the Police Officer Standards and Accreditation Committee created by section 6 of Senate Bill 2820. MACLEA's member departments are responsible for the safety and wellbeing of the hundreds of thousands who live, learn, work, and visit our member institutions. We are in favor of the creation of a Police Officer Standards and Accreditation Committee (POSAC) and our representation on this committee would add valuable insight and information. It would also ensure that the safety and security of all of those on campuses across the Commonwealth are the highest priority.

Sincerely,

Randy Brashears

Chief Randy Brashears

UMLPD

*Dear Chair Aaron Michlewitz and Chair Claire Cronin,
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*

I am not a police officer, nor have I ever been. I have a degree in business administration. I have worked with police officers for the past ten years first as a police matron, then a public safety dispatcher, and my current role as administrative assistant to the Chief of Police. I work with some of the most amazing men and women who truly put their heart and soul into their communities. These officers care about their communities as they not only work here but most also live in town, are raising their families here, and are involved in their children's activities as coaches and leaders.

I am extremely disappointed in the way police officers are being portrayed not only in the media but by our elected officials and leaders of our judicial system, state, and national government. I am horrified by what we witnessed with the murder of George Floyd. There is no justification for how that officer conducted himself. He is a murderer and should be penalized to the fullest extent for his behavior. I have not heard one officer state differently. Having to explain to my teenage daughter, who knows and respects the officers in this town as she has interacted with many of them not only due to my employment but also through the great school resource and school safety officer programs we have had in place, that there are just some bad people in the world no matter what the job has been difficult.

There are people who are bad, ill-intentioned and deceptive in all professions, teachers that molest children, businessmen that manipulate and steal, lawyers that are unethical and politicians that are shady and take political office for their own gains. The media has always liked to vilify police officers but now with the pushing of SB2820, I feel like officers are being attacked by those who are supposed to help them uphold the law. How are the officers sworn to uphold the law supposed to do that with their hands tied? There are items that are in that bill that belong there and are already in our department's policies and procedures (no choke holds, duty to intercede, etc.). There are many items in that bill, especially abolishing qualified immunity that absolutely do not belong in that bill, or any bill in my opinion. How are officers

supposed to uphold the law when they need to be concerned that a disgruntled arrestee can sue them for anything and everything because they are unhappy? How can they be expected to do their jobs when they need to be concerned that a committee of civilians, who have NEVER had to face things an officer has to face and make the split second decisions an officer has to make, can decide their fate (there's a reason we have internal affairs investigations on a complaint with several ranking officers with experience to investigate).

As a private citizen, I am concerned for our future and the potential lawlessness that will arise if this bill passes. Without the backing of our government officials and taking away the police's ability to perform their job to the capacity that their strict training provides, I am afraid the criminals will run rampant. If there is no consequences for their actions, what will be the deterrent? Who is going to protect my daughters from a society that allows criminals free reign?

Please take the time to go over this bill thoroughly. I feel as if this bill is a knee jerk reaction to a horrible incident that should have never happened. Please look into each and every portion of the bill. Talk to the people that know and understand this job and have discussions on both sides of the issues to be able to come to agreements and policies that make sense. Do not characterize the entire profession by the actions of a few. I, as a voting citizen, appreciate your time in reading this letter.

Amy Dowler
Middleborough, MA

My name is Alyssa Kitchen, I am a social worker and I live with my husband, a police officer, and our two children in Scituate.

Let me start by saying thank you. Thank you for speaking out against police brutality, poor training tactics, and blatant racism in police departments. Thank you for using your voice and position of power to lend credence to a call for the necessary reform of many police departments across the nation. Most importantly, thank you for attempting to correct the failures of the Senate that hastily crafted a massively impactful bill and then denied public hearings to review it.

It is my hope, that each member of this House personally reads all 1,923 lines and 89 pages of S.2820, as I have done. Equipped with my highlighter, notepad, pen, and computer, I spent hours pouring over each word. I did this because I recognize how vitally important this legislation is. Not just to me as a social worker, to my husband as a police officer, but to every single member of this commonwealth. After reading, I came away with concerns regarding cost, the personal rights of law enforcement officers, limitations on collective bargaining agreements, and the ambiguity of qualified immunity standards.

As such, I provide to you my written testimony in opposition of S.2800/S.2820.

Now is the time for unity, for thoughtful action and policies to stop police brutality, to stop inequality, and to stop angry, bitter, division. What better group of citizens to lead the way in that charge than those of the commonwealth? What better group of lawmakers to set forth a standard for detailed, legislative change than those of the commonwealth, the very birthplace of America? If we are those tasked with leading the charge, we must do it cleanly, decisively, and with the least amount of harm to our citizens. This bill does not meet that standard. The reason for that failure is simple: lack of data review and haste.

Any training related to studies and research teaches us that we must first complete a literature review to understand the needs being addressed. We did not do that in this case. We made broad assumptions about the state of policing in Massachusetts with limited information and those broad assumptions could be flawed. I will not say they are, because I have not had an opportunity to review the data. The issue is that they could be. We cannot enact sweeping law on potentially erroneous broad assumptions.

Furthermore, review of this bill demonstrates serious flaws and holes that should be addressed before proceeding.

1. Line 144: Section 2 Clause twenty-sixth of section 7 of chapter 4
 - a. The decision to replace the current language with new, broader language that adds further protection to public servants while simultaneously adding language that specifically targets the privacy rights of law enforcement is frightening. Under this bill, medical records of law enforcement are subject to public records requests if they are used in the disposition of a misconduct complaint. Let be clear, “disposition” means that these records are available even if the misconduct is not sustained. This is a dangerous overstep into the privacy rights of individuals simply because of their profession.
2. Line 281: Section 1 – Police Officer Standards and Accreditation Committee
 - a. Let me state that I wholeheartedly agree with a certification board for law enforcement. However, I believe that committee should have the same guidelines and powers of similar boards/committees in the commonwealth. For example, this committee will be made up of six law enforcement officers and eight non law enforcement personnel nominated by various special interest groups. A committee that has such broad powers of investigation, revocation, database maintenance, etc. should not be heavily weighted against those it regulates. The social work board, for example, is made up of all social workers and one citizen. That is because there is a recognition that the profession of social work, the standards and practices, are best understood by other social workers. Similarly, the fact that this new committee will be able to conduct simultaneous investigations of law enforcement potentially circumvents collective bargaining agreements. This is a dangerous precedent to set for every single union. Moreover, what occurs if the committee comes to a different conclusion than the appointing authority? Lastly, the secondary database of complaints with “de-identified” law enforcement information is exceedingly concerning. This again goes to privacy and safety concerns for law enforcement who, potentially, have done nothing wrong.

3. Line 549: Section 10 – Qualified Immunity

- a. The recent addition of language related to the indemnification of public employees highlights the need for an extremely thorough review of this section. The Senate recognized that this addition was necessary but refuses to acknowledge the potential harm of ambiguous qualified immunity standards for law enforcement. While I understand that QI will continue to apply under federal law, our Supreme Court has affirmed this federal standard on the state level for over thirty years. Although I am sure I do not need to explain this doctrine to our lawmakers, I want to highlight the fact that QI is a defense against trial and therefore facts are considered in the most favorable light to the plaintiff. The law as it stands states that the law enforcement officer must have violated a clearly established constitutional right. The bill in question puts forth extremely vague and ambiguous language related to a “reasonable person” and such conduct violating the law at the time it occurred. What this does is remove the requirement for a clearly established violation. It allows endless amounts of suits specifically designed to set new precedent and interpretation of the new state QI statute. **I am scared.** This is not a Red Herring, this is a real and true fear for us right now. Will I lose my home because someone claims that he should not have been tackled while running from the police? Why did the senate strike down the amendment for a commission to study the impact of the current QI statute? We need answers to these questions and a commission would help alleviate the very real fears of so many people like me.

In the interest of time, I will not continue to itemize the other flaws of this bill as they all relate back to a need for more time to consider.

Instead, I leave you with this:

We have a great opportunity before us. An opportunity to come together and have conversations with empirical data, to bring everyone to the table and understand what our needs are. This is our chance to send a message to the commonwealth and the country that we affirm the countless positive aspects of

policing in Massachusetts and disavow the bad cops. We cannot and should not waste our chance to do the right thing. That is why this bill, as it stands, should be rejected.

Respectfully,

Alyssa Kitchen, MSW, LICSW
111 Turner Rd, Scituate