



Office of
TOWN ADMINISTRATOR

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Gary L. Brougham
Town Administrator

July 17, 2020

House Ways and Means Judiciary Committee

RE: Reforming Police Standards/Qualified Immunity in S.2800

Dear Committee Members,

I am writing today on behalf of the men and women of the Belchertown Police Department, the broader Belchertown Employee Group, myself, and a number of other appointed or elected public officials in regard to the proposed changes in the Qualified Immunity Statute recently recommended for amendment by the Massachusetts Senate.

Although the senate's recent vote proposed a number of police reform initiatives it is the qualified immunity component that is of most concern. It is fair to assume we all agree on accountability, transparency and equity in our professional careers. The qualified immunity provision was voted into law for the right reasons. To abolish the protection for anything less than good cause would be a serious failure of our legislative body at this point.

As voted by the Massachusetts Senate there many unanswered questions or potential unattended consequences shall the vote taken by the senate be upheld in the House of Representatives.

1. Some of those potential consequences may be a flood of civil rights actions entering the Massachusetts courts. Previously all civil rights cases were heard in federal jurisdiction.
2. The financial impact on municipalities defending what may be recognized as frivolous claims could potentially become a budget buster for many municipalities.
3. The State Courts have yet to establish the hearing standards and a method to hear these cases efficiently.
4. The proposed changes to qualified immunity likely intending to impact police officers has been more recently determined to effect all public officials. This determination increases the broad stroke of the brush to include police, EMS personnel, town managers, selectmen, fire chiefs, municipal commission members and lower level employees of the Commonwealth. The additional costs in addressing these complaints in that many jurisdictions once again would be near impossible for many Massachusetts communities who are already struggling to balance operating budgets.

As stated in a recent legal opinion the Supreme Court has stated in support of qualified immunity (by defining the limits of qualified immunity essentially in objective terms **we provide no license to lawless conduct**).

Personally, I am disappointed our elected senators failed to recognize the unattended consequences of rushing passage of this bill at 4:00 a.m. in the morning. As one local official recently stated anything voted in the Statehouse at 4:00 a.m. in the morning is worthy of a second look.

On behalf of our police officer's, our town employees, our elected officials I urge the Massachusetts House Judiciary Committee to do the right thing when discussing this initiative. Open the door for public comment, listen to our law enforcement professionals, our labor unions and concerned municipal representatives who have valuable thoughts on how we may all work together to arrive at an acceptable destination.

I would be most happy to provide any additional information that might be of benefit in this discussion and will again ask in the strongest possible terms to please accept public comment from those professional agencies who will be most impacted by the unattended consequences shall this initiative be rushed through as it was in the Massachusetts Senate.

Thank you for your time.

A handwritten signature in black ink, appearing to read 'Gary Brougham', with a long horizontal line extending to the right.

Gary Brougham
Town Administrator

GLB/al

Cc: Representative Thomas Petrolati
Representative Susannah Whipps
Christopher Pronovost, Belchertown
Chief of Police

DOVER POLICE DEPARTMENT

3 WALPOLE STREET

P.O. BOX 192

DOVER, MASSACHUSETTS 02030



PETER A. MCGOWAN
POLICE CHIEF



TEL (508) 785-1130
FAX (508) 785-0683

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 hope that this letter is one of hundreds that you will receive in an attempt to correct some of the portions of the Senate Bill that will negatively impact policing in the Commonwealth for years to come.

The Massachusetts Chiefs of Police Association has been working for close to a decade to enact a POST certification system that failed to be considered by the Legislature at least two separate times that I am aware. The version in the bill is onerous and unwieldy. We need straightforward guidelines that will allow Chiefs to remove officers that do not deserve to wear a badge. We all want the same things here, so I am surprised that the MCOPA input was not sought on this as it was jammed through a late night session with no public debate or comment.

This bill will negatively impact departments of all sizes across the Commonwealth. Even small departments such as Dover will struggle with the modifications to qualified immunity. As written, the legislation will encourage legal harassment of our officers, change the way officers interact with the public, and drain already precious and scarce resources from Municipalities that will have to defend these suits.

Also, one segment in particular stands out to me as a department that relies heavily on strong relationships with our schools. Section 49, lines 1101-1115, prohibits schools and school resource officers from sharing information with the other police department members in dealing with students. The only reason there have been no school shootings is that schools are closed due to the pandemic. Tampering with the relationships that many of us have worked so hard to forge is tantamount to asking for more violence in our schools. Our schools should be safe, and this section will threaten that safety.

I would like to close by stressing that I am proud to be a Police Chief in the Commonwealth of Massachusetts, where we are far ahead of many states in our policing goals, strategies, and operations. Our officers are educated, trained, and held to a very high standard, as evidenced by the lack of national headline news out of Massachusetts based upon an officer or an interaction with the public. That is not just luck...it is a concerted effort by the leaders of our profession in this state to address issues we see happening elsewhere in the country and the world, and get in front of them. In the effort to address bias and prejudice in the forefront of the news, the Senate has done what they say they are trying to prevent: classifying a group as bad, or evil, or malicious, based solely upon the fact that we wear the same uniform as others that have committed horrific acts. Please know that there are so many police officers in your Commonwealth that are motivated to do the right thing, each and every day, treating the public with respect, compassion and empathy.

Thank you for the opportunity to offer these brief thoughts. These are the two portions of the bill that I chose to highlight. The Mass Chiefs of Police have put forth a well written opinion on the legislation with many more concerns, and I hope that you will consider their smart and well-reasoned explanations of the issues we have as a group with this legislation. And finally, please know that ultimately, we all want the same thing.

Respectfully,



Peter A. McGowan

Chief of Police

FBINAA Session #231



Benevolent Asian Jade Society of New England, Inc.

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

President:

Tommy Yung
Boston Police Department

Treasurer:

Gilbert Ho
Massachusetts State Treasurer

Secretary:

Fred Chin

Clerk :

Robert Leung
Mass Trial Courts

Sergeant at Arms :

David Toy
Internal Revenue Service
Criminal Investigation

Advisory Committee:

Anthony Khabir (Ret.)
Colonel Environmental Police
James K Chin
Deputy Superintendent Boston
Police Department
Theodore Woo (Ret.)
U.S. Customs Border Protection
Jameson Yee
Sergeant Suffolk University Police
Kenneth Mui
Detective Cambridge Police
Department

Outreach and Event Specialist:

Courtney Ho
Fair Housing and Equity,
City of Boston

The Benevolent Asian Jade Society of New England was established in 1983 and is composed of Asian and Pacific Law Enforcement officials in state, county and municipal government. We support our fellow law enforcement brothers and sisters' mission to protect and serve the public. Having statewide training standards with continuous education will provide knowledge uniformity to our profession. We fully embrace the diversity of our communities and as new law enforcement techniques and procedures develop, we should be at the forefront in preparedness.

We do not support changing qualified immunity. Senate Bill 2820 seeks to remove from all public employees the ability to perform their duties due to fear of a civil suit. In our profession, each day is different. Every day brings a different circumstance and different decisions. We rely on our training and each other to make the best decisions possible for a positive outcome in every instance. Removing qualified immunity will force law enforcement officials to continuously second guess the decision made and this will defeat the purpose of uniform training and continuing education. In the end, Senate Bill 2820 will undoubtedly adversely impact most of those we are sworn to serve and protect.

We share the vision to continuously improve our law enforcement system. As One Society, we collectively benefit from this endeavor. However, to achieve the end state, it is incumbent upon us to insure the seats at the table are both diverse and inclusive. That said, we welcome and request any opportunity to be part of the dialogue and ultimately a part of the solution that the citizens of our great commonwealth deserve and appreciate..

Sincerely,

Tommy Yung

President,

Benevolent Asian Jade Society of N.E.



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Sincerely,

Tommy Yung

President,

Benevolent Asian Jade Society of N.E.

Few taking advantage of juvenile expungement law

By Christian M. Wade Statehouse Reporter | Jan 20, 2019

BOSTON — Manoushka Gaston escaped a troubled past to attend school to become a nursing assistant in Lawrence with dreams of landing a job at an assisted living facility.

A felony domestic assault charge from a fight with an ex-boyfriend years ago has prevented her from finding a job since she graduated from the Notre Dame Education Center.

"It's like a Catch-22," said Gaston, 25, a mother of two who lives in Lowell. "You do the right thing, go to school to get on the right path, but something like this holds you back."

Gaston said she hoped for help from a new law allowing individuals with prior convictions to expunge their records, but hers is one of many charges not covered.

The law, which went into effect last year, allows juvenile records and some crimes committed between ages 18 and 21 -- including felonies -- to be expunged, along with convictions for marijuana possession now that recreational pot is legal for adults. Expungement clears the charges in question from a person's official criminal record. But the limited scope of the law means few have taken advantage of it, advocates say.

To date, only 61 requests for criminal records expungement have been received by the Massachusetts Probation Service, according to department spokeswoman Coria Holland.

Criminal justice advocates say the biggest problem with the law is that it gives people with criminal records only one bite of the apple. Individuals seeking to expunge a previous conviction can only get one charge removed, which advocates say does little to help those with multiple offenses in their past.

"The expungement law has been a disaster, especially when it comes to juvenile records," said Pauline Quirion, a lawyer and director of

the criminal records sealing project at Greater Boston Legal Services, an advocacy group that represents low-income clients.

"This wasn't what we envisioned when we were working on the law," she said.

Juvenile records can haunt people long past their punishments, she said, preventing them from getting jobs or housing, or from getting into college.

"It really hurts young people who've gotten their lives together and want to be on the right path," said Sana Fadel, executive director of the advocacy group Citizens for Juvenile Justice, which is pushing for changes to the expungement law. "It basically tells them that they can't be members of society."

Fadel's group wants lawmakers to update the law to allow multiple charges to be expunged and to expand the list of offenses that it covers.

The new law, signed by Gov. Charlie Baker as part of the most extensive overhaul of the state's criminal procedures in decades, also allowed criminal records to be sealed more quickly. Unlike expungement, sealing a record means it is no longer visible to employers or the public but is still available to law enforcement officials and the courts.

For individuals found guilty of misdemeanor offenses, the wait time for asking for a case to be sealed was shortened from five years to three, and from 10 years to seven for felonies convictions. That change has prompted a surge in records being sealed, according to data from Probation Services. Last year the state sealed about 65,720 criminal records, an increase of more than 6,000 from 2017, the agency said. Since Jan. 1, more than 4,000 records have been sealed, putting the number on track to hit 95,000 by the end of the year.

The Probation Services department doesn't

keep tabs on which offenses were involved in sealed records, and didn't say how many of the 61 requests for expungement had been approved or denied. It pointed out that numbers of sealed cases represent individual charges.

Major convictions — murder, felony assault, drunken driving, domestic battery rape and other sexual offenses, among others — cannot be expunged or sealed.

But criminal justice reform advocates say Massachusetts is particularly unforgiving when it comes to allowing people to get beyond a conviction for minor offenses.

Besides using the expungement law, people who want to clear their records can petition the Parole Board and governor to pardon them, but executive clemency is seldom granted. Baker, a Republican who took office in 2015, has yet to recommend any pardons or commutations to the Governor's Council, despite receiving hundreds of requests. His predecessor, Gov. Deval Patrick, a Democrat, only approved four pardons and a single commutation during eight years in office.

Even the star power of Boston-born actor Mark Wahlberg isn't enough to get a governor's pardon. Several years ago, the state's Parole Board declined to grant his request to clear a 1988 felony assault conviction from his record. Lawmakers have filed several bills in the House and Senate to amend the expungement law, but it remains unclear if they will be taken up by legislative leaders.

Gaston, who works on policy issues at the Lowell-based group UTEC -- which works with at-risk young people -- said she hopes the Legislature expands the scope of the law.

"If someone makes a mistake when they're young, it shouldn't ruin their whole life," she said. "Everyone deserves a second chance."



TOPSFIELD POLICE DEPARTMENT

210 Boston Street
Topsfield, MA 01983-2217
978-887-6533 • Fax 978-887-8424

Neal S. Hovey
Chief of Police

July 16, 2020

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

Re: Concerns to Senate 2820 as Amended

Dear Chair Aaron Michlewitz and Chair Claire Cronin, please accept the following testimony regarding 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 dedicated and committed police leader, I will continue to embrace the challenges that lay ahead, instill strong values into my police department at all ranks, hold my officers 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 would like to provide the following testimony:

Although I could go on and on about how perplexed I am about the political process of passing a critical career altering bill, I will focus my testimony on the elements of the bill that need attention and are paramount in preserving our profession.

Currently, I am not aware of an industry leader that opposes the POST concept. It has been successful in 46 other states, so I am not sure why we are trying to reinvent the wheel. Also, for the last 20 plus years we have an independent organization called Massachusetts Police Accreditation Commission which is the gold star standard for best police practices. As an accredited department, we must adhere to over 300 standards, holding our department and officers to the highest standard of policing. A Massachusetts accredited police department is an agency that has demonstrated through an assessment by independent auditors that we comply and have met the National Standards of best practices for police agencies. The National standards reflect the best professional practices in police management, administration, operations, and support services.

Achieving Accreditation is a highly prized recognition of law enforcement professional excellence. As an accredited department, we are required to have proper policies in place and equally important is to ensure that these policies are being followed. We are also required by policy to annually review, analyze, and report any use of force and bias policing issues that arise as well as submitting all incidents of use of force to the FBI. Achieving and maintaining accreditation is not an easy task. We have chosen to do this despite its difficulties because of its high level of accountability. I strongly believe that all police departments should adhere to such standards as we call upon our community to work with us as we continue to hold ourselves to these high standards of policing and accountability. We are a proud part of this community and are dedicated to serving the community members. I sincerely hope that you will look to our evolution and series of accomplishments over the years. Topsfield's officers have and will continue to faithfully dedicate their lives to the service and protection of our town.



TOPSFIELD POLICE DEPARTMENT

210 Boston Street
Topsfield, MA 01983-2217
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Neal S. Hovey
Chief of Police

Another provision that is problematic to the law enforcement industry, is to have public hearings available for all in the general public to know exactly what equipment the police departments may or may not possess serves to put communities in jeopardy in that those with nefarious motives will be informed as to what equipment that the department has at its disposal. This is extremely dangerous.

The provision for the prevention of school department personnel and school resource officers who are invited to the schools 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.

In regards to the training of police officers, to be clear, we do 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. What should also be included is a commonsensical, reasonable, and rational provision that states, "unless the officer reasonably believes that his/her 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 struggling for their life and needs to avail themselves of all means that may exist to survive and to control the subject. This is a reasonable and straightforward recommendation.

Respectfully,

Neal S. Hovey

Chief of Police



Burlington Police Department

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Burlington, MA. 01803
Phone (781) 270-1914
Fax (781) 270-1920
www.bpd.org



Michael R Kent
Chief of Police

July 16, 2020

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

Re: Concerns to Senate 2820 as Amended

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 truly appreciate the opportunity to voice my concerns with the proposed Senate bill.

First and foremost, I must emphasize that I am supportive of positive change, essential training, and needed reform within public safety, which has been my chosen profession for over 23 years. All people within Massachusetts need to know that they can count on the police to be a friend, rescuer, and source of help and support in times of crisis and to accomplish this goal we must perpetually strive to improve and remain receptive to the needs of all within our communities.

Regarding the Senate bill my numerous concerns really fall under one over-arching complaint, that being the Senate's refusal to allow police officers to have any voice in the process of creating this proposed bill. Most alarming to me are the proposals to reduce or eliminate provisions of qualified immunity, good faith, due process for officers. If enacted, these changes in the law would not just merely impact police daily operations and procedures. They go much deeper and would also have significant impact on the children, spouses, partners, and friends of police officers statewide. My fear about the Senate bill, as written, is that it would likely invite lawsuits against police that are without merit and others only intended to harass and truly hurt the families of many good and dedicated police officers across the state.

As much as many government officials and elected officials say that they don't believe all police are racists, their actions lately have spoken otherwise. We see this through decisions to defund the police and particularly through this most recent process by the Massachusetts Senate regarding this bill.

My wife and I are very proud to know that we are doing our very best to bring up our children to truly love, appreciate and care for their fellow classmates and playmates within the community and race, religion, gender identity, and sexual preference never are a factor. We feel strongly about this and our vast group of friends are a testament to this ideal. Just imagine how disheartening it is to know that some people in positions to make positive change are labeling you as a racist when you know in your heart that you have always been a defender against

racism. With that, I urge you to make your hearings open to public input so that we may reach the best solutions to move forward with consideration for all.

Respectfully,

Captain Gregory T. Skehan
Burlington Police Department



Benevolent Asian Jade Society of New England, Inc.

July 17, 2020

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

President:

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Sergeant Suffolk University Police
Kenneth Mui
Detective Cambridge Police
Department
Debbie Ho
Executive Director, Chinatown
Main Street

Outreach and Event Specialist:

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Fair Housing and Equity,
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Sincerely,

Tommy Yung
President,
Benevolent Asian Jade Society of N.E.



Reform, Shift + Build Act *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*

Fact Sheet ❖ July 2020

In late spring 2020, people across the country took to the streets to honor and mourn the lives of George Floyd, Breonna Taylor, and too many other Black people killed by law enforcement and racist violence, and to demand immediate change and reform.



In response to resounding calls for justice, the Senate's *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 ***Reform, Shift + Build Act***—promotes a number of reforms to, among other things, ban aggressive police tactics, significantly raise standards and accountability in law enforcement, and begin to reprioritize public safety resources throughout the Commonwealth.

Reform

The ***Reform, Shift + Build Act*** strengthens use of force standards and limits qualified immunity for all law enforcement agents by: banning chokeholds; banning other deadly uses of force except in cases of imminent harm; requiring the use of de-escalation tactics; creating a duty to intervene for officers who witness abuse of force; and allowing police officers to be held civilly liable for excessive use of force. The bill will also expand and strengthen police training in de-escalation, racism and intervention tactics.

It also creates a **Police Officer Standards and Accreditation Committee (POSAC)**—an independent state entity composed of law enforcement professionals, community members, and racial justice advocates—to standardize the certification, training, and decertification of police officers.

The commission will have independent power to investigate misconduct. Certain offenses will result in mandatory and permanent decertification of an officer. The bill will also form a separate commission to recommend a certification, training, and decertification framework for correctional officers.

The bill also **includes reforms to the state police**, including allowing the Governor to select a colonel from outside the force and giving the colonel great ability to apply discipline. To increase diversity in the workforce, the bill creates a state police cadet program. The bill further **bans the use of facial surveillance technology** while a commission studies the use of such technology and makes recommendations to the legislature that will ensure accuracy as well as privacy and due process protections. The bill also **creates a task force to study and make recommendations for the use of body and dashboard cameras** by law enforcement agencies.

Shift

The *Reform, Shift + Build Act* redirects funding away from policing and corrections towards **community investment** through the establishment of, and dedicated funding streams for, the Strong Communities and Justice Reinvestment Workforce Development Fund. Controlled by community members and community development professionals, the fund will make competitive grants to drive economic opportunities in communities most impacted by excessive policing and mass incarceration. The fund will receive damages from police overtime fraud cases and savings generated from reduced incarcerated populations.

To shift the balance of law enforcement techniques from force and punishment to de-escalation and community-centered responses, the bill seeks to **demilitarize the police force** by requiring transparency and civilian authorization for military equipment acquisitions. It also seeks to **expand community-based, non-police solutions to crisis response and jail diversion** by developing new evidence-based intervention models.

The bill also seeks to reduce the school-to-prison pipeline by **promoting student safety and well-being over criminalization** by ending the requirement that school districts employ School Resource Officers. It also prohibits school districts from sharing students' personal information with police departments for gang databases. Further, the bill **expands access to record expungement for young people** by allowing individuals with more than one charge on their juvenile record to qualify for expungement.

Build

Finally, the *Reform, Shift + Build Act* strives to **build a more equitable, fair and just system by beginning to dismantle systemic racism**. The bill seeks to **address the racial disparities in policing** by banning racial profiling in law enforcement and requiring data collection to improve police practices. The bill specifically requires law enforcement agents to document each car or pedestrian stop and search. The data, and subsequent analysis, will be available to the public.

Along with **introducing a police training requirement on the history of slavery, lynching and racism**, the bill **creates a permanent commission on the status of African Americans**. This commission will, among other things, advise the legislature and executive agencies on policies and practices that will ensure equity for and address the impact of discrimination against African Americans.



885 RIVER STREET | HYDE PARK, MA 02136 | (617) 333-6688 | WWW.BOSTONPREP.ORG

July 17, 2020

The Hon. Aaron Michlewitz, Chair
The Hon. Claire Cronin, Chair
House Committee on Ways & Means
Joint Committee on the Judiciary
State House, Rooms 243 & 136
Boston MA, 02133

Dear Chairs Michlewitz and Cronin,

As the Executive Director of Boston Prep, a charter public school that serves 655 students and 375 alumni from the City of Boston, I am writing to ask that you pass legislation before the end of the session to address issues of systemic racism in law enforcement that includes the 10-point plan released by the Massachusetts Black and Latino Legislative caucus and reform of qualified immunity for police.

Boston Prep's student body reflects the neighborhoods in which our students reside – primarily Dorchester, Mattapan, Hyde Park, and Roxbury. Nearly all of our students are youth of color, with 67% identifying as Black, 27% as Latinx, and 4% as multiracial or other. Boston Prep's mission is to prepare students to succeed in four-year colleges and embody, in thought and action, lifelong ethical growth. We believe firmly that education is a powerful tool to advance racial equity. However, we know that it is not enough; as a society, we must act with conviction to dismantle systemic racism in all forms, across all of our institutions, policies, and laws. Until we do so, our students and families will never be truly free to achieve their dreams.

Specifically, we kindly ask that the following proposals be included in any police reform legislation taken up by the House:

- Eliminate barriers to accountability by limiting “qualified immunity” for police officers.
- Create a statewide process for certifying police officers and de-certifying police officers for misconduct and abuse.
- Impose statutory limits on the use of force, including a ban on chokeholds and other tactics known to have deadly consequences.
- Increase data collection and reporting on race regarding arrests and police use of force by every department.
- Establish a commission on structural racism to study how the presence of institutional racism and culture of structural racial inequality impacts communities of color, especially as it relates to contact with the criminal justice system.
- Limit the presence of police officers in schools.
- Additional reforms that would seek to increase accountability, limit the potential for police brutality, and dismantle systemic racism in our law enforcement community.

We urge the Committee to act swiftly to adopt a comprehensive bill that encompasses all of these provisions as soon as possible. Thank you, as always, for your leadership.

Sincerely,

Sharon Liszanckie
Executive Director, Boston Prep



@ the Urban Justice Center:
40 Rector Street, 9th Floor
New York, New York 10006
www.StopSpying.org | (646) 602-5600

**STATEMENT OF
WILLIAM LUCKMAN
ORGANIZER
SURVEILLANCE TECHNOLOGY OVERSIGHT PROJECT (“S.T.O.P.”)**

**BEFORE THE
MASSACHUSETTS HOUSE OF REPRESENTATIVES**

**IN SUPPORT OF H. 1538
MORATORIUM ON GOVERNMENT USE OF FACE SURVEILLANCE
TECHNOLOGIES**

**PRESENTED
JULY 17, 2020**

My name is William Luckman, and I serve as an organizer with the Surveillance Technology Oversight Project (“S.T.O.P.”). S.T.O.P. advocates and litigates to fight discriminatory surveillance. Thank you Representatives Michlewitz and Cronin for the opportunity to discuss the need for a moratorium on facial recognition technology in the Commonwealth of Massachusetts.

In June, the Boston City Council voted to follow the lead of Cambridge, Somerville, Brookline, and Northampton to become the fifth Massachusetts locality to ban government facial recognition.¹ But it can’t be left up to individual municipalities to combat facial recognition use piecemeal. This dangerous technology is already deployed by numerous local and state agencies, requiring a state-level response to properly address the threat it poses. Facial recognition is biased, broken, and (when it works) antithetical to a democratic society. Without a ban, more people of color will be wrongly stopped by the police at a moment when the dangers of police encounters have never been clearer.

The technology that drives facial recognition is far more subjective than many realize. Artificial intelligence (“A.I.”) is the aggregation of countless human decisions, codified into algorithms. But as a result, human bias can infect A.I. systems, including those that supposedly “recognize” faces, in countless ways. For example, if facial recognition software is programmed to only recognize two genders, we can leave transgender and non-binary individuals invisible.² If a security camera learns who is “suspicious looking” using pictures of inmates, the photos will just teach the A.I. to replicate the mass incarceration of African American men.

In this way, A.I. can learn to be just like us, exacerbating structural discrimination against marginalized communities.³ In the case of facial recognition, this leads to systems that are over 99% accurate for white men, but which can be wrong more than 1 in 3 times for some women of color.⁴ The same exact software, the same exact hardware—but dramatically different outcomes for Black and Latin/X Massachusetts residents.

In 2018, the American Civil Liberties Union worked with the University of California at Berkeley to study Amazon’s face recognition product, Rekognition. Researchers used Rekognition to scan the 535 members of Congress against a database of 25,000 arrestees. Shockingly, Rekognition mistook 28 members of the Congress for arrestees, including civil rights leader John Lewis and many other members of the Congressional Black Caucus.⁵ In 2019, the ACLU-MA found the same technology inaccurately linked the faces of 27 professional athletes to a mugshot database.⁶

¹ Nik DeCosta-Klipa, Boston City Council passes ban on facial recognition technology, Boston.com, June 24, 2020, <https://www.boston.com/news/local-news/2020/06/24/boston-face-recognition-technology-ban>

² Rachel Mentz, AI Software Defines People as Male or Female. That’s a Problem, CNN Business, Nov. 21, 2019, <https://www.cnn.com/2019/11/21/tech/ai-gender-recognition-problem/index.html>.

³ S. Myers West, M. Whittaker, K. Crawford, ‘Discriminating Systems: Gender Race and Power in AI’, AI Now Institute, p 6.

⁴ J. Buolamwini, T. Gebru, ‘Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification’, Proceedings of Machine Learning Research, vol 81, 1-15, 2018 p. 1.

⁵ M. Whittaker, K. Crawford, ‘AI Now Report 2018’, AI Now Institute, p. 16.

⁶ Kate Gill, ‘Amazon Facial Recognition Falsely Links 27 Athletes to Mugshots in ACLU Study’ Hyperallergic, October 28, 2019 <https://hyperallergic.com/525209/amazon-facial-recognition-aclu/>

In these ways, facial recognition is ripe for the same types of abuses and mistakes that have plagued Massachusetts' forensic crime labs in past year years. Banning facial recognition helps to prevent another wrongful conviction crisis, stopping both the faulty technology and faulty police practices that could easily lead to the wrongful arrests of thousands of Massachusetts residents.

Even if facial recognition worked without errors, even if it had no bias, the technology would still remain antithetical to everything the Commonwealth believes in. Facial recognition manufacturers are trying to create the tool of perfect control, a system that allows everyone to be tracked at every moment, in perpetuity. Got to a protest? The system knows. Go to a health facility? It keeps a record. Suddenly, residents lose the freedom of movement that is essential to an open society. Suddenly, we are forced to second guess every action, worrying how it might be viewed by the surveillance state.

If the state fails to act soon, it will only become harder to enact reforms. Companies are pressuring local, state, and federal agencies to adopt facial recognition tools. Facial recognition use already extends to state and local agencies beyond police departments, and the implications include more than false arrests. We have heard anecdotal reports that faulty facial recognition has been used by the Massachusetts Registry of Motor Vehicles to wrongly suspend driver licenses, restricting the freedom of mobility and ability to work of those misidentified.

But a shift is happening both locally and around the world. Here, in Massachusetts, Boston, Somerville, Brookline, Cambridge, and Northampton have all banned facial recognition technology. San Francisco, Oakland, and Seattle, where much of this technology is born, have done the same.⁷ While D.C. lawmakers have been slow to address the threat, France declared it illegal, nationwide, to use facial recognition in high schools,⁸ and other countries are poised to follow.

I will conclude on a personal note. I live and work in New York City, but I was born in Boston and raised in Brookline. It pains me to see the current wave of protests roiling Massachusetts, because it demonstrates the biased and unequal law enforcement practices I remember from my youth have yet to be addressed. I know that the people of the Commonwealth want to see a change, and I believe the Legislature is on their side. In practice—inaccuracies aside—facial recognition systems lead to increased stops for people of color. Increased stops mean an increase in opportunities for police violence and abuse. We must recognize that Black lives matter, and to do so, we must realize that technology doesn't operate in a neutral vacuum—instead it takes on the character of those building and deploying it. I encourage the House of Representatives to respond to their constituents' demands for police reform by immediately including H.1538 in the police reform bill, banning the use of facial recognition technology indefinitely, and further suggest extending this de facto ban on facial recognition use to all state agencies.

⁷ Rachel Metz, "Beyond San Francisco, More Cities Are Saying No to Facial Recognition," CNN Business, July 17, 2019, <https://www.cnn.com/2019/07/17/tech/cities-ban-facial-recognition/index.html>.

⁸ "CNIL Bans High Schools' Facial-Recognition Programs," IAPP, October 29, 2019, <https://iapp.org/news/a/cnil-bans-high-school-facial-recognition-programs/>

Statement of William Luckman – S.T.O.P.

7/17/2020

Page 4 of 4

Thank you for your thoughtful deliberation and action on this matter,

William Luckman

Organizer

Surveillance Technology Oversight Project



Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109

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

**Testimony in Support of H. 1538
Moratorium on Government Use of Face Surveillance Technologies**

Dear Chairs Michlewitz and Cronin,

The Electronic Frontier Foundation (EFF) strongly supports legislation that bans government agencies and employees from using face surveillance technology or information derived from such technology. EFF has been in support of H. 1538 since its introduction, and urges you to please include this critical legislation in your police reform bill. Face surveillance technology is a pressing menace to privacy, free speech, and racial justice.

EFF works to ensure that technology supports freedom, justice, and innovation for all the people of the world. We are a non-profit advocacy group with more than 30,000 members that advances the interests of tech users in legislative bodies throughout the country.

Face surveillance is profoundly dangerous for many reasons.¹ First, it invades our privacy, by tracking a unique marker we show everywhere we go and cannot change: our own faces. Surveillance cameras in public spaces are proliferating, operated by myriad government and private entities. These cameras are increasingly networked into unified systems. Face surveillance technologies are growing increasingly powerful. In combination, these technologies can track everyone who lives and works in public. We must not build an infrastructure that empowers government to easily track where everyone is going, what they are doing, and who they are with.

Second, government use of face surveillance technology in public places will chill people from engaging in protests. Courts have long recognized that government surveillance of First Amendment activity has a “deterrent effect.” *See, e.g., Lamont v. Postmaster*, 381 U.S. 301 (1965). Empirical research confirms this problem. *See, e.g., Stoycheff*,

¹ <https://www.eff.org/pages/face-recognition>.

EFF letter in support of H.1538
July 17, 2020

“Facebook’s spiral of silence effects in the wake of NSA Internet monitoring” (2016); Penney, “Online surveillance and Wikipedia use” (2016).²

Third, surveillance technologies have an unfair disparate impact against people of color, immigrants, and other vulnerable populations. Governments have, for example, used them to spy on advocates for racial justice.³ Surveillance technologies often criminalize entire neighborhoods.⁴ For example, watch lists are often over-inclusive and error-riddled, and cameras often are over-deployed in minority areas.⁵ And these spying tools increasingly are being used in conjunction with powerful mathematical algorithms, which often amplify bias.⁶

Fourth, once government builds a face surveillance infrastructure, there is the inherent risk that thieves will steal its sensitive data, employees will misuse it, and policy makers will redeploy it in new unforeseen manners.⁷

Thus, face surveillance is so dangerous that governments must not use it at all. At least five cities in Massachusetts, including Boston, have already banned government use of this technology.⁸ So have at least three cities in California.⁹ EFF is working with advocacy groups across the country to enact similar bans, through a campaign we call “About Face.”¹⁰ Now it is the state legislature’s turn to take a leadership role in this growing movement.

Governments should immediately stop use of face surveillance in our communities, given what researchers at MIT’s Media Lab and others have said about its high error rates—

² <https://journals.sagepub.com/doi/pdf/10.1177/1077699016630255>;
<https://scholarship.law.berkeley.edu/btlj/vol31/iss1/5/>.

³ <https://www.theguardian.com/technology/2016/oct/11/aclu-geofeedia-facebook-twitter-instagram-black-lives-matter>; https://www.washingtonpost.com/news/morning-mix/wp/2018/08/23/memphis-police-used-fake-facebook-account-to-monitor-black-lives-matter-trial-reveals/?utm_term=.13db56fe4bb8.

⁴ <https://www.law.cuny.edu/wp-content/uploads/page-assets/academics/clinics/immigration/clear/Mapping-Muslims.pdf>

⁵ <https://www.eff.org/deeplinks/2017/04/next-steps-toward-reforming-californias-unfair-gang-databases>;
<https://www.eff.org/deeplinks/2015/01/what-we-learned-oakland-raw-alpr-data>.

⁶ <https://www.newscientist.com/article/2166207-discriminating-algorithms-5-times-ai-showed-prejudice/>.

⁷ <https://www.washingtonpost.com/technology/2019/06/10/us-customs-border-protection-says-photos-travelers-into-out-country-were-recently-taken-data-breach/>.

⁸ <https://www.eff.org/document/somerville-face-surveillance-ban>; <https://www.eff.org/document/article-839-ban-town-use-face-surveillance>; <https://www.eff.org/document/19176-ordinance-prohibiting-use-face-surveillance-systems>; <https://www.eff.org/document/amend-chapter-2128-surveillance-technology-ordinance-adding-2128020-definitions-new>; <https://www.eff.org/deeplinks/2020/06/victory-boston-bans-government-use-face-surveillance>

⁹ <https://www.eff.org/document/stop-secret-surveillance-ordinance-05062019>;
<https://www.eff.org/document/oakland-face-surveillance-ban>; <https://www.eff.org/document/berkeley-face-surveillance-ban>.

¹⁰ <https://www.eff.org/aboutface>.

EFF letter in support of H.1538
July 17, 2020

particularly for women and people of color¹¹. But even if manufacturers someday mitigate these risks, government use of face recognition technology will threaten safety and privacy, amplify discrimination in our criminal justice system, and chill every resident's free speech.

We respectfully request that you include this critical measure in the police reform bill, and go farther than the Senate did in S.2820. Massachusetts needs a permanent moratorium on government use of this technology until the threat that biometric surveillance presents to privacy, free speech, racial and religious equity has been meaningfully addressed and responsibly mitigated. The harms from this technology will not disappear on December 31, 2021, when the Senate's proposed moratorium would expire.

Thank you for your attention and your work on this critical issue.

Sincerely,



Hayley Tsukayama
Legislative Activist
hayleyt@eff.org

¹¹ <http://proceedings.mlr.press/v81/buolamwini18a/buolamwini18a.pdf>.

Statement from U.S. Senator Elizabeth Warren 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”
July 17, 2020

Thank you to the House Ways and Means and Judiciary Committees for the opportunity to submit testimony for your virtual hearing. I share your profound concerns about the racist violence that continues to plague our country and commend the Massachusetts Legislature for beginning the difficult work of dismantling deep-rooted systemic racism in the Commonwealth.

The recent killings of George Floyd, Breonna Taylor, Ahmaud Arbery, and so many other Black men and women have sparked protests across the country, as communities demand an end to the police brutality, racist violence, and discrimination that has resulted in the deaths of countless Black people. We say their names to reaffirm the simple but powerful truth that they mattered. Their lives mattered. And Black lives matter.

This moment calls for us to fundamentally change how we think about public safety by transitioning away from a punitive system of locking people up and instead investing in community services that lift people up. It starts with a complete transformation of policing in America: our leaders at both the state and federal level have a duty to respond by passing laws that confront police brutality and systemic racism in the U.S. That begins with real accountability for anyone—including law enforcement officers—responsible for unjustified killings, including by ending qualified immunity to allow lawsuits against police officers and departments that violate people’s constitutional rights. We need real oversight when people are tragically killed by law enforcement - victims’ family members and communities should be able to trust that the process to find justice isn’t rigged from the outset. Independent investigations and prosecutions help accomplish that goal. We also need standards on the use of force that ban practices that too often result in unnecessary damage and death, including chokeholds and no-knock warrants. We must also ban racial and religious profiling and work to demilitarize our police departments.

The Reform, Shift + Build Act passed by the State Senate earlier this week takes an important step towards confronting racist violence and dismantling systemic racism in Massachusetts. The legislation would reform police standards, shift resources to communities, and lay the foundation for a more equitable, just, and fair system of public safety. Importantly, this bill increases law enforcement accountability by limiting qualified immunity for police officers, outlines a new vision of public safety for Massachusetts by demilitarizing the police force, addresses the school-to-prison pipeline, and expands community-based, non-police solutions to crisis situations. The bill contains many much-needed reforms that will bring meaningful change to policing in Massachusetts.

States and municipalities can’t do this important work alone - that’s why I am fighting for many of the same reforms at the federal level. I am an original cosponsor of Senators Booker and

Harris' Justice in Policing Act, a bill that would make substantial changes to policing in America, including several of the provisions included in the Reform, Shift + Build Act. In addition to the Justice in Policing Act, Senators Durbin, Hirono, and I introduced the Enhancing Oversight to End Discrimination in Policing Act, a bill to strengthen the federal and state governments' ability to investigate police departments with a pattern or practice of unconstitutional and discriminatory behavior. I have also introduced the Andrew Kearsse Accountability for Denial of Medical Care Act, a bill to hold law enforcement officers criminally liable for failing to obtain medical assistance for people in custody experiencing medical distress.

But let's be clear - this is not only about our criminal justice system. We must root out racial disparities in every part of our society, including in our healthcare system, our educational system, our housing policies, and in the workplace, and I am fighting to do just that. I led my colleagues in introducing the American Housing and Economic Mobility Act to confront America's housing crisis and take the first steps to address the effects of decades of housing discrimination on communities of color. I introduced the Student Loan Debt Relief Act, which would cancel student loan debt for 42 million Americans and take meaningful steps to begin to close the Black-White and Latinx-White wealth gaps while increasing wealth for Black and Latinx families, who face the worst effects of the student loan debt crisis. I've also cosponsored the Maternal Care Access and Reducing Emergencies (CARE) Act to address the racial disparities in maternal mortality rates.

I will continue to fight at the federal level to take tangible steps toward breaking apart the systems that have stolen countless Black and Brown lives and denied Black Americans and other people of color opportunity and equal treatment. I'm proud to stand alongside Massachusetts legislators who are taking meaningful steps to transform policing in the Commonwealth. I am deeply grateful for your leadership and look forward to our continued partnership on this critical issue.

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is Sunny Nguyen and I live at 47 Mildred Street Dracut Ma, 01826, I work at the Dracut Police Department and am a patrolman. 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 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.

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.

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,

Sunny Nguyen



WALTER J. WARCHOL
CHIEF OF POLICE

TOWN OF NORTHBRIDGE DEPARTMENT OF POLICE

1 HOPE STREET, WHITINSVILLE, MA 01588
www.northbridgepolice.com
TEL (508) 234-6211 • FAX (508) 234-9021



TIMOTHY LABRIE
LIEUTENANT

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 agree with the MA Chiefs of Police assessment and concerns in regards to SB2820. My officers are extremely concerned that this bill will make them prone to frivolous civil liability suits if they alter the long standing qualified immunity clause.

I believe that there is always room for improving police accountability and training, but respectfully request that the house not rush into passing police reform legislation without properly analyzing, discussing and hearing from all parties concerning this legislation.

Respectfully,

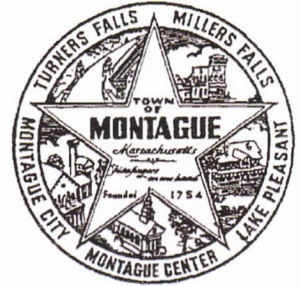
A handwritten signature in blue ink that reads "Walter J. Warchol".

Walter J. Warchol
Chief of Police



Montague Police Department
180 Turnpike Road
Turners Falls, MA 01376

(413) 863-8911
(413) 863-3210 (fax)



Chief Christopher P. Williams

TO: Chairwoman Cronin and Chairman Michlewitz

FROM: Chief Christopher P. Williams

RE: Concerns to Senate 2820 as Amended

DATE: 7/17/20

The senate version of this bill as written will seriously undermine public safety by limiting police officer's ability to do their jobs while simultaneously allowing provisions to protect 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.

Police across the commonwealth support uniform training standards and policies and have been requesting more training for several years.

The Senate version of 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. I do not support any bill that does not include the same procedural justice safeguards members of the communities we serve demand and enjoy.

The proposed makeup of the oversight board is one sided and biased against law enforcement. It is unlike any of the 160 other regulatory boards across the Commonwealth and as constructed incapable of being fair and impartial.

What the Senate has tried to do is pass a knee jerk reaction to an incident which occurred half a country away that everyone agrees was egregious; I and all Massachusetts Chiefs quickly condemned it.

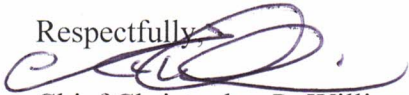
Massachusetts police officers are among the highest educated, trained and professional in this country.

This bill directly attacks qualified immunity and due process. Qualified immunity does not protect bad officers; it protects the good officers from civil lawsuits. We should want our officers to be able to act to protect our communities without fear of being sued at every turn, otherwise why would they put themselves at risk? A large majority of law enforcement officers do the right thing and are great officers, yet there is a real push to end qualified immunity to open them up to frivolous lawsuits because of the actions of a few who, by their own actions, would not be covered by qualified immunity anyway. It just doesn't make any sense why we are endangering the livelihood of many of the actions of a few.

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 State will skyrocket from frivolous lawsuits. In doing so would have a devastating impact on budgets statewide?

Respectfully,

A handwritten signature in dark ink, appearing to read 'C. Williams', with a large, stylized flourish extending to the right.

Chief Christopher P. Williams



Bellingham Police Department

30 Blackstone Street
BELLINGHAM, MASSACHUSETTS 02019
Tel. 508-966-1515
FAX 508-966-4669

CHIEF OF POLICE
GERARD L. DAIGLE

Thursday, July 16, 2020

Chairman Michlewitz
Chairwoman Cronin
Members of the House Committee on Way and Means
House Members of the Joint Committee on the Judiciary
Boston, MA. 02133

Dear Chair Aaron Michlewitz and Chair Clair 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.

House Members,

There is nothing but pride in the career of being a police officer in the Town you were born and brought up in. As a Police Chief for the last 20 years, I have seen many changes which have impacted how we police our community and how we must stand by, and educate our Officers out there, who are putting their lives on the line on a daily basis for the residents our community.

Changes in policing do occur. In my over 35 years of policing these changes always came with some manner of respect and cooperation of our Law Enforcement partners and politicians. We witnessed changes in policing due to September 11th, anthrax, Covid-19, etc. just to name a few.

As leaders, we adjusted our style of operations and carried on with our heads held high with support and admiration that we were doing what was best for our community and our Police Officers.

How anybody in their right mind can sit back and push legislation as a knee jerk reaction, that throws all of us in the law enforcement profession under the bus is beyond me. Change may be needed, but so is serious, long discussion on what the impacts will be and changes that have plenty of input from those on the front lines who are impacted the most on a day by day basis would only seem to make common sense.

In an age where we want to recruit a better pool of candidates for the job of being a Police Officer in the Commonwealth of Massachusetts, taking away or scaling back Qualified Immunity is not the way to go. The message to our Officers will be, go out there, put your lives on the line, "But" be aware that we will only have your back or stick up for you in certain situations.

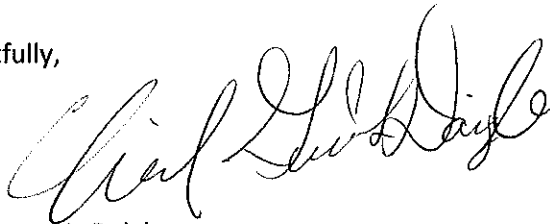
No one in their right mind would want to be a Police Officer today if you are going to mess with Qualified Immunity. Officers will do the bare minimum on the streets which is not fair to the citizens and business owners of our great community.

Officers will not react in situations where they are "in doubt" about their Cities or Towns having their backs. Too much thought and not enough action tends to get people hurt and situations will turn worse.

Messing with Qualified Immunity and Defunding the Police, are probably two of the most ridiculous concepts I've ever heard of in my over 35 years of policing. Let's hope our legislators do what's best, making a well-informed decision, not based on emotions, or knee jerk reactions, or bowing down to political pressure without giving this major reform some serious thought.

This needs to be a process that will take some time, and some intelligent discussion from many sides. As a group, the Massachusetts Chiefs of Police has always fought for more money for training our Officers. This to me would be a far better way to go, than some of the ideas expressed in SB2820.

Respectfully,

A handwritten signature in cursive script, appearing to read "Chief Gerard L. Daigle". The signature is written in black ink and is positioned to the right of the word "Respectfully,".

Chief Gerard L. Daigle
Bellingham Police Department



Bellingham Police Department

30 Blackstone Street
BELLINGHAM, MASSACHUSETTS 02019
Tel. 508-966-1515
FAX 508-966-4669

CHIEF OF POLICE
GERARD L. DAIGLE

Thursday, July 16, 2020

Chairman Michlewitz
Chairwoman Cronin
Members of the House Committee on Way and Means
House Members of the Joint Committee on the Judiciary
Boston, MA. 02133

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House Members,

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Changes in policing do occur. In my over 35 years of policing these changes always came with some manner of respect and cooperation of our Law Enforcement partners and politicians. We witnessed changes in policing due to September 11th, anthrax, Covid-19, etc. just to name a few.

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In an age where we want to recruit a better pool of candidates for the job of being a Police Officer in the Commonwealth of Massachusetts, taking away or scaling back Qualified Immunity is not the way to go. The message to our Officers will be, go out there, put your lives on the line, "But" be aware that we will only have your back or stick up for you in certain situations.

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Respectfully,

A handwritten signature in black ink, appearing to read "Chief Gerard L. Daigle". The signature is written in a cursive, flowing style.

Chief Gerard L. Daigle
Bellingham Police Department



WATERTOWN POLICE DEPARTMENT

MICHAEL P. LAWN
CHIEF OF POLICE

FAX: 617-600-1832

VOICE: 617-972-6537



July 16, 2020

Via email: Testimony.HWMJudiciary@mahouse.gov
Attention: Chair Aaron Michlewitz and Chair Claire Cronin

Regarding: Concerns to Senate 2820 – as amended

Dear Chair Michlewitz and Chair 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* submitted to the House on July 15th. I know over the next few days you will be inundated with responses from police departments, as well as various inter-police agencies across the Commonwealth, so I do not want to take up any more of your time than is absolutely necessary.

I agree with everything in Major Cities Chiefs President Brian Kyes' statement. I am very concerned with the effect the passing of SB2820 will have on the future of policing in Massachusetts. The position of police officer within this State has always been revered, held in the highest regard. We take pride in selecting candidates from the many qualified who take the exam and go through the process of becoming a police officer by meeting the standards set forth by the State and individual departments.

With the impact recent developments across the Nation have had on policing as a whole, I believe this bill's passage will become a factor in causing a dramatic decline in those who pursue a career in law enforcement and as a result, forcing us to look at lesser qualified candidates when recruiting.

Sincerely,

A handwritten signature in cursive script that reads "Michael P. Lawn".

Michael P. Lawn

Chief of Police

MPL:jp

Town of Lunenburg, Massachusetts

POLICE DEPARTMENT

CHIEF

James P. Marino
TEL: (978) 582-4150
FAX: (978) 582-4159



655 Massachusetts Ave.
Lunenburg, MA 01462

Via email to: Testimony.HWMJudiciary@mahouse.gov
Re: Concerns to Senate 2820 as Amended

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.*

We, the members of the Lunenburg Police Department, fully support the letter that was provided to you by the Presidents of the Massachusetts Chief of Police Association and the Massachusetts Major City Police Chiefs Association.

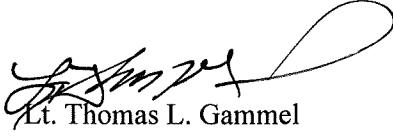
We support legislation that is well thought out which is fair and equitable to all of the stake holders involved. We would welcome ongoing dialogue to promote a healthier relationship with all of our communities within the Commonwealth and law enforcement agencies. With that being said, we encourage our legislative leaders to include members of the law enforcement community to be a part of the ongoing dialogue for SB2820. Without the inclusion of the law enforcement community we feel that unintended consequences could arise from the passing of this legislation.

We also feel that this legislation is being rushed through, and bypassing normal process that has been followed for numerous bills that were introduced to the House and Senate. With such a comprehensive bill that was introduced one would think that committee hearings and public hearings would be held throughout the Commonwealth which would allow all of the stake holders to have a voice in such an important issue.

We ask that you accept the recommendations that were presented by the Massachusetts Chiefs of Police Association, and the Massachusetts Major City Police Chiefs Association. We also hope that you would give due consideration to what has been outlined to you in the letter.

Thank you for your consideration and your efforts as we navigate through this important legislation.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Tom Gammel', with a large, sweeping flourish extending to the right.

Lt. Thomas L. Gammel
Lunenburg Police Department



George Arruda
Chief of Police

Town of Swansea, Massachusetts
Police Department
1700 GAR Highway
Swansea, Massachusetts 02777



Telephone (508) 674-8464
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Representative Aaron Michlewitz
Chair, House Committee on Ways and Means
Representative Claire D. Cronin
Chair, Joint Committee on the Judiciary
Massachusetts House of Representatives
State House
Boston, MA 02133

RE: Concerns to Senate 2820 as addressed

Dear Representatives Michlewitz and 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 submit this letter/testimony on behalf of the professional police officers in the Town of Swansea. I have been a police officer for over 38 years and a Police Chief for 24 years, in Rhode Island and Massachusetts. The Swansea Police Department is one of the 93 accredited Police Departments in Massachusetts. Much of what is written in the Senate Bill talks about oversight, certification and accreditation. Many of the Police Departments already have that and have policies, objectives and orders that address the use of force, deadly force, less level force, internal affairs investigations and early warning systems for problem police officers.

Criminal justice reform is a very difficult challenge and should not be conducted without input from professional police leaders, prosecutors, judiciary, health care community, mental health providers and community leaders. This rush to get “something done” does not make sense to me.

Regarding Section 10 (c) (Line 570) is very problematic, not only for professional law enforcement in the Commonwealth, but for all public employees. The past week I have been asked by many of the men and women who protect the citizens of Swansea if they should leave law enforcement due to the perception that many elected officials have left them high and dry for political expediency and watered down the judicial doctrine of Qualified Immunity. Section 10 calls for re-write of the existing provisions in Chapter 12, Section 11 I, pertaining to violations of constitutional rights, commonly referred to as the Massachusetts Civil Rights Act (MCRA).

Qualified Immunity provides police officers with protection for 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 protect individuals from recovering damages from police officers who knowingly violate an individual's constitutional rights. Qualified immunity is an essential part of policing. It allows your police officers to respond to incidents without pause, make split-second decisions, and rely on the current state of the law in making these decisions. The loss of this protection will have a chilling effect on police officers and limit their ability and willingness to respond to critical incidents without hesitation. This will also affect the citizens of your communities. Calls to limit, reduce or eliminate qualified immunity do not represent a constructive path forward.

Also, Section 6 (line 321) appears from 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 violation, use of force, injury, rude complaints, etc.) or 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.

Regarding, Section 49 (Line 1101-1115), preventing school department personnel and school resource officers from sharing information, when there are ongoing specific unlawful incidents involving violence of otherwise defies commonsense. Information sharing is very important for a safe and secure environment in our schools.

As a dedicated passionate police professional, I am deeply disheartened. I respectfully request that you listen to professional law enforcement leaders regarding these important proposed changes that will affect our profession and your communities.

Respectfully,



George Arruda

Chief of Police

Swansea Police Department



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JOSEPH F. O'CONNOR
CHIEF OF POLICE

July 17, 2020

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

Re: Concerns to Senate 2820 as Amended

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 Joseph F. O'Connor and I am the Chief of Police for the Town of Concord. I joined the Concord Police Department in June of 2014 after having served on the MBTA Transit Police Department from 1990-2014. I had previously served as a police officer for the towns of Dennis and Winchester beginning my career in 1986. During my time at the Transit Police, I rose through the ranks from Police Officer to Superintendent-in-Chief.

I hold a master's degree in criminal justice from Boston University, and a bachelor's degree in criminal justice from Curry College. I am also a graduate of the FBI National Academy and the Police Executive Research Forum's Senior Management Institute for Police.

You are receiving information from various stakeholders who feel the need for change in our Commonwealth. The policing profession has been painted with a broad brush and as you are aware policing strategies and training vary throughout the country. Having spent the majority of my career working within Boston as a member of the MBTA Transit Police, I gained an understanding of many of the issues currently being debated. Here in Massachusetts, I am proud to personally observe leadership not only from my fellow Chiefs of Police but also Officers at all ranks as well as our non-sworn-personnel and residents who are committed to community policing that reflects the best of our profession.

The bill sent you by the Senate clearly was rushed, excluded testimony, and passed in the dark of night close to sunrise. I encourage under your leadership to have an open and inclusive process including citizens, police professionals, academics and other key stakeholders. The issues surrounding race and justice go far beyond the police officers in this Commonwealth and the narrow focus on our profession will not provide the results which our communities deserve. I have already begun to hear from some Officers who feel they are being scapegoated and in some cases beginning to think about retirement or changing careers since they feel their family's financial stability will be put at risk by the bill in its current form.

Please know that I concur with the Massachusetts Chiefs of Police Association's thoughts which are as follows:

"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 we certainly welcome any and all training that enhances the professionalism and understanding of our officers, we are somewhat perplexed as to why law enforcement will now be statutorily mandated to have such a class to the exclusion of any other government entity?

One would believe that based on this particular mandate that the issue of what is inferred to as "racist institutions" is strictly limited to law enforcement agencies which aside from being incredibly inaccurate is also insulting to police officers here in the Commonwealth.

- SECTION 6 (line 272): In terms of the establishment of a POST (Peace Officer Standards and Training) Program, the various police chief's organizations here in our state wholeheartedly support the general concept. That said, the acronym of POSAC (Police Officer Standards Accreditation and Accreditation Committee) is causing significant confusion both in this bill and in the Governor's Bill. POST has nothing to do with Accreditation per se but has everything to do with Certification – and by implication "De-certification". In this state, there currently exists a Massachusetts Police Accreditation Commission (MPAC) for over 20 years which is made up of members of Law Enforcement (Chiefs, Ranking Officers), Municipal Government, and Colleges/Universities (Chiefs) in which currently 93 police agencies are accredited based on the attainment of national standards modeled from the Commission on Accreditation for Law Enforcement Agencies (CALEA). Utilizing the word "Accreditation" in the title is definitely misleading and should be eliminated. To the best of our

knowledge 46 other states use the acronym POST which seems to work without any problems or a need to create a new description of the important program.

- SECTION 6 (line 282): The Senate Bill states that POSAC shall be comprised of "14 members", however as outlined there are actually 15 positions. The MCOPA is strongly advocating for two (2) seats on the POSAC to be appointed by the MCOPA Executive Committee.

- 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. In particular, Section 10 calls for a re-write of the existing provisions in Chapter 12, section 11I, pertaining to violations of constitutional rights, commonly referred to as the Massachusetts Civil Rights Act (MCRA). The MCRA is similar to the provisions of 42 U.S.C. § 1983 (setting for a federal cause of action for a deprivation of statutory or constitutional rights by one acting under color of law), except however, that the provisions of the MCRA as it exists today, does not require that the action be taken under color of state law, as section 1983 does. See G.L. c. 12, § 11H. Most notably, Section 10 of the Act would change that, and permit a person to file suit against an individual, acting under color of law, who *inter alia* deprives them of the exercise or enjoyment of rights secured by the constitution or laws of the United States or the Commonwealth of Massachusetts. By doing so, the Senate is attempting to draw the parallel between the federal section 1983 claim and the state based MCRA claims. The qualified immunity principles developed under section 1983 apply equally to claims under the MCRA. See *Duarte v. Healy*, 405 Mass. 43, 46-48, 537 N.E.2d 1230 (1989). "The doctrine of qualified immunity shields public officials who are performing discretionary functions, not ministerial in nature, from civil liability in § 1983 [and MCRA] actions if at the time of the performance of the discretionary act, the constitutional or statutory right allegedly infringed was not 'clearly established.'" *Laubinger v. Department of Rev.*, 41 Mass. App. Ct. 598, 603, 672 N.E.2d 554 (1996), citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982); see *Breault v. Chairman of the Bd. of Fire Commrs. Of Springfield*, 401 Mass. 26, 31-

32, 513 N.E.2d 1277 (1987), cert. denied sub nom. Forastiere v. Breault, 485 U.S. 906, 108 S.Ct. 1078, 99 L.Ed.2d 237 (1988); Duarte v. Healy, supra at 47-48, 537 N.E.2d 1230.

In enacting the Massachusetts Civil Rights Act, the Legislature intended to adopt the standard of immunity for public officials developed under section 1983, that is, public officials who exercised discretionary functions are entitled to qualified immunity from liability for damages. *Howcroft v. City of Peabody*, 747 N.E.2d 729, Mass. App. 2001. Public officials are not liable under the Massachusetts Civil Rights Act for their discretionary acts unless they have violated a right under federal or state constitutional or statutory law that was "clearly established" at the time. *Rodriguez v. Furtado*, 410 Mass. 878, 575 N.E.2d 1124 (1991); *Duarte v. Healy*, 405 Mass. 43, 537 N.E.2d 1230 (1989). Section 1983 does not only implicate law enforcement personnel. The jurisprudence in this realm has also involved departments of social services, school boards and committees, fire personnel, and various other public employees. That being said, if the intent of the Senate is to bring the MCRA more in line with section 1983, anyone implicated by section 1983, will likewise be continued to be implicated by the provisions of the MCRA. Notably, the provisions of the MCRA are far broader, which should be even more cause for concern for those so implicated.

Section 10 of the Act further sets for a new standard for the so-called defense of "qualified immunity." Section 10(c) states that "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"

This definition represents a departure from the federal standard for qualified immunity, although the exact extent to which it departs from the federal standard is up for debate, at least until the SJC provides clarification on it. The federal doctrine of qualified immunity shields public officials of all types from liability under section 1983 so long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Harlow v. Fitzgerald*, 457 U.S. 800 (1982). Stated differently, in order to conclude that the right which the official allegedly violated is "clearly established," the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right. *Anderson v. Creighton*, 483 U.S. 635 (1987). It protects all but the plainly incompetent and those who knowingly violate the law. *Malley v. Briggs*, 475 U.S. 335 (1986). As a result, the standard sought to be created under Section 10 of the Act would provide public employees with substantially less protection than that afforded under the federal standard.

“Qualified immunity 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).

Furthermore, although the Senate’s version of “qualified immunity” would only apply to state-based claims under the MCRA, what Section 10 proposes is fairly similar to that proposed by the 9th Circuit Court of Appeals in various decisions. In those instances where the 9th Circuit sought to lower the standard applicable to qualified immunity, the U.S. Supreme Court has squarely reversed the 9th Circuit, going so far as scolding it for its attempts to do so. See *Kisela v. Hughes*, 138 S.Ct. 1148 (2018); *City of Escondido v. Emmons*, 139 S.Ct. 500 (2019).

Although legal scholars and practitioners have a grasp as to the meaning of qualified immunity as it exists today, uncertainty will abound if this standard is re-written, upending nearly fifty years of jurisprudence. Uncertainty in the law can only guarantee an influx in litigation as plaintiffs seek to test the new waters as the new standard is expounded upon by the courts.

- 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. That said, to have a public hearing available for all in the general public to know exactly what equipment the police departments may or may not possess serves to put communities in jeopardy in that those with nefarious motives will be informed as to what equipment that the department has at its disposal. This is very dangerous.
- 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): There seems to be a slight nuance to the amended language to Section 37P of Chapter 71 replacing “in consultation with” to “at the request of.” Many police departments have had school resource officer programs in this state for 25 years or longer. The only reason why officers are assigned to the schools are because they have been “requested” to be there by the school superintendents - period. The reality is

that many school districts even reimburse the police budgets for the salaries of these officers who serve as mentors for these young middle and high school students. If the Senate is being told that police chiefs are arbitrarily assigning officers to schools without first receiving a specific request from the school superintendents, they are being misled. 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. We are very confused as to why this provision needs to be included.

- SECTION 52 (lines 1138-1251: There are several recommended changes to data collection and analysis as it pertains to motor stopped motor vehicles and pedestrians in this section. 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. While we continue to welcome data that is both accurate and reliable, the issue pertaining to the classification of an operator's race has still yet to be resolved. Before any data from calendar year 2020 has yet to be collected by the RMV and subsequently analyzed by a College/University selected by the Secretary of EOPSS, these provisions now look to complicate the matter even further before a determination has actually been made as to whether any problem of racial or gender profiling actually exists here in our state. We won't belabor the point, but 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, we do 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 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 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.

• [Recommended New Section] Amends GL Chapter 32 Section 91(g): In order to expand the hiring pool of trained, educated, qualified and experienced candidates with statewide institutional knowledge for the Executive Directors' positions for both the Municipal Police Training Committee as well as the newly created POSAC (or POST), the statute governing the payment of pensioners for performing certain services after retirement, shall be amended to allow members of Group 4 within the state retirement system to perform in these two (2) capacities, not to exceed a three (3) year appointment unless specifically authorized by the Governor."

In closing, I know the days ahead of you will be challenging, I implore you to take the time to accumulate facts and utilize them during your deliberations. I know that the Concord Police Department and those throughout the Commonwealth will continue to deliver exceptional service to our communities. Please feel free to contact me if I can be of any assistance.

Respectfully Submitted,



Joseph F. O'Connor

Chief of Police

cc. Representative Tami Gouveia <tami@tamigouveia.com>

September 17, 2019

Joint Committee on the Judiciary
Sen. James Eldridge & Rep. Claire Cronin

SUPPORT H.3277
AN ACT TO SECURE CIVIL RIGHTS IN THE COURTS OF THE COMMONWEALTH

Chairwoman Cronin, Chairman Eldridge, and members of the Joint Committee on the Judiciary:

The ACLU of Massachusetts supports H.3277, which will give the Supreme Judicial Court the tools it needs to protect civil rights in Massachusetts.

Today, a federal law commonly known as “Section 1983” provides the most important private remedy when government actors violate individuals’ civil rights. Landmark cases brought under Section 1983 have given meaning to the rights guaranteed by the Bill of Rights including *Tinker v. Des Moines* (cementing students’ rights to free speech in public schools), *Griswold v. Connecticut* (protecting the right to contraception), and *Lawrence v. Texas* (protecting the right of gay people to form intimate relationships).

Because of recent federal court interpretations, however, Section 1983 has been substantially undermined as a means to hold state and local officials, law enforcement officials in particular, to account for violations of people’s rights. And, as the current Administration appoints more conservative federal judges hostile to civil rights, we can expect further restrictions and limitations on section 1983 as a meaningful remedy.

As relief under Section 1983 continues to erode in the federal courts, states must step up to ensure that civil rights are protected. Unfortunately, the current Massachusetts Civil Rights Act (MCRA) is not a sufficient alternative. The MCRA is severely limited by an ill-fitting requirement that the violation of rights must include “threats, intimidation or coercion.” While that standard may be appropriate when evaluating claims against private parties, to whom the MCRA also applies, it is an inappropriate standard for holding accountable government agents, who have the power to deprive people of rights through direct action. This high bar has led to absurd results, where the government has clearly and directly violated a person’s constitutional rights, but cannot be held accountable under the MCRA. For instance, in 2008, Brockton police officers unlawfully rushed into a home, without a warrant or consent, and dragged a woman who was one week post-partum out of the house, causing her caesarean section incision to bleed. Despite a court’s conclusion that the plaintiffs had properly asserted multiple violations of their constitutional rights, the MCRA claim was thrown out because the warrantless entry and excessive force were not preceded by threats.¹

H.3277 will update the MCRA to ensure that civil rights can be vindicated in our state courts. The bill creates a state cause of action similar to Section 1983. Importantly, the bill limits the use of qualified

¹ *Barbosa v. Conlon*, 962 F.Supp.2d 316, 332 (D. Mass. 2013).

immunity, a loophole in section 1983 jurisprudence that has made it virtually impossible for government officials to be held responsible for wrongdoing.²

A statute that meaningfully protects civil rights in Massachusetts will reassure the public that government officials, and particularly law enforcement officers, are not above the law. We welcome the opportunity to be a resource to the Committee as you consider this important bill.

² See, e.g., *Gray v. Cummings*, 917 F.3d 1 (1st Cir. 2019) (holding that a law enforcement officer did not use excessive force in violation of the Fourth Amendment when he forced a mentally ill woman to the ground and tased her, and that even if he had violated her constitutional rights, the officer was shielded from liability by qualified immunity).



A black rectangular box containing the text "PRESS PAUSE ON FACE SURVEILLANCE" in white, uppercase, sans-serif font. The word "PAUSE" is larger and more prominent, with a red double vertical bar symbol (resembling a pause button) to its left.

October 22, 2019

Joint Committee on the Judiciary
Sen. James Eldridge & Rep. Claire Cronin, Co-Chairs

Testimony in Support of S.1385 and H. 1538 Moratorium on Government Use of Face Surveillance Technologies

Dear Senator Eldridge, Representative Cronin, and members of the committee,

The ACLU of Massachusetts, on behalf of nearly 100,000 members and supporters across the Commonwealth, offers our strongest support for S.1385 and H.1538, legislation to establish a moratorium on government use of face recognition and emerging biometric surveillance technologies.

Face surveillance technology poses unprecedented threats to core civil rights and civil liberties, impedes racial justice, and undermines our open, free, democratic society. The technology can be used not only to identify a person in a video or a still image, but also to turn existing surveillance camera networks into inescapable dragnets, enabling the mass tracking of people's movements, habits, and associations. This this could all happen in secret, without the public's knowledge or consent, with merely the push of a button. Thankfully, the most dangerous deployments of the technology are not, to our knowledge, occurring in Massachusetts—yet. But cities from Detroit to Chicago, not to mention entire regions of countries like China, are already experimenting with this fundamentally authoritarian form of surveillance.¹ And according to documents obtained by the ACLU, the City of Boston and the surrounding metropolitan region are one software update away from doing the same.

Face surveillance technology is dangerous when it works, and when it doesn't. According to research by world-renowned MIT scientist Joy Buolamwini, even face surveillance algorithms sold by the most prominent technology companies exhibit troubling racial and gender bias. Meanwhile, smaller start-ups like Cambridge-based Suspect Technologies have been pushing their products on Massachusetts municipal police departments, despite the fact that—by the vendor's own admissions—their systems may work only 30 percent of the time.² And when other governments have tested face recognition technology “in the wild,” on live video surveillance camera feeds, it has failed at staggering rates—upwards of 90 percent in some cases.³

¹ Clare Garvey and Laura Moy, “America Under Watch: Face Surveillance in the United States,” May 16, 2019, Georgetown Law Center on Privacy and Technology. <https://www.americaundervatch.com/>.

² Email from Suspect Technologies CEO Jacob Sniff to Plymouth Police Department, November 19, 2017, obtained via public records request: “I do think that with a decent database to match from, at least 30% of the time, the facial technology should work well enough...” See: <https://data.aclum.org/public-records/plymouth-police-department-face-surveillance-emails/>.

³ Vikram Dodd, “UK police use of facial recognition technology a failure, says report,” May 14, 2018, the Guardian. <https://www.theguardian.com/uk-news/2018/may/15/uk-police-use-of-facial-recognition-technology-failure>.

Despite these well-known problems, face surveillance is completely unregulated in Massachusetts. The legislation before you is a critical intervention to protect basic civil rights—and Massachusetts voters know it. Over nine in ten Massachusetts voters oppose unregulated government use of the technology, and nearly eight in ten Massachusetts voters support the moratorium legislation before you. It's time to press pause now, before it's too late.

Face surveillance technology makes mistakes and, absent oversight, can upend an innocent person's life

Colorado financial analyst Steve Talley was permanently physically injured, and lost his house, his children, and his career after the police falsely accused him of bank robbery on the basis of a faulty face recognition search. Homeless, unemployed, and suffering from permanent injury due to his violent arrest, Talley later told a reporter unregulated face recognition technology in the hands of law enforcement ruined his life. “Take an individual who has a normal life and now it's destroyed,” he said. “All because they relied upon facial recognition so much. Maybe someday it will be extremely accurate but at this point in time, it needs more oversight.”⁴

Brown University student Amara K. Majeed woke up in the days following the Easter terrorist attack in her native Sri Lanka to dozens of messages and missed calls from people back home, warning her that the government had identified her as one of the terrorists. Her face was all over the news, they said. The *Boston Globe* reported that the error was the result of a face recognition software mistake, which was ultimately acknowledged by the police.⁵ But it was too late; the damage to her reputation had been done, and she and her family received death threats.

As these two examples show, face surveillance technology is most dangerous when governments use it without clear guidelines, rules, and regulations in place. Yet this is precisely how government agencies in Massachusetts are operating. There is not a single statute on the books to set out rules of the road for the responsible use of this untested technology, or to prevent misuse, abuse, or dragnet surveillance.

Face surveillance is not ready for primetime. It poses particularly serious threats of misclassification to women, people of color, trans people, and children.

Racial and gender bias runs rampant in artificial intelligence systems

Studies have shown that face surveillance systems sold by even the most prominent technology companies can misclassify darker-skinned women up to 35 percent of the time.⁶

⁴ Allee Manning, “A False Facial Recognition Match Cost This Man Everything,” May 1, 2017, Vocativ.

<https://www.vocativ.com/418052/false-facial-recognition-cost-denver-steve-talley-everything/index.html>.

⁵ Jeremy Fox, “Brown University student mistakenly identified as Sri Lanka bombing suspect,” April 28, 2019, Boston Globe.

<https://www.bostonglobe.com/metro/2019/04/28/brown-student-mistaken-identified-sri-lanka-bombings-suspect/0hP2YwyYi4qrCEdxKZCpZM/story.html>.

⁶ Joy Buolamwini, “Gender Shades,” MIT Center for Civic Media. <https://www.media.mit.edu/projects/gender-shades/overview/>.

Automatic gender recognition, a subfield of face surveillance technology, regularly misgenders transgender and gender-nonconforming people.⁷

Similarly, algorithms that claim to be able to identify how someone is feeling, based on their facial expressions, are complete bunk. One study used so-called “affect recognition” software to analyze images of NBA players’ official portraits, and found it was more likely to classify Black players as angry and contemptuous.⁸ Recent research from leading scholar Dr. Lisa Barrett at Northeastern University has shown that it is simply not possible to discern how someone is feeling based on how their face looks.⁹ Nonetheless, without regulations, it’s only a matter of time before companies try to sell this kind of snake-oil technology to police to use in interrogations, on our streets, and even in our schools.

Absent regulations, governments worldwide are adopting face surveillance systems even when they know about these bias problems. Just this month, the British government was exposed and pilloried for implementing a facial recognition algorithm as part of its passport examination system, even though officials knew the system made more mistakes on dark-skinned people.¹⁰

Face surveillance systems do not work well on children, but some police are using them to monitor youth

Face surveillance technology is not meant for children, so it makes more mistakes when scanning young people’s faces. Research that tested five “top performing commercial-off-the-shelf” face recognition systems shows that these systems “perform poorer on children than on adults.”¹¹ These systems are modeled on and optimized for use on adult faces; their use on children is particularly dangerous because as children grow, their faces change shape.

Nonetheless, public reporting has exposed police using face surveillance technology to investigate children as young as 11 years-old. According to the *New York Times*, “The New York Police Department has been loading thousands of arrest photos of children and teenagers into a facial recognition database despite evidence the technology has a higher risk of false matches in younger faces.”¹²

These are precisely the kinds of abuses that can take place absent any meaningful external oversight or accountability.

Studies report astonishingly high error-rates in real-time tracking systems using artificial intelligence

Face surveillance technology works best when using front-facing, clear, high-resolution, high-light images. Even under those conditions it can fail, as discussed above. But when governments use face

⁷ Matthew Gault, “Facial Recognition Software Regularly Misgenders Trans People,” February 19, 2019, Vice. https://www.vice.com/en_us/article/7xnwed/facial-recognition-software-regularly-misgenders-trans-people.

⁸ Lauren Rhue, “Emotion-reading tech fails the racial bias test,” January 3, 2019, the Conversation. <https://theconversation.com/emotion-reading-tech-fails-the-racial-bias-test-108404>.

⁹ Lisa Feldman Barrett, et al. “Emotional Expressions Reconsidered: Challenges to Inferring Emotion From Human Facial Movements.” *Psychological Science in the Public Interest*, vol. 20, no. 1, July 2019, pp. 1–68, doi: [10.1177/1529100619832930](https://doi.org/10.1177/1529100619832930).

¹⁰ “Passport facial recognition checks fail to work with dark skin,” October 9, 2019, the BBC. <https://www.bbc.com/news/technology-49993647>.

¹¹ Nisha Srinivas, Karl Ricanek, et al, “Face Recognition Algorithm Bias: Performance Differences on Images of Children and Adults,” 2019, IEEE Conference on Computer Vision and Pattern Recognition (CVPR) Workshops. http://openaccess.thecvf.com/content_CVPRW_2019/papers/BEFA/Srinivas_Face_Recognition_Algorithm_Bias_Performance_Differences_on_Images_of_Children_CVPRW_2019_paper.pdf.

¹² Joseph Goldstein and Ali Watkins, “She Was Arrested at 14. Then Her Photo Went to a Facial Recognition Database,” August 1, 2019, New York Times. <https://www.nytimes.com/2019/08/01/nyregion/nypd-facial-recognition-children-teenagers.html>.

surveillance technologies to try to identify or track people “in the wild,” the results can be shockingly bad.

Right here in Massachusetts, for example, the CEO of Suspect Technologies was trying to sell face surveillance software to the Plymouth Police Department when he wrote that his product might properly identify people from surveillance camera videos only 30 percent of the time. That was an estimate. But when governments have actually studied the use of similar technologies in public space, the results have been even worse. In 2017, police in London used face surveillance technology to try to identify people on a hot-list at a carnival. The system wrongfully identified people 98 percent of the time.¹³ Police in Wales reported similarly bad outcomes: 91 percent failure.¹⁴ “On 31 occasions police followed up the system saying it had spotted people of concern,” the Guardian reports of the test, “only to find they had in fact stopped innocent people and the identifications were false.”¹⁵

Face surveillance technology poses an unprecedented threat to our most fundamental rights

Leading scholars have called for a total ban on government use of face surveillance technology, arguing that it is “the perfect tool for oppression.”¹⁶ The Chinese government is showing us what that looks like, and it should terrify every freedom-loving person.

According to reports, the Chinese government is using its network of surveillance cameras integrated with facial recognition technology to keep tabs on millions of Uighurs in Xinjiang. “The facial recognition technology,” the *New York Times* reports, “looks exclusively for Uighurs based on their appearance and keeps records of their comings and goings for search and review. The practice makes China a pioneer in applying next-generation technology to watch its people, potentially ushering in a new era of automated racism.”¹⁷

China’s use of the technology enables its government to track how many people of certain ethnic backgrounds are in a location at once, to track individual people’s movements and activities—including their religious worship—and even to flag that someone entered their house from the rear, instead of the front door.

Closer to home, the Detroit Police Department has been using face surveillance on its networked surveillance camera system for two years. The system was established in secret, without public debate, legislative authorization, or regulations to protect civil rights and liberties.¹⁸

¹³ Vikram Dodd, “UK police use of facial recognition technology a failure, says report,” May 14, 2018, the Guardian. <https://www.theguardian.com/uk-news/2018/may/15/uk-police-use-of-facial-recognition-technology-failure>.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Woodrow Hartzog and Evan Selinger, “Facial Recognition is the Perfect Tool for Oppression,” August 2, 2018, Medium. <https://medium.com/s/story/facial-recognition-is-the-perfect-tool-for-oppression-bc2a08f0fe66>.

¹⁷ Paul Mozur, “One Month, 500,000 Face Scans: How China is Using A.I. to Profile a Minority,” April 14, 2019, New York Times.

¹⁸ Clare Garvey and Laura Moy, “America Under Watch,” Georgetown University, 2019. <https://www.americaunderwatch.com/>

Face surveillance could easily be applied to thousands of networked cameras in the metro Boston area—without any regulatory framework in place

Unfortunately, we are just a software update away from creating a similar digital dragnet right here in eastern Massachusetts, where a regional surveillance camera network already links hundreds of cameras throughout Boston, Brookline, Cambridge, Chelsea, Everett, Quincy, Revere, Somerville, and Winthrop. As of 2017, there were nearly 900 cameras in this regional network, and at least 1,125 people could access videos and control cameras in it.¹⁹ The MBTA, for its part, has over 5,000 cameras in its system.²⁰

For the past few years, the Metro Boston regional camera network has been supercharged with video analytics technology manufactured by a company called BriefCam. This technology allows law enforcement to apply machine learning technology to rapidly analyze large quantities of video surveillance data, in real time and retroactively. Currently, the Boston area camera network uses a version of BriefCam’s software that tracks the movements of people, cars, bicycles, and other objects, enabling government agencies to automatically identify, for example, red cars traveling down a certain roadway on a certain day, or a woman riding a bicycle in a particular area.²¹ But the most recent version of BriefCam’s technology (version 5.3) uses facial recognition technology, creating the potential for the same kind of pervasive biometric monitoring that currently takes place in China. The city’s current contract with BriefCam, which provides the government with software version 4.3, ends in May 2020.²²

Technology moves much faster than the law. Absent a statewide moratorium on government use of face surveillance technologies, all officials in Boston would have to do to create a digital dragnet akin to China’s is pay for a software upgrade.

It nearly happened in Plymouth: a case study

Emails obtained by the ACLU show technology companies are putting significant pressure on local governments to implement this China-style surveillance right here at home, including to track people in public space by their age, gender, and ethnicity.

Suspect Technologies, a Cambridge-based start-up, communicated with the police chief in Plymouth, Massachusetts for approximately two years, developing a plan to use face surveillance technology on publicly owned surveillance cameras across the municipality, the emails show. Among the most disturbing aspects of the plan were:

- The intention to upload a list of every person wanted by the Plymouth police to a Suspect Technologies database. Suspect’s face surveillance algorithm would then constantly scan the

¹⁹ Document obtained by ACLU via public records request. See: <http://data.aclum.org/wp-content/uploads/2019/10/CIMS-Customer-Use-of-Video.pdf>.

²⁰ Michael Jonas, “Big Brother is watching,” Winter 2015, Commonwealth Magazine. <https://commonwealthmagazine.org/criminal-justice/big-brother-is-watching/>

²¹ BriefCam website, “How it Works.” <https://www.briefcam.com/technology/how-it-works/>.

²² City of Boston contract with BriefCam, obtained via ACLU public records request. <http://data.aclum.org/wp-content/uploads/2019/10/Contracts-and-Certificates.pdf>.

faces of each person passing by a camera in the town and notify law enforcement immediately when one of those “wanted” people walked past a camera;

- An admission by the CEO that his technology may work only 30 percent of the time;
- An admission by the CEO that the failure rates may result in as many as one “false positive” hit per day (which could lead to wrongful arrest or even result in serious injury or death);
- The contemplated use of the face surveillance system in public schools; and
- A lack of planning to address privacy, civil rights, civil liberties, or even basic transparency regarding the implementation of the face surveillance system.

In the emails, the CEO of this company even suggested using his technology to track people by their ethnicity.²³

This plan was developed in secret, with no regulations in place to protect privacy, and completely unbeknownst to the residents of Plymouth. The emails show that profit-motivated corporations will work overtime to push their technologies on public officials who are ill-equipped to judge the merits of experimental software.

When the ACLU alerted journalists to the existence of the plan, the Plymouth police backed off and said they wouldn’t go forward with implementing this system. The people of Plymouth can therefore be confident they won’t be tracked as they go about their daily lives, for the time being at least.

But the ACLU cannot act as a regulator in this space, filing records requests with the hundreds of police departments across the state to ensure schemes like this one don’t materialize in secret. And we cannot expect our state and local officials to be artificial intelligence experts, able to judge the claims companies make about how their technologies work. The information asymmetry between self-interested technology companies and our public servants puts us all at risk of grave civil rights and civil liberties harms. In the absence of a statewide moratorium, we can’t be sure that similar plans aren’t in the works in other municipalities right now, behind closed doors.

Face surveillance technology is entirely unregulated, yet has been in use in Massachusetts since 2006

There is not a single statute or regulation on the books in Massachusetts, or at the federal level, imposing guardrails on how government agencies can use these potentially biased, inaccurate, and dangerous technologies.²⁴

The lack of regulation leaves Massachusetts residents vulnerable to a host of abuses and misuses of the technology. Absent regulation, government agencies and technology companies are left to decide, in secret, which systems to deploy where and how, who can access the systems for what purposes, and what information about the use of these technologies ought to be disclosed to lawmakers, members of the public, criminal defendants, and the courts.

²³ Joseph Cox, “‘They would go absolutely nuts’: How a Mark Cuban-Backed Facial Recognition Firm Tried to Work with Cops,” May 6, 2019, Vice. https://www.vice.com/en_us/article/xwny7d/mark-cuban-facial-recognition-suspect-technologies.

²⁴ Indeed, this October California passed the nation’s first law that prohibits the use of face surveillance technology in any context, placing a moratorium on police use of face recognition on body cameras. See Bryan Anderson, “New law bans California cops from using facial recognition tech on body cameras,” October 8, 2019, Sacramento Bee. <https://www.sacbee.com/news/politics-government/capitol-alert/article235940507.html>.

Thankfully, to our knowledge, the kind of pervasive public monitoring in place in Detroit and China is not yet taking place in Massachusetts. But through public records requests the ACLU learned that the Registry of Motor Vehicles has been using millions of drivers' license photographs as a perpetual line-up for law enforcement searches for at least thirteen years, absent legislative authorization or any meaningful checks and balances. In addition, the State Police is also allowing state, local, and federal law enforcement to use a database of four million mugshots for similar searches. Despite this, there is no indication that criminal defendants or courts have been given the opportunity to contest these searches—because they have been kept secret.

The RMV's perpetual lineup—where everyone is a suspect

The RMV first obtained a facial recognition system with the help of a federal grant in 2006, and has since spent millions of dollars updating the technology. Initially, the RMV obtained the software to perform fraud checks, to ensure people were not able to apply for a second driver's license under an alias. But almost immediately after they got the software, the RMV sent a memo to law enforcement, offering to perform searches against the database to help police identify unknown persons in images.²⁵

Due to the complete absence of regulation controlling these technologies, there are no civil rights or privacy protections in place to ensure the public's trust is not abused. The RMV drivers' license database and State Police mugshot systems, for example, can be searched by law enforcement without any prerequisites. There is no requirement to show probable cause or even reasonable suspicion of criminal activity.

For the RMV system, all a law enforcement officer at the federal, state, or local level must do is send a simple email to the RMV facial recognition unit requesting that an image be scanned against the driver's license database to look for a match. An exhaustive ACLU review of materials obtained via a public records lawsuit suggests RMV officials have never—*not once*—declined a police request to perform one of these facial recognition searches.

Hand-written logs obtained by the ACLU show the RMV has executed hundreds of searches per year on behalf of agencies including Immigration Customs Enforcement, the State Department, and the New York Police Department, as well as state and local agencies across Massachusetts. The search logs and the emails indicate that abuse and misuse may have already taken place. For instance, some of the logs merely list a first name, "Karen," where a law enforcement official's name and department should be written. Meanwhile, emails between police officers suggest the Massachusetts State Police may be using the technology to perform surveillance of First Amendment protected events like political demonstrations.²⁶

The RMV, while it maintains a paper log, has never once performed an audit of how agencies have used the facial recognition system, meaning the agency has no idea whether the system has been

²⁵ Massachusetts Department of Transportation memorandum to law enforcement, October 31, 2006, obtained via public records request. See page 14: <https://data.aclum.org/wp-content/uploads/2018/06/DOT-facial-recognition-response.pdf>.

²⁶ State Police emails obtained via ACLU public records request, dated June 2019. <http://data.aclum.org/wp-content/uploads/2019/10/large-scale-public-events.pdf>. In a June 10, 2019 email, an employee of the State Police emails two other State Police officials, informing them that the facial recognition system at the RMV would be down for maintenance. "The RMV would like to confirm that there are no large scale events, etc. that will require the use of the Facial Rec software during this time frame," the official wrote. In response, a State Police official writes, "I am not aware of any large events that day."

misused or abused for personal or political reasons. We therefore also do not know whether these searches have disproportionately been performed against people of color. The State Police, for its part, confirmed to the ACLU in writing that it does not even know who has searched its facial recognition system, or how many times or for what reasons, because its system does not allow for the logging of these searches. Moreover, the State Police's use of a mugshot database for facial recognition searches raises serious racial justice concerns, because Black and Latinx people are disproportionately policed and arrested, including for low-level offenses like driving with a suspended license and drug possession.

Evidence suggests rampant due process violations are occurring right now

Despite the hundreds of police searches of the RMV's face database per year, conversations with public defenders in Massachusetts suggest criminal defendants are not given an opportunity to contest or benefit from the searches in the vast majority of cases. Without mandatory disclosure requirements, law enforcement appears to be shielding information about face surveillance searches from the courts. This practice threatens defendants' core due process rights and the integrity of our court system. Criminal defendants must be able to interrogate a digital witness against them.

If police investigate and then ultimately charge people with crimes due to facial recognition identifications, defendants must be able to access key details about those searches. For example, defendants must have access to:

- information about the face surveillance algorithm used to perform the search (including, if available, the results of accuracy and bias tests);
- depositions of face surveillance technicians who perform the searches, to find out what investigatory steps were taken subsequent to the search;
- the full results of the search, including images of other people, if these were returned; and
- information about the technical "confidence level" at which the system identified the defendant, in addition to other information critical to mount a defense.

Face surveillance raises serious constitutional concerns, but we can't wait for the courts; the legislature must act

The use of face surveillance software, especially overlaid onto existing surveillance camera infrastructure, raises grave constitutional concerns. Dragnet identification of individuals while they are exercising rights protected by the First Amendment could chill freedom of expression, freedom of speech, and exercise of religion. The technology poses a fundamental threat to our basic Fourth Amendment privacy rights and right to be left alone. And its use without disclosure to defendants jeopardizes our Fourteenth Amendment due process right to a fair trial. Furthermore, government secrecy regarding the use of face surveillance denies courts the opportunity to rule on its constitutionality.

Law enforcement officials have argued that we have no privacy in public spaces, but the Supreme Court disagrees. In an historic ruling in *Carpenter v. U.S.*, Chief Justice John Roberts held that new technologies enabling retroactive and real-time mass surveillance fundamentally change the balance of power between the government and the people. In that case, the Court ruled that law

enforcement officials must get a warrant to obtain historical cell site location data from phone companies.²⁷

Eventually, courts may very well apply *Carpenter's* reasoning to ubiquitous face tracking in public space. But that case was not decided until 2018, decades after Americans began to use cell phones. We cannot wait decades for the courts to rule on the constitutionality of face surveillance technology. We must press pause now, before dragnet surveillance systems are created in the shadows.

It is also critical that we distinguish face surveillance from even the most invasive tracking technologies that the courts have considered to date. Cell phone tracking is fundamentally different from face surveillance in at least two significant ways. First, if you want to go somewhere anonymously—a political demonstration, a clinic, a bar, or a motel—you do not have to bring your phone with you. You cannot leave your face at home.

Second, for a government official to access information from your phone, they must either have possession of the device itself or request access from a third-party service provider. In either case, they must obtain a warrant. But judicial authorization and oversight become substantially less effective tools to prevent misuse and abuse if a government agency acquires face surveillance technology and can use it in-house without going through any other gatekeeper. For this reason, legislative intervention is imperative—*before* government acquisition and use of the technology become more widespread.

Time to press pause

Thankfully, we still have time to prevent the worst harms in the Commonwealth—if we act now. We don't have to allow what happened to Steve Talley or Amara Majeed to happen to someone in our commonwealth. We don't have to accept that simply because technology enabling biometric mass tracking exists, our government will inevitably monitor our every public movement.

Instead of allowing government agencies to make up the rules as they go along—in secret, absent legislative authorization or public debate—or accepting that the technology will determine the boundaries of our rights, we must chart an intentional course forward, maintaining democratic control over our society and our lives.

We cannot continue to put the technology cart before the policy horse. We must press pause on the use of this dangerous technology to give ourselves the time and space to make wise decisions and protect fundamental liberties.

We urge the committee to give a swift, favorable report to S.1385 and H.1538. Please don't hesitate to contact the ACLU for further information or clarification. We would welcome the opportunity to work with the committee to advance this critical legislation. Thank you.

²⁷ Case page for *Carpenter v. United States*, SCOTUSblog. <https://www.scotusblog.com/case-files/cases/carpenter-v-united-states-2/>.

Appendix A

A Face Surveillance Case Study: Misidentifications of Famous Athletes

Mistaken ID: Facial-recognition tool falsely matches famous athletes to police mugshots

By Hawatha Bray Globe Staff, October 21, 2019, 4:35 p.m.



Facial-recognition software from Amazon mistakenly identified Duron Harmon and 26 other prominent New England athletes as possible outlaws, the Massachusetts chapter of the ACLU says. ELISE AMENDOLA/ASSOCIATED PRESS

Boston's pro athletes are immediately recognizable to millions of sports fans across New England and the nation, but face surveillance technology confused them for people in a mugshot database.

From the *Boston Globe*, October 21, 2019:

“Duron Harmon of the New England Patriots: three-time Super Bowl champion, or candidate for a police lineup? How about Brad Marchand? Stanley Cup winner or a guy with an arrest record? And is that Chris Sale, World Series star, or somebody awaiting trial?”

Apparently, Amazon can't tell the difference.

Among the Internet titan's many technology businesses is a leading facial-recognition software system called Rekognition, which Amazon has marketed to police agencies for use in their investigations. And according to the Massachusetts chapter of the [American Civil Liberties Union](#), Rekognition mistakenly matched 27 well-known athletes from Boston sports teams to a database of mugshots of real people who had been arrested. Among the misidentified: Harmon, Marchand, and Sale.

...

“The ACLU test is similar to one it conducted last year, which found that Amazon software mistakenly matched 26 California state legislators to mugshots in a database of 25,000 photos of people who'd been arrested.

This time, the testers compared photos of 188 New England athletes from the Boston Bruins, Boston Celtics, Boston Red Sox, and New England Patriots with a database of 20,000 mugshots. The software delivered 27 false positives.

Two Boston Celtics made the list: Tacko Fall and Gordon Hayward. Rekognition also singled out six Red Sox, including Chris Sale and Hector Velazquez; five Bruins, including Sean Kuraly and Marchand; and 14 Patriots, including Stephen Gostkowski, James White, Phillip Dorsett, and Harmon.

In a statement provided by the ACLU, Harmon said: ‘If it misidentified me, my teammates, and other professional athletes in an experiment, imagine the real-life impact of false matches. This technology should not be used by the government without protections.’”

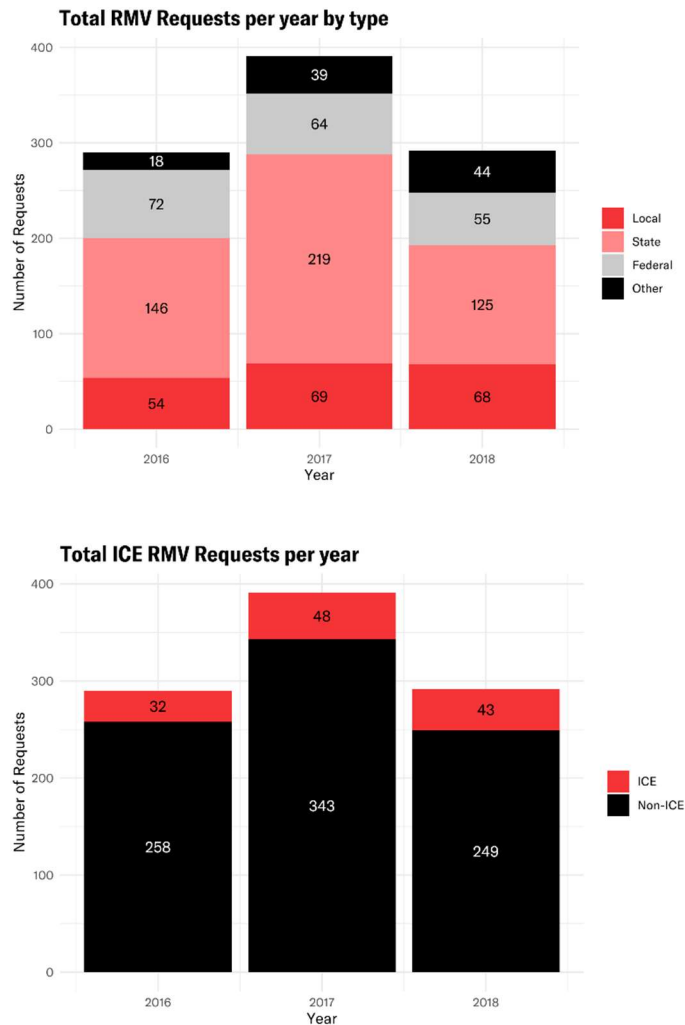
Appendix B

Face Surveillance in the Commonwealth: Unchecked, Unregulated, and Ripe for Abuse

Since October 2006, the Registry of Motor Vehicles has allowed law enforcement across the country to access the state's driver's license database for face recognition searches. That means every person with a state ID has been in a perpetual line-up for police searches for over a decade, absent any judicial oversight, legislative authorization, or independent oversight.

In documents obtained by the ACLU, the RMV confirms it has never once performed an audit of its face surveillance system, meaning the agency does not know if it has been misused or abused for personal or political reasons. The documents reviewed by the ACLU indicate the RMV has never once declined to perform a search on behalf of a police entity.

These charts show how often federal, state, and local law enforcement agencies have searched the RMV's face recognition system, looking to identify persons in images.





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July 17, 2020

Representative Aaron Michlewitz
Chair, House Committee on Ways and Means

Representative Claire D. Cronin
Chair, Joint Committee on the Judiciary

**SUPPORT and Strengthen S.2820
POLICE ACCOUNTABILITY AND RACIAL JUSTICE**

Across the country, people are demanding a complete shift in policing, moving away from a system that enables violence and racial injustice, and towards alternatives that respect community autonomy and Black lives. There can be no limited or temporary fixes when it comes to policing. To address police abuses and violence, we also need to address the tools that exacerbate these crises. **We urge you to prioritize substantive legal reforms that would improve police accountability for violating people's rights and establish new standards for the use of force.**

First, the bill must fix the Massachusetts Civil Rights Act and reform qualified immunity to enable people whose rights have been violated to secure redress in court. To make a meaningful difference on police accountability, it needs to minimally include the provisions in S.2820, which mirror H.3277, *An Act to Secure Civil Rights Through the Courts of the Commonwealth*, reported favorably by the Judiciary Committee in February, if not eliminate qualified immunity altogether.

Laws and policies that purport to hold police accountable are meaningless without a strong enforcement mechanism. The MCRA is supposed to be that mechanism, but the current law is broken. Because of four words in the statute and the court-created doctrine of "qualified immunity," it is nearly impossible in Massachusetts to hold police accountable for civil rights violations like brutality or illegal searches.

Today, police officers can be held liable under the MCRA only if they use "threats, intimidation or coercion" to violate someone's rights – and courts have interpreted this requirement to mean that officers cannot be held liable for a direct violation of rights, even one involving terrible physical abuse. As a result, in practice, the MCRA has provided no remedy when an officer uses excessive force or violence against the very people they are sworn to protect and defend. It is shameful that Massachusetts civil rights law is far weaker than its federal counterpart and victims of brutality cannot seek meaningful redress in the

courts of the Commonwealth. The barrier to justice created by the “threats, intimidation or coercion” language must be removed.

Contemporary Massachusetts civil rights law is further undermined by qualified immunity, which shields police from accountability and denies victims of police abuse their day in court. Over time, as the U.S. Supreme Court has become more and more conservative, this concept has been expanded to become [“a nearly failsafe tool to let police brutality go unpunished and deny victims their constitutional rights.”](#) Qualified immunity denies justice for people who have been beaten, kicked, sexually assaulted, tased, or killed by police. Perversely, as the doctrine has evolved, qualified immunity has come to not only protect police from liability, but also to prevent constitutional course-correcting litigation altogether. Essentially, courts have decided that since police are entitled to broad immunity from liability, there is frequently no point in going through the exercise of even determining if the officer violated the constitution, because the result would be no redress for the victim either way. This has prevented the law from evolving to safeguard people’s rights against police violence. Qualified immunity lets police off the hook for systemic racialized violence, and leaves over-policed communities and victims to bear the full cost of its harms.

Qualified immunity should apply, if at all, only when the law is clear that the police did *not* violate the law, for instance, because there is a statute or court case saying such conduct is lawful. If there is any doubt about whether it would be lawful to hurt someone, police officers should not do it, instead of shooting first and invoking qualified immunity later. Failure to restrict qualified immunity in this historic moment will be tantamount to saying Black lives *don’t* matter.

Second, the bill must include substantive standards for police use of force as set out in An Act relative to saving black lives and transforming public safety, filed by Rep. Miranda (HD5128). The House should build on and strengthen the provisions in S.2820, which begin to address these issues, but fail to adequately prohibit the most violent police tactics. State law should simply outlaw police use of choke holds, tear gas, and no-knock warrants; eliminate the role of police in situations where social interventions are safer and more effective; require police to use de-escalation techniques and tactics; limit force to the minimum amount necessary to accomplish a lawful purpose; require that any use of force be proportional; and require other officers to intervene if they witness an excessive use of force. Failure to comply with these standards should have enforceable consequences.

For evidence that these reforms are necessary in Massachusetts, one can turn to a most unlikely source: Bill Barr’s Department of Justice, which issued a report just last week regarding rampant lawless violence by the Springfield Police Department. Of the thousands of police forces around the country, the abuses of the SPD proved singularly dreadful enough to demand the exercise of DOJ’s investigatory powers. Among the report’s findings: “Narcotics Bureau officers regularly punch subjects in the head and neck area without legal

justification,” and “officers fail to take basic steps to identify themselves before resorting to force.” The DOJ report describes one particularly shocking case in which officers face criminal charges: “The indictment alleges that the sergeant kicked one of the youths in the head, spat on him, and said ‘welcome to the white man’s world.’ Further, the sergeant allegedly threatened to, among other things, crush one of the youth’s skulls and ‘fucking get away with it[.]’”¹ George Floyd’s murder in Minneapolis may have sparked the movement to rein in excessive force, but Massachusetts demands a strong policy response to police violence as much as anywhere.

Third, the bill must unequivocally ban the use of face surveillance technology until meaningful regulations are enacted.

Face surveillance poses an unprecedented threat to racial justice in policing and other core civil rights and civil liberties. In the last few weeks alone, we have learned about two cases of Black men wrongfully arrested and charged on the basis of faulty, racially biased facial recognition technology. These cases happened in Detroit, where the Chief of Police recently acknowledged the technology fails to accurately identify people 96 percent of the time, and that it is used almost exclusively to monitor Black people.

Since 2006, police in Massachusetts have been using facial recognition through the Registry of Motor Vehicles, essentially turning the state identification and driver’s license database into a perpetual lineup. This has happened under cover of secrecy, with no legislative authorization or law to mandate accuracy and racial equity requirements or impose democratic checks and balances. And despite the hundreds of searches the RMV and State Police have performed on behalf of police and even federal agencies each year, information about the use of the technology to identify people who are later arrested and prosecuted has not been communicated to defendants. This is a due process crisis—one that is more likely to impact Black and brown Massachusetts residents, who bear the burden of disproportionate policing and surveillance in communities across the state.

We cannot allow police to adopt surveillance technology that supercharges racist policing and harassment. This legislation aims to correct deeply entrenched policy failures that have haunted our country and Commonwealth for generations; it would be terribly shortsighted not to seize the opportunity to prevent the creation and entrenchment of yet another system of racialized control.

S.2820 would sensibly press pause on facial recognition technology now—before this emerging surveillance architecture is built and deployed, after which it will be much harder to dismantle.² However, such a moratorium must persist until a robustly protective

¹ U.S. Department Of Justice Civil Rights Division, *Investigation of the Springfield, Massachusetts Police Department’s Narcotics Bureau*, July 8, 2020, available at <https://www.justice.gov/opa/pr/justice-department-announces-findings-investigation-narcotics-bureau-springfield>

² These provisions derive from *An Act Relative to Unregulated Face Recognition and Emerging Biometric Surveillance Technologies* (filed by Rep. Dave Rogers in the House as H.1538).

regulatory structure is put in place; they must not be permitted to arbitrarily expire and return the Commonwealth to the dangerous status quo.

The three proposals discussed above are critical components that must be included in initial legislation to strengthen police accountability, but they must not be mistaken for comprehensive reform. As legislative leaders themselves have acknowledged, this will be a long road. The elements of this bill must be understood as necessary harm reduction steps as we work toward more fundamental shifts and reduction of the role and power of police, and as we strive to dismantle systemic racism more broadly.

Massachusetts and the nation must look squarely at the intersection of policing and racial injustice. Policing in America is inherently tied to the nation's first and most devastating sin: chattel slavery. Modern police forces in this country can be traced back to slave patrols used in Charleston, South Carolina. From their inception, police have been tasked with protecting power and privilege by exerting social control over Black people. That racist history is the broken foundation that our modern policing institutions are built upon, and today police are too often empowered to act as an occupying force in low-income communities and communities of color across the country. Crime has trended downward for decades and violent crime and property crime have fallen significantly since the early 1990s, yet the cost of policing has increased exponentially and Black communities in the U.S. live under a persistent and well-founded fear of being killed by the police.

If this bill includes all the above proposals, it will be an important first step on the road to more fundamental changes. Yet there is so much more to be done. We must decriminalize substance use and behavioral health issues and poverty, eliminate public order offenses, engage in top to bottom sentencing reform, embrace restorative justice, and end the criminal legal system's dependence on carceral control. We must shift power, funding, resources, and responsibility away from punitive policing and social control and into community-based and community-led supportive services that uplift communities historically targeted and disproportionately harmed by police. Above all, moving forward, system and policy reform must be driven by community input, especially from Black and Latinx and low-income communities most directly impacted by the grip of the criminal legal system.

This is a watershed moment for racial justice, and a moment for solidarity with people protesting police brutality in the streets. We urge you to seize this opportunity to pass meaningful legislation that begins to address past violence and prevent future harms — and not stop there.

ASSOCIATION OF CHIEFS OF POLICE

STATE UNIVERSITIES OF MASSACHUSETTS

FORMAL TESTIMONY OF CHIEF GENE LABONTE, PRESIDENT

TO THE HOUSE COMMITTEE ON WAYS AND MEANS, IN COOPERATION WITH THE JOINT COMMITTEE ON THE JUDICIARY:

(via email at Testimony.HWMJudiciary@mahouse.gov)

RE: Senate Bill No. 2820 (Formerly S.B. 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”

Dear Chair Michlewicz, Chair Cronin and Honorable Committee Members:

I am submitting this written testimony on behalf of the Association of Chiefs of Police of the Massachusetts State Universities in regard to the pending consideration by the House of S.B. No. 2820, the police reform bill.

Unlike other governmental police forces in the Commonwealth, state university police departments (at Bridgewater State University, Fitchburg State University, Framingham State University, the Massachusetts College of Art and Design, the Massachusetts Maritime Academy, the Massachusetts College of Liberal Arts, Salem State University, Westfield State University and Worcester State University) are not specifically named in the current iteration of the bill – and we would like to be included. We want no more or less than to be considered equivalent in position with all other bona fide law enforcement agencies within the state.

Starting at line 80, S.B. 2820 lists a variety of law enforcement agencies as covered in the treatment of the bill: municipal police, environmental police, UMass police, “campus” police officers, and some deputy sheriffs.

Later in the bill, starting at line 144, the list of covered law enforcement officers is further defined to include “special state police officers” receiving their authority under sections 56 to 68 of chapter 22C and also “campus police officers employed by a public or private institution of higher education.”

But state university police are not the same as UMass police, and existing law does not use or define the term “campus police officers” anywhere. Senate 2820 itself does not define that term. Further, although some state university police departments extend “special state police” powers to their officers, this is supplemental authority only. Current law specifically refers to state university police officers simply as “police officers,” without qualification. For example, G.L. c. 73, § 18 states that “state university trustees may appoint ... police officers.” Indeed, the statute is at once extremely specific and unambiguous: it does not say that the universities may appoint “campus” police officers – but just that they may appoint “police officers.” This statutory authority is substantially reiterated in G.L. c. 15A, § 22. Separately, but relatedly, G.L. c. 90C, § 2 refers to “state university ... *police departments*,” and not “campus” police departments. [Emphasis added.]

Therefore, state university police officers are not, precisely speaking, “special state police officers,” and we are not otherwise anywhere legally defined as “campus police officers.” Accordingly, in order to eliminate all confusion as to this point, we would like to be explicitly named within the bill along with all other governmental police departments that operate under their own, independent, statutory authority scheme.

This is important because we want to ensure that, legally, we are on an equal footing with other governmental police forces within the Commonwealth; that we will be subject to the exact same training and certification standards; and that we will have access to police training that is identical to other police officers in the state.

We also seek, albeit secondarily, but not less importantly, to clarify that all police officers currently employed in any police department named in the bill are considered “certified” as of the date of adoption of the bill.

Accordingly, we are asking, simply (1) that, first and foremost, state university police officers receiving their authority under G.L. c. 73, § 18 and G.L. c. 15A, § 22 should be particularly named in the bill along with the other police departments already mentioned; and (2) that

some appropriate language should be inserted into the bill to ensure that all officers currently employed in the Commonwealth continue to be considered certified as of the day the bill becomes law.

Thank you.





DATE: July 17, 2020

TO: State Representative Aaron Michlewitz, Chair
House Ways and Means Committee
State Representative Claire Cronin, Co-Chair
Joint Committee on the Judiciary

FROM: James Durkin, Legislative Director
AFSCME Council 93

RE: SB2820 – *An Act to Reform Police Standards and Shift Resources to Build a More Fair and Just Commonwealth that Values Black Lives and Communities of Color,*

Mark Bernard
Executive Director

Charles C. Owen, Jr.
President

Chris “Tiger” Stockbridge
Vice President

Nancy Silva
Recording Secretary

Gerry Mills
Treasurer

Jack Wagner
Sgt. at Arms

On behalf of the more than 35,000 public-sector workers represented by AFSCME Council 93 in Massachusetts, I write to share our union’s perspective on SB2820, as well as our recommended amendments to the legislation.

AFSCME Council 93 is part of a national union with a long and storied history of being at the forefront of the civil rights struggle, and we are committed to supporting the advancement of long-overdue and substantive changes in law and policy aimed at ending the systemic racism, violence and oppression of African Americans and communities of color. We are also a union that proudly represents thousands of law enforcement and corrections professionals here in Massachusetts and throughout New England.

While it is our duty to represent and fight for these brave and dedicated men and women, we do so not just out of a professional responsibility, but also with a profound respect and appreciation for each one of them and the extraordinarily difficult work they do every single day.

Knowing that the overwhelming majority of these police and corrections officers are good and decent people who also want to see and be part of solutions to this crisis, we are confident that we can achieve significant and permanent progress without sacrificing their union rights or their ability to adequately protect our communities and themselves. With this in mind, we respectfully request consideration of the following as the house of representatives prepares to act on SB2820.

QUALIFIED IMMUNITY

As you are well-aware, the senate bill seeks to eliminate qualified immunity protections – not just for the people who work in law enforcement, but for all public sector workers.

During the senate’s debate on this legislation and in subsequent consultation with attorneys at Council 93 and attorneys and researchers at AFSCME International in Washington, DC, it has become clear to us that the senate’s approach to dealing with this particular issue is both too far-reaching in scope and too rushed. The qualified immunity language passed by the senate, would subject all public sector workers to lawsuits targeting their personal assets. This includes nurses and other direct care workers in state human services facilities and group homes; teachers, paraprofessionals, cafeteria workers and custodians in our public schools; 911 dispatchers; public health professionals and much more.

While the senate bill is aimed at providing individuals with the right to file suit, our long experience with anti-union, anti-public employee organizations has taught us that there are a number of well-funded organizations and individuals who would seek to abuse this law and seek to push and finance lawsuits against rank and file public employees working across the spectrum of public services in fields that are completely unrelated to the law enforcement system.

Regardless of the merits and outcome of any potential lawsuits, this provision would at a bare minimum, force public employees to expend thousands of dollars in legal fees to defend their personal assets – even if they are ultimately found not to be liable. As such, we call for striking this provision. Should the house decide to adopt any part of this provision, we urge that the adoption be accompanied by a mandate requiring public employers to indemnify these workers to protect them for all costs associated with litigation and all awarded damages.

As for calls by some to narrow the scope of this provision to specifically limit it to police officers, we oppose that approach as well. During senate debate on an amendment to further study the matter, a number of important points and questions were raised that were specifically related to the impact this provision would have on law enforcement professionals, including concerns for their personal safety. Those questions and points warrant further discussion and answers, which cannot be effectively accomplished in just a few hours of debate. As such, we strongly urge the house to give this provision the time and due consideration it deserves and ask that any legislation placed before the house for a vote go no further than the thoughtful study language in amendment #137 to SB2800, which rightly received strong bi-partisan support during senate debate.

POLICE OFFICER STANDARDS AND ACCREDITATION COMMITTEE (POSAC)

AFSCME Council 93 supports efforts to develop a statewide process for accrediting police officers however, we urge the house to proceed cautiously in this endeavor as well. Our recommendations for this section of the senate bill includes increased representation for rank and file law enforcement officers and the inclusion of a county corrections officer from Suffolk County. The senate language establishing POSAC specifically cites deputy sheriffs in defining a law enforcement officer. AFSCME Council 93 represents approximately 500 Suffolk County Corrections Officers, who are also deputy sheriffs. However, the senate bill does not include a county level representative on POSAC, thereby making these deputy sheriffs the only individuals held accountable by POSAC, who do not have a voice on the committee.

Furthermore, while we understand the need for citizen representation on this committee we strongly recommend that any training for these citizen representatives include the same training that officers receive in the academy regarding use of force. To fully understand and determine whether or not an officer's use of force was proper and justified, these citizens must have a strong understanding and knowledge of how these officers were trained to use this force. We suggest examining the model currently used in Suffolk County. In Suffolk County, all members of the internal team responsible for investigating claims of excessive use of force are required to undergo the same academy training as our corrections officers, which gives them a thorough understanding of the policies and procedures regarding the use of force and thereby equips them with the knowledge to make informed decisions – decisions that will have a lasting impact on the lives of officers and their families.

Finally, we call for a fair and equitable appeal mechanism for officers who disagree with any disciplinary action imposed by the committee. Like all public employees, law enforcement officers are entitled to due process, especially in matters that could possibly end their careers in law enforcement. Given that management has strong representation in the composition of POSAC in the senate bill, it is important that officers have access to an appeal process before an independent and neutral party such as the arbitration process included in most collective bargaining agreements.

STATE UNIVERSITY AND COLLEGE POLICE OFFICERS

One final important matter that needs to be addressed in the senate bill is the need for clarifying or corrective language regarding police officers on our public higher education campuses. This matter was first brought to our attention by Salem State University Police Chief Gene Labonte, who also serves as President of the Association of Chiefs of Police of the State Universities (ACOP). If the proposed formation of POSAC becomes law and this matter is not corrected, many of the dedicated law enforcement professionals working to protect students, faculty and staff on our public higher education campuses may find themselves in a position where they are not properly licensed to carry out their duties and exercise their powers as police officers.

Furthermore, failure to correct this matter may jeopardize long-standing and highly-effective mutual aid agreements that these campus police departments have executed with surrounding municipalities.

The proposed corrective amendments – relative to Section 3 of SB2820 – as well as a proposed new section were prepared by ACOP and are attached to this testimony. These amendments represent what we believe to be the best approach to making these important corrective and clarifying language changes.

It is important to note that these suggested amendments are solely focused on ensuring that these police officers are part of any new standards and certifications that may apply to all other police officers in the commonwealth and to ensure they are properly licensed and certified to do their jobs. They are in no way an attempt to separate or ‘carve out’ the officers from any new certification process that may become law.

Our union has been working with State Representative Paul Tucker to include these important changes in any bill that may be released to the full body for a vote and we know that Representative Tucker and other representatives have brought this matter to the attention of committee staff. Should you or a member of your staff wish to discuss these suggested amendments further or believe there is a better approach to what should be a mutual goal to clarify language in this section, please do not hesitate to contact me at any time at 978-866-2283.

In closing, we thank you for your consideration and for providing us with an opportunity to provide input in advance of house action. We stand ready to work with you to achieve meaningful and lasting change.

Proposed Corrective/Clarifying Language to Section 3 of SB2820

- Line 84-85: After “(iv) University of Massachusetts police officers, and candidates for such appointment” add “police officers at state universities appointed pursuant to section 22 of chapter 15A, and candidates for such appointment”

Rationale for amendment: Adds state university police in the bill, along with the other police department mentioned. State university police are distinct from UMASS police and private university police and operate under their own authorizing statutes. See, e.g., G.L. c. 73, § 18 (specifically referring to police officers of state universities).

- Line 85: After “(v),” delete “campus” and replace with “special state”

Rationale for amendment: this is to remain consistent with other statutes, which refer to “special state police officers,” not “campus police officers.”

- Line 148: After “system police force,” add “police officers at state universities appointed pursuant to section 22 of chapter 15A, and candidates for such appointment”

Rationale for amendment: Same as line 84-85, above.

- Line 150: After “(viii) serve as a,” delete “campus”

Rationale: Same as line 85, above.

- Line 473: After “representative of a,” delete “campus” and add “college or university,” so that the description reads, “college or university police organization”

Rationale for amendment: Same as line 85, above.

- Line 1185: Delete “campus police officer who holds authority as,” so that the description reads, “a special state police officer”

Rationale for amendment: Same as line 85, above.

- Line 1516: Add a new provision after the last sentence: “Notwithstanding the above, no officer who is considered certified as of the adoption of this law, or whose certification has expired as set out below shall be required to complete or repeat a full basic police academy program.”

Rationale for amendment: clarifies that already completed training is sufficient for certification, and that an officer will not have to complete basic training again to regain or continue certification.

- Add a new section at the end of the bill:

“Notwithstanding any other provision of this law or any general or special law to the contrary, the appointing authorities of the law enforcement agencies listed in this chapter may continue to appoint as special police officers or reserve deputies members of their own agencies or other law enforcement agencies, as required, for the purposes of mutual aid and assistance, participation in regional task forces, reserve or seasonal work, performance of details, and like purposes.”

Rationale for amendment: preserves longstanding municipal and inter-local mutual aid arrangements; continues to allow for part-time and ad hoc appointments.



**American Friends
Service Committee**

Gabriel Camacho
Immigration Programs Coordinator
2161 Massachusetts Av.
Cambridge, MA 02140
617-947-7019

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,

On behalf of the American Friends Service Committee (AFSC), a 1947 Nobel Peace Laurette, 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.

This historic moment, made clear by the public assassination of George Floyd, is not about one police killing or about one police department. Massachusetts is not immune. Bill Barr's Department of Justice, no friend of Black Lives Matter, 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 as historic, structural, and systemic to the functioning of law enforcement institutions in the United States.

The AFSC has for a century worked for the human rights of the most vulnerable and marginalized peoples in society including the incarcerated and immigrant detainees, and ending institutional violence perpetrated by the apparatus of the state.

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.

On a personal note, I grew up in the South Bronx. *On a number of occasions* as a teenager I have been brutalized by police officers for being a young brown male. It just may be luck that I have survived those horrific experiences that is *common for people of color on a daily basis*.

This legislation S.2820 must be passed without delay and signed into law this session.

Sincerely,

A handwritten signature in black ink, appearing to read "Gabriel Canales", is centered within a light gray rectangular box.



SUZANNE M. BUMP, ESQ.
AUDITOR

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

STATE HOUSE, BOSTON 02133

TEL (617) 727-2075
FAX (617) 727-3014

July 16, 2020

House Committee on Ways and Means
24 Beacon Street
Room 243
Boston, MA 02133

House Committee on the Judiciary
24 Beacon Street
Room 136
Boston, MA 02133

Dear Legislative Colleagues,

As you strive to create a police accountability system in the Commonwealth, I ask that you keep the underlying training needs at the forefront of these efforts. As you know, this is an area in which my office has done significant work in recent months. Many of the recommendations from our report, *Municipal Police In-Service Training: Funding and Cooperation across the Commonwealth*, provide specific steps the Legislature can take to enhance and improve police training and accountability.

I am encouraged that the Governor and the Senate have taken a significant step toward improved police accountability in defining the POSAC (Police Officer Standards and Certification) system. As Massachusetts is one of four states that does not have a police licensure and certification process, I recommended the Legislature establish such a system. However, proper implementation of the POSAC depends on robust training requirements, adequate funding and enhanced cooperation between the state and municipalities.

In our report, we relayed feedback from police chiefs that pointed to a lack of curriculum diversity, limited course sections and course capacity, a shortage of training instructors, and inadequate funding and facilities as primary reasons the Municipal Police Training Committee (MPTC) is not meeting the training needs of municipal police departments. Additionally, there is

no comprehensive central database of completed in-service officer training courses and hours and little oversight as to who gets what training as mandated by law. To address these problems and improve police training and accountability, I ask that you give particular focus to the following items included in the Senate bill (S. 2820):

- Requiring local police departments to enter training they provide or secure for officers into the training database maintained by the MPTC;
- Requiring the MPTC to provide annual financial reporting to the Secretary of Administration & Finance, the Legislature, and my office;
- Establishing a requirement for a strategic plan by the MPTC so its stakeholders, including the Legislature are clear on what it will accomplish to further goals of accountability and standards; and
- Requiring periodic reviews of the training curriculum provided by the MPTC, including hearing from criminal justice experts outside of law enforcement.

In taking these steps, the Legislature will help the MPTC accomplish its mission and meet the training needs of municipalities.

I thank you for your consideration of these recommendations, and more importantly, for your commitment to this issue. As always, my office stands ready as a resource to you as you tackle this important work.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne M. Bump". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

Suzanne M. Bump
Auditor of the Commonwealth

July 2020

Dear City/Town Council Members-

When we know better, we do better.

I have lived in Greenfield for the past 17 years. Over ten of those years has been in direct support services for fellow community members. I have witnessed the treatment that poor people and BIPOC receive at the hands of the local and state police.

It's a very different world view from the inside of low-income housing. Police regularly sit at entrances waiting for people to go to the grocery store or work and pull them over for vehicle violations and suspicions. They put on the mirrored glasses and slowly cruise through the housing complexes intimidating residents. I have personally witnessed them using aggression and scare tactics and bad individual judgement like threatening a single mom who was at work but the police behaved like she was an escaped criminal. Or detaining teenaged boys, after their mom passed suddenly of a heart issue while they took pictures of a potential "crime scene" and kept the shocked boys standing in the rain without so much as offering breakfast while grieving their mother. Not surprising to me, these are interactions with black families.

We know from where the police originated in this country. A simple google search will let you know if you don't know this yet. We have learned so much in the last 40 years since computer technology allowed us to measure and study brains. Neuroscience and epigenetics are common facts in social work yet seem like a foreign language in the criminal justice field, with the exception of some specific programs. I attend conferences, online and in person training regularly to learn more about what's being uncovered in neuroscience and understanding why we behave the ways we do as a species. I take trainings about working with perpetrators and survivors, volatile, reactive folks of all ages, and how to have cultural humility while working with people. It's curious that someone like me has to have so many hours of training each year for a job without a weapon and for half (or less!) of the salary. Why are my funders more stringent about training and certification than those of someone who arrives on a scene with a loaded weapon?? There is longitudinal data and police must simply not be interested in learning about the impact of intergenerational poverty, systemic racism and mental health and health outcomes or the best, most effective ways to work with folks in crisis or misusing substances or their training would reflect that.

When you know better, do better. We know better. We know that imprisoning people is not an effective strategy for restorative justice. We know that there are many complex factors, most urgently the impact of racism within communities of the global majority that aggression and force will not fix. We know that substance misuse is not a measurement of morality and we know that mental health related behaviors land folks in jail rather than leading to impactful treatments. "We" know this as social workers, why are police held to other standards but are the first responders in a crisis?

Defunding police as the first response and shifting our community response to support rather than punish will be in alignment with what social workers already know. Having folks that know resources and can walk beside people in crises rather than locking them up is a way to shore up our community. Social workers have known for a long time that resourced folk do better. Empowering and helping

people work way better to producing good citizens than yelling, beating and hurting or punishing. There is no program allowed that uses these tactics because they are ineffective! The old way keeps people locked up for lifetimes and stuck in cycles of poverty and oppression. Social service providers know that aggression and authoritative style are not effective and have training that clarifies why anger and punishment are not an appropriate way to interact with someone in crisis.

We can move forward with armed with intelligence, scientific data and knowing better. We can work to create a better, stronger community that's trauma-informed and healing-focused. We can change and adapt to new models and ways that actually work. Why not reduce the middle part which causes so much family trauma? Why not connect folks in crisis directly to support workers? There are already many other models that work way better than billy-clubs and guns. Will we do better, Greenfield??

Thank you-

Bekki Craig

Davis Street

Greenfield MA 01301



International Brotherhood of Police Officers

A DIVISION OF THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

July 16, 2020

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

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

Dear Chair Michlewitz and Chair Cronin:

Thank you for the opportunity to submit testimony on behalf of the International Brotherhood of Police Officers (IBPO) relative to Senate Bill 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."

As you know, the IBPO has been supportive of many of the proposals that have emerged in recent weeks from ongoing discussions between the Law Enforcement Policy Group and with stake holder groups including the Black and Latino Caucus on Beacon Hill. The bill that emerged in the Senate last week went far beyond the core principals that were discussed relative to certification/accreditation, reforms on the use of force and the duty to intervene.

Three areas of critical concern in the Senate Bill relate to due process, qualified immunity and the composition of the POSAC. We urge the House to proceed cautiously in evaluating any changes to these three areas. Police officers, like all public employees, should be entitled to due process and access to a thoughtful and effective appeal mechanism that allows for case by case deliberation.

We also urge the House to resist any changes to qualified immunity. The changes included in the Senate Bill have the potential for far reaching, unintended consequences by opening the door much wider to litigation for all public sector employees that could cost cities and town millions. If the House moves to support a provision on qualified immunity, we ask that it be in the form of a commission to study potential changes and ensure that our cities, towns, public employees and residents are protected from an increase in unnecessary lawsuits. Furthermore, qualified immunity pertains to civil law and does nothing to punish bad police officers who engage in criminal acts.

Lastly, we ask that the law enforcement representation on the POSAC be increased substantially so that the certification process mirrors the professional certification process for all other industries in Massachusetts. We understand the need for civilians to be represented on the board and we support the addition of civilian members, however as a professional certification board, the vast majority of the board should be law enforcement officers. Thank you for your time and consideration.

Sincerely,

David Bernard
Director

To Whom May Concern:

I am writing today to submit my response to the request for public input on the important issue of police reform and specifically, Bill S.2820. First, I would like to say that I was disheartened and angered over what occurred in the senate last week. The lack of transparency and expedience in the handling of this momentous bill is unbelievable! It is hard to comprehend how the people whom we have elected into such important positions could simply ignore the rights of so many. The attempt to push this bill through without stakeholder involvement was a travesty. Thank you for seeking public input and for making an attempt to listen to the thousands of individuals who will be gravely affected by this bill.

I am a police officer with over 29 years of experience and I am deeply disturbed by much of what is proposed in Bill S.2820. I, like 99.9% of all police officers, work hard to serve the community in which I work and live to the best of my ability. I, like so many others, am angry over the unjust and immoral actions of a few bad police officers who have acted without regard for law and the rights of others. And I, like so many other good police officers, am tired of being painted with the same brush and deemed untrustworthy, unethical, racist and essentially public enemy because of the actions of a few. It is time for our political leaders to stand up for the men and women in law enforcement who work tirelessly to protect the citizens of the commonwealth and stop using incidents that occur thousands of miles away as a means to further their political careers.

In the interest of your time I would like to address a few bulleted items for consideration:

Training:

Massachusetts ranks 48th (2nd from the bottom) in terms of funding for training for police officers. In 2018 a vote was taken to cut funding for police by \$1,000,000. How are we (law enforcement) expected to be held to the highest of standards, which I wholeheartedly agree should be the case), when our political leaders are unwilling to provide us with the funding and tool necessary to perform at our best. The bill speaks to reform but nothing about providing law enforcement with the tools to be more successful. Section 4 references mandatory training on the history of slavery, lynching and racist institutions. Are the political leaders saying that racism only exists in law enforcement? Why are all other government entities excluded from such training?

Schools sharing information with SROs:

Have we already forgotten about Sandy Hook, Parkland, Columbine and the countless other mass murders in schools around the country? The provision that prevents school personnel from sharing information with School Resource Officers is beyond comprehension and goes against common sense. The partnerships between schools and SROs has proven to be invaluable. Limiting the level at which those groups can communicate will certainly decrease safety of all students in the schools.

QI:

The elimination of QI will have devastating financial impacts on our communities and **ALL** of the municipal employees, not just police officers. The potential consequences are unknown but it is obvious that if this is allowed to pass we will see a flood of frivolous law suits by unscrupulous attorneys and individuals looking to sue anytime they feel they have been mistreated. This is section was copied from an email authored by Attorney Lenny Kesten, an expert on QI- - "QUALIFIED Immunity does NOT protect illegal actions by police officers. Rather it safeguards ALL public officials in situations where the law is unclear. The doctrine allows lawsuits to proceed if a government official had fair notice that conduct was unlawful, but acted anyway. This common sense and reasonable approach explains why those

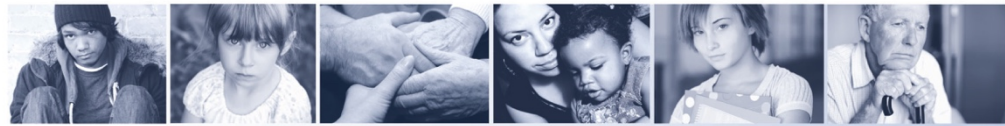
seeking to abolish or modify QI CANNOT point to ANY situations in MA where wrongful conduct by police officers has been protected by the doctrine. As written in Bill S.2800, abolishing or modifying qualified immunity will have important negative, unintended consequences for ALL MA citizens, courts, and public employees, not just police officers.”

The passage of this bill with the QI language as written must not be allowed to go through. The harm caused will be immeasurable.

In this time, more than ever, we need true leadership from our politicians. I hope the House will also be persuaded to reject the Bill or fix it to remove the portions that will have serious unintended consequences. I thank you for the opportunity to submit my comments.

Respectfully,

Kevin Lennon
Barnstable, MA



MASSACHUSETTS COALITION FOR THE HOMELESS

Committed to ensuring that everyone has a place to call home

July 17, 2020

The Honorable Aaron Michlewitz, Chair of the House Committee on Ways and Means
The Honorable Clare Cronin, House Chair of the Joint Committee on the Judiciary
Via email to Testimony.HWMJudiciary@mahouse.gov

Re: Addressing discrimination and criminalization of acts of survival by people experiencing homelessness as part of the current police reform and racial equity legislation

Dear Chairperson Michlewitz, Chairperson Cronin, and members of the House Committees on Ways and Means and the Judiciary:

I am writing on behalf of the Massachusetts Coalition for the Homeless as the House reviews Senate Bill 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*. In addition to the broader remarks we shared in the letter from the Task Force on Coronavirus and Equity, we would like to highlight the importance of incorporating language from the bill of rights for people experiencing homelessness in the final legislation.

The current iteration of the bill of rights for people experiencing homelessness, which combines the stand-alone bill of rights with the related “Act of Living” legislation, seeks to address the intersections of homelessness, housing, and systemic racism (see House Bill 4688 and Senate Bill 2735). **It is a critical piece of racial justice policy to reduce needless and costly contact with the criminal justice system for people experiencing homelessness.** With housing costs continuously on the rise; shelter availability contingent upon geography, access to public transportation, and meeting narrow eligibility criteria; and LGBTQ+ youth – often youth of color – concerned about facing identity-based discrimination in shelters, many individuals and families only have public spaces available as their last resort for safety. In the midst of the COVID-19 pandemic, more and more people are being turned away from shelters or deciding that staying in overcrowded congregate settings is riskier than staying on the streets. **Decriminalizing acts of survival in public enables people experiencing homelessness to seek protection and shelter in places not meant for human habitation as a last resort when they have already slipped through the holes in our Commonwealth’s social safety net.** A template for suggested language to include is attached at the end of this testimony, drawn from language filed by Senator Becca Rausch as Amendment #10 to the Senate version of the bill, Senate Bill 2800.

We know that people experiencing homelessness are systematically over-policed and over-represented in our criminal justice system. Data from the Boston Police Department shows that 1 in 8 of all people arrested in Boston last year were people experiencing homelessness, often the result of laws that criminalize the most basic necessities of life for people without housing.¹ These arrests totaled 1,375 in 2019, a number that is nearly a quarter of the 6,203 people counted in the city’s annual homelessness census conducted in January 2019.

The bill of rights for people experiencing homelessness is urgent in the broader work to address the disproportionate impact of homelessness on Black and Latinx families, individuals, and youth. Based

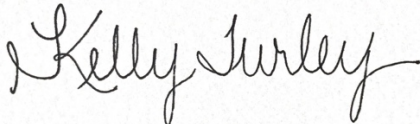
¹ See the Boston Globe coverage from June 28, 2020: <https://www.bostonglobe.com/2020/06/28/metro/homeless-boston-beyond-laws-can-criminalize-life-itself>

on data from the 2019 U.S. Department of Housing and Urban Development (HUD) point-in-time homelessness count, 34.8% of people counted as experiencing homelessness in Massachusetts identified as Black or African American (6,436 people out of 18,471 total people), with an additional 10.7% identifying as being of multiple races (1,976 people). 7,380 people out of the 18,471 people counted as experiencing homelessness — 39.95% — identified as Latinx (Hispanic/Latino).² In a meeting last week with the Massachusetts Department of Housing and Community Development (DHCD), DHCD leadership responded to one of our inquiries on the racial and ethnic breakouts of families participating in the Emergency Assistance (EA) family shelter program. As anticipated, there are disproportionate numbers of Black and Latinx families in the EA program. Currently, 39.41% of families are Black, and 37.67% are Latinx (of all races). By comparison, 2019 data from the U.S. Census Bureau shows that only 9.0% of the overall population in Massachusetts identifies as Black/African American, and only 12.4% of the overall population identifies as Hispanic/Latino.³

Until we as Commonwealth can prevent and end homelessness, uphold housing as a basic human right, and end the systemic racism that perpetuates homelessness, we must do all we can to decriminalize acts of survival for people experiencing homelessness. We hope you will take action now to do just that.

Thank you for your consideration of this timely and important matter. We are grateful for your continued efforts to promote racial equity and justice in the Commonwealth.

With hope and commitment,



Kelly Turley
Associate Director
kelly@mahomeless.org

Suggested language:

SECTION XX: Chapter 214 of the General Laws is hereby amended by inserting after section 1(C) the following section:-

Section 1(D). (a) A person experiencing homelessness shall have the right to be free from discrimination on the basis of housing status.

(b) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Housing status” means a person’s current ability to access a fixed, regular nighttime residence as defined in section 16W of chapter 6A of the general laws.

“Park” shall include a city or town common dedicated to the use of the public, or appropriated to such use without interruption for a period of 20 years as defined in section 1 of chapter 45 of the general laws.

“Persons experiencing homelessness” means persons who lack, or are perceived to lack, a fixed, regular nighttime residence as defined in section 16W of chapter 6A of the general laws. Persons experiencing homelessness includes, but are not limited to, persons who: (1) share the housing of other persons due to loss of housing, economic hardship or a similar reason; (2) live in motels, hotels, trailer parks or campgrounds due to the lack of fixed, regular, and adequate nighttime residence; (3) live in emergency or transitional shelters; (4) are abandoned in hospitals; (5) are awaiting foster care placement; (6) have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; (7) live in cars, parks, public spaces, abandoned buildings, bus or train stations or similar settings; (8) are transient and otherwise experiencing homelessness as described in this subsection; or (9) meet the definition of homeless provided in section 11302(a) of Title 42 of the United States Code.

“Public space” means any real property that is owned, in whole or in part, by the Commonwealth or any municipality, or upon which there is an easement for public use, and is held open to the public. Public space includes but is not limited to plazas, courtyards,

² See https://files.hudexchange.info/reports/published/CoC_PopSub_State_MA_2019.pdf for more data. Data from the 2020 point-in-time count, conducted in January, is not yet available.

³ See 2019 Massachusetts data from the U.S. Census Bureau’s “QuickFacts”:
<https://www.census.gov/quickfacts/fact/table/MA,US/PST045219>

parking lots, sidewalks, public transportation facilities and services, public buildings, and parks. Public space does not include a private business establishment.

“Recreational vehicle” has the meaning given that term in section 20 of chapter 90B of the general laws.

“Rest” means the state of sleeping or not moving or the state of holding certain postures that include but are not limited to sitting, standing, leaning, kneeling, squatting or lying on the ground or other surface.

“Town” shall not include city as defined in section 1 of chapter 45 of the general laws.

(c) Persons experiencing homelessness shall have the right to:

(i) use public spaces in the same manner as any other person without discrimination based on their housing status;

(ii) equal treatment by all state and municipal agencies, without discrimination on the basis of housing status;

(iii) a reasonable expectation of privacy in personal property in public spaces;

(iv) interact with public officials, employees, and officers without harassment on the basis of their housing status;

(v) rest in public spaces and seek protection from adverse weather or an imminent public health emergency in a manner that does not obstruct human or vehicle traffic and is without discrimination based on their housing status;

(vi) eat, share, accept, or give food in any public space in which having food is not prohibited;

(vii) vote, register to vote, and receive documentation necessary to prove identity for voting without discrimination on the basis of housing status;

(viii) pray, meditate, worship, or practice religion in public spaces without discrimination based on housing status in a manner that does not obstruct human or vehicle traffic; and

(ix) occupy a motor vehicle or a recreational vehicle, provided that the vehicle is legally parked on public property or on private property with the express permission of the private property owner.

(d) The provisions of this section pertaining to public spaces shall not apply if the public space is closed to the general public or requires a fee for entry. When practicable, public officials, employees, or officers shall clearly designate and provide an appropriate alternative place for persons experiencing homelessness to rest without time limitations in the near vicinity.

(e) It shall be an affirmative defense to a civil claim or criminal charge related to use of public spaces that a person experiencing homelessness was exercising any right set forth in this section.

(f) The superior court shall have jurisdiction in equity to enforce any right set forth in this section and award damages in connection with any violation thereof.

SECTION XX. Section 1 of chapter 51 of the General Laws is hereby amended by inserting after the last sentence the following sentence:-

Lack of a fixed, permanent residence for a person experiencing homelessness shall not prohibit voter registration.

SECTION XX. Sections 63 through 69, inclusive, of chapter 272 of the General Laws are hereby repealed.

SECTION XX. Section 92A of chapter 272 of the General Laws is hereby amended by inserting after the word “nationality”, in line 9, the following words:- “, housing status”.

SECTION XX. Section 98 of said chapter 272, as so appearing, is hereby amended by inserting after the word “origin”, in line 3, the following words:- “, housing status”.

Bill S.2820 Amendments

Robert Nuss
764 Route 6A
Yarmouthport, MA 02675
508-362-3306

1. The first two commissions provided for in the bill, the permanent commission on African Americans and the permanent commission on Latinx, should have advisory status only. It is (almost) clear that that is the case. It should be stated clearly. It is my understanding of the text that relates to these two commissions ends at line 143. Line 144 and on to 281 appears to be out of place and is actually part of the tasks performed by the third committee, the independent police officers standards and accreditation committee(IPOSAC). This committee is mentioned later in the report at line 281. I think there has to be some major restructuring here since reading casually from line 143 to 144 makes it appear that the African ... and Latinx ... have the power to set policy and maintain databases, which can't be true.
(Note): Being a conglomeration of special interested groups, the two commissions should be treated as a tax-payer funded lobby.
2. Line 281 (+) describes the selection for IPOSAC should exclude anyone serving on the other two committees concurrently.
3. Line 359 provides for public access of police officer's information. Shielding the address and their children is not sufficient to keep them safe. Just a few recent headlines will prove that point. The information should be available to the public with the officer identified by a code and a procedure installed to "unmask" the name for virtuous purposes. The unmasking is actually backwards since the party has the name and is seeking the code which can be provided based on the confirmed ID of the requester and the stated purpose of the request.
4. Line 570 to 573 should be deleted. The removal of qualified immunity, even with this meager exception easily defeated by any trial lawyer, is the most likely feature to put law enforcement into a tailspin and clog the court system. We will have less police, more timid police, and the citizen's lives will become more dangerous. This is not hyperbole. It will go beyond "the Ferguson Effect" all the way to "Seattle Chop". Please don't temp this. Give the other aspects of this bill, the training and certification, etc. a chance to work before adapting this draconian measure.
5. Line 1185 – The form that is described for a "nothing happened" stop sounds like an invitation to complain. The form should have a warning that making false complaints is a crime and can be punished. (Just as the signed form to report a stolen vehicle has such a warning.) Litigious citizens can then use the public data base to get the officer's history, find a willing lawyer who knows about the "no qualified immunity" clause and go to court. The warning might slow them down a little.
6. Line 1318 – Replace with "The use of the vehicle itself can be regarded as a lethal weapon if it is driven at the officer in the attempt to flee." As a minimum the sentence should be deleted since it seems to indemnify the driver who attempts to hit a police officer. This has happened recently during the riots and a few years ago right here on the Cape in an attempt by a defendant to flee.
7. Line 1311 – The clause is OK, actually it is good and concise. The change I propose is to get the law that applies to attacks by defendants on police officers. To that law add a penalty enhancement if the defendant uses a choke hold on the officer and make it substantial.

To: The Chair of the House Committee on Ways and Means, Rep. Aaron Michlewitz, in cooperation with Rep. Claire Cronin, Chair of the Joint Committee on the Judiciary

From: Megan E. Cloutier – Greenfield Police Department (Greenfield, Massachusetts)

Date: July 17th 2020

Re: Bill No. 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

To Whom It May Concern:

During this crucial time of change, reform, and personal growth, I politely ask for you to take a few moments to acknowledge the concerns I have in regards to Bill No. S2820 as it is currently presented. I have been employed as a Police Officer for the last 12 years and am currently in a role as a Detective, specializing in Child Abuse and Sexual Assault cases. I have reviewed the above noted Bill and have concerns for those of us in this profession that work tirelessly to not only hold others accountable on the street, but to hold ourselves at a higher standard, as well as our brothers and sisters in blue. It is clear that change is necessary, but as currently written, this Bill will cripple those officers that have consistently acted in good faith and stood up against those that fail to wear a badge as it should be; with integrity, and professionalism.

The senate version of Bill S2820 will seriously undermine public safety by limiting a police officer's ability to perform their job while simultaneously allowing provisions to protect those that are breaking the law. Furthermore, the process employed by the Senate to push this current bill through with such haste, without public hearing, or input of any kind was extremely undemocratic and nontransparent. Police across the Commonwealth are in full support of uniform training standards and policies requesting such have been prevalent for several years.

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, as well as 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 towards police. As written, Bill No. S2820 does not include the same procedural justice safeguards members of the communities we serve demand and enjoy. The proposed makeup of the oversight board is one sided and biased against law enforcement. It is unlike any of the 160 other regulatory boards across the Commonwealth and as constructed incapable of being fair and impartial.

Massachusetts police officers are among the highest educated and trained in the country. Our current standards for training are a model for other entities across the nation to follow. As a Commonwealth, we can always do better, but the knee jerk reaction by the Senate to pass Bill No. S2820 is not the way effect constructive change. This bill directly attacks qualified immunity and due process. Qualified immunity should not and does not protect "bad" officers; it protects those officers who are working in

the scope of their profession with integrity from the liability of civil lawsuits. The majority of law enforcement officers do the right thing, and are already subjected to risk in the day to day work of policing due to the nature of the profession. Eliminating qualified immunity only creates more risk, both financially and emotionally, by allowing frivolous lawsuits against those officers that are doing the right thing. It does not make sense to endanger the livelihood of many for the actions of few "bad" officers which would never have been covered under qualified immunity regardless.

Changes to qualified immunity would be unnecessary if the legislature adopted a uniform statewide standard that bans unlawful use of force techniques which all police personnel unequivocally support. If the Senate Bill No. S2820 passes in its current form; the costs to municipalities and the State will skyrocket from frivolous lawsuits and leave a potentially devastating impact on budgets statewide.

I sincerely thank you for your time and consideration in understanding that I am not in support of Bill S2820 as it is currently written. It is my hope we can collectively create a bill which enacts the proper reform that enables all of us to do our jobs safely, properly, and efficiently without fear.

Respectfully,

A handwritten signature in black ink, appearing to read 'MEGAN E. CLOUTIER', with a long horizontal flourish extending to the right.

Megan E. Cloutier

Greenfield Police Department

National Fraternal Order of Police member

(413) 325-7601

Dear Mr. Speaker, or whom it may concern:

I write this letter to inform you of my opposition of bill S2820. I would have been proud to do this in person but I understand the covid-19 restrictions. As a proud member of law enforcement I see this bill being the unofficial kiss of death for police work in Massachusetts. As a Marine serving in Iraq and Afghanistan, I would have given my life for my country. Today, wearing the blue uniform and a badge, I would give my life in the streets of Massachusetts for a black family, black man, black woman, or black child. While I agree with most of the points made in the bill, I do not support the loss of qualified immunity amongst police officers. I support everything the bill has put out in regard to chokeholds, public complaints, recertification, and racism education.

The loss of qualified immunity means stripping every police officer of the confidence to do their job. I have been a police officer for close to seven years without a single complaint against me. My goal is to keep it that way. Yet, most people know it's nearly impossible to go in entire career as a police officer without a complaint. You are dealing with people in some of the worst moments of their life, and it is extremely difficult to get every person you encounter to agree with you.

I have a military background, bachelor's degree, and master's degree. I am published author, historian, and President of a non-profit. I do not need this job as a cop, I want this job. The removal of qualified immunity will attract a new wave of police officers who come from empty backgrounds. These police officers will not care if they're sued personally, because they will be power-hungry bullies, who finally earned a badge with nothing to lose. They will finally

be in a position where they get to tell people what to do, and that's all that matters in life to someone like that. This is the new wave of police officers you will get with this current police reform bill.

Police Officers now, who love their job, with under 10 years of experience, are seeking other employment options in this state. Most of us have college degrees, master's degrees, and other line of lines of work outside the police force. The next officers who would like to take this job will be from a background where they could not do anything else. This is not the type a police officer I want walking the streets. The police officers now who do their job for such a low salary, but they do it because they love it; this will no longer be the case as more of their work rights are taken or taken away.

The country's law enforcement officers are already suffering from the "Ferguson Effect." (2015). Removal of qualified immunity will make police officers hesitant to do their jobs, refrain from proactive police work, or be motivated to solve crimes. Class examples are occurring at this very moment in Chicago, NYC, and Atlanta, with scores of people dead.

I am asking you to start a national precedence that police reform is needed, but you will not make police officers vulnerable while doing so. We need to restore law and order in our country state by state, and without a divisive President. I have faith in our State Representatives that they can pass an excellent police reform bill, without the sacrifice of qualified immunity, as it was not originally on the table for discussion until last minute.

Respectfully,

Officer Andrew Biggio

Winthrop Police Dept

Founder, Boston's Wounded Vet Run

Author, "The Rifle"

U.S. Marine Corps 2006-2012

INPUT on S.2820

Please accept my inputs on this bill.

Leland Hawkins Telephone 508-361-1893

108 Nottingham Drive, Yarmouth Port MA, 02675

Line 144 Chapter 4 section 7 clause 26

Line 150 – refers to the database under subsection c of section 223 of chapter 6 or disposition of a law enforcement misconduct investigation. This seems overly broad and any investigation no matter how minor the issue can expose their personnel and medical files.

Line 210 Chapter 6 section 116 subsection (b)

Paragraph (v) requires police training on the history of slavery, lynching... Why are the police singled out, this requirement should be in the school curriculum and apply to all elected and appointed government personnel?

Line 337 – Chapter 6 section 223

Subsection (c) I have a concern over this database being a public record (line 351). This can be mis-used by criminals and defense lawyers to attack police credibility no matter how small the infraction. My understanding is that prosecutors can generally not bring up prior criminal offenses when prosecuting criminals. This seems like a double standard. Defense attorneys should only have information relevant to their case at hand. How will this database be made available – will it be covered by the freedom of information act?

Subsection (d) takes this further by making the database openly assessable on a public website. This opens it up to abuse by individuals and organizations to search for and target specific officers. If this database is to be made public, it should be by request for a record on a specific officer and a record kept of who requested the information. I think this section is too broad in making the whole database public with no restrictions. I wish we could get such a database for convicted criminals.

Subsection (e) is also too broad. First, it is an onerous amount of information which will have to be provided by the local police. Will the state provide finances or personnel for the collection of this information? Second, there is no threshold defined for a complaint. No one likes to be arrested. What is the process for filing a complaint? If the complaint is investigated locally and deemed unfounded, it shouldn't be in this database. This is open to abuse by criminals to tie up the police department with frivolous complaints. The requirement for anonymity is inadequate. For a small department, if you know the appointing authority, race and ethnicity of the officers involved, in many cases you can easily identify the officers.

Line 570 Chapter 12 Section 11I (c)

This new section 11I effectively negates qualified immunity for government employees. Previously Chapter 258 section 9 said employees acting within the scope of their official duties would be covered. However, the proposed section 11I (c) says it only applies if no reasonable defendant could have reason

to believe that such conduct would violate the law at the time. This is very subjective. How is a public employee supposed to know all the laws. This is very difficult for first responders who need to act quickly in times of an emergency. If they are operating within the guidelines of their training and department polices, they should be indemnified with no question. The net effect of this change will be for first responders to hesitate and not do their job if there is any risk to themselves and by extension, their family. This greatly reduces public safety. The last thing we want is first responders hesitating and having to worry about getting sued when doing their job. This would require personal malpractice insurance like a doctor, which is impossible on a police or fireman's salary.

Chapter 71 section 37L line1098

This addition is a serious detriment to public safety. Why are we protecting gang members? Students and administrators should be encouraged to report gang membership to the school resource officer. It is also strangely worded in that a school resource officer can't disclose gang membership to a law enforcement officer or agency, yet the school resource officer is himself a law enforcement officer who reports to the local police department.

Chapter 71 section 37P subsection (b) Line 116

I disagree with the requirement for a request from the superintendent and subject to a vote of the school committee. This changed paragraph seems to imply the SRO is only there for enforcement. I believe the SRO is a critical piece of community policing. It allows the students to get to know a police officer in non-threatening environment and see them in a positive light. It also provides safety for the schools as there is an officer on site who can respond to violence and quickly summon help in an emergency. I believe this can help the mental state of students and give them some sense of security. This is a far better solution than arming teachers as some would have us do. Our SRO has an excellent relationship with the students and several of them have joined in intern programs with the police department. The requirements of this paragraph have the effect of discouraging the role of SRO when I believe it should be encouraged.

Chapter 71 section 37P subsection (c) Line 1132

This change in paragraph (c) removes the requirement of the school superintendent to opt out of the SRO assignment. Combined with the change in paragraph (b) this reverses the SRO to an opt in versus an opt out by the superintendent. This again has the effect of discouraging rather than encouraging the SRO assignment.

Chapter 90 section 63 Line 1138

The new section 63 has much more requirements for data collection and reporting. This section is very unclear and conflicting. Paragraph (c) references data collected by the registry of motor vehicles off warnings or citations. Data collected by the registry will be used to develop statistical information that will be sent annually to the secretary. Paragraph (d) is new and (d)(1) seems to add more data than what would be on a citation or warning. Does the officer have to issue a citation or warning and then complete the data for paragraph (d)? It appears to require data on all occupants in the vehicle, more about the nature of the stop and includes the officers name and badge number.

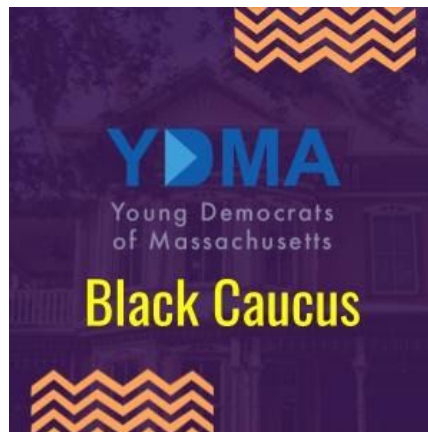
Paragraph (d)(7) mentions an electronic system to record and transmit the required data. Will the state provide such a system? Such a system will require a printer to meet the requirement of paragraph (d)(3) which requires a receipt at the end of the stop. This seems logistically challenging to keep paper and ink/toner in a police cruiser.

Paragraph (e) says data collected in this section shall be used only for statistical purposes and won't identify individuals stopped or any law enforcement officer. However, data in section 63 includes the data from (d)(1) which clearly does identify the officer. Paragraph (d)(4) requires the local enforcement agency to use the data to monitor individual officers. Clearly this violates paragraph (e). Paragraphs (e) and (d) are incompatible.

Paragraph (f) this section is redundant with (d)(2) and they should be merged.

Paragraph (h) says the data collected is stored in an encrypted form and only available via a confidentiality agreement. However, paragraph (g) says the data from both paragraph (c) and (d) will be sent to a loosely defined outside organization and there doesn't appear to be any requirement on how they treat the data, which includes the officers name and badge number. This is inconsistent.

My objection to the new paragraph (d) is the amount of data that must be collected and appears to be significantly more than what is required for a citation or warning. In addition, if the officer doesn't issue a warning they have to give a receipt with their name and badge number and an invitation to issue a complaint. This is an unreasonable requirement. Traffic stops are already dangerous as officers are often attacked or shot. When you add the data requirements of paragraph (d) and the reduced qualified indemnity, the officer is now risking reprimand or being sued, jeopardizing the financial security of them and their family. The net result will be few if any traffic stops, why would an officer take the risk? Traffic stops often uncover contraband and illegal weapons and remove drunk drivers. The lack of traffic stops jeopardizes community safety.



Dear House Members,

We are writing this letter as members of the Black Caucus of the Young Democrats of Massachusetts. As a Caucus, we advocate for Black people across the Commonwealth, and are deeply concerned that efforts to actualize the phrase #BlackLivesMatter in the Legislature are failing in two ways. In the short term, S.2800 will not help the communities it is intended to serve if measures are not taken to modify it, and in the long term, if a commitment to a community led process is ignored and disrespected, we will continue to fail at showing that #BlackLivesMatter. The members of the Black Caucus of the Young Democrats of Massachusetts are torn on issues with the process of building this bill without community input and the narrow scope of its focus, **but** we agree the House should follow the leadership of overpoliced communities, victims of police & corrections abuse, and formerly and currently incarcerated people, **and should modify S.2800 to achieve the following goals:**

- Abolish Qualified Immunity
- **Ban Chokeholds** (no exceptions for intent) [Senate amendment 58], require decertification, termination of officers
- **Ban Tear Gas** [original draft of Senate amendment 65], destroy existing supply
- Include corrections officers in the definition of law enforcement, and subject them to the same standards of licensure and all restrictions on use of force
- Remove the position of Sheriff from the “community policing and behavioral health advisory council” [Remove Senate Amendment 40]
- Prevent law enforcement from unilaterally suspending the decertification process for up to 1 year and restore the standard determining a loss of license to the “preponderance of the evidence” [Remove Senate Amendment 54]
- Require data transparency in juvenile justice [Include Senate Amendment 3]
- Decriminalize homelessness [Include Senate Amendment 10] [incorporate text of SB.2735, S.2717, S.2576, +\$50M to line item 7004-9316]

- Raise the Age of Juvenile Jurisdiction and stop automatic prosecution of teenagers as adults [Include Amendment 17]
- End pretextual stops [Include Senate Amendment 31]
- Compensate wrongly convicted individuals [Include Senate Amendment 37]
- Permanently ban face surveillance [Include Senate Amendment 64] and bar RMV from using the technology
- Remove the \$10M cap from the justice reinvestment fund and expand participation from community organizations [Include Senate Amendments 81, 84, 95]
- Limit long-term suspension and expulsion [Include Senate Amendment 93]
- **Ban No-Knock Warrants** [Include Senate Amendment 119] with no exceptions
- Require decertification result in ineligibility for rehires, transfers, or pensions
- Abolish the gang database
- Expungement of all juvenile records and cannabis offenses
- No new police funding
- Incorporate the text of H. 4652 (the Decarceration Bill)
- Incorporate the text of S.1372 (No Cost Phone Calls)
- Incorporate the text of S.1379/H.2047 (Strengthen Visitation)
- Incorporate the text of H.4607 (An Act Relative to Parole)
- Incorporate the text of S.2641 (Driver's Licenses for All)
- Incorporate the text of HD.5166 (Emergency Housing Stability Bill)
- **All Four State-Level Points of MA BLLC Plan**
 - Resolve to provide for a "Special Commission on Peace Officer Standards and Training" to study and make recommendations concerning the implementation of a Peace Officers Standards and Training (POST) system. (H2146 written by Reps Holmes and Vieira was hyper boosted from a Commission to an actual POST bill, initially filed by the Governor and passed by the Senate. The original Senate bill has some better language, for example around NOT paying police bonuses for taking trainings. However, the amendment 54 was EXTREMELY PROBLEMATIC in that it raises the bar for the standard determining a loss of licence from "preponderance of the evidence" to "clear and convincing.")
 - Civil Service Exam Review and Oversight: An Act to Reform Civil Service Exams, H2292 Rep Holmes bill, sent to study, should be converted to a Commission.
 - Commission on Structural Racism: An Act establishing a special commission on structural racism, H1440, Holmes; Collaboratively redrafted by Nika Elugardo in conjunction with incarcerated family, advocate, and administration representatives. Passed as Amendment #16 in S.2028
 - 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. Require data collection and reporting on race, regarding all arrests and police use of force by every department. Rep Miranda's bill.

(We note that the text of withdrawn Senate amendments is available on request, though it does not live on the public site.)

The Black Caucus of the Young Democrats would further note the circumstances of this bill: amidst the Coronavirus pandemic, there is a pandemic of racial injustice. Before the pandemic, according to a Boston Globe survey of a number of cities in the Greater Boston region, the household median net worth was \$247,500 for whites and \$8 for US Blacks. According to the Prison Policy Initiative, Black people make up 10% of the Commonwealth's population but 26% of its prison population. Combined, Black and Latino people make up 17% of the population but 50% of the Commonwealth's incarcerated population! We are also disproportionately impacted by COVID-19. Communities have asked for the speedy release of those held in prisons, with little success. People who should have their input on this legislation are locked in cages because the legislature failed to release enough people from prisons and jails to allow for social distancing; some have died. Those who are surviving, thus far, are in an economically precarious state due to inadequate federal, state, and local assistance and cannot keep informed on rapid legislative developments that involve no proactive community outreach. This legislation is being undermined by compounding governance failures.

These issues are deeply meaningful to us as a Black Caucus, as members of our Caucus leadership have personally been harmed by our Commonwealth's policing and prison policies, from being the victims of racial profiling (aka pretextual stops), to being tear gassed for peacefully protesting racial injustice. We will not stop advocating for justice and to make sure our Commonwealth's laws and practices reflect that statement #BlackLivesMatter.

As a caucus, we would further advise against the continued lack of respect given to the genius policy solutions of organizations led by or serving impacted people - including Families for Justice As Healing and Black & Pink Boston - represented by a failure of the Legislature to have a policy-making process driven and informed by those residents closest to the pain of our current criminal legal system. We would like to quote the People Not Prisons Coalition's remarks on the Senate bill:

If the Massachusetts legislature were serious about protecting Black lives and addressing systemic racism, this bill would eliminate cornerstones of racist policing including implementing a ban without exceptions on pretextual traffic stops and street stops and frisks. The legislature should decriminalize driving offenses which are a major gateway into the criminal legal system for Black and Brown people and poor and working class people. Rather than limiting legislation to moderate reforms and data collection, the legislature should shut down fusion centers, erase gang databases, and permanently ban facial surveillance by all state agencies including the RMV. [We] also support student-led efforts to remove police from schools.

S.2820 will cause more harm than good by increasing spending on law

enforcement through training and training commissions, expanding the power of law enforcement officials to oversee law enforcement agencies, and making no fundamental changes to the function and operation of policing in the Commonwealth. Real change requires that we shrink the power and responsibilities of law enforcement and shift resources from policing into most-impacted communities.

The way forward is to shrink the role and powers of police, fund Black and Brown communities, and defund the systems of harm and punishment which have failed to bring people of color safety and wellbeing. S.2820 does not help us get there.

Please do not let this session end without passing legislation that addresses the harm caused by incarceration and separating families who are disproportionately Black and Brown.

We need to release people from jails and prisons who are most vulnerable to COVID-19 by passing H.4652;

provide no cost calls to incarcerated people by passing S.1372;

strengthen visitation to our incarcerated community by passing S.1379/H.2047;

and make sure the parole board has members with social work and mental health backgrounds by passing S.4607.

[We] also support a harm reduction approach to substance use rather than more criminalization and punishment. Please pass S.2717 to establish safe consumption sites in the Commonwealth.

We also need to increase access to driver's licenses in Massachusetts to prevent people from coming into contact with law enforcement, so please pass S.2641.

Black and Brown communities in the Commonwealth have been hit hardest by COVID19 and we need real protections to keep people in their homes. Please pass HD.5166 to prevent mass evictions.

In the coming budget negotiations, please focus on shifting resources away from policing and incarceration and into Black and Brown communities.

We thank you for your consideration and encourage you to be deliberate in your proactive outreach to incarcerated people, formerly incarcerated people, and those in overpoliced communities as you draft this and subsequent legislation.

Signed

Armani White
Black Caucus Chair
(857) 222-3233

A handwritten signature in black ink, appearing to be 'Armani White', with a stylized, cursive script.

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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

Testimony in Support of H. 1538
Moratorium on Government Use of Face Surveillance Technologies

Dear Chairs Michlewitz and Cronin,

The Boston Public Library Professional Staff Association MSLA Local 4928 AFT supports H. 1538, legislation to establish a moratorium on government use of face recognition and emerging biometric surveillance technologies.

In supporting this moratorium, our Union recognizes that facial recognition and other forms of biometric surveillance are a real threat to the civil liberties and safety of our colleagues and of library users. Library workers and library users spend part of each day in these public spaces in full view of existing municipal surveillance cameras. Neither working conditions nor use of a public library should entail the potential for unregulated scrutiny by law enforcement. Our library ethics of privacy and intellectual freedom are incompatible with this invasive technology.

BPL PSA recognizes that facial recognition and other biometric surveillance technologies are proven to be riddled with racist, ableist and gendered algorithmic biases. These systems routinely misidentify people of color which can result in needless contact with law enforcement and other scrutiny, essentially automating racial profiling.

We recognize the harm of surveillance for the youth in our state, especially immigrant, Black, Asian and Latino youth. Unregulated scrutiny by authorities leads to early contact with law enforcement, resulting in disenfranchisement and unrealized futures.

Our Union also recognizes that these systems are acquired and implemented without community assent and controlled in obscurity by authorities who can then use them to capture our images and identify us outside of established legal

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procedures. This is no different than being stopped and asked for identification or to stand in a perpetual police lineup without proper cause.

We recognize that public areas such as libraries, parks and sidewalks exist as spaces in which residents and visitors to our City should be free to move, speak, think, inquire, perform, protest and assemble freely without the intense scrutiny of surveillance by law enforcement. Public areas exist to extend our rights and provide space for the performance of our civil liberties, not policing.

A moratorium on face surveillance technology is critically important for residents and visitors to Massachusetts, for now and for the future. Biometric surveillance technology is evolving rapidly. It is becoming cheaper to purchase and easier to scale and use alongside extensive government, police and corporate datasets that can enable real time profiling of individuals. BPLPSA encourages you to ban the use of face surveillance by government agencies in the City of Boston by supporting and passing this crucial ordinance. We cannot allow government agencies in Massachusetts to adopt authoritarian, unregulated, biased surveillance technology.

Thank you for your attention and consideration.

Boston Public Library Professional Staff Association, MSLA Local 4928 - AFT

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July 17, 2020

Via Email

Hon. Aaron M. Michelwitz
Chair
House Committee on Ways and Means
State House, Room 243
Boston, MA 02133

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

Re: *Testimony of the Boston Police Patrolmen's Association on S.2820, §10
(Changes to the Massachusetts Civil Rights Act and the Judicial Doctrine
of Qualified Immunity)*

Dear Ms. Cronin and Mr. Michelwitz:

This testimony is being provided by **Leonard Kesten, Evan Ouellette, and Thomas Donohue of Brody Hardoon Perkins & Kesten, LLP on behalf of the Boston Police Patrolmen's Association**. Between them, they have over 65 years of experience representing municipalities and public officials. Mr. Kesten is considered one of the leading defenders of police officers in Massachusetts. He has litigated hundreds of cases involving the application of Qualified Immunity and has conducted over 150 jury trials in his career.

WHAT IS QUALIFIED IMMUNITY

The reality of Qualified immunity is often misunderstood. Qualified immunity does not serve to protect illegal actions by police officers or other governmental actors. Rather, it safeguards all public officials in situations where the law is unclear and does not give them

adequate guidance. The doctrine allows lawsuits to proceed if a government official had fair notice that his or her conduct was unlawful but acted anyway. As addressed below, abolishing or modifying qualified immunity along with the other proposed changes to the Massachusetts Civil Rights Act will have important negative unintended consequences for all Massachusetts citizens, courts, and public employees, not just police officers.

Civil rights actions brought against public officials such as police officers, including those alleging excessive force, are premised on the Fourth Amendment to the Constitution, which decrees that the people shall “be secure” against “unreasonable seizures.” Congress passed the Civil Rights Act of 1871 which allows individuals to bring lawsuits against public officials. 42 U.S. Code § 1983 is the modern analogue of that Act and lawsuits alleging civil rights violations by public officials are frequently brought under this Act and litigated in the federal courts.

In 1979, the Massachusetts Legislature enacted G.L. c. 12, §§ 11H and 11I, better known as the Massachusetts Civil Rights Act (“MCRA”), The MCRA is broader than § 1983 in that it allows individuals to bring civil actions against any individuals, not just public officials, who interfere with the exercise and enjoyment of their constitutional rights as well as “rights secured by the constitution or laws of the commonwealth.” However, the MCRA includes an additional requirement not included in §1983, that this interference with constitutional or statutory rights be achieved or attempted through “threats, intimidation or coercion.” As a result of this heightened requirement, virtually all Civil Rights lawsuits brought against public officials are currently litigated under § 1983 in the federal courts.

A plaintiff alleging that excessive force was used must prove that the force used was “unreasonable under the circumstances.” Obviously, the courts would be overwhelmed if the question as to what is “reasonable” was allowed to proceed to a jury trial in each case. Likewise, police officers could be faced with inconsistent verdicts involving similar actions. Thus, judges serve as gatekeepers in weeding out meritless claims. The Court has to decide whether, based on the facts alleged by the plaintiff, no reasonable jury could find against the officer. Many cases are dismissed at this point.

The doctrine of qualified immunity (“QI”) was first recognized by the United States Supreme Court in 1967. In 1989, the Supreme Judicial Court of Massachusetts decided that QI applied equally to the MCRA as it does to § 1983. QI is not an absolute immunity from suit. Rather, the basics of the doctrine are that a public official cannot be found personally liable for a violation of civil rights unless he or she is on notice that the conduct complained of violates “clearly established” law.

The test as to whether the official is “on notice” is based on what the “objectively reasonable official” could have known, not the subjective belief of that particular person. Thus, even if a police officer subjectively believes that what she or he is doing is legal, this will not protect them from liability. They would be shielded only if a “reasonable” police officer would not be aware that the conduct violated the law. The premise of this theory is that it is not fair to find a public official personally liable if, at the time she or he acted, a reasonable public official would not be on clear notice that what she or he was doing was illegal.

In determining whether QI applies, a court normally first decides whether the action taken violated the law at the time of the court’s decision. If the court decides that it would, then it moves on to the question of “whether a reasonable official could have believed his actions were lawful in light of clearly established law and the information that the official possessed at the time of his allegedly unlawful conduct.” QI protects officials whose actions were lawful based on the state of the law at the time they acted or where the law was not so clearly established as to put a reasonable person on notice that their actions were unlawful.

As the Supreme Court has stated in support of QI, “[b]y defining the limits of qualified immunity essentially in objective terms, **we provide no license to lawless conduct.** The public interest in deterrence of unlawful conduct and in compensation of victims remains protected by a test that focuses on the objective legal reasonableness of an official's acts. Where an official could be expected to know that certain conduct would violate statutory or constitutional rights, he should be made to hesitate; and a person who suffers injury caused by such conduct may have a cause of action. But where an official's duties legitimately require action in which clearly established rights are not implicated, the public interest may be better served by action taken with independence and without fear of consequences.”

It is also important to note that even if the Court grants QI to the individual police officer, the plaintiff can still move forward with state tort claims, such as assault and battery and false arrest in an excessive force case. The only difference between a Civil Rights claim and the State Tort is that the plaintiff cannot recover their attorneys’ fees for a violation of a tort.

Under the proposed statutory changes to the MCRA (§10 of S.2800), QI would never apply to claims against public officials without a finding that *every* reasonable defendant would have known that his conduct was lawful. This language would likely render the protections QI much weaker. This change will only effect cases brought pursuant to the MCRA, not § 1983. Significantly, §10(b) of S.2800 would also amend the MCRA by removing the requirement of “threats, intimidation, and coercion” in state court actions brought against government officials such as police officers. If these changes are enacted, there will be many negative consequences.

UNINTENDED CONSEQUENCES

1. These changes will result in a flood of state court actions

Currently, the majority of civil rights actions against police officers are litigated in the Federal Courts pursuant to § 1983. These cases are not brought in state court pursuant to the MCRA because of the heightened requirement to prove “threats, intimidation, and coercion” as well as a violation of Civil Rights. However, if the proposed amendments are enacted, we expect that plaintiffs will file most, if not all, of these cases in the state court pursuant to the MCRA. This will be a sea change in this litigation.

2. Financial impact on municipalities

The proposed modification of QI, combined with the elimination of the “threats, intimidation, and coercion” requirement as to public officials, will result in an increased number of lawsuits filed in Massachusetts state courts against public officials under the MCRA, rather than federal court. The state court system will be overburdened and will require added resources. Municipalities will be forced to shoulder the costs of defending these cases and will, in almost all cases be required to indemnify the defendant public official for any judgment against him or her.

Under the MCRA, if a plaintiff is successful in his or her claim, municipalities will also be required to pay the costs of litigation and reasonable attorneys’ fees incurred by the *plaintiff* in pursuing his or her claim. The economic burden of paying its own litigation costs, combined with the prospect of potentially having to fund the plaintiff’s costs and attorneys’ fees (which in many cases greatly exceed the amount of the plaintiff’s potential damages) may also force municipalities to settle meritless claims against officials which would have been weeded out by QI rather than defend against them.

3. State Courts will have to interpret the new QI language

Currently, Judges and lawyers rely on decades of jurisprudence in the federal courts interpreting QI. This is not a simple doctrine and has required judicial analysis in many different situations. If Massachusetts modifies the doctrine, our state courts will have to begin interpreting the meaning of the new language. This is not a simple task and will place first responders in a position of uncertainty about their exposure to civil litigation for years to come.

4. Changes to QI will affect all public officials, not just police

QI under the MCRA does not just apply to police but applies to all “government officials, in the course of performing discretionary tasks, from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” All public officials, not just police officers, benefit from this doctrine. A large percentage of claims under MCRA are brought against non-law enforcement officials such as town managers, selectmen, fire chiefs, municipal commission members, and lower level employees of the commonwealth. Also, many, if not the majority of MCRA claims are based on interference with constitutional rights unrelated to police misconduct. Section 10 of S. 2800 would limit QI in all claims made under the MCRA against any “person or entity acting under color of any statute, ordinance, regulation, custom or usage of the commonwealth or, or a subdivision thereof.” Therefore, weakening or eliminating QI will put all government officials, not just police officers, in greater jeopardy of individual personal liability based on their official actions.

CONCLUSION

Changes to the doctrine of Qualified Immunity should be carefully evaluated before they are enacted. The Senate’s stated attempt to “tweak” qualified immunity may not have that effect but will have wide-ranging, unintended consequences. The issues as to whether any change is needed and if so, what effect any change would have on the citizens of the Commonwealth require careful consideration. S2800 should not be passed at this time.

Very truly yours,

BRODY, HARDOON, PERKINS & KESTEN, LLP

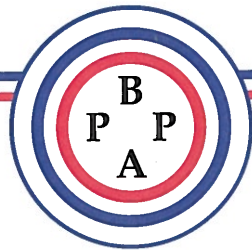


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July 17, 2020

Hon. Aaron M. Michelwitz
Chair
House Committee on Ways and Means
State House, Room 243
Boston, MA 02133

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

Re: *Testimony of the Boston Police Patrolmen's Association on S.2820*

Dear Chairs Michelwitz and Cronin:

On behalf of the men and women who comprise the Boston Police Patrolmen's Association ("BPPA"), I write to express our concerns relative to S.2820. The BPPA (as part of the Massachusetts Law Enforcement Policy Group) has been in active discussions with the Massachusetts Black and Latino Legislative Caucus and is in agreement with the cessation of chokeholds; establishing a uniform duty to intervene and clear prohibition of excessive force; standardized training of procedures and protocols; and the promotion of diversity in policing. But we oppose portions of S.2820 that would improperly infringe on our member's rights and endanger public safety.

We oppose section 6 of S.2820 (adding sec. 220-225 to c. 6 - regarding the Police Officer Standards and Accreditation Committee "POSAC") in that the POSAC as drafted would deny police officers due process for discipline, and subject police officers to revocation hearings conducted by a POSAC that is not properly vetted or considered. If there is going to be a committee that has the power to revoke an officer's license, that officer, like other public employees, such as teachers, should be able to exhaust his/her appeals first with his/her employer. Then, any committee will have a full record before it makes an important decision such as revocation. This is also why the makeup of the Committee must be fairly and properly constituted with a majority of peers. Just as in other professions (e.g., teachers, lawyers, doctors), police officers should be judged mainly by other officers who understand their work and law enforcement in general. ¹

¹ Testimony on behalf of the BPPA regarding §10 of S.2820 (relating to qualified immunity) will be filed separately by attorney Leonard Kesten.

Lack of Due Process

As written, S.2820 would compel the POSAC to institute proceedings to revoke an officer's certification upon a "sustained complaint of misconduct" in certain circumstances, which is defined as a "finding by an appointing authority or the committee, after the exhaustion of all rights to appeal within the appointing authority or the committee..." This language is problematic, as it would deny an officer the right to appeal a finding of misconduct through the due process provided to her through arbitration (or for some employees, Civil Service).² Prior to this stage of appeal, findings of misconduct by departments are not subject to review by a neutral third party. Arbitration or Civil Service provides a review to ensure that the finding of misconduct was proper. All public employees in unions in Massachusetts enjoy the right to such due process, and it would be unfair and inequitable for police officers to have less.

Allowing full due process prior to any action by the POSAC is in no way inconsistent with the POSAC's mission. An officer terminated for serious misconduct is not working while appealing her case through arbitration, and is unable to find employment with another department. Thus, there is no harm to the public interest caused by the POSAC waiting to institute proceedings until after the officer has exhausted her appeals with her employer. Arbitration is a rich and developed area of the law, and should not be discarded.

In addition, the POSAC would benefit greatly by having a fully developed record of a proceeding before a neutral third party. This record would be developed by the officer, her union, and her employer. As such, waiting to receive a fully developed record would allow the POSAC to avoid having to conduct investigations and hearings "from scratch," saving time and, importantly, vast resources. We believe that the Senate's estimate of the cost of S.2820 is grossly underestimated. The creation of a new state agency which will not only develop and institute police standards but will also conduct investigations and hearings into claims of police misconduct will be a large undertaking, necessitating the creation of a new state bureaucracy, costing the Commonwealth and its taxpayers tens of millions of dollars.

The Composition of the POSAC is improper

We also urge the House to provide for a proper and fair composition of any POSAC. The composition of the POSAC in S.2820 is inconsistent with any other professional oversight board. The boards overseeing doctors, nurses, teachers, pharmacists, etc., are all composed primarily of individuals in the same profession. Such boards normally have a

² Sec. 225(c) does allow an officer to request a one year suspension of a POSAC proceeding to exhaust her employer appeals. Unfortunately, an employer would be incentivized to delay the consideration of an arbitration in order to "wait out" one year, rather than completing the process. As noted below, public interest is not harmed in waiting until the completion of the employee's appeals with the employer, so the House should reject any statutory time limit to complete arbitration or Civil Service.

Hon. Aaron M. Michelwitz
Hon. Claire Cronin
July 17, 2020
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small minority of members from the general public (this is also true of POSA boards in other states). But the POSAC created by S.2820 would have 15 members, only 6 of whom are law enforcement officers. And the six are almost all police chiefs. We believe that any POSAC be comprised of a majority of law enforcement officers and experts in the field. For non-law enforcement officers, we would suggest a retired superior court justice, experts in the use of force and firearm analysis and discharges, and a criminal justice academic. And we urge that not only police chiefs be included, but that the voices of rank and file police officers and police union officials be included as members. Having a committee that includes rank and file officers will increase the Committee's experiential knowledge, and will grant the Committee legitimacy in the eyes of officers and the public.

Finally, we are troubled that Sec. 225(d) (line 491 of S.2820) does not define the composition of the members of the POSAC who would sit to hear revocation hearings. Officers have a right to consistent application of the law, and thus to a consistent "tribunal."

Thank you for your consideration of our concerns.

Sincerely,


Lawrence Calderone
President



A SOLUTION BY



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July 17, 2020

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 is important to our work at College Bound Dorchester as we work to move heavily gang involved individuals from the corner and into college and back into their communities as agents of change through our Boston Uncornered model.

The vast majority of our students, 99% of whom are people of color, experience arrest and detention in the juvenile justice system many times before they reach our program. We know that young people have the highest recidivism of any age group and that by the time they have grown older and matured, that rate drops, but their past remains a barrier to their adult lives.

The individuals we serve have made poor decisions in their youth that have had devastating effects on their communities, regardless of their arrest record, and they are working with us because they are determined to turn their lives around and stop the cycles of violence and poverty that have plagued their own lives, often for many generations. Our students work with our College Readiness Advisors (CRAs), formerly gang involved individuals who serve as mentors and change agents in their own neighborhoods. Our students work on doing everything they can to break the cycle, however, the way the laws are currently structured means that even an adult who has been doing everything "right" for many years may be unable to continue on a path to success.

A common example: a student who is in our program, has obtained a GED, worked with their College Readiness Advisor to address their previously unmet social and emotional needs, has completed an Associate's degree and then may be told they are not eligible for an entry level position after graduation simply because of their juvenile record from many years ago. 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.

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,

Mark Culliton
College Bound Dorchester
mark@uncornered.org

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HOUSE WAYS & MEANS
TESTIMONY IN SUPPORT OF ADDING PROVISION TO S.2820
GRANTING DRIVERS LICENSE ELIGIBILITY TO UNDOCUMENTED IMMIGRANTS

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

On behalf of the Cape Cod Coalition for Safe Communities, I offer testimony **IN SUPPORT** of adding a provision to grant eligibility for undocumented immigrants to obtain the MA standard drivers license.

According to statistics compiled by the Cape Cod Council of Churches, Barnstable County is home to sizable communities of immigrants from Brazil, Haiti, Jamaica and Cape Verde.

Designated as a Nielsen county D, Cape Cod is a rural area and options for public transportation are limited, especially off-season. Immigrants are an important part of the community and are essential to the seasonal economy. For those immigrants who do not have legal status, being ineligible for a driver's license allows for these communities of color to be criminalized.

Therefore we urge you to 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.

The work of immigrants without status is especially essential during times of this COVID-19 pandemic. 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 here. 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, and do everything we can to erase racial barriers and halt the criminalization of people of color.

Thank you for your consideration.

Mark Gabriele, Organizer
Cape Cod Coalition for Safe Communities
Orleans, MA



The Cape Cod Coalition for Safe Communities is committed to social justice, fairness, human rights and safety for all members of our communities, regardless of citizenship status. Convened in January 2017, the group is comprised of citizens from many towns on Cape Cod working towards greater civic awareness and engagement on immigration matters, and advocating for just and humane policies.



July 17, 2020

OPPOSITION 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”

Dear Chair Michlewitz and Chair Cronin,

120 years ago, in 1900, W.E.B. Du Bois led an all-Black team in producing and showcasing “A series of statistical charts illustrating the condition of the descendants of former African slaves now resident in the United States of America.” This team created stunning data visualizations drawn by hand “[showing why the African diaspora in America was being held back in a tangible, contextualized form.](#)”

As Du Bois said in 1898, “It is not one problem, but rather a plexus of social problems, some new, some old, some simple, some complex; and these problems have their one bond of unity in the act that they group themselves above those Africans whom two centuries of slave-trading brought into the land.” At the Charles Hamilton Houston Institute for Race & Justice at Harvard Law School, we refer to this as a “web of disadvantage.”

More than a century later, the problem of systemic racism is neither new nor mysterious. The failure to redress the harms of slavery is one of our national stains, a long-festering wound that has led in turn to new infections: Jim Crow segregation, thousands of lynchings in the twentieth century, mass criminalization and incarceration, the war on drugs, redlining and sustained economic oppression, police killings of Black people.

And so it is surprising that this summer this body took up with such performative urgency the plight of long-disempowered, criminalized, and neglected Black people and Black communities in the Commonwealth.

What, unfortunately, is not surprising is that the policies recommended in this body have been to enshrine in law provisions that will not change the material conditions of Black people, will not reduce police contact with Black people, and will not reduce the scope of the criminal legal system. Instead, this body has chiefly recommended hollow restrictions on the use of force, maintaining and legitimizing the power of law enforcement, and adopting policies that *already exist in our law* and have for generations.

The chokehold ban in S.2820 only bars neck restraints that are intended to or actually result in unconsciousness or death; if someone has permanent injuries or neck abrasions but does not black out, the use of force is likely not barred. Further, police chokeholds had been banned in New York City for more than a decade when Eric Garner was killed, and because of the vast power of the police union the officer who killed him was not fired until five years later.



The definition of law enforcement in this bill specifically, and bizarrely, excludes corrections officers; apparently the Senate is not concerned with the [well-documented brutality](#) in our prisons, which are 57% Black and Hispanic in a state that is 71.4% non-Hispanic white.

This bill requires mandatory recertification training of law enforcement, which will inevitably increase funding for police training, directly contrary to the clarion calls by organizers in the street to defund the police and fund communities of color. The [state auditor recently found](#) that at least 30 departments were not meeting their existing training obligations because of [inadequate funding](#) and training opportunities. Anyone who argues that S.2820 is not a blueprint for increased law enforcement spending is engaged in intentional deception. Further, mandatory implicit bias and [diversity training](#) have been proven to have a null or even *counterproductive* effect on changing behavior in [meta-analysis](#) and research studies. The legislature is mandating training *against the evidence base* that may lead to retaliation against Black people.

This bill temporarily pauses the use of facial recognition technology in the Commonwealth for 17 months *except by the Registrar of Motor Vehicles*. The Registry may continue to suspend people's licenses using a technology we know to be [racist and unreliable](#), which the chief of police in Detroit says [misidentifies people 96% of the time](#). Driving on a suspended license is the [single most common criminal charge](#) prosecuted in the Commonwealth; the Senate has set up Black people to be [mis-identified by technology](#) and then to be criminally prosecuted if they drive during a global pandemic.

This bill purports to establish a duty for law enforcement to intervene, which already exists in both [federal](#) and [Massachusetts law](#), and outlaws racial profiling, which was outlawed by the ratification of the Fourteenth Amendment to the United States Constitution in 1868.

Most perniciously, the Senate bill creates a series of new commissions and councils—staffed with many law enforcement officials—to “study” problems for which substantial data and knowledge already exist. These commissions are nothing but a delay tactic and a way to preserve power for an elite professional class, putting off for tomorrow what this body refuses to do today.

The United States does not need one more commission, or one more report. A strong moral message? That message is being delivered by protesters every day, on street after street after street across the nation. Stop killing us. One day, these reports will lie archived, forgotten, irrelevant. Meanwhile, they pile up, an indictment, the stacked evidence of inertia.¹

Mountains of evidence show us the abiding causes and mechanisms of unequal distributions of advantage and punishment, wealth and scarcity, wellness and toxicity. The blame lies with a

¹ Jill Lepore, *The History of The “Riot” Report*, NEW YORKER (June 15, 2020), <https://www.newyorker.com/magazine/2020/06/22/the-history-of-the-riot-report>.



confluence of structural, institutional, and individual decisions—racism infects each and every domain of our public policy and mediates our private relationships.

Decades upon decades of racism have barred Black families from opportunity, let alone recompense for centuries of trauma and oppression. The G.I. Bill was [denied to Black families](#); we wrote restrictive racial covenants into the deeds of parcels of land we stole from indigenous peoples and offered them [exclusively to white families](#) with affordable lending; our government [redlined Black people](#) into siloed and disinvested communities and then [built highways](#) through [those neighborhoods](#), filling them with fumes and [generating asthma](#) and other [significant health effects](#). Extending into the present, our elected officials, bureaucrats, private bankers, realtors, and landlords have [denied Black homeownership](#) and [denied Black renters](#) access to safe and affordable housing. We have [exposed Black children to lead](#) and other environmental hazards and created [food apartheid](#). In Black neighborhoods burdened by deep poverty of our creation, we have left vacant lots and abandoned buildings that allow [violence to thrive](#). We designed drug policy to be [specifically weaponized against Black people](#), and with police forces that grew out of [slave patrols](#), destroyed Black communities and separated families with ever-increasing criminalization, prosecution, incarceration, and punishment. We then set up an *additional* web of disadvantage for formerly incarcerated people, barring access to employment, to subsidized housing, to loans and capital.

These are not just a list of historical relics for which we are still experiencing modern effects. Many of these policies remain actively practiced or have simply shifted from de jure to de facto discrimination and segregation. We are the architects of ongoing projects to preserve wealth and opportunity for the white few at the expense of prosperity for all: single-family zoning; funding our public schools based on private property values; deploying police officers like an occupying army to poor communities of color and using the police to enforce gentrification and protect capital; siting environmental hazards in poor neighborhoods of color.

It is long past time to stop speaking of disparate impact or disparate effect. That language exonerates public officials for the foreseeable outcomes of intentional distribution of resources and punishment. None of our policies are “colorblind,” and to pretend otherwise is an act of white supremacy. Over the [last twenty years](#), this body has increased funding to prisons, sheriffs, and probation while slashing the budgets for workforce development, higher education, public health, mental health, and early education and childcare. It is no wonder that our system of punishment has ballooned and continues to target poor, Black, and Hispanic and/or Latinx people as the objects of state violence.

The majority-Black neighborhoods least exposed to harsh environments [still have levels of toxicity](#) greater than the most-exposed majority-white neighborhoods. Black families in Boston have [\\$8 in median net worth](#) to the \$247,500 of white families. [70% of people stopped and frisked](#) in the City of Boston are Black—a pattern that has persisted for decades and which the



[ACLU of Massachusetts first sued](#) the City of Boston for [in 1989](#). Racism is everywhere you look.

Addressing racism requires disrupting both power and prejudice. We do not need more commissions: “These commissions [don’t] stop the violence; they just [serve] as a kind of counterinsurgent function each time police violence led to protests.”² The Kerner Commission in 1968 identified [white racism](#) as the chief cause of the oppression of Black people and police violence against Black people. And yet here we are decades later, recommending more restrictions on the use of force, a bad apple theory of police to decertify a few officers—who may unilaterally pause the process of decertification for up to a year and whose decertification must be proven by clear and convincing evidence, and a maximum of \$10 million to go toward workforce development for formerly incarcerated people.

Despite messaging to the contrary, the Justice Reinvestment Fund in S.2820 is not written to require divestment from the budget of the Department of Correction or restitution from police fraud; it requires its own appropriation. Between 2011 and 2018, the budgets of the Department of Correction and the sheriffs cumulatively increased by \$254 million. That figure is just the *amount of increase*, and the purported cost-savings that will fuel “justice reinvestment” cannot happen if this legislature continues to increase these budgets, as it has for years, [even as fewer and fewer people are incarcerated](#). \$10 million toward formerly incarcerated people, mostly people of color, in a state budget of \$44.6 billion is an inadequate token, not a real first step toward equity.

On July 6, after a weekend of private deliberations with a select few advocacy groups and members of law enforcement, the Senate released its omnibus police reform bill. Seats at the table were not extended to people from the most policed and most incarcerated Black and brown communities in the Commonwealth, experts on the violence of policing. The Senate produced a 70-page omnibus bill and less than 36 hours later 145 amendments, and asked that the bill be voted on the next day.

Our model at the Houston Institute is a model of *community justice*: relying on the expertise of directly impacted people and amplifying their voices and goals into public policymaking. We were dismayed as the Senate process unfolded; nowhere in this swift process were directly impacted people consulted, and the information overload of the process and the timeline seemed designed to exclude poor and working people. Our partners at [Families for Justice as Healing](#) have [made their goals evident](#): reduce police contact with Black people and resource communities most impacted by policing. Ban pretextual street and vehicle stops, eliminate plainclothes policing, erase the gang database, remove police from schools, reduce the budgets of

² Mariame Kaba, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES (June 12, 2020), <https://www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html> (describing the 1894 Lexow Committee, the 1931 Wickersham Commission, and the 1968 Kerner Commission).



Charles Hamilton
**HOUSTON
INSTITUTE**
For Race & Justice
Harvard Law School

law enforcement, and most importantly *substantially* invest in community-led participatory budgeting for and by Black and brown communities. The safest and healthiest communities are not those with the most police—they are those with the most resources.

The Charles Hamilton Houston Institute for Race & Justice at Harvard Law School **opposes S.2820**. We have no interest in sitting on a commission to study structural racism, an *additional* commission created by amendment 16, which we were not consulted about before being written into the bill.

If the legislature wishes to demonstrate its commitment to redressing generational harms committed against Black people by our public policy, it must extend the legislative session and put together a package of bills based on the expertise of directly impacted people, each of which will receive testimony by directly impacted people: raise taxes on wealthy and corporate interests; pass a budget rooted in equity that substantially shifts resources from policing and incarceration toward meeting needs and community well-being; decarcerate our jails and prisons and provide housing, employment, healthcare, and treatment to people leaving incarceration; and specifically allot substantial resources to Black people and Black communities.

Sincerely,

Katy Naples-Mitchell, Esq.
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MIDDLEBOROUGH POLICE DEPARTMENT

350 Wood Street
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Joseph M. Perkins
Chief of Police

July 16, 2020

To: Chairs Aaron Michlewitz and Clair Cronin, Massachusetts State Representatives,
Massachusetts State House

From: Joseph Perkins, Chief of Police, Middleborough Police Department

RE: Written Testimony on Bill Number: S2800

Chairs Michlewitz and Cronin,

I believe you will be inundated with testimony on this issue. Therefore, I will keep my comments short and confined to two quotes;

You are free to choose but you are not free from the consequences of that choice. - Unknown

Without reflection, we go blindly on our way, creating more unintended consequences, and failing to achieve anything useful. -Margaret J. Wheatley

Respectfully,

Joseph M. Perkins, Chief of Police
Middleborough Police Department



BLACKSTONE POLICE DEPARTMENT

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Gregory Gilmore - Chief of Police

July 16, 2020

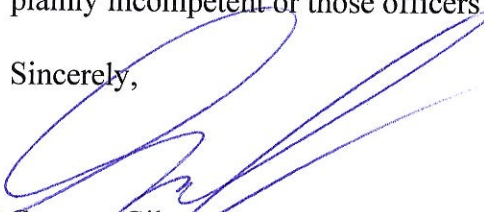
Chairman Michlewitz
Chairwoman Cronin
Member of the House Committee on Ways and Means
House Members of the Joint Committee on the Judiciary
Boston, MA 02133

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

House Members,

As Chief of Police for the Town of Blackstone, I am always receptive to differing ideas and views on policing in these difficult times. The members of this community and this department want a good police reform bill that is effective and provides answers to many of the questions coming to light due to the recent events occurring across the nation. What our department does not want is a bill that is rushed through the house and senate without the proper discussion, dialog and input from the appropriate stake holders. Only with this input will a bill that addresses all the concerns voiced over the past few months be a viable option. My greatest concern is the revision of the qualified immunity status that provides protection to my officers from frivolous lawsuits, harassment and liability when they are reasonably performing their duties. Removing qualified immunity will deter officers from doing the important jobs that they are paid to do and that they want to do. It provides protection to officers acting reasonably, and provides no protection to the plainly incompetent or those officers who knowingly violate the law.

Sincerely,


Gregory Gilmore
Chief of Police
Blackstone, MA



Chief Marc Montminy

Town of Uxbridge Police Department

275 Douglas St.

Uxbridge, MA 01569

(Phone) 508-278-7755 (Fax) 508-278-7874

www.uxbridge-ma.gov/police-department

Thursday, July 16, 2020

Chairman Michlewitz
Chairwoman Cronin
Member of the House Committee on Ways and Means
House Members of the Joint Committee on the Judiciary
Boston, MA 02133

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

House Members,

My concerns regarding bill S.2800 are many. First and foremost, it attempts to fix a problem not in evidence in Massachusetts. While no one wants to see racial bias in policing, or unnecessary use of force, this knee-jerk reaction created in-part by the media, would have the public believe that police officers are hunting minorities, when in fact the statistics show no such thing.

No one disagrees that minorities are over represented in police contact, but this is a symptom, not the disease. The disease is the socio-economic disparity between people of color and the white majority.

Unfortunately, police officers don't have the luxury of making such distinctions in the street. This legislation attempts to second guess every decision a police officer makes and seeks to install a new entity that would have the authority to insert themselves into use of force investigations, without having any knowledge-base of such matters. It appears the legislation seeks to replace the existing legal standards with a standard of feelings instead of facts. Apparently, the states District Attorney's and Chiefs of Police should be insulted by the insinuation that they are incapable of identifying improper or illegal behavior by officers.

In addition, the legislation seeks to remove qualified immunity, a long-standing legal principal which shields police officers from harassment and distraction, but only when they don't violate a clearly established constitutional right. Why would the legislation seek to remove that? Are we to understand that every time a police officer acts under the color of law, a duty given to the officer by the state or municipality, he or she will be subject to a law suit? Is it the intent to hire only lawyers as police officers? Consider that



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every call an officer goes on, comes with the risk of losing one's livelihood and assets.
Who wants that job?

In essence, the bill has a punitive feel to it, and I hope the legislators who represent me do their due diligence before voting on this measure.

Sincerely,

Chief Marc Montminy
Uxbridge Police Department

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is **Kate Higgins** and I live at **97 Mount Pleasant Street Milford, MA**. I work at **DOC Headquarters** and am a **Sergeant**. 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,



Kate Higgins



Burlington Police Department

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MICHAEL R. KENT
CHIEF OF POLICE

July 17, 2020

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

Re: Concerns of Senate 2820 as Amended

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 very appreciative that you are soliciting feedback on Senate Bill 2820. It was disappointing to see the Senate rush this bill and ultimately pass it under the cloak of darkness.

I am sure the input on this bill will be high so I will be brief as the flaws in this bill could fill pages.

Obviously, Qualified Immunity if passed as constituted in S2820 is a game changer. It will have older officers retiring and younger officers questioning their career choice. I know if I was still working the street any action that I took would certainly be a risk of being entangled in a frivolous legal action that could tie up my assets for an extended period of time. I believe officers will become reactive as opposed to proactive and only take action when it is legally required. I will leave it to the legal scholars to further the discussion on Qualified Immunity and the pitfalls of altering it.

I find the section on imminent harm (page 60) laughable. As written in the bill "*shall not include fear of future serious physical injury or death*". This paralyzes the "fleeing felon" principle that has governed our decisions for years. An example of this would be the police arrive at a scene where the shooter is still present holding his gun. The officers order him to drop the weapon but the shooter starts walking away towards a populated area. Under fleeing felon, the officer can use deadly force; under S2820 the officer cannot use deadly force to stop the shooter.


Page 59 addresses "choke holds." Having been in law enforcement for over 39 years as far as I know chokeholds have never been allowed. I have never been trained in chokeholds and have never witnessed one being used. I have no issue with chokeholds being part of this bill BUT we do need a provision that, should the officer's life be in jeopardy or serious bodily injury, he can avail himself to any means necessary to save his own life.

The three examples that I have given would have been easily clarified if the Senate had simply held hearings.

The recent tragedy at the Holyoke Soldiers Home that claimed the lives of 76 heroes was well publicized. In response, Governor Baker filed S2788 to address needed changes at the Soldiers Home. This bill was filed with 5 weeks left in the legislative session. Rather than rush this bill

through Veterans & Federal Affairs Committee co-chair Rep. Linda Campbell said, “our goal is to take our time and get this right.”

I do not deny Police Reform is needed but in the words of Rep. Campbell our goal should be to take our time and get it right!

Sincerely,

Michael R. Kent
Chief of Police



Grafton Police Department

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Normand A. Crepeau, Jr.
Chief of Police

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 write to you today to express my concerns and share my opinion regarding the recently amended Senate 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"* submitted to the House on 7/15.

I have been a police officer for thirty-nine years, serving the last sixteen as chief for the Town of Grafton. I have dedicated my career to law enforcement and the concept that all citizens are treated fairly with the respect and dignity that is deserved and expected. As police officers and community leaders, we have embraced the changes society has demanded of us and ensured that the mission and core values to which we have espoused are followed each and every day. Every police officer wants to improve their community and is ready to face any challenge that may be encountered.

I realize that you must be inundated with correspondence regarding the aforementioned bill as proposed and I will endeavor to keep my comments brief and to the point. I also realize that the MA Chiefs of Police Association and the Major City Chiefs Association have submitted their comments as a whole and that I agree with their remarks wholeheartedly. In this regard and for your convenience, I wish to convey my thoughts by addressing some of the more important passages of the bill from my viewpoint.

- **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. In particular, Section 10 calls for a re-write of the existing provisions in Chapter 12, section 111, pertaining to violations of constitutional rights, commonly referred to as the Massachusetts Civil Rights Act (MCRA). By amending or removing qualified immunity, you are placing not only law enforcement but other public employees at risk, making their jobs more difficult and always casting a shadow of doubt on their day to day tasks.

By allowing suits against individuals, police officers may hesitate in performing their duty when they are unsure if they will be protected by the qualified immunity standard. This hesitation, especially

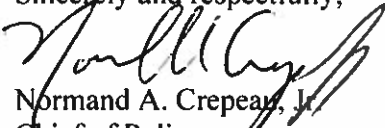
for police officers could be dangerous and fatal, not only to the officers, but to the victims they are sworn to protect. I urge you to carefully review this section and allow qualified immunity to stand. The fear that police officers, not to mention public employees, have free reign to act recklessly, endangering the lives and liberties of citizens is unfounded and, has many times over, been proven to be a useful protection from a litigious society. Qualified immunity has a system of checks and balances and should not be rewritten or abolished as a hasty reaction to the actions of the few rogue individuals who abuse the privilege. The courts have proven this time and time again and I believe we should trust our judiciary to determine when this doctrine should not apply.

- **SECTION 39 (line 1025):** I am in agreement that the appointing authority and the local legislative body should be aware of the purchase of any equipment that serves to enhance public safety. I do not believe that the general public has a need to know what specialty equipment police departments have available as this would serve to put the safety of communities in jeopardy by individuals using this knowledge to circumvent police tactics and operations. This will jeopardize the lives and safety of law enforcement and possibly other first responders.
- **SECTION 49 (line 1101-1115):** This provision prevents school department personnel and school resource officers (SRO), from sharing information with law enforcement officers, including their own agency, when there are ongoing specific unlawful incidents involving violence or the potential for violence. In order to ensure the safety of students, faculty and staff, SRO and school staff need to share information to provide a learning environment that is free from violence and the perceived threat of violence. One of the most important credos of the past few years has been “see something – say something.” This philosophy stands today and is necessary to provide a safe and healthy atmosphere for all individuals within the school campus.
- **SECTION 52 (lines 1138-1251):** Several recommended changes have been proposed to data collection and analysis regarding motor vehicle and pedestrian stops. The Hands-Free / Data Collection Law contains a comprehensive system of data collection, benchmarking, review, analyses and potential consequences. These provisions now look to complicate the matter even further before a determination has actually been made as to whether any problem of racial or gender profiling actually exists here in our state. 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):** The 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. The discussion is an important one however, it is applicable to Massachusetts law enforcement? Under part (d) the language states that “[a] law enforcement officer shall not use a choke hold...” We feel that this language should also include a reasonable and rational provision that states, “unless the officer reasonably believes that his/her 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 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.

- **[Recommended New Section] Amends GL Chapter 32 Section 91(g):** In order to expand the hiring pool of trained, educated, qualified and experienced candidates with statewide institutional knowledge for the Executive Directors' positions for both the *Municipal Police Training Committee* as well as the newly created *POSAC* (or *POST*), the statute governing the payment of pensioners for performing certain services after retirement, shall be amended to allow members of Group 4 within the state retirement system to perform in these two (2) capacities, not to exceed a three (3) year appointment unless specifically authorized by the Governor. This is important to all Massachusetts law enforcement as it would ensure that the best possible candidates would be available to train and educate future police personnel. To lose the expertise of practiced and qualified individuals who have their experience and knowledge offer, limited only by pension constraints, should be addressed.

I thank you for your consideration in reviewing my concerns and I hope that my comments have been clear and concise on these matters. I appreciate your taking the time to accept this testimony and I am happy to answer any questions you may have regarding my remarks. I realize you have a daunting task before you and I am sure that your decisions will be based on the safety and wellbeing of all who will be affected by the outcome of this legislation.

Sincerely and respectfully;



Normand A. Crepeau, Jr.
Chief of Police
Grafton Police Department



MILFORD POLICE DEPARTMENT

Michael A. Pighetti
Chief of Police

*250 Main Street * Milford, MA 01757 * Tel. (508) 473-1113 * Fax (508) 634-2346*

July 17, 2020

Via Email To: Testimony.HWMJudiciary@mahouse.gov

Re: Concerns of Senate Bill 2820 as Amended

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

Please accept the following testimony and attachments 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.

On behalf of the dedicated men and women of the Milford Police Department and all Law Enforcement across the Commonwealth, I am compelled to address the provisions of this Bill that if enacted as presented, will most assuredly result in a detrimental impact on our society with unintended consequences. One very important provision addresses Qualified Immunity for police officers. This provision is what allows law enforcement personnel who act in “good faith” in the performance of their duties, a cloak of protection for unintended actions. It is NOT intended, nor does it provide, protection for those who act in an unlawful manner and/or act as a vigilante in exercising their authority. It is unlawful to do so and the law currently provides for prosecutorial measures when this type of behavior occurs. Removing or diminishing the protection of qualified immunity for “all” officers leaves them, their families and our communities open and vulnerable to frivolous unsubstantiated claims of liability for every action an officer takes in executing their duties and responsibilities. Clearly, this is absurd and dysfunctional. Our law enforcement community will cease to perform as we expect and demand.

The law enforcement profession is not opposed to all the changes being proposed. In fact, much of the suggested changes are being embraced by Chiefs of Police, Unions and officers overwhelmingly across the state. Where we disagree, is having no protections for officers who, in the course of their duties, are scrutinized for every action they take and no recourse for decisions made of their performance, by others. Others that are yet to be determined I may add. We ask very much of our police officers who we expect to keep us safe, every day. Please place yourselves in their position. Would you feel secure in doing this job under such circumstances that are currently under consideration? I believe not.

It is imperative that the legislature take a comprehensive review of this matter and act in the best interest of our Commonwealth and not simply as a knee-jerk reaction, to an admitted horrific act, just to be able to say “we did something.” That is reckless and will be extremely difficult to reverse when it is discovered to have been the wrong approach.

All of law enforcement is willing and eager to work cooperatively with all the stakeholders to enact change that is proper and can provide positive meaningful results. Please don't miss this opportunity. We have one chance to get it right. We will most certainly see decades of strife if we, once again, get it wrong.

Thank you for your time and consideration to this extremely important matter.

Very Truly Yours,

A handwritten signature in dark ink, appearing to read "Michael A. Pighetti". The signature is fluid and cursive, with the first name being the most prominent.

Michael A. Pighetti
Chief of Police

Cc: Representative Brian Murray
Senator Ryan Fattman
Files



Westborough Police Department

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508-366-8580 (Fax)



Jeffrey A. Lourie

Police Chief
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Chester E. Hallice, III

Detective Lieutenant
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Glenn L. McLeod

Patrol Lieutenant
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Todd C. Minardi

Deputy Chief
508-475-4822

Re: Concerns to Senate 2820 as Amended

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.

I would first like to advise you both that I am in full support and agreement with the letter submitted to you by Mass Chiefs President Jeff Farnsworth and Major City Police Chief President Brian Keyes.

I wanted to take a moment to specifically provide my view point as it relates to qualified immunity. The Mass Chiefs letter explains in more detail how it affects law enforcement but I want to provide my concerns as a police chief.

I believe that if passed numerous frivolous law suits will emerge. I also believe proactive policing will be greatly diminished as officers will be fearful to perform certain job related tasks.

The other major concern is related to attracting qualified police officers, as some agencies are having issues now with recruitment.

If the Senate version passes as written I also believe you will see a mass exodus within the law enforcement community. I am hearing from younger officers that are questioning their career field choice in law enforcement. Officers and supervisors who can or are about to reach superannuation who were planning on continuing with their career, are now contemplating retirement if this Bill is passed as proposed by the Senate.

I appreciate the opportunity to provide testimony on this matter and want you to know we realize positive change needs to take place. I am offering to assist in any discussion to ensure we provide public safety services that are of the highest quality, while unbiased, for all that we are honored to serve.

Respectfully,

Jeffrey A. Lourie, Chief of Police



TOWN OF SHREWSBURY

KEVIN E. ANDERSON
Chief of Police

DEPARTMENT OF POLICE

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FAX 508-841-8494

106 MAPLE AVENUE
SHREWSBURY, MA 01545-2859

Re: Concerns to Senate 2820 as Amended

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.

I would first like to advise you both that I am in full support and agreement with the letter submitted to you by Mass Chiefs President Jeff Farnsworth and Major City Police Chief President Brian Keyes.

I wanted to take a moment to specifically provide my view point as it relates to qualified immunity. The Mass Chiefs letter explains in more detail how it affects law enforcement but I want to provide my concerns as a police chief.

I believe that if passed, we may see an increase in frivolous law suits. I also believe proactive policing will be diminished as officers will be fearful to perform certain job related tasks.

Nationally, recruiting qualified candidates is challenging. Locally, some agencies are having issues now with recruitment of qualified candidates.

If the Senate version passes as written, I believe you will see a decline in individuals choosing law enforcement as their chosen profession. Additionally it will be challenging retaining the qualified law enforcement professionals we currently have.

I appreciate the opportunity to provide my input on this matter and want you to know we realize positive change needs to take place. I am offering to assist in any discussion to ensure we provide public safety services that are of the highest quality, while unbiased; for all that we are honored to serve.

Respectfully,

Kevin E. Anderson, Chief of Police



PHILLIP A. TAVARES
CHIEF OF POLICE

Town of Marshfield

Police Department

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Office of the Chief of Police

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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 had the opportunity to thoroughly review the recently amended Senate 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" submitted to the House on 7/15.

My Department will continue to work through these difficult and turbulent times to build a better future for our police department and the community we serve. Massachusetts police departments are above the curve on best police policies and practices. We fully embrace the six pillars of the Presidents Task Force on 21st Century Policing. That being said, there are countless areas in the current version of this bill that if passed will likely have an adverse negative impact statewide. Comprehensive Police Reform is extremely complex and takes time to fully identify the problems and understand the overall effects of change. Time is what we don't have and this bill is being pushed as a knee jerk reaction for something that happened in another state but will have dire consequences for all of us in Massachusetts.

We learned from the civil rights movement of the 1960's that policing needs to attract good, intelligent qualified candidates with common sense. The job has increasingly become more dangerous for police officers. They are assaulted and sued at alarming rates. Officers are under public scrutiny and under a tremendous amount of stress. Nationally recruitment and retention are a major problem.

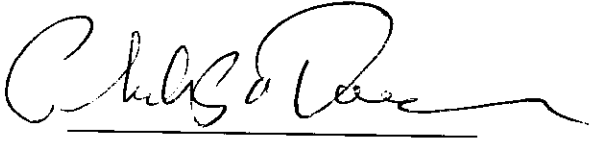
It should be noted that excellent public service starts with hiring the right person to wear the uniform. The sweeping changes to policing outlined in this bill will only cause lots of good officers to retire. The ones that stay will be disgruntled and do less. The career will become less then desirable to attract good qualified candidates. Hiring the best candidates is the most important step in the process of delivering the proper police services. No amount of changes in the law, policies or training will make up for that.

Page 2

To continue to retain the best officers already employed and to continue to attract the best qualified candidates in the future, I strongly urge you support the comments submitted by the Major City Chiefs and the Massachusetts Chiefs of Police Association.

Thank you for your diligent efforts in drafting this comprehensive legislation for the House. I look forward to a partnership in providing the best services for our respective communities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Phillip A. Tavares", written over a horizontal line.

Chief Phillip A. Tavares



*Marc Duphily
Chief of Police*

**CARVER
POLICE DEPARTMENT**

112 B Main Street
P.O. Box 985
Carver, MA 02330
Telephone 508-866-2000
Fax 508-866-4538



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.

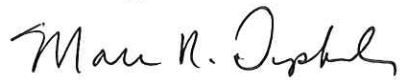
First, let me say thank you for taking the time to ask for and receive comment and input on this very important matter at hand. I know that you have a difficult but important job ahead of you and I hope that my input, as well as input from other members of the community will help you as you work to craft quality legislation that will help to better our commonwealth.

Over the past few days, I have had the opportunity to speak with Senator Mark Pacheco and Representative Susan Williams-Gifford on this matter. Additionally, Chairwoman Cronin you took the time to participate in a zoom meeting with the executive board of the Southeastern Mass Police Chiefs Association, which I was able to be a part of and am grateful that you gave us some time to be heard. As the Chief of a small police department, I have also heard the comments and concerns of my officers. There is much to be considered in a very short period of time.

I understand that you will receive a great deal of information relative to this bill. In an effort to value your time and not to be repetitive, I would like to ask that you please consider the letters that both the Massachusetts Chiefs of Police Association and the Southeastern Massachusetts Police Chief's Association have submitted with regard to Senate 2820. The points made in each letter have been well thought out by people with many years of experience in the law enforcement profession.

In my current capacity, I am responsible for some of the finest men and women in law enforcement in Massachusetts. I know them all and they are all highly dedicated to the principles of protecting and serving every member of our community and this commonwealth. Every day they come to work prepared to protect the rights and lives of everyone. Please keep them in mind, as well as all of the citizens of the state as you move forward with this process.

Sincerely,

A handwritten signature in black ink that reads "Marc R. Duphily". The signature is written in a cursive, flowing style.

Marc R. Duphily
Chief of Police



POLICE DEPARTMENT

Petersham, Massachusetts 01366-0486

Telephone (978) 724-3330

Fax (978) 724-3502

Richard D. Cooley Jr.
Chief of Police

July 17, 2020

Dear Chair Aaron Michlewitz and Chair Claire Cronin

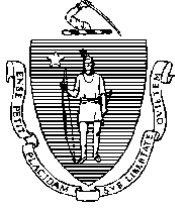
Please accept the following testimony with regard to SB2820 - An Act to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color.

As the Chief of Police for the Town of Petersham, I would like to express to you that I endorse the Mass Chiefs opinion of the Senate Bill 2820.

In the Town of Petersham our officers are dedicated and committed to embrace the challenges that lay ahead. We understand that there are some things that do need to change and we ask that you carefully consider how any new legislature will affect both the larger cities and the small communities such as Petersham when finalizing this bill.

Respectfully,

Richard D. Cooley Jr.
Chief of Police



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

ALYSON M. SULLIVAN
STATE REPRESENTATIVE
7th PLYMOUTH DISTRICT

STATE HOUSE, ROOM 237
TEL (617) 722- 2305
Alyson.Sullivan@MAhouse.gov

Chairman Aaron Michlewitz
House Committee on Ways & Means
State House, Room 243
Boston, MA 02133

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

Re: Senate Bill 2820

Dear Chairman Michlewitz and Chairwoman Cronin,

In this letter, I have included written testimony my office has received from citizens within my district and across the Commonwealth. I strongly urge the committee to consider the comments and concerns below when deliberating and debating Senate Bill 2820.

Thank you, Chairman Michlewitz, Chairwoman Cronin and the committee members for taking the time to read written testimony and I ask you all to strongly consider taking the time in establishing a strong and meaningful piece of legislation that will have a fair and long lasting change in our Commonwealth.

Sincerely,

A handwritten signature in blue ink that reads "Alyson M. Sullivan".

Alyson M. Sullivan
State Representative
7th Plymouth District
Abington, East Bridgewater & Whitman

Good Morning Representative Sullivan,

First and foremost thank you all for allowing those who will be affected greatly by this bill and it's sweeping changes to submit our views. Massachusetts Senate Bill S2800 was introduced on a holiday weekend and then vote on during the middle of the night granted following a lengthy day of deliberations. Both of these actions coupled with the fact the senate did not take any written or verbal testimony from officers or stake holders was deeply concerning.

I currently serve the commonwealth of Massachusetts as a police officer for the town of Abington and I am my departments Union President as well. The matters being debate on the House floor now will cause far more changes then what is being considered. Simply put the ripple affect of the final bill will be far reaching and will set the stage for a very tumultuous year to come here in the commonwealth. From a union perspective there is also the sense our legislators are attempting to "Union bust" and are taking away our rights to collectively bargain some of the changes being sought. Changes we see as changes in working conditions for our union members, but I digress.

It is interesting to see that when an agenda is present how quickly something can be accomplished yet nothing is being done to prevent the hundreds of black Americans who are killed due to gang and gun violence around the country. Since police officers in this state are being vilified for the actions of others not from this state I see it only appropriate to reference national circumstances. Your actions this month could cause a mass exodus from the profession one which will create shortages across the state. How will the state fill those position because the anti police rhetoric pushed by legislators in this state and across the country is people to not want to do the job or join. Many people I have spoken to say they are glad they never became a cop after taking the exam. Why is it that a once noble profession has received all the blame for societies failures?

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

(v) the history of slavery, lynching, racist legal institutions and racism in the United States

I ask you why it is necessary to force police officers who have no history of established racial biases to be taught this subject matter. When throughout our history lessons in school we are taught about American history, which includes these topics. You want to train officers more thoroughly yet take away valuable time by teaching a subject irrelevant to modern day policing. Massachusetts has little to no instances of racially driven policing to date. Yes our state was not the best in the past, but why are modern day officers punished for actions they did not commit and presumed to have a racial bias.

Section 221. There shall be an independent police officer standards and accreditation committee within the executive office of public safety and security consisting of: 14 members appointed by the governor, 1 of whom shall be nominated by the colonel of the state police, 1 of whom shall be nominated by the commissioner of the Massachusetts bay transportation authority police

force, 1 of whom shall be nominated by the commissioner of police of the city of Boston, 1 of whom shall be a chief of police of a police department outside of the Boston metropolitan area nominated by the Massachusetts Chiefs of Police Association Incorporated, 1 of whom shall be a law enforcement officer nominated by the Massachusetts Association of Minority Law Enforcement Officers, Inc., 1 of whom shall be a law enforcement officer below the rank of sergeant, 1 of whom shall be nominated by the American Civil Liberties Union of Massachusetts, Inc., 2 of whom shall be nominated by the New England Area Conference of the National Association for the Advancement of Colored People, 1 of whom shall be nominated by the Lawyers for Civil Rights, Inc., 1 of whom shall have been personally involved in or impacted by the criminal justice system, 1 of whom shall be a retired judge and 2 of whom may be selected from a list of not less than 5 non-law enforcement individuals nominated by the Massachusetts Black and Latino Legislative Caucus; and 1 member appointed by the attorney general who is affiliated with an organization that advocates on behalf of communities that have disproportionately high instances of police interaction; provided, however, that non-law enforcement members shall have experience with or expertise in law enforcement practice and training, criminal law, civil rights law, the criminal justice system or social science fields related to race or bias.

To an officer we accept the POST system and understand it will be a new way of certifying an officer for duty. We welcome this change, but if someone who commits a crime is judged by a jury of their peers then so should officers. These panels or certification committees should be made up of subject matter experts in the field of policing not community activists. How are we to believe there will be no bias towards our actions after all the hatred we have seen over these past months. If my certification is to be taken away and my way of providing for my family taken from me I want it done by individuals who are familiar with the day to day actions and circumstances we face. There needs to be some type of due process allowed for officers to defend themselves and appeal the findings of these committees.

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 for monetary damages under this section, qualified immunity shall not apply unless no reasonable defendant could have had reason to believe that such conduct would violate the law at the time the conduct occurred. Nothing in this section shall affect the provisions of chapter 258 with respect to indemnification of public employees.

Qualified immunity does not give us carte blanche to do whatever it is we please. We are still required to operate within the letter of the law. It protects from frivolous lawsuits for doing our duty. If we violate someone's civil rights, unfortunately have to discharge our firearms or are seen to have used excessive force we will not be protected from a lawsuit. Consequently now you are forcing officers to consider what their duty to act will mean. When we respond to the majority of our calls they come from people in the community, neighbors, family members calling seeking help. If one of these calls results in a civil lawsuit what will happen is officers will start file counter suits tying up the already overloaded court systems. When we respond to a domestic call placed by a neighbor and the residents don't answer, but there is a belief of serious harm due to what we hear or may see and we are cleared to take down a door due to exigency. We will now be liable for the ages caused to that home because nine times out of ten one of the parties doesn't want to press charges or invokes spousal privileges we will then be sued following it. Officers will now become the subjects or numerous lawsuits and there will constantly be individuals trying to bait us into situations where we have to act. The ripple effect will cause officers to become reactive and simply only respond to a call to service. Consequently as well many officers will leave the profession all together by way of retirement of eligible or simply walking away. As well this will affect all public servants and will cause monetary damages to municipalities across the commonwealth crippling them.

School department personnel and school resource officers, as defined in section 37P, shall not disclose to a law enforcement officer or agency, including local, municipal, regional, county, state and federal law enforcement, through an official report or unofficial channels, including, but not limited to text, phone, email, database and in-person communication, or submit to a the Commonwealth Fusion Center, the Boston Regional Intelligence Center or any other database or system that tracks gang affiliation or involvement any information relating to a student or a student's family member from its databases or other record-keeping systems including, but not limited to: (i) immigration status; (ii) citizenship; (iii) neighborhood of residence; (iv) religion; (v) national origin; (vi) ethnicity; (vii) native or spoken language; (viii) suspected, alleged or confirmed gang affiliation, association or membership; (ix) participation in school activities, extracurricular activities both inside and outside of school, sports teams or school clubs or organizations; (x) degrees, honors or awards; and (xi) post-high school plans. Nothing in this paragraph shall prohibit the sharing of information for the purposes of completing a report pursuant to sections 51A or 57 of chapter 119 or filing a weapon report with the local chief of police pursuant to this section.

How does this accomplish anything? Are gangs now an accepted form of culture when they promote violence and drug use. We are currently in the midst of an opioid crisis, which oddly enough has been ignored by legislators for years allowing drug companies to make billions of people. Gangs do nothing, but destroy family bonds, promote drug use, sell drugs, illegal

firearms and are the cause of a large amount of crime across the country. Why would we not want this provided to police so we can help ensure our children are safe at school to learn and prosper? How does allowing gangs to infiltrate schools and recruit children not raise concerns. We are not attempting to create a mass database of law abiding citizens, but individuals who will unfortunately be in the cross hairs of law enforcement for most of their adult life if we are not allowed to intervene. See we can provide help to this children and potentially get them into diversion programs where they find a better life.

Racial or other profiling”, differential treatment by a law enforcement officer based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, religion, gender, gender identity or sexual orientation in conducting a law enforcement action, whether intentional or evidenced by statistically-significant data showing disparate treatment; provided, however, that “racial or other profiling” shall not include the use of such characteristics, in combination with other factors, to apprehend a specific suspect based on a description that is individualized, timely and reliable.

So are we not allowed to use physical descriptions when looking for a criminal who just committed a crime? How are we supposed to describe said person? Should we discourage the public from using these characteristics as well. It seems as though you want people to be seen as people then stop describing those people you are trying to help by the color of their skin or their race.

Section 2. (a) All persons in the commonwealth shall have a right, including for purposes of sections 11H and 11I of chapter 12, against the use of force prohibited by this section. A violation of this section shall be a per se violation of said sections 11H and 11I of said chapter 12.

(b) A law enforcement officer shall not use physical force upon another person unless de-escalation 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 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.

(c) A law enforcement officer shall not use deadly physical force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to prevent imminent harm to a person and the amount of force used is proportional to the threat of imminent harm.

(d) A law enforcement officer shall not use a choke hold. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer’s body on or around a person’s neck in a manner that limits the person’s breathing or blood flow.

Chokeholds are not taught or used by officers exempt in instances of serious bodily harm or death. If we are in the midst of a struggle with a subject we need to be allowed to use any means necessary to save our lives and will use any means necessary. This needs to be amended to adjust for the appropriate application in necessary situations. We are not always able to de-escalate a situation no matter how hard we try to and trust me we try because the last thing we want to do is to get into a physical altercation with someone. When deadly force is being used there often

times is no time for de-escalation tactics for instance when we're confronted with a manic subject wielding a knife or in a mass shooting. Yes the totality of the circumstances comes into play, but we are charged with making life altering decisions in split seconds sometimes. You cannot handcuff is further by requiring more and more de-escalation because believe it or not the criminals will push these boundaries to the edge.

Section 2D. (a) A warrant that does not require a law enforcement officer to knock and announce their presence and purpose before forcibly entering a residence shall not be issued except by a judge and only if the affidavit supporting the request for the warrant establishes probable cause that if the law enforcement officer announces their presence their life or the lives of others will be endangered.

No knock warrants are issued by a clerk or judge after an extensive investigation. Maybe the blame should be placed on them and not us. These warrants are used in highly dangerous situations where there is the belief or chance of a resistance being met.

Please consider the damage being done to this great profession and how you plan on keeping my family and yours safe when there are no more officers to do the job because you litigated us out.

Respectfully,

Officer Brady P. Thomas
Abington Police Department

Dear Representative Sullivan,

My name is Scott Drinkwater and I live at 764 Randolph Street, Abington. 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.

Sincerely,

Scott A. Drinkwater

Dear Representative Sullivan,

As your constituent, I write to you today to express my strong opposition to the recently filed S.2800 and I ask that you vote NO when this bill is debated in the State Senate. This bill 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 this bill:

In Section 55, this bill authorizes "any person" to "intervene" if they believe an officer's use of force is excessive. This language will be exploited and used as a defense by anyone who is charged with assaulting a police officer. This language will result in more cops being hurt and killed.

In Section 56, this bill authorizes for treble damages if a police officer is found to have submitted a false pay record. This would make police officers the ONLY public employees subject to this punishment. The courts will have a field day in overturning this.

In Section 6, this bill the POSAC Committee is granted broad powers, including the power of subpoena, in active investigations- even when the original law enforcement agency has conducted it's own investigation. The current language sets the groundwork for unconstitutional violations of a police officer's 5th amendment rights against self-incrimination (see Carney vs Springfield) and constitutional protections against "double-jeopardy".

In Section 10, qualified immunity protections are removed and replaced with a "no reasonable defendant" qualifier. This removes important liability protections essential for the police officers we send out on patrol in our communities and who often deal with some of the most dangerous of circumstances with little or no back-up. Removing qualified immunity protections in this way will open officers up to personal liabilities so they cannot purchase a home, a car, obtain a credit card, or other things for the benefit of them and their families. Good luck with police recruitment.

Additionally, this bill re-writes sections of the 2018 Criminal Justice Reform Bill (see record expungement and corrections) as well as the Hands-Free law the legislature just adopted. Those bills were signed into law after the normal and appropriate legislative process of filing a bill, holding public hearings to accept testimony from citizens and thoughtful debate over a span of many months. It is inconceivable that the Massachusetts State Senate would attempt this "sleight of hand" to re-write those laws with this rushed bill that will be lightly debated (in the COVID-19 remote sessions).

As your constituent I ask that you vote NO on S.2800, for the reasons stated above, and others. ALSO, I ask that you respond to this e-mail to advise me which way you plan on voting on this bill.

Thank you,

Michael D. Malvesti
620 Adams Street Abington MA, 02351
mdmalvesti7@yahoo.com

Dear Representative Sullivan,

My name is Jared Traynor and I live at 185 Centre Ave in Abington. 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:

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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.

Sincerely,

Jared Traynor

Dear Ms Sullivan,

My name is Valerie Bartholomew and I live at 27 Street, Abington, MA. 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:

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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.

Sincerely,

Valerie Bartholomew

Hello,

As your constituent, I write to you today to express my strong opposition to the recent filed S.2800 and I ask that you vote NO when this bill is debated in the State senate. This bill 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 this bill:

In Section 55, this bill authorizes “any person” to “intervene” if they believe an officer’s use of force is excessive. This language will be exploited and used as a defense by anyone who is charged with assaulting a police officer. This language will result in more cops being hurt and killed. In section 56, this bill authorizes for treble damages if a police officer is found to have submitted a false pay record. This would make police officers the ONLY public employees subject to this punishment. The courts will have a field day in overturning this.

In section 6, this bill the POSAC Committee is granted broad powers, including the power of subpoena, in active investigations- even when the original law enforcement agency has conducted it’s own investigation. The current language sets the groundwork for unconstitutional violations of a police officer’s 5th amendment rights against self-incrimination (See Carney Vs Springfield) and constitutional protections against “double-jeopardy”.

In Section 10, qualified immunity protections are removed and replaced with a “no reasonable defendant” qualifier. This removes important liability protections essential for the police officers we send out on patrol in our communities and who often deal with some of the most dangerous of circumstances with little or no back-up. Removing qualified immunity protections in this way will open officers up to personal liabilities so they cannot purchase a home, a car, obtain a credit card, or other things for the benefit of them and their families. Good luck with police recruitment.

Additionally, this bill re-writes sections of the 2018 Criminal Justice Reform Bill (See record expungement and corrections) as well as the Hands- Free law the legislature just adopted. Those bills were signed into law after the normal and appropriate legislative process of filing a bill, holding public hearings to accept testimony from citizens and thoughtful debate over a span of

many months. It is inconceivable that the Massachusetts State Senate would attempt this “sleight of hand” to re-write those laws with this rushed bill that will be lightly debated (in the COVID-19 remote sessions).

As your constituent, I ask that you vote NO on S.2800, for the reasons stated above, and other.

ALSO, I ask that you respond to this e-mail to advise me which way you plan on voting on this bill.

Thank you

Jami Hajjar
14 Adley Drive
Abington MA 02351

Dear Representative Sullivan,

My name is Carly Malvesti and I live at 620 Adams Street in Abington. 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:

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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.

Sincerely,

Carly Elizabeth Malvesti

Concerned citizen, nurse, and wife of a hardworking, fair, and dedicated LEO

Dear Ms Sullivan

As your constituent, I write to you today to express my strong opposition to the recent filed S.2800 and I ask that you vote NO when this bill is debated in the State senate. This bill 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 this bill:

In Section 55, this bill authorizes “any person” to “intervene” if they believe an officer’s use of force is excessive. This language will be exploited and used as a defense by anyone who is charged with assaulting a police officer. This language will result in more cops being hurt and killed. In section 56, this bill authorizes for treble damages if a police officer is found to have submitted a false pay record. This would make police officers the ONLY public employees subject to this punishment. The courts will have a field day in overturning this.

In section 6, this bill the POSAC Committee is granted broad powers, including the power of subpoena, in active investigations- even when the original law enforcement agency has conducted it’s own investigation. The current language sets the groundwork for unconstitutional violations of a police officer’s 5th amendment rights against self-incrimination (See Carney Vs Springfield) and constitutional protections against “double-jeopardy”.

In Section 10, qualified immunity protections are removed and replaced with a “no reasonable defendant” qualifier. This removes important liability protections essential for the police officers we send out on patrol in our communities and who often deal with some of the most dangerous of circumstances with little or no back-up. Removing qualified immunity protections in this way will open officers up to personal liabilities so they cannot purchase a home, a car, obtain a credit card, or other things for the benefit of them and their families. Good luck with police recruitment.

Additionally, this bill re-writes sections of the 2018 Criminal Justice Reform Bill (See record expungement and corrections) as well as the Hands- Free law the legislature just adopted. Those bills were signed into law after the normal and appropriate legislative process of filing a bill, holding public hearings to accept testimony from citizens and thoughtful debate over a span of many months. It is inconceivable that the Massachusetts State Senate would attempt this “sleight of hand” to re-write those laws with this rushed bill that will be lightly debated (in the COVID-19 remote sessions).

As your constituent, I ask that you vote NO on S.2800, for the reasons stated above, and other.

ALSO, I ask that you respond to this e-mail to advise me which way you plan on voting on this bill.

Thank You
Diane Brady
571 Linwood St
Abington, Ma 02351

Dear Miss Sullivan,

My name is Timothy Brady and I live at 571 Linwood St. Abington. 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.

Sincerely,

Timothy Brady

Hi Rep Sullivan -

I am a constituent in Whitman and wanted to reach out regarding S2800, the draft legislation relating to police reforms in the State Senate, and a similar bill that is being drafted in the House.

By way of background, I am a veteran and long-time government civilian who spent many years overseas - often in places that one doesn't vacation. But, I always came home to Mass, and specifically Whitman. I have done so because I feel safe here. I bought my childhood home because this area is the safest I have ever lived in.

Aside from the people of the South Shore being community minded and good, hardworking folk, the police are part of the community and ensure that our quiet streets remain that way. I appreciate that big and small cities around the country are facing real problems with the police-community relationship. However, that is not the situation here. Outside activists, more often than not who are not from Mass, are driving a narrative that our police forces are out of control, dangerous, and not responsive to the community. That may be true in Chicago, but it is not true in Mass.

I urge you to not bow to the false narrative and vote "no" on the House's version of S2800 and/or the S2800 itself if it makes its way to the House. Our police are part of the local communities and clearly understand that their actions impact the lives of their children, parents, and neighbors. As such, communities keep their local police officers and departments in check. Whitman's town meeting is scheduled for later this month - trust me when I say that the people here ask hard questions of the police chief to justify why funds are needed and how those funds do/don't lead to "good policing."

I welcome further discussion on this matter. My email address is jenncounter@gmail.com and my cell number is 781.608.4458.

I appreciate your consideration.

Best,
Jennifer Counter
32 Indian Trail
Whitman, MA 02382

Dear Senator,

As your constituent, I write to you today to express my strong opposition to the recently filed S.2800 and I ask that you vote NO when this bill is debated in the State Senate. This bill 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 this bill:

In Section 55, this bill authorizes "any person" to "intervene" if they believe an officer's use of force is excessive. This language will be exploited and used as a defense by anyone who is charged with assaulting a police officer. This language will result in more cops being hurt and killed.

In Section 56, this bill authorizes for treble damages if a police officer is found to have submitted a false pay record. This would make police officers the ONLY public employees subject to this punishment. The courts will have a field day in overturning this.

In Section 6, this bill the POSAC Committee is granted broad powers, including the power of subpoena, in active investigations- even when the original law enforcement agency has conducted it's own investigation. The current language sets the groundwork for unconstitutional violations of a police officer's 5th amendment rights against self-incrimination (see Carney vs Springfield) and constitutional protections against "double-jeopardy".

In Section 10, qualified immunity protections are removed and replaced with a "no reasonable defendant" qualifier. This removes important liability protections essential for the police officers we send out on patrol in our communities and who often deal with some of the most dangerous of circumstances with little or no back-up. Removing qualified immunity protections in this way will open officers up to personal liabilities so they cannot purchase a home, a car, obtain a credit card, or other things for the benefit of them and their families. Good luck with police recruitment.

Additionally, this bill re-writes sections of the 2018 Criminal Justice Reform Bill (see record expungement and corrections) as well as the Hands-Free law the legislature just adopted. Those bills were signed into law after the normal and appropriate legislative process of filing a bill, holding public hearings to accept testimony from citizens and thoughtful debate over a span of many months. It is inconceivable that the Massachusetts State Senate would attempt this "sleight of hand" to re-write those laws with this rushed bill that will be lightly debated (in the COVID-19 remote sessions).

As your constituent I ask that you vote NO on S.2800, for the reasons stated above, and others. ALSO, I ask that you respond to this e-mail to advise me which way you plan on voting on this bill.

Thank you,

Kelly Halpin
159 Linwood St
khalpin29@gmail.com

Dear Representative Sullivan,

As your constituent, I write to you today to express my strong opposition to the recently filed S.2800 and I ask that you vote NO when this bill is debated in the State Senate. ALSO, I ask that

you respond to this e-mail to advise me which way you plan on voting on this bill. This bill is troubling in many ways and will make an already dangerous and difficult job even more so for the men and women in law enforcement who serve our communities every day with honor and courage. More importantly, it will directly impact the safety of our community. Below are just a few areas, among many others, that concern me and warrant your rejection of this bill:

In Section 55, this bill authorizes "any person" to "intervene" if they believe an officer's use of force is excessive. This language will be exploited and used as a defense by anyone who is charged with assaulting a police officer. This language will result in more police officers being injured or killed in the line of duty while trying to serve their cities, and most importantly, this language will work in direct opposition to the intent of the bill, which is to save lives. Allowing citizens to intervene in police interactions is a quick way to create more confusion and violence in already tense situations, and it will undoubtedly result in unnecessary harm to both police officers and citizens.

In Section 6 of this bill the POSAC Committee is granted broad powers, including the power of subpoena, in active investigations - even when the original law enforcement agency has conducted its own investigation. The current language sets the groundwork for unconstitutional violations of a police officer's 5th Amendment rights against self-incrimination (see Carney vs. Springfield) and Constitutional protections against "double-jeopardy."

In Section 10, qualified immunity protections are removed and replaced with a "no reasonable defendant" qualifier. This removes important liability protections currently offered to ALL government employees who serve the public. Furthermore, it shifts the burden of proof onto the public servant in a move that will make police officers the only American citizens who will be, by law, guilty until proven innocent. Our law enforcement officers who we send onto our streets every day to protect our communities at substantial costs to their own well-being will be unable to purchase a home, buy a car, or obtain credit cards or loans. If you are not aware, there is already a shortage of police officers in America. Many departments across the country, and here in Massachusetts, are understaffed due to the inability to hire new officers. The direct, personal attack on the lives and livelihood of police officers outlined in this bill will result in fewer qualified, educated, and well-intentioned police officers in our cities and towns – and ultimately the inability to ensure public safety in our communities.

Additionally, this bill re-writes sections of the 2018 Criminal Justice Reform Bill (see Record Expungement and Corrections), as well as the Hands-Free law the legislature just adopted. Those bills were signed into law after the normal and appropriate legislative process of filing a bill, holding public hearings to accept testimony from citizens and thoughtful debate over a span of many months. It is inconceivable that the Massachusetts State Senate would attempt this "sleight of hand" to re-write those laws with this rushed bill that will be lightly debated in the COVID-19 remote sessions.

As your constituent I ask that you vote NO on S.2800, for the reasons stated above, among many others. ALSO as previously stated, I ask that you respond to this e-mail to advise me which way you plan on voting on this bill.

Thank you,
Melissa Petta
54 Linden Street, Whitman MA 02382
Email: malp1234@gmail.com

Dear Ms. Sullivan - I am writing to you as a voter, neighbor (I live on VanBuren) & sister to 4 police officers. Please vote against ending qualifying immunity. We can not have police officers wanting to retire because we won't protect them while they're risking their lives to protect us.

This can not pass it will be the death of our life as we know it and our safety in this great community.

Please do not let this pass!

Sincerely,
Jeanie Barrett

Dear Representative Sullivan,

My name is Nancy Emery and I live at 10 Kendrick St Whitman Ma 02382. 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.

Sincerely,

Nancy Emery

Dear Representative,

My name is Peter Emery and I live at 10 Kendrick St. Whitman Ma 02382. 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.

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to treat the men and women in law enforcement with the respect and dignity they deserve.

Sincerely,

Peter Emery

Dear Representative Sullivan ,

I ask that you support amendments 114,116,126,134,129,and137 to Senate Bill S2800. The amendments deal with due process and fair representation on the board as well as uniform accreditation standards.

I support enhanced training and appropriate certification standards and policies that promote fair and unbiased treatment of all citizens, INCLUDING POLICE OFFICERS.

The original version of the bill undercuts collective bargaining rights and due process. These amendments are an attempt to improve the bill in these areas. They do not lessen the training protocols and standards or general accountability for law enforcement as originally proposed. Thank you for your time and consideration.

Respectfully,

*William Cormier
29 Orange st #2
Abington, Ma*

Dear Senator,

As your constituent, I write to you today to express my strong opposition to the recently filed S.2800 and I ask that you vote NO when this bill is debated in the State Senate. This bill 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 this bill:

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As your constituent I ask that you vote NO on S.2800, for the reasons stated above, and others. ALSO, I ask that you respond to this e-mail to advise me which way you plan on voting on this bill.

Thank you,

Martin E. Prendergast |

Dear Senator Brady and Representative Sullivan

My name is Eileen Needham and I live at 9 Marian Lane, East Bridgewater. 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:

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Immunity protects all public employees, as well as their municipalities, from frivolously unrealistic lawsuits.

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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.

Sincerely,

Eileen Needham

Hon. Alyson Sullivan ,

I am an active member of the Randolph Police Dept. and have been for the past 30 years. I am also living in East Bridgewater where you are my Senator. I am very concerned with the bill to reform Police standards. I understand that in this new climate, standards need to be looked at and reforms should be made, but to have 71 pages of changes without any public hearings and without any town or union input is unacceptable.

In the town of Randolph, we have had 0 deaths at the hands of a Police Officer in my entire career. To paint all towns and cities with the same brush is not fair. I am very concerned that not only putting myself and my fellow officers at more risk from the public then we have now, also allowing no protection from frivolous lawsuits for every move we make will make our jobs that much more difficult to do successfully. Though I am close to retirement, there may be a mass exodus of well qualified and experienced members of all Police Departments. It will be very difficult to find new members willing to join the Department. I have noticed a trend of less and less people applying and accepting jobs on the Police Depts. throughout the Commonwealth. When I was hired, there were in excess of 20,000 people taking the test, now, I learned that in the town of Randolph, there were 43 people from with in a town of 35,000 who were on the list. This trend will continue.

I would hope that you would spend time reading and understanding the bill and understand what the members of all Police Dept's have to go through for their cities and towns day in and day out. Thank you Steven Elman

Dear Representative Sullivan,

My name is Nicholas Pak and I live in East Bridgewater . I write to you to express my support for our many first responders who put their lives on the line for the Commonwealth every single day. As the House and Senate consider legislation revolving around public safety, and in particular police reform, 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 – legal safeguards that have been established over decades and refined by the some of the greatest legal minds our country has known. Due process should not be viewed as an arduous impediment, but favored as a bedrock principle of fundamental fairness, procedure and accountability. Qualified immunity is the baseline for all government officials and critical to the efficient and enthusiastic performance of their duties. Qualified immunity is not a complete shield against liability – egregious acts are afforded no protection under the qualified immunity doctrine. Further, qualified immunity is civil in nature and provides no protection in a criminal prosecution. The United States Supreme Court and the Supreme Judicial Court of Massachusetts through numerous cases have continued to uphold the value and necessity of qualified immunity. To remove or modify without deliberative thought and careful examination of consequence, both intended and unintended, is dangerous.

Due Process and Qualified Immunity are well settled in the law and sound public policy dictates that the Legislature not disturb these standards – certainly not in this bill so abruptly and certainly not without a vigorous debate both in the Legislature and in the court of public opinion.

We must remain focused on passing legislation that includes a standards and training system to certify officers, establish clear guidelines on the use of force by police across all Massachusetts departments, to include a duty to intervene, and put in place mechanisms for the promotion of diversity. This does not detract or reject other reforms, but rather prioritizes those that can be accomplished before the end of this legislative session on July 31st.

Please join me in demanding nothing less than sound, well-reasoned and forward-thinking legislation.

Thank you for your consideration.

NICHOLAS PAK
45 SACHEM ROCK AVE
EAST BRIDGEWATER

Nicholas.r.pak@gmail.com

781-534-0739

Dear Alyson M. Sullivan,

My name is Marisa Falvey and I live in Whitman, I write to you to express my support for our many first responders who put their lives on the line for the Commonwealth every single day. As the House and Senate consider legislation revolving around public safety, and in particular police reform, 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 – legal safeguards that have been established over decades and refined by the some of the greatest legal minds our country has known. Due process should not be viewed as an arduous impediment, but favored as a bedrock principle of fundamental fairness, procedure and accountability. Qualified immunity is the baseline for all government officials and critical to the efficient and enthusiastic performance of their duties. Qualified immunity is not a complete shield against liability – egregious acts are afforded no protection under the qualified immunity doctrine. Further, qualified immunity is civil in nature and provides no protection in a criminal prosecution. The United States Supreme Court and the Supreme Judicial Court of Massachusetts through numerous cases have continued to uphold the value and necessity of qualified immunity. To remove or modify without deliberative thought and careful examination of consequence, both intended and unintended, is dangerous.

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We must remain focused on passing legislation that includes a standards and training system to certify officers, establish clear guidelines on the use of force by police across all Massachusetts departments, to include a duty to intervene, and put in place mechanisms for the promotion of diversity. This does not detract or reject other reforms, but rather prioritizes those that can be accomplished before the end of this legislative session on July 31st.

Please join me in demanding nothing less than sound, well-reasoned and forward-thinking legislation.

Thank you for your consideration.

Marisa Falvey

436 Plymouth St, Whitman MA 02382

marisafalv@gmail.com

Dear State Representatives

The Massachusetts Senate has recently proposed a massive police reform bill that it intends to pass without a public hearing. This bill was largely authored by people who consistently oppose police services. As a constituent, I request that you take the following action before voting on any such bill:

1. READ THE BILL.
2. ASK HOW POLICE DEPARTMENTS IN YOUR DISTRICT ARE ACTUALLY PERFORMING; AND
3. AT A MINIMUM, HOLD A PUBLIC HEARING ON THE BILL.

THESE ARE VERY MINIMAL REQUESTS BEFORE PASSING SUCH MASSIVE LEGISLATION THAT HAS SUCH A HUGE IMPACT.

DO YOUR OWN RESEARCH BEFORE YOU VOTE! You have been presented with a 71-page Bill that:

- changes dozens of laws, creates and funds many new agencies and Commissions
- eliminates collective bargaining rights of police officers
- removes authority from Cities and Towns to control their own employees
- removes the rights of police to monitor gang activity in schools
- removes the due process rights of public safety officers
- exposes police officers and their families to personal liability even when acting in good faith
- will open the floodgates for frivolous lawsuits against Municipalities and increase the cost to taxpayers to defend those cases
- puts the lives of police officers in danger unnecessarily
- creates a police licensing board that is staffed by organizations who sue our communities and advocate for the elimination of police services

Why are you considering passing such sweeping changes without a public hearing - what happened to transparency in Government? What happened to the voice of the citizens?

DO NOT OVERLOOK THE SUCCESS OF MASSACHUSETTS POLICING

Don't believe the misinformation about the alleged need for emergency police reform here in Massachusetts – in reality, Massachusetts is a success story on Police Training and use of force results – even according to those groups advocating national police reform. Our educated police force, competitive wages and mandatory training have produced excellent results.

For example, Massachusetts is among the absolute best in the nation when it comes to police use of deadly force:

- 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.

- Massachusetts Cities have excellent records when it comes to deadly force – In Worcester, there have been ZERO deaths caused by police since 2013 (excluding a taser related incident which was ruled a drug overdose) – in fact, Worcester has an annual citizen complaint rate of only .0002% out of 140,000 calls for service. In Lowell, there has been only one police related death (justified) in that same time period.
- During this span, the police have successfully handled many millions of calls for help, often involving, volatile and violent individuals, without incident.
- Most Massachusetts Towns have had no law enforcement related deaths during the tracked time period.
- When anti-police groups present data of people killed by police, they include people like the Boston Marathon Bomber, and others who murdered police officers during incidents.

Before passing a bill, creating new state agencies and destroying the morale and success of our public safety officers – is it too much to ask that you first take a look at how police in Massachusetts are performing? Have you looked at your own constituencies – the Towns in your district to see what needs changing, and what is working?

WHAT DOES THE PROPOSED POLICE REFORM BILL DO?

The proposed massive Police Reform Bill IS NOT BASED ON MASSACHUSETTS performance history and NOT BASED ON MASSACHUSETTS DATA.

The proposed bill will destroy the morale of our police departments, will put our officers' safety at great risk, and will expose them and their families to personal liability, will generate thousands of frivolous lawsuits to be paid for with taxpayer money, and even has provisions to pay the lawyer's fees for people who sue our communities.

For example – the legislation:

- Creates and funds at least 6 new Agencies, Commissions or Committees
- Eliminates Civil Service Protection only for Law Enforcement Officers; (Sections 41-43)
- Prohibits School Department Personnel from Providing Information to Law Enforcement regarding gang activity and affiliation; (Section 49)
- Expands the rights of individuals convicted of multiple crimes to expunge records of those crimes
- Requires that a lengthy record (receipt) be generated related to virtually any interaction between a police officer and a member of the public; (Section 52)

- Creates - but does not fund – mandates upon municipalities to gather, track, organize and report data, as well as unfunded training mandates; (Section 52)
- Creates a Police Officer Standards and Accreditation Committee to govern the conduct of police and judge police officer conduct but – unlike every other professional licensing board – is made up of individuals nominated by groups which openly advocate against law enforcement. It would be similar to staffing the Board of Pharmacy with anti-vaccine advocates or staffing a medical board with lawyers who sue doctors. The Board of Plumbers is made up by a majority of plumbers. The Board of Accountancy is made up of by a majority of Accountants. Same goes for nurses, electricians, etc. Law Enforcement should be no different and the committee that can take away our careers should not be populated with nominees that include law firms who claim to have made millions suing cities and towns and their police departments (Lawyers for Civil Rights, Inc.) or the ACLU. (Section 6).
- This bill effectively eliminates collective bargaining rights for police officers – the employees that need it most given the difficulty of their job. This anti-labor, anti-employee bill essentially removes (only for police) the right to be disciplined only where there is just cause – a right enjoyed by virtually every other public employee in our state. (Section 6)
- This bill creates a cottage industry for lawyers and another unfunded mandate upon Cities and Towns by greatly expanding liability on municipalities and officers. Under this Bill, every time a Court grants a motion to suppress evidence - because of any technical violation of the Fourth Amendment for instance – a per se violation of the Massachusetts Civil Rights Act will be created. The proposed Bill even provides for attorney fees to prosecute these actions. (Section 9). Even officers acting in good faith will be liable.
- This bill purports to regulate the Use of Force by Law Enforcement Officers without any recognition that police officers often must make split second decisions, often under extreme stress. Good faith actions will result in lawsuits and can result in the loss of a career. Even if those actions were deemed appropriate by an internal or District Attorney’s review, the new committee can decide on their own to end a career. Nowhere in the bill is there acknowledgement that the reasonableness or necessity of a particular use of force must be judged from the perspective of a reasonable officer on the scene and not from the perspective afforded by 20/20 hindsight. (Section 55). It is easy to make decisions in the comfort of a lawyer’s office with the benefit of video, hindsight and knowledge of the actual outcome of an event. The law has recognized for years that hindsight judgment is unfair and not practical for the officer who may be faced with life or death situations in the heat of the moment.

These are only a few items of concern. Passing this bill without a public hearing, without considering how we are doing here in Massachusetts, without considering the impact of this massive legislation, without even a thought of how it will impact that thousands of police officers and their families, is not only negligent, but will have a residual negative impact that our state and our families cannot afford.

As your constituent, I request and expect that you will represent me, and that you will do your due diligence. Please read and understand the bill. Please research how your own district's police officers are actually doing. Please hold a hearing.

We intend to hold ourselves accountable, and we trust that you will do the same.

On a personal note, this deeply concerns me. If you take away Qualified Immunity and my collective bargaining rights, then how do I defend myself against false accusations and attacks when I am doing my job according to the law and my department policies? Where is my protection, because you will not have anyone willing to do this job, (at least qualified individuals), if you pass this bill? I have done this job for close to twenty years and now as a sergeant I am thinking of leaving, because I feel unwanted. I would challenge each lawmaker to take a moment and go for a ride along with your local law enforcement officer and see what they encounter during their shift, and then ask yourself if you are doing the right thing for the public and law enforcement. Please think about both sides before acting on this bill, all I am asking is for a fair reform bill that protects me and the citizens who we serve.

Sincerely,

Douglas Morgan
42 Morningside Drive
Rockland, Ma
NEPBA Local 34 President
Randolph Police Superior Officers Union
781-838-1889

I am writing in opposition to S. 2800 not only as a constituent, but, as a Police Officer. I have been a full time Officer for over 12 years. During that time I have received no legitimate complaints against my conduct. Now I find myself vilified and treated as if I am deserving of drastic changes to my working conditions. I do not consider myself an exceptional Officer. I am merely a typical example of the professional men and women that instinctively put the needs of others above our own, only to be targeted by politicians feeling a need to appease the mobs. These calls for change are more based on emotion and misunderstandings than they are based on fact. Law Enforcement here in the Commonwealth has always been of a better quality than many other states, please represent us as such and do not pass S. 2800. I can give specific issues with the bill if needed. Thank you.

Lawrence R. Clark Jr
132 Union Street
East Bridgewater, MA 02333
(774) 291-6516

Hello Ms. Sullivan, PLEASE do NOT vote to put through bill S.2800. Not only will it hurt GOOD police officers, which make up the majority of police officers and will affect Fire fighters and teachers!!

Best,

Susan Bunker

Hi Alyson,

I'm writing in regards to your Facebook post on the MA senate passing a police reform bill. As a citizen of the Commonwealth, I'm very concerned with any legislative action that would limit our law enforcement officers ability to protect themselves and the public. The measures discussed in the bill put our officers and all law abiding citizens at greater risk. Criminals who resist arrest should not be catered to at the expense of the safety of the rest of us who abide by the law and are respectful of the police. In addition, the notion that our law enforcement officers are inherently racist and that measures need to be put into place to specifically protect black and other minority citizens is insulting.

Everyone agrees that what happened to George Floyd was wrong and his family deserves justice. But we also remember what happened to Officer Michael Chesna, and we know the dangers that exist for our officers if they are not able to use every measure available to control suspects who will not comply. We also know that the national organization leading the charge for police reform - BLM - is a radical political organization steeped in Marxism and anti Semitism. It's an organization that has regularly marched the streets demanding dead cops, has had a supporter in Dallas carry out a massacre on their officers, and is leading the mayhem and rioting we are seeing across the country. No one should cater to their demands.

Thank you for bringing this issue to our attention.

Gregg Occhipinti

I am a resident of Whitman , a nurse, mom, and and Republican. I am writing to implore you to vote no on 2800. Thank you. Lynda Connell RN. 3 Patriot lane Whitman MA

Dear Representative Alyson Sullivan

My name is Daniel Francis and I live at 25 East Battery Street Abington, MA. 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.

Sincerely,

Daniel Francis

Representative Sullivan,

My name is Nicholas Smith and I live at 3 Helen Way in East Bridgewater. I grew up in Abington and played sports/went to school with your brother Joe.

I am writing to ask that you please do not accept the awful piece of legislation that your colleagues in the senate passed this morning. I am a Sergeant with the Hingham Police Department, and I am very concerned of the consequences that are going to come from this bill. I already see hesitation in officers as it is when they act, due to fear of being second guessed and Monday morning quarterbacked. This legislation is going to cause officers to get hurt and it will absolutely make policing a purely reactive profession.

Reform is not something that police officers are afraid of. We welcome proper change, but what is happening here is we are getting our legs cut out from under us and we haven't been represented in discussions. I am not opposed to a police certification process. What I am opposed to is not having police represented on the board that oversees police certification/suspensions/decertification.

I am also deeply concerned about the loss of qualified immunity. It seems like the state senate is openly trying to set up frivolous lawsuits on police. The loss of qualified immunity will result in policing becoming reactive rather than proactive.

The fact that the senate purposely did not include language allowing officers to use choke holds if their life is in jeopardy, is incredibly disturbing. Police in Massachusetts don't use chokeholds. I've been in law enforcement for 15 years and I've never seen a chokehold used, but

if we are fighting for our lives, there are no rules.

Massachusetts has the most highly educated officers in the country, thanks to the Quinn Bill. I firmly believe that is why we do not see the use of force/racial issues that are elsewhere throughout the country. The fact that the senate used a murder that happened 1400 miles away to come after police in this state is pathetic and disheartening.

I ask that you please use your influence to fight for the rights of Police Officers, which will in turn enhance the safety of the entire commonwealth.

Thank you for your time and service,
Nick Smith

Dear member of the house,

I respectfully ask that you Carefully examine and consider one but not all aspects of this bill. In its entirety, this bill is dangerous to the public. It allows the Small percentage of criminals to become increasingly Comfortable with furthering crime as police will have to question all actions with fear of lawsuits, placing police at a increased risk for their safety, lives, and families well being. If your job was to curb criminal acts however be placed at a great risk for a lawsuit, by a stranger to be able to possibly take away your livelihood that you and your family have worked hard for, would you? Furthermore, it's very disappointing to see the lack of support for officers who place their lives on the line, each and every day. If this bill passes, many will shy away from becoming officers, many will retire, crimes will increase. Who will protect us then? Please consider no chokeholds but qualified immunity should continue to exist.

Thank you,
Sonia Pereira
Sonia0090@aol.com

Dear Representative Sullivan,

My name is Paul Arnstein and I live at 5 Wild Turkey Ln. in Whitman. 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.

Furthermore, as a Lieutenant with the UMass Boston Police Department I fear that this bill will force Police Officers out of the profession all together. Those that can retire will, and those that just began will reconsider, leaving a vacuum of departments that are understaffed and now operating without support from the communities they serve. If this happens the trickle down effect will be dramatic. Proactive policing will take a back seat to strictly reactive policing, placing both the communities and the officers in harms way at a far greater rate. "Quality of Life" crimes such as disorderly conduct, loitering, graffiti, public drinking etc. will just continue to rise as departments struggle to properly staff each shift day to day. These are just a few of the concerns that I can think of, but I'm sure it will be far worse.

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.2800 so as to treat the men and women in law enforcement with the respect and dignity they deserve.

Sincerely,

Paul Arnstein

Hello,

I wanted to touch base on the recent senate bill that was passed and is now into the house regarding police reform. I would like you to consider voting No on the version of this bill that is currently being presented.

This bill was passed with no input from the very persons it seeks to manage...the police departments.

In my opinion this bill was a rush to condemn the actions of a large group of public servants who for the most part perform their high risk jobs with the utmost professionalism. The actions of one recent "bad apple " should not condemn an entire group or hard working men and women in blue.

Surely there are many more pressing issues that are better served to be discussed that are not reactionary to a recent singular event that has gained national attention for all the wrong reasons.

There may be changes needed to some of the powers and procedures but the senate and house are not qualified to make those decisions as they do not have the training and experience that comes with the job to make changes.

Thank you
Dan Sheedy

Dear Representative Sullivan,

My name is Carly Malvesti and I live at 620 Adams Street in Abington. I write to you tonight as a concerned citizen and the wife of a dedicated and hardworking law enforcement officer. I am asking for your support in making sure that Senate Bill S2800 does NOT pass. I am asking that you vote NO!

While this bill aims to solve some of the troubling issues within law enforcement throughout the country, it was thrown together with extreme haste and received little to no input from Massachusetts' law enforcement officers. It also failed to include any input from minority law enforcement officers and those who attempted to reach out and have their voices heard were silenced and ignored. The bill was pushed through the senate without a public hearing, leaving the concerned voices of law enforcement, their loved ones, and residents of the Commonwealth unheard and powerless. This bill takes a profession that requires experience and knowledge and makes sweeping changes that will negatively affect all law enforcement officers in the Commonwealth.

The calls for increased training in de-escalation tactics, mental health, and racial justice are warranted and most, if not all officers, agree that more education and knowledge help them to do their jobs effectively. Massachusetts is currently ranked 48th out of 50 on amount spent on police training. This is one of the few positive parts of the bill. Our good officers are open to change and reform but are asking for a seat at the table when these discussions are taking place.

Senate Bill S2800, as it stands, is a danger to our law enforcement officers and will significantly affect their ability to do their job effectively. The calls to end Qualified Immunity are concerning for our law enforcement officers and their families, as well as for all public municipal workers affected by this bill. In doing my own research and speaking with those whose understanding of law is far greater than I, I have come to the understanding that Qualified Immunity protects a government official from lawsuits alleging that the official violated a plaintiff's rights, only allowing suits where officials violated a "clearly established" statutory or constitutional right. As it stands, Qualified Immunity does not aim to protect officers like Derek Chauvin or those who act egregiously. It is to protect law enforcement officers and other public workers (firefighters, nurses, teachers, DPW workers, etc.) from frivolous lawsuits that can destroy their livelihoods and the lives of their families. Removal of Qualified Immunity will surely affect the decision making of officers, as they will now fear about the legal consequences of every choice they make. Removal of Qualified Immunity will unfortunately lead to more officers being injured or killed in the line of duty.

As I write to you tonight, it is with a heavy heart, as I remember my husband's late co-worker Sgt. Michael Chesna. Tomorrow, July 15th, is the two-year anniversary of his death while on duty in Weymouth, Massachusetts. Sgt. Chesna was responding to a call for an erratic operator

when he was attacked by an "unarmed" man, who then shot him with his own service weapon. Two years ago this week, I attended the wake and funeral of a dedicated and hardworking law enforcement officer and military veteran. I will never forget the sound of his shrieking widow as she lay over his casket or the end of watch call at the gravesite. I sincerely hope that I never have to attend the funeral of another law enforcement officer, but I fear that if S2800 passes, it will likely happen again.

Representative Sullivan, I ask that you please vote no on S2800. This bill is an insult to all of the hardworking, dedicated, and selfless officers that work to protect Massachusetts. This bill is dangerous for those who risk their lives to protect the residents of this state every single day. Please vote no in support of our officers.

Sincerely,

Carly E. Malvesti

Representatives,

My name is Richard Vitale and I have been a police officer for nearly 30 years, half of which I have been a trainer in force related issues including, firearms, defensive tactics, TASER and use of force. I am asking you to take a moment and consider this legislation and ask, have we done our due diligence or are we making an emotional decision.

While there are many areas of concern that need our attention to ensure racial inequality and abuse of power are not tolerated in our society the focus is on law enforcement. This bill contains many positive aspects including the adoption of POST strategies and uniformity of training as well as oversight and development committees designed to broaden training and understanding of these issues. However, many aspects of the bill appear to have been put together without input from law enforcement professionals and without regard to the stresses that are inherent to police work and the decision making process.

The implementation of the POSAC as listed in this bill has several concerns. While we are looking to address the abuse of power it appears that this committee has absolute power to permanently revoke certification with no avenue to an independent appeal process. This is like the judicial system doing away with the appellate section and the appeal process being heard by the Judge that decided the conviction. As a legislator, I am sure you understand the absolute need for the checks and balance system that our government has been utilizing since its inception. This section eliminates the due process as it does not allow for an independent appeal process.

The section which addresses "Qualified Immunity" is of the utmost concern when it comes to the decision making process during times of extreme stress. The current concept of qualified immunity supplies officers with the confidence that decisions made in good faith will be supported. Not unlike medical malpractice insurance allows a doctor to make life and death decisions instantly knowing that if they are acting in good faith they have an umbrella of personal liability protection. The current concept has an avenue for damages through the municipality or overseeing entity and also holds the individual officer accountable for actions involving gross negligence or violations of the law. This proposed language is extremely vague

stating, "...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". The current qualified immunity statutes cover these areas and are more clearly developed. This language appears to have been worded in a particularly vague manner and included in the bill as a pacifying section instead of a thoughtful planned attempt at crafting logical and practical legislation.

Please take the time to consider this important legislation and to objectively look at the sections so that you may make an informed and logical decision. Reach out to those who perform these functions and ask if these are viable solutions or are they the result of an emotional outreach by the legislature during this time of civil unrest.

Take the time that the Senate refused to take and do your research so that you can make an informed decision. You should seek clarity where it is needed and input from stakeholders. You have an obligation to the people of Massachusetts to make objective decisions and to put forward bills developed by logic and debate not by an emotional response.

Thank you,
Richard Vitale
Bedford MA

Dear Representative Sullivan,

My name is Matthew Rodman and I live at 80 Warren Avenue, Whitman. 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.

Sincerely,

Matthew Rodman

Patrolman Randolph Police Department

Ma'am, I am a veteran and police officer. I have literally dedicated my life to serving my community and country. You know in your heart this bill, as currently written, is not the right right way to address the issues that plague our Commonwealth. I ask you if this bill reaches your desk, to reject it without hesitation. I will gladly sit with you and any of your colleagues willing to have a real discussion. We will talk about the right way to make change and progress and continue the proud traditions of Law Enforcement, rather than destroy my it's foundations. Thank you for your time.

Governor Baker approved a Police Reform Bill (PRB) consisting of 11 pages. The Massachusetts State passed a PRB that had an additional 60 PAGES. For legislation of this magnitude, we are OUTRAGED, that this was not presented to the voters of MA. This story has been on the news and we are not the only ones who are upset with what has happened. As registered voters, we are asking you to NOT pass this bill as written. One example is the Police Officer Standards and Accreditation Committee. This board should be made up of individuals who are Law Enforcement. I am not aware of any licensing boards that are not made up of professionals in their respective fields. i.e, Real Estate, Medical, Teachers etc.

As stated above, please to not accept this bill as written.

Nancy and Joe Petras
10 Dorset Lane
Plymouth MA
nancypetras2@gmail.com

Good Morning,

I am a Independent Plymouth voter. I am watching to see how all of you vote on bill S.2800. I saw how the Senate voted (AT 4 IN THE MORNING)... very transparent. I will be letting every person I know about this bill and again we will see how the rest of you vote.

This bill is targeting the people who protect us, Police, Firefighters and Nurses. We can all see what's happening with this new movement and if our Congress is going to be scared and/or bought off by this group we will remember come voting time.

Keep your own family in mind when voting. You know what's right, support our public servants. Don't remove from them what you sit and enjoy, "Qualified Immunity".

The people who pay the taxes are waking up and we are angry and watching.

Vote with your conscience not your wallet.

Cindy Reed

Please don't remove Qualified Immunity! Police will hesitate, firman will hesitate and nurses will hesitate! Nothing good will come of this. Thank you

Brian Johnson (Ret)
Duxbury PD

Good afternoon,

I was saddened to wake up yesterday morning and be kicked in the throat by the thought of the MA state senate voting to end qualified immunity for cops, overnight nonetheless- this is cowardly- the MA Senate has betrayed MA law enforcement, and good policing. I can support the core principles contained in the legislation, but am saddened by the rest. How reckless?To hold a public hearing process and not inviting all stakeholders to the discussion is an attack on public employees and their rights to protection. Every single one of you owes LEO families an explanation. My husband, a 14 year veteran with the Waltham Police Department is passionate about keeping our state, and streets clean. His biggest passion is getting drugs off our streets. He risks his life daily to go into the homes of dangerous criminals who are selling drugs, in order to keep our streets safer. Why would he continue to do this if this law is passed? It's maddening that people think this acceptable. He's worked his tail off for this city/state for 14 long years. That's 14 Christmas', 14 Easters, 14 Mother's Days, 14 Birthday, countless, missed holidays with his family, not even knowing if that would be the last. When my daughter was 5 weeks old he came home, and told me he had to shower before he held her because he had urine and spit on him, with this bill, it's possible that could happen, and he would have to shake it off and walk away. Before you vote, please please please consider what this will do to our state. Firemen and women, nurses and ETM's will have to make decisions and choices based on their livelihood and their family, not on what they've known to do, first hand for years. THIS IS BAD, and it's SCARY. It's scary for families, but it's more scary for civilians who will not receive help and who will not feel safe. It's scary for my family; we have a home, and belongings, that could all be taken away from us in a lawsuit. I have a child, who has a father who has put his life on the line for 14 years, in a state that has always protected him, to build a life to make sure her future

is the best it can be. Be like the commendable 7 souls who voted NO, even if it means going against your own party. Be BRAVE, stand up, DO WHAT'S RIGHT. Don't vote because you're scared, because you're bowing down. Massachusetts has always stood out, always been a state to be proud of, now I'm sickened. This is no longer about race, and what's going on around our country. This will give dangerous criminals an open door. It's about keeping our state and its residents safe. Let the men and women who have dedicated years of hard work to continue to do what they love, respectfully, and not live in fear. This will do nothing but divide out State faster and further. The chaos that this bill will bring is unfathomable. I.AM.TERRIFIED.

Be well,

Nicole Cadman

Dear House Members,

My name is Jill Cimildoro and I live at 36 Pleasant Garden Rd, Canton MA. As your constituent, and a wife of a MA LEO, I ask that you support amendments 114,116,126,134,129, and 137 to Senate Bill S.2800. The amendments deal with due process and fair representation on the board as well as uniform accreditation standards.

I support enhanced training and appropriate certification standards and policies that promote fair and unbiased treatment of all citizens, INCLUDING POLICE OFFICERS.

The original version of the bill undercuts collective bargaining rights and due process. These amendments are an attempt to improve the bill in these areas. They do not lessen the training protocols and standards or general accountability for law enforcement as originally proposed. I ask you to not bow down to these BLM radicals. You took an oath and it includes morality and justice. Enough is enough.

Thank you for your time and consideration.

Respectfully,

Jill Cimildoro

Hi I am emailing you regarding
Bill S.2800 <<https://malegislature.gov/Bills/191/S2800>>

As it is currently written, this bill puts ALL public servants (police officers, firefighters, teachers, etc) in an unfair and vulnerable position that will tug on their moral compass and compromise the integrity and ability to perform their jobs as they currently do.

I am disappointed in the Senate, but now it's on the House to do the right thing. Please stop this Bill.

Thank you
Beth and Yashin Cerritos
Whitman, Ma.

I am writing to request your assistance with the S.2800 Act to Reform Police Standards. I am a Worcester Police Officer and 15 year veteran of the United States Air Force. Since I was 18 years old, I made a decision to put on a uniform and serve my country. After I served my country, again I put on a uniform in order to serve my community. As a country we are facing unprecedented times in light of recent events, specifically in Minneapolis that has sparked controversy across the entire world. We are being fed a misleading national narrative by news media outlets across the country about this idea of “systematic racism” that seems to only exist within law enforcement agencies. I am not denying the fact that racism doesn’t exist nor that it is acceptable. What we must examine in the Commonwealth of Massachusetts is (1) does systematic racism exist, and (2) are the police within the Commonwealth engaged in it? I have heard this term being thrown around during the Senate hearings for this bill, but what I did not hear is one example or fact laid on the table from this state. Although what happened in Minneapolis is a tragedy, the good men and women who protect and serve the communities within the Commonwealth of Massachusetts should not be punished because of it. Massachusetts police and training standards are already far above that of the rest of the country, which is why we don’t gain national attention. The police reforms sweeping the nation is what Massachusetts has had in place for years. Anything further is simply dismantling the police.

The Senate Bill S.2800 is a toxic bill that effectively ties the hands of police officers across the state, which will result in an unjustified negative impact on the very communities we serve and protect. If this Bill passes, GOOD police officers will retire, GOOD police officers will walk off the job, GOOD police candidates will not take this job and we will be left with the very people this Bill is trying to prevent because there will be no choice but to hire anyone willing to work. This Bill was hastily thrown together without even consulting the community and aims to remove qualified immunity and Due Process from police officers who may make a mistake while acting in Good Faith. The Sixth Amendment to the Constitution of the United States grants all people the right to be judged by a jury of their peers. Bill S.2800 calls for police to be judged by a committee who have no experience in policing. If you needed emergency heart surgery, would you want it performed by a doctor who refuses and lets you die because he knows if he makes a mistake he will lose his house, retirement, savings, livelihood, or the doctor who knows even if he makes a mistake he will be covered and tries his hardest to save your life? Well the same holds true for police, why would we want to arrest any criminals when we know at any moment we can lose everything because of a split-second decision? Bill S.2800 is completely erasing United States Supreme Court case law such as *Tennessee v. Garner* and *Graham v. Connor*. Both cases are surrounding use of force by police and state that force shall be justified based on what a reasonable officer would do. How is a person that has never been a police officer, never made a split-second decision, never put their life on the line for another human being, supposed to know what a reasonable officer would do?

I have never heard of an unarmed person in the Commonwealth of Massachusetts being killed by police, but when I read this reform bill the names **Michael Chesna**, **Sean Gannon**, and **Ronald Tarentino** come to mind. These are all police officers in Massachusetts that were shot and killed by violent criminals. If this Bill passes not only will the list of fallen police officers in the Commonwealth grow, but so will the list of citizens that die at the hands of violent

criminals. If we look at the number of murders across the nation and more specifically the Commonwealth of Massachusetts over the last month, they are up tenfold. The reason for this is because of Reform Bills like S.2800 that have handcuffed police. Police officers cannot and should not do anything other than the bare minimum because of the unnecessary dangers this Bill places them in. All of these Bills have been put together without consulting the community, specifically the minority community. Recently in New York City a Bill was passed that removed 1 Billion dollars from the budget, reduced the police force by 1,400 officers, canceled a police academy of 1,000 officers, and dismantled their Anti-Crime Unit (a unit designed to stop violent crimes and gun violence). All of this was done without consulting the community. Approximately, two weeks after getting rid of the Anti-Crime Unit murders and gun violence in the City is up 45% in just a matter of days. Leaders of the Black Community are now calling for Politicians to bring back the Anti-Crime Unit and stating they never asked for them to be dismantled to begin with. We have already had over 10 murders across the Commonwealth in the last two weeks so let's stop this before it's too late.

We as police are not resistant to change and are open to make things safer for the communities we protect, but let's do it in a way that protects both the citizens and police in the Commonwealth. I am urging you to delay this Bill until we can work together as an entire community to come up with a plan that protects us all. We need to consult our communities and ask for their opinions, we need to consult our police and ask for their opinions, and most importantly we need to come up with a Bill that is reasonable for all. Please delay Bill S.2800 before crime in the Commonwealth of Massachusetts spirals out of control and cannot be stopped.

Please feel free to reach out to me and discuss this matter further. Again, I thank you for time, dedication, and commitment to resolve the challenges we are facing in this extraordinary time.

Respectfully,

Stephen Germain
Worcester Police Department
(508) 612-9756
Sg07248@gmail.com

I do not support this bill and have a lot of concern about it. First why so quick with no public forums? Also why was the vote done at 4AM. Something is not right here. Just want to let my elected representatives know I am a concerned voter and if you support this bill I will not support you.

Dawn Kelly
East Bridgewater

Dear Representative,

While I understand the events that have occurred in different parts of the nation are disgraceful, categorizing all law enforcement officers as the problem is not the solution. Frankly, it is a lazy way to deal with a larger issue. I cannot help but wonder why Massachusetts is never in the spotlight for these tragedies. I know it is due to the fact that the training in Massachusetts is significantly superior than those in most of the other states. In Massachusetts you have Officer's that attend a 26 week academy. Academies in other parts of the country can be only 14 weeks.

Does racism play a role in law enforcement? You bet it does, but I am here to tell you that it is not with the patrol officer. It is with the Massachusetts General Law. Changing the minimum mandatory sentencing or statues is difficult. So it is certainly easier to blame it on the cop who gets called to the scene of a crime, makes an arrest, files the appropriate charges then hands it off to the court house. A police department receives a report of a suspicious person. The officer is dispatched and responds to find a minority person. The officer has an interaction with this person and clears it out as unfounded. Now people hear about this and automatically blame the officer accusing him of being a racist. Is the cop a racist, or was he doing his job? What if the officer never responded, do you think the reporting party would have stopped calling?

You see, the officer is not racist, society is. The law is. The patrol officer is not. Yet the patrol officer is the easiest target to blame. There is always room for additional training for officers. I am not naive to the fact that not every police officer serves with integrity. But to take away basic protections and rights for the officers is absurd. Officers are willing to sacrifice their lives, but now they are being asked to sacrifice their family's wellbeing, all in the name of political pressure?

If you take away qualified immunity, you know what you are going to get? Less qualified police officers. Police departments nationwide are already scraping the bottom of the barrel to hire because the benefits of the job don't outweigh the risk. When good, honest officers walk off the job because they are not willing to risk their family's livelihood, you are only going to get less qualified people to do the job. Does that sound like the solution?

How about putting money back into the police departments for training. Police Officers have become social workers, marriage counselors, psychologists, teachers, parents and the list goes on. You will not find a police officer in the commonwealth who would be upset about having social workers respond to non-police related calls instead of them. But leave the police officer's protection with qualified immunity alone. The police officers rely on qualified immunity for the same reasons clerk magistrates, prosecutors and judges do; mistakes happen. Not due to maliciousness but due to the facts at hand. I strongly urge you to consider your position and ask yourself, if the majority of good and honest police officers walk off the job, who will you be left with?

This in combination with the portion of the bill encouraging private citizens to interfere in police business if they feel it is excessive is reckless. Have you ever been in a fight? If you have, then you know it never looks good. Ever. Now you are giving private citizens who have no knowledge of the use of force continuum officers abide by and courts rule on, the authority to assist the arrestee? You want officers to accept this? How do you think this will end? This is going to get people hurt and or killed. We ask too much of our officers and frankly, I could not

blame them for wanting to walk away from their profession and show these extremists and reactionaries just how lawless society will be. I will again reiterate, if this passes, we will become a lawless society. Maybe that is what some people want, I do not. I do not want it for my young family, and I know the silent majority does not.

Many politicians believe if they do not support this, it will be political suicide. I am here to tell you the silent majority is disgusted by the events that have transpired since the Minneapolis tragedy. If you do support this, this will be political suicide. Once lawlessness takes over, people will remember who supported these bills and it will affect their voting. I urge you to consult with experts in this matter, and not just give into political pressure.

Respectfully,

John Annunziata

Ms. Sullivan,
I am sharing the email I have sent to Speaker DeLeo.

Mr. Speaker,

I am begging you to BE EVER SO THOUGHTFUL as you lead the house in a debate about the Police Reform Bill the Senate, I believe foolishly, passed in its current form. **AND...I might add....STUCK IT TO FIREFIGHTERS AND NURSES by taking away their Qualified Immunity! OUR NURSES...?? REALLY...?? THE NURSES WHO SELFLESSLY MANNED HOSPITAL EMERGENCY ROOMS, ICUs and COVID FLOORS during the COVID Pandemic.?? AND UNDER THE GUISE OF A POLICE REFORM BILL?**

THIS IS A CLEAR MESSAGE THAT OUR ELECTED OFFICIALS TRULY HATE THEIR CONSTITUENTS!

Then why not take away Qualified Immunity from ALL who hold public office....senators, representatives, governors, mayors....?

One of the main reasons our country is unique and free is that at the very base of our freedoms is our Law and Order. **IF WE LOSE OUR POLICE, WHICH WE WILL IF THIS BILL PASSES - POLICE OFFICERS WILL WALK OFF OF THE JOB** (many have verbalized they will and many already have left). **WE WILL HAVE NO LAW AND ORDER....WE WILL LIVE UNDER MOB RULE** (criminals will be empowered)....**WE WILL NOT HAVE A STATE or COUNTRY....**

IS THIS WHAT YOU WANT FOR MASSACHUSETTS? IS THIS WHAT YOU WANT FOR OUR COUNTRY?

As I expressed to all Senate members before their final imposition of their overwhelming support of **LAWLESSNESS** onto the hard working, tax paying, law abiding Massachusetts citizens, my main concerns are as follows:

****DO NOT TAKE AWAY QUALIFIED IMMUNITY FROM POLICE, FIREFIGHTERS AND NURSES!** DOING SO WILL DIMINISH THEIR ABILITY TO DO THEIR JOB TO THE BEST OF THEIR ABILITY.

****THIS BILL SUPPORTS ABOLISHING THE POLICE!** IT WILL FORCE POLICE OFFICERS TO LEAVE; YOUNG PEOPLE WILL BE DETERRED FROM SEEKING THIS PROFESSION.

****CRIMINALS WILL BE EMPOWERED!** THE PUBLIC WILL NOT BE SAFE! (especially the most vulnerable in low income communities)

****WE NEED A PUBLIC HEARING!** THERE ARE MANY STAKEHOLDERS WHO HAVE NOT BEEN INVOLVED IN THIS PROCESS!

Supporting this Bill IS A STATEMENT IN SUPPORT OF LAWLESSNESS IN MASS AND IN THE UNITED STATES. Supporting this BILL TELLS THE hard working, tax paying, law abiding Massachusetts citizens OUR ELECTED OFFICIALS DO NOT CARE ABOUT US/OUR SAFETY AND SECURITY....SAFETY..Hmmm....Isn't this ONE REASON WHY WE PAY TAXES??

WE WILL NOT HAVE A STATE OR COUNTRY UNLESS WE HAVE LAW AND ORDER.

I AM BEGGING YOU....PLEASE DO NOT PASS THIS BILL....

EXTREMELY CONCERNED,
Massachusetts Voter

Good afternoon, I would like to let you know that I am against the above bill and would like you to vote against it. Our Police, fire, EMTs and everyone else affected by it deserve more. They put their lives on the line every day and should not have to worry about being sued trying to do the right thing. I am asking you to vote against this, this is nothing but political BS put in place by the liberal mindset of this state. We need conservative lawmakers who know how hard our police etc work for the people of MA.

Thank you, Lynne Brown
41 Morton St.
Abington, MA 02351

Good afternoon,

I am writing this email to you in regards to the new bill that would get rid of protection against law suits for civil service workers. I am currently an EMT, I work closely with police officers as well as the fire department. This bill is a huge mistake. Not only are people going to be afraid to

do their job, to put it bluntly, people are going to die. That will be at the hands of politicians voting to pass this bill. This bill is a band aid. I can tell you from first hand experience a lot of civil service workers are going to leave their jobs, putting a lot of lives at risk that are already being put at risk because of this bill. We need a permanent solution that will help, this is not that. I beg you to reconsider this bill in place of an actual solution. I hope this gets through in time. I hope you will think about the big picture and the devastating effects this will have on our communities.

Thank you,
Erin Bussey

Good afternoon Ms. Sullivan,

I am writing you today asking you to please not vote for this bill.

This will only put our officers lives in more danger and now they can be sued personally for anything and everything.

There are over 800,000 officers in this country who proudly serve everyday to keep us safe, yet they are being judged on the actions of a few.

Not long ago they were being hailed as heroes for being on the front lines and now because of the radicals who have waged war on them and have left them to fend for themselves.

They are not even been given the chance to be on the board but rather have people who know nothing of what they face everyday.

They should go on a ride along some Friday or Saturday night to see what they deal with daily.

I respectfully ask you to stand up and do the right thing.

We families see our loved ones leaving for their shift and pray they come home safe from the bad guys, now we have to worry about their future and the future of every good citizen from those who should be standing with them.

Respectfully
Diane Bourisk

Dear Alyson,

As you know my husband and I live in Abington, my husband is an Abington Police Officer. This bill would directly effect us and if it were to pass as is, it would cause us to leave the state.

I write to you as the House takes up S2800, 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, today. The following amendments are incredibly important to me and my friends and family, many of whom have also written to you. I hope that you will join in adopting the following amendments:

- (1) Amendment 26: Revocation or Non-Renewal shall be by 2/3s vote (we should be advocating that this be changed to a 3/4 vote, and it is our understanding that Senator Tarr will be doing so)
- (2) Amendment 48: State Police Colonel
- (3) Amendment 77: Discipline Changes for State Police
- (4) Amendment 114: Representation on POSAC
- (5) Amendment 116: Due Process (strike out "within the appointing authority or the committee" so that our current rights to appeal including arbitration stays in place)
- (6) Amendment 126: Changing "a preponderance of the" to "clear and convincing"
- (7) Amendment 129: Definition of Accreditation
- (8) Amendments 74 and 137: Special Commission to Study Qualified Immunity

This bill would cause a mass exodus of good police officers in our state to relocate to a state that supports them, cause those officers nearing retirement to retire early and cause other officers to leave for private security jobs. The state of Massachusetts would no longer be a safe place for many to raise their families.

Thank you for your consideration. I hope we can count on you to continue to support the law enforcement officers of Massachusetts.

Jessica Gillan
Abington, Ma

To who it may concern,

My name is Alix, I am a student at a Boston university. I am studying to be a nurse. I have grown up with police in my family, police as friends, and have even found many I find rude and offensive.

I still find it unacceptable to reform the police as may happen with the bill that is coming into the house. I REJECT DISARMING POLICE OFFICERS! Police officers are some of the first responders on scene to ensure safety to the greater public, they cannot do this is illegal firearms are being used by people with bad intents, and they cannot do this even with good people who have firearms that may have a bad day and decide to go postal. DO NOT TAKE AWAY THE SAFETY MECHANISMS IN PLACE FOR POLICE TO SAFELY DO THEIR JOB AND RETURN HOME AT THE END OF THEIR DAY. I EXTREMELY OPPOSE THIS BILL!

I hear the arguments of friends and acquaintances of mine. They say "police being killed is the price of racism ending".

Reread that until you see the lack of humanity occurring in our world right now.

Reforming the police will not only remove a safety mechanism for police officers, but it will implore those who were waiting for this moment to strike. More men and women in blue will have their lives at risk of this bill is passed.

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,
Tim O'Connor
10 Strathmore Rd
East Bridgewater

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.

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Thank you,
Emily O'Connor
10 Strathmore Rd
East Bridgewater
508-456-1247

To Rep. Sullivan,

I am a registered voter in the state of Massachusetts and want you to know how disappointing I found that the senate's bill was rushed quietly through at 4 in the morning without any discussion from their constituents. I hope you don't do the same.

The Senate bill is an anti-labor bill who are supporting to eliminate Collective Bargaining and the right to due process. It is against their platform as being labor/union supporters.

They blanketed all law enforcement with a broad brush. That is unfair to them and the community. They risk their lives everyday for people like me to stay safe, go to work and live in peace. They should have the same opportunities as other professions do. Nurses and teachers have collective bargaining, are protected from being sued and have a board made up of their peers. How is law enforcement any different?

I support Qualified Immunity, Due Process/Collective Bargaining and a POSAC Board made up of their peers and other law enforcement professionals.

Thank you for listening to me and know I and many others will be watching this closely to how this is handled and addressed since it's an election year.

Thank you,

Danielle Fahey

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.

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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,

Kara Chapman

17 Strathmore Road

East Bridgewater MA 02333

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.

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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,

Mark Chapman

17 Strathmore Rd.
East Bridgewater ma 02333

Good Evening,

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.

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Thank you,

Nicholas R Pak
45 Sachem Rock Ave
East Bridgewater
781-534-0739

Dear Alyson,

below is a template email that you can send to your state repDear Representative (your MA State rep that represents your voting district)

As your constituent, (Your Name) from (city/town) I write to you today to express my strong opposition to S.2800 which was passed in the dark of night by the Senate. I ask that you oppose this bill as constituted when it is debated in the House of Representatives.

We also ask that it be debated in the light day and not voted on in the dark of night.

The bill is ill conceived and politically driven. We agree that police reform is important and needs to be addressed but passing a poor bill for the sake of passing a bill based is not in the best interest of the Commonwealth.

This bill 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.

It will cause many good officers to leave due to the new burdens and make it harder to recruit individuals into law enforcement

S 2800 establishes a review committee with overly broad powers, including the power of subpoena, in active investigations. The current language sets the groundwork for unconstitutional violations of a police officer's 5th amendment rights against self-incrimination (see Carney vs Springfield) and constitutional protections against "double-jeopardy".

Qualified immunity protections are removed and replaced with a "no reasonable defendant" qualifier. This removes important liability protections essential for the police officers we send out on patrol in our communities and who often deal with some of the most dangerous of circumstances with little or no back-up. Removing qualified immunity protections in this way will open officers up to personal liabilities so they cannot purchase a home, a car, obtain a credit card, or other things for the benefit of them and their families. Good luck with police recruitment.

The Bill will put restrictions on police tactics of non lethal crowd by limiting use of tear gas. In addition S 2800 failed to follow the normal and appropriate legislative process of holding public hearings to accept testimony from citizens and experts.

As your constituent I ask that you vote NO when S.2800 comes to the House of representatives for the reasons stated above, and others.

We agree that police reform is important and needs to be addressed but passing a poor bill for the sake of passing a bill based is not in the best interest of the Commonwealth.

I ask that you respond to this email to advise me which way you plan on voting on this bill.

Thank you,

Pat Borden

31 Indian Trail Whitman Ma. 02382

nstarpatty51@aol.com

I am a Police Officer and I am writing to you regarding bill S2820, which I do not support. These opinions are of my own and do not reflect on my employer. I work for a Community College in Boston. There I can interact with people in positive ways. I can help people make the right choices and direct them away from the criminal justice system. However, my hands will be tied if bill S2820 is passed. Most importantly if qualified immunity is removed.

If qualified immunity is removed law enforcement in Massachusetts will struggle to move forward. Police Officers will leave the profession in such massive numbers it will take years to recover. I fear that Officers that do stay will be under qualified, overwhelmed and only looking for a paycheck. This will lead to long wait times for calls of service. Qualified immunity does not protect that bad Officers out there, it protects good Officers who are doing the right thing and acting in good faith.

If qualified immunity is removed what worries me for example is a scenario like this. I go to a call for a car accident, upon arrival I notice a person trapped in the car that is on its side and its on fire. I pull the person out and they break their arm in the process. The insurance company sues me for their medical bills to reduce their payout to this person.

In conclusion I do not support this bill as it stands and there must be changes done before I can support it. I know if it passes as it stands, I will have to consider and think deep about looking for a new career that won't have these same negative impacts on my family.

Respectfully,

Andrew Rezendes

Police Officer: Bunker Hill Community College

Cell: 401-662-7021

41 Captain Standish Drive

Abington, MA 02351



The Commonwealth of Massachusetts

NORTH·SHORE
COMMUNITY COLLEGE



Police Department

1 Ferncroft Road, P.O. Box 3340, Danvers, MA 01923-0840
Business (781) 593-7032 / Emergency (781) 477-2100

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.

Robert Vaccaro
Lieutenant Campus Police

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

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:

Thank you and the members of the House of Representatives for your continued leadership in helping to advance criminal justice reform, reduce structural racism, and implement police reform across our Commonwealth.

Many of the reforms you've implemented (such as the 2019 Criminal Justice Reform Bill and several targeted Covid-19 supports for emergency child care, housing and behavioral health) have begun to move the needle on racial justice and touch the young people we work with. Like you and others across the Commonwealth, we know that this very difficult time in the history of our nation also provides an opening for change and promoting racial justice.

We are expressing our support of:

- The Massachusetts Black and Latino Legislative Caucus Legislative Priorities respective of civil rights and public safety;
- The Massachusetts Elected Officials of Color Ten Point Plan recommendations, i.e. for a "Special Commission on Peace Officer Standards and Training" and clear statutory limits on police use of force, including choke holds, data, and independent investigations of officer-related deaths.
- The Massachusetts Juvenile Justice Reform Coalition for their continuous efforts to promote racial equity in youth justice. Which will effectively lead to better outcomes for the young people that Roca works with.
- The Massachusetts Senate for also taking action on such incredibly important issues in our state. We are especially pleased that they have pushed to expand expungement eligibility, want to protect vulnerable students from profiling and focused on improving police practices that will lead to better interactions with offenders, victims and the community.

At Roca, we have been working with police and criminal justice partners for years with a particular focus on police/community relationships, understanding of trauma and race, as well as culture within respective institutions and in relationship with the community. We would be glad to share any or our experiences and help in any way possible. We thank you for your continued commitment, friendship and partnership. We remain committed to listening, learning and helping in any ways we can that will collectively move us toward healing and justice for all.

Sincerely,

Molly Baldwin, Founder and CEO

Scott Scharffenberg, Massachusetts Executive Director

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

Dear Chair of the House Committee on Ways and Means, Rep Aaron Michelwitz and Chair Claire Cronin ,

As a concerned citizen and a proud family member of law enforcement, I write to you today to please consider some of the negative ramifications of passing the current senate bill S.2800 as it is now. Everyone, including all of law enforcement was absolutely horrified at the terrible mistreatment and subsequent death of George Floyd. That tragic case was an aberration and far from the norm in the professional and brave police work performed across the country day to day, especially here in the Bay State. The overwhelming majority of law enforcement in this country would give their lives to protect George Floyd or any other person that is in harms way. As eloquently stated by Senator Fattmann referencing law enforcement here in Massachusetts “the egregious sins of other law enforcement in other parts of the country should not be their burden to bear.”

While this bill has some great components, there are unfortunately some parts that although they may be well intentioned will have serious negative ramifications not only for the profession of law enforcement but for the community as well. Before making any decisions I implore you on attempting to better understand for a moment the critical need our society has for law and order as we are seeing crime rates and violence rise across the country.

To do this I am respectfully asking that before you make any decisions on how Officers perform their duties that you personally do the following things listed below. These are recommendations taken from the Executive Board Members of the National Police Wives Association.

- **Go on ride-alongs during several shifts, in several areas of our city. This should definitely include high crime areas over the weekend, or any other times the Police Department may experience a high volume in calls.**
- **Go through a Police Simulator with use of force scenarios and document your results for study. As you begin to legislate or form your opinion on Officer response, these notes will be helpful and useful for you to understand what might go through an Officer’s mind when they only have milliseconds to act.**
- **Lastly- and most important – arrange to sit down and talk with widows and family members of Fallen Officers. Talk with Wounded and Injured Officers, both permanently disabled and those who were able to return to work. Sit down with the spouses and families of those in law enforcement who saw too much and committed suicide. Finally speak with officers who have had their careers cut short due to issues with PTSD and other issues that sprung from trauma experienced because of the weight of the job. We would be happy to facilitate meetings with any of the families who are dealing with these challenges.**

I sincerely believe that some of these actions though well intentioned will actually lead to an increase in violence as we are already seeing the effects of this occur in many major cities across the country. It is becoming evident that the direct result of knee jerk reactions from people rushing to make change without ensuring that the changes and the potential negative side effects are carefully examined first. It is very evident the recent large cuts to NYPD's budget and the disbanding of the plain clothes unit has led to a tragic major spike in violence, shootings and crimes. It is critical that Massachusetts law makers delicately balance making changes to law enforcement with being certain to ensure they can effectively do their jobs to keep citizens safe.

With this in mind I ask you to carefully consider the negative effects of the following;

- **Police Equipment:** While removing less lethal options from law enforcement such as pepper spray, tasers and police dogs may sound to some like a great idea in reality it will remove safer options from police when they are confronted with a dangerous and violent subject. Pepper spray (also called OC) is a non-lethal option that is far safer than using batons or fists when trying to subdue a dangerous subject. Just recently we were reminded of the instrumental support role that police k-9's play when they assisted in the capture of a man involved in shooting a innocent 15 year old girl at the Braintree Plaza. Tasers are a far greater and less lethal alternative than an officer having to use their firearm to subdue and protect themselves from a violent subject.
- **Qualified Immunity:** Removal of qualified immunity will be devastating for the profession. This protection allows for police to act professionally and confidently within the confines of the law without the fear of constant personal lawsuits. Taking away this protection will result in police fearing doing their job and responding to all calls including medicals. They can not properly do their job if a police officer has to fear that doing CPR on a person in distress could lead to a personal lawsuit if a rib accidentally breaks in the process of trying to save a life. The fear of frivolous lawsuits will discourage community policing which is greatly needed right now in order to build bridges and help the healing process.
- **Due Process:** The certification process and the removal of certification must include due process for law enforcement. If officers can be removed without fair and just hearing it will not have good results for the profession or the commonwealth. If legislators take away due process and fair hearings when an officer is accused of misconduct it could set a dangerous precedent for unfair targeting of police officers. Law enforcement risk their lives for us daily and deserve due process.
- **Sharing Information:** The amendment to not allow schools to share known gang or crime affiliations of students with law enforcement will have devastating consequences for the safety of schools. It is unfair to the many students not involved in gang activity who deserve to go to school without fear of being targeted or recruited by gang members. Students deserve a safe learning

environment. Just this week Boston Police Departments, Youth Violence Task Force took a fully loaded gun off a 14 year old. This information is vital to the police in helping keep illegal weapons off the streets and out of schools. Many Boston Public school teachers have personally shared with me their serious concerns over this policy making schools less safe.

In closing I believe everyone agrees reforms can be made to help improve police work through more trainings and more requirements. Measures like this can help restore faith and healing with the communities officers serve in. However Legislators must be sure that the changes made do not destroy and demonize a noble profession. My greatest fear is that qualified people will shy away from joining law enforcement in the future. Currently many major cities across the country are facing shortages of qualified candidates including Baltimore and Detroit. In recent years the number of people attempting to start the process to become officers in our great state has already begun diminishing. If legislators continue to make the job increasingly dangerous and difficult to do we could face a serious shortage of people willing to become law enforcement officers in the near future.

Several of the officers I know personally left far safer and more lucrative careers because they had a calling to protect and serve. I know officers with law degrees and business degrees and they are incredible assets to their departments. Many years ago my husband left his well paying and secure job as an accountant with a very successful company because he had a calling to work in law enforcement to serve the city he grew up in and loves dearly. Many of the things in this bill could prevent well educated and highly qualified people who would be an asset to any department from taking that risk to join. Please consider the future of the profession when making these decisions. As I recently heard one lawmaker say when referring to police reforms “Don’t throw the baby out with the bathwater!”

I greatly appreciate your time and hope you thoughtfully take time to meet with law enforcement have a greater understanding of the profession and what they deal with day to day by going on ride-alongs, doing use of force simulations and meeting with families of officers suffering from injury or from LODD. Please consider the some of the negative ramifications from what may be well intentioned reforms but will in the end greatly hurt the commonwealth and the profession of law enforcement. I am more than happy to help set up or facilitate any meetings with law enforcement and their families.

Sincerely,
Siobhan Pacino
Concerned Resident of Massachusetts
(781) 848-3103

To Whom it may concern:

My name is Jennifer, I am a born and raised Clinton MA resident. I love this town for everything it has to offer, the surroundings, school systems, kind people, and most of all for its SAFETY, the comfort that is provided to us by our Clinton Police Department. These hardworking /dedicated men and women are beyond amazing, they keep our town the way it needs to be, they give us a feeling of ease, and are ALWAYS there to help us and assist with anything, no matter who you are or where you live!

Knowing that this could all be taken away from our communities brings me great fear, fear to the point of not wanting to even have my child in such a place where comfort and safety does not exist. Our Police Officers provide for us what no one else can. I have seen many situations in my existence, coming from a family of violence myself as a young child, where Officers had to respond to those of mentally ill, unstable, and the violent. I know very well, as any other knowledgeable individual knows, these situations would not be handled any better by a Social worker or a neighborhood watch team.

So today I ask you to PLEASE HEAR US, hear your communities, WE DO NOT WANT to defund or dismantle, or harm our Police Departments, if anything we want MORE Officers, MORE safety. Please stop this asinine insanity, it is scaring us all. Your job is to be our leaders, you are supposed to make the right decisions for us, you are supposed to hear us. Please start doing that and have our backs, support us, and START SUPPORTING YOUR LAW ENFORCEMENT! These men and women risk their lives to save ours.

Lastly, I am very confident that I speak on the behalf of many other individuals in this letter,

Thank you,

Sincerely,

Jennifer Rutherford

A Letter regarding Bill S2820

I, Tyler Dechene, 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,

Tyler Dechene
18 Park Street
Topsfield, MA 01983
978-479-9980

Handwritten signature of Tyler Dechene, including the number 27.



DIGITAL FOURTH

The Massachusetts campaign to protect digital data
from unconstitutional government surveillance

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

**Testimony in Support of H. 1538
Moratorium on Government Use of Face Surveillance Technologies**

Dear Chairs Michlewitz and Cronin,

I am writing on behalf of Digital Fourth / Restore The Fourth – Boston, a Massachusetts-based volunteer civil liberties group founded in 2012, in support of H.1538, legislation to establish a moratorium on government use of face recognition and emerging biometric surveillance technologies. Please include this critical legislation in your police reform bill. Facial surveillance is a racial justice issue and a police practices issue. It would be tragic for the House to put out a bill that does not include this urgent reform.

Facial recognition poses unique threats because it menaces our freedom both when it is inaccurate and when it is accurate. It is systematically less accurate for the faces of women and of nonwhite people. Two Black men in Detroit were recently wrongfully arrested because a facial recognition system misidentified them as suspects. A young Brown University student was misidentified by face recognition as a bombing suspect in Sri Lanka, and after the police put her picture on TV, she was sent death threats by vengeful strangers. We are also now aware of whistleblower information that workers at the RMV have targeted Black women using its facial

recognition system, “having their licenses suspended either from facial recognition to false IDs from decades ago which the Registry already handled or should have handled and is now reviving decades later, or a false facial recognition match.” Consequently, we believe it would be appropriate to add protections that cover any government agency, not just the police.

These problems, without a moratorium, will only grow more severe and widespread. But if the technology ever becomes fully accurate, it will be terrifying, and will represent the death of any anonymity in how we go about our everyday lives. If the government can deploy or access facial recognition technology, they can develop a full record of where you, whether that’s a protest, a place of worship, a doctor or a private club. They can store that information against the day that it will be of use. You, as legislators, should bear in mind that allowing the police to gather that information about you also gives them power over you.

We have worked extensively on passing facial recognition bans in Cambridge, Somerville, Brookline and now Boston, and we observe that none of these communities have faced crime waves as a result. Refraining from using this biased technology may in fact increase the effectiveness of policing, by preventing police from wasting time chasing falsely identified leads.

We respectfully request that you include this critical measure in the police reform bill, and go farther than the Senate did in S.2800. We need a permanent moratorium on government use of this technology, until the legislature enacts governing regulations. The harms from this technology will not magically disappear on December 31, 2021, when the Senate’s proposed moratorium would expire.

Thank you for your attention and consideration, and for your public service.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Matthews". The signature is written in a cursive, flowing style.

Alexander E. Marthews,
Chair, Digital Fourth / Restore The Fourth – Boston



MASSACHUSETTS & NORTHERN NEW ENGLAND LABORERS' DISTRICT COUNCIL

OF THE LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

July 16, 2020

Aaron Michlewicz
Chair, House Ways and Means Committee

Claire Cronin
Chair, Joint committee on the Judiciary

State House
24 Beacon Street
Boston, MA. 02104
Dear Mr. and Madame Chairs,

The Massachusetts and Northern New England Laborers Union is submitting written testimony in the matter before you regarding;

Senate Bill 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"

Thank you for holding a hearing on this bill and seeking input from stakeholders.

We represent six thousand (6000) Public employees throughout the Commonwealth, our members are employed, both on city and school payrolls in the area of healthcare, law enforcement, clerical, custodians, maintenance and DPW's, many of these members are African-American and minority employees, whom may be impacted by this.

We are in support of the core principals 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.

My understanding is the senate took parts of several other bills and took positive pieces of those bills and rolled them into Senate Bill 2820 without holding any hearings on the matter, although the intent to do something fair and equitable without a hearing and no input from stakeholders, who will be affected by this Legislation, is neither fair nor just. Although this bill addresses law enforcement, it ultimately, will have an effect on all public employees.

We understand the intent of the bill but, what needs to be addressed is the scope and duties of these jobs, without a vision and/or plan of what this bill wants to accomplish will lead to unintended consequences and frivolous lawsuits. And in that regard there are no winners only losers. That is why this hearing is important with input from stakeholders.

With Warm regards,

Anthony "Tony" Pini
Legislative/Political Director
Massachusetts Laborers Union

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is Brittney Boyce and I live at 20 South Drive, Bridgewater, MA 02324. I work at Suffolk County Sheriff's Department House of Correction and am a Deputy Sheriff/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,
Brittney Boyce

July 16, 2020

Dear Chair Michlewitz and Chair Cronin,

My name is Brittney Boyce and I live at 20 South Drive, Bridgewater, MA 02324. I work at Suffolk County Sheriff's Department House of Correction and am a Deputy Sheriff/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.

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Sincerely,
Brittney Boyce

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

MINDY DOMB

STATE REPRESENTATIVE
3rd HAMPSHIRE DISTRICT
AMHERST | PELHAM | GRANBY
Mindy.Domb@mahouse.gov

COMMITTEES:

Joint Committee on Higher Education
Joint Committee on Revenue
Joint Committee on Consumer
Protection & Professional Licensure
House Committee on Bonding, Capital
Expenditures & State Assets

Testimony.HWMJudiciary@mahouse.gov

July 16, 2020

Dear Chair Michlewitz and Chair Cronin:

I am writing to express my appreciation for your commitment to craft legislation to reform police practices. I strongly support efforts to advance legislation that includes several House bills, which serve as the basis of S2820, and in particular, legislation which reflects the Black and Latino Legislative Caucus' legislative priorities around training, certification, H3277, and Rep. Miranda's recently filed bill, HD 5128, on data collection and the use of force. As a co-sponsor of H1538, I also support prohibiting the use of facial recognition surveillance technology and believe including this as a banned intervention in this bill would be an appropriate measure given the controversy around this intervention, charges of racial bias in its implementation and its failure to accurately identify Black, indigenous, and people of color.

As I understand it, our efforts to reform police practices need to focus on identifying and clearly articulating a set of standards for public safety and professional police behavior and practices. To achieve implementation and real reform, we need to build the capacity of police officers to meet these standards through training that increases their knowledge, comfort and skills to apply newly prioritized practices.

Our legislation needs to focus on

- 1) Supporting police officers to gain a better understanding of expectations for professional police standards and appropriate police practices including -- and especially -- as it relates to use of force and preventing the excessive use of force and why these standards are needed (specifically around the historic experience of communities of color with these tactics);
- 2) creating, requiring and ensuring (ongoing) universal police training that reflect these priorities and expectations and builds police officers knowledge and skills to apply these alternative practices;
- 3) developing a certification process that rests on all officers successfully completing training as well as continuing education that allows for re-certification; and
- 4) ensuring accountability for individual actions that are not aligned with these expectations that would be the basis for a decertification process and, if appropriate, legal consequences.

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES

STATE HOUSE, BOSTON 02133-1054

MINDY DOMB

STATE REPRESENTATIVE
3rd HAMPSHIRE DISTRICT
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I oppose Governor Baker's proposal that incentives be provided to police who receive training on de-escalation tactics. Capacity-building training should not cherry pick individual officers to benefit from professional support. We need to approach this new era by creating and enforcing new universal expectations around professional police behavior which would be integrated into new mandatory trainings, a certification program, and job descriptions for all officers. Professional behavior should not be subject to individual interest or potential financial incentive.

I support your efforts to build the capacity of the police to meet the community's priorities through: training (POST), standards of professional behavior (on de-escalation skills, new standards for use of force and a duty to intervene), and accountability (certification, a preponderance of evidence triggering de-certification, and Rep. Day's H3277 an act to secure civil rights through the courts of the Commonwealth.)

Thank you for the opportunity to share my concerns.

With much appreciation for your diligence.



MINDY DOMB
State Representative, 3rd Hampshire District



Douglas Police Department

29 Depot Street

Douglas, MA 01516

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Fax (508) 476-3210



Nick L. Miglionico
Chief of Police

www.douglasmapolice.com

July 17, 2020

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

Re: Concerns to Senate 2820 as Amended

Dear Chairwoman Cronin and Chairman Michlewitz:

My name is Nick L. Miglionico and I am the Chief of Police in the Town of Douglas. 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 been a Police Officer in Douglas for 24 years and have seen some positive and negative legislative changes during that time. Within this Bill I would agree there are some areas that will benefit our profession. However, there are also parts of it that I wholeheartedly believe would be detrimental to every Police Officer in the Commonwealth if passed as presented.

Please consider the following areas of concerns raised by our Chiefs association and the Police Officers within my department as you move forward on this legislation:

1. **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 we certainly welcome any and all training that enhances the professionalism and understanding of our officers, we are somewhat perplexed as to why law enforcement will now be statutorily mandated to have such a class to the exclusion of any other government entity? One would believe that based on this particular mandate that the issue of what is inferred to as “racist institutions” is strictly limited to law enforcement agencies which aside from being incredibly inaccurate is also insulting to police officers here in the Commonwealth.

2. **SECTION 6 (line 272):** In terms of the establishment of a POST (Peace Officer Standards and Training) Program, the various police chief’s organizations here in our state wholeheartedly support the general concept. That said, the acronym of POSAC (Police Officer Standards Accreditation and Accreditation Committee) is causing significant confusion both in this bill and in the Governor’s Bill. POST has nothing to do with Accreditation per se but has everything to do with Certification – and by implication “Decertification”. In this state, there currently exists a Massachusetts Police Accreditation Commission (MPAC) for over 20 years which is made up of members of

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Nick L. Miglionico
Chief of Police

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Law Enforcement (Chiefs, Ranking Officers), Municipal Government, and Colleges/Universities (Chiefs) in which currently 93 police agencies are accredited based on the attainment of national standards modeled from the Commission on Accreditation for Law Enforcement Agencies (CALEA). Utilizing the word “Accreditation” in the title is definitely misleading and should be eliminated. To the best of our knowledge 46 other states use the acronym POST which seems to work without any problems or a need to create a new description of the important program.

3. **SECTION 6 (line 282):** The Senate Bill states that POSAC shall be comprised of “14 members”, however as outlined there are actually 15 positions. The MCOPA is strongly advocating for two (2) seats on the POSAC to be appointed by the MCOPA Executive Committee.

4. **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.

5. **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. In particular, Section 10 calls for a re-write of the existing provisions in Chapter 12, section 11I, pertaining to violations of constitutional rights, commonly referred to as the Massachusetts Civil Rights Act (MCRA). The MCRA is similar to the provisions of 42 U.S.C. § 1983 (setting for a federal cause of action for a deprivation of statutory or constitutional rights by one acting under color of law), except however, that the provisions of the MCRA as it exists today, does not require that the action be taken under color of state law, as section 1983 does. See G.L. c. 12, § 11H. Most notably, Section 10 of the Act would change that, and permit a person to file suit against an individual, acting under color of law, who inter alia deprives them of the exercise or enjoyment of rights secured by the constitution or laws of the United States or the Commonwealth of Massachusetts. By doing so, the Senate is attempting to draw the parallel between the federal section 1983 claim and the state based MCRA claims. The qualified immunity principles developed under section 1983 apply equally to claims under the MCRA. See *Duarte v. Healy*, 405 Mass. 43, 46-48, 537 N.E.2d 1230 (1989). "The doctrine of qualified immunity shields public officials who are performing discretionary functions, not ministerial in nature, from

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Chief of Police

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civil liability in § 1983 [and MCRA] actions if at the time of the performance of the discretionary act, the constitutional or statutory right allegedly infringed was not 'clearly established.

" Laubinger v. Department of Rev., 41 Mass. App. Ct. 598, 603, 672 N.E.2d 554 (1996), citing Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982); see Breault v. Chairman of the Bd. of Fire Commrs. Of Springfield, 401 Mass. 26, 31-32, 513 N.E.2d 1277 (1987), cert. denied sub nom. Forastiere v. Breault, 485 U.S. 906, 108 S.Ct. 1078, 99 L.Ed.2d 237 (1988); Duarte v. Healy, supra at 47- 48, 537 N.E.2d 1230. In enacting the Massachusetts Civil Rights Act, the Legislature intended to adopt the standard of immunity for public officials developed under section 1983, that is, public officials who exercised discretionary functions are entitled to qualified immunity from liability for damages. Howcroft v. City of Peabody, 747 N.E.2d 729, Mass. App. 2001. Public officials are not liable under the Massachusetts Civil Rights Act for their discretionary acts unless they have violated a right under federal or state constitutional or statutory law that was "clearly established" at the time. Rodriguez v. Furtado, 410 Mass. 878, 575 N.E.2d 1124 (1991); Duarte v. Healy, 405 Mass. 43, 537 N.E.2d 1230 (1989). Section 1983 does not only implicate law enforcement personnel. The jurisprudence in this realm has also involved departments of social services, school boards and committees, fire personnel, and various other public employees. That being said, if the intent of the Senate isto bring the MCRA more in line with section 1983, anyone implicated by section 1983, will likewise be continued to be implicated by the provisions of the MCRA. Notably, the provisions of the MCRA are far broader, which should be even more cause for concern for those so implicated. Section 10 of the Act further sets for a new standard for the so-called defense of "qualified immunity." Section 10(c) states that "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" This definition represents a departure from the federal standard for qualified immunity, although the exact extent to which is departs from the federal standard is up for debate, at least until the SJC provides clarification on it. The federal doctrine of qualified immunity shields public officials of all types from liability under section 1983 so long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. Harlow v. Fitzgerald, 457 U.S. 800 (1982).

Stated differently, in order to conclude that the right which the official allegedly violated is "clearly established," the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right. Anderson v. Creighton, 483 U.S. 635 (1987). It protects all but the plainly incompetent and those who knowingly violate the law. Malley v. Briggs, 475 U.S. 335 (1986). As a result, the standard sought to be created under Section 10 of the Act would provide public employees with substantially less protection than that afforded under the federal standard.

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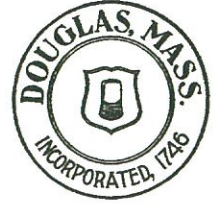
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Nick L. Miglionico

Chief of Police

www.douglasmapolice.com



“Qualified immunity 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).

Furthermore, although the Senate’s version of “qualified immunity” would only apply to state-based claims under the MCRA, what Section 10 proposes is fairly similar to that proposed by the 9th Circuit Court of Appeals in various decisions. In those instances where the 9th Circuit sought to lower the standard applicable to qualified immunity, the U.S. Supreme Court has squarely reversed the 9th Circuit, going so far as scolding it for its attempts to do so. See *Kisela v. Hughes*, 138 S.Ct. 1148 (2018); *City of Escondido v. Emmons*, 139 S.Ct. 500 (2019).

Although legal scholars and practitioners have a grasp as to the meaning of qualified immunity as it exists today, uncertainty will abound if this standard is re-written, upending nearly fifty years of jurisprudence. Uncertainty in the law can only guarantee an influx in litigation as plaintiffs seek to test the new waters as the new standard is expounded upon by the courts.

6. **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. That said, to have a public hearing available for all in the general public to know exactly what equipment the police departments may or may not possess serves to put communities in jeopardy in that those with nefarious motives will be informed as to what equipment that the department has at its disposal. **This is very dangerous.**

7. **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.

8. **SECTION 50 (line 1116):** There seems to be a slight nuance to the amended language to Section 37P of Chapter 71 replacing “in consultation with” to “at the request of.” Many police departments have had school resource officer programs in this state for 25 years or longer.

The Douglas Police Department is an Equal Opportunity Provider and Employer



Douglas Police Department

29 Depot Street

Douglas, MA 01516

(508) 476-3333

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Nick L. Miglionico

Chief of Police

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The only reason why officers are assigned to the schools are because they have been “requested” to be there by the school superintendents - period. The reality is that many school districts even reimburse the police budgets for the salaries of these officers who serve as mentors for these young middle and high school students. If the Senate is being told that police chiefs are arbitrarily assigning officers to schools without first receiving a specific request from the school superintendents, they are being misled. 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. We are very confused as to why this provision needs to be included.

9. **SECTION 52 (lines 1138-1251):** There are several recommended changes to data collection and analysis as it pertains to motor stopped motor vehicles and pedestrians in this section. 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. While we continue to welcome data that is both accurate and reliable, the issue pertaining to the classification of an operator’s race has still yet to be resolved. Before any data from calendar year 2020 has yet to be collected by the RMV and subsequently analyzed by a College/University selected by the Secretary of EOPSS, these provisions now look to complicate the matter even further before a determination has actually been made as to whether any problem of racial or gender profiling actually exists here in our state. We won’t belabor the point, but 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.

10. **SECTION 55 (line 1272)** *To be clear, we do 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 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 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 straightforward recommendation.

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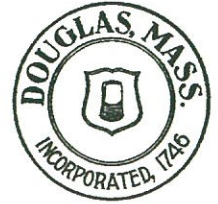
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Chief of Police

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11. Recommended New Section] Amends GL Chapter 32 Section 91(g): In order to expand the hiring pool of trained, educated, qualified and experienced candidates with statewide institutional knowledge for the Executive Directors' positions for both the Municipal Police Training Committee as well as the newly created POSAC (or POST), the statute governing the payment of pensioners for performing certain services after retirement, shall be amended to allow members of Group 4 within the state retirement system to perform in these two (2) capacities, not to exceed a three (3) year appointment unless specifically authorized by the Governor.

Thank you and your committee for taking the time to hear the thoughts and concerns of stakeholders in this very important piece of legislation! Should you have any questions or concerns feel free to contact me anytime.

Respectfully submitted,

A handwritten signature in blue ink that reads "Nick L. Miglionico".

Nick L. Miglionico #22
Douglas Police Department
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The Douglas Police Department is an Equal Opportunity Provider and Employer

Easton Police Department

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July 16, 2020

Representative Aaron Michlewitz
Chair of the House Committee on Ways and Means
Representative Claire D. Cronin
Chair of the Joint Committee on the Judiciary
Massachusetts House of Representatives
State House
Boston, MA 02133

Re: 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 Representatives Michlewitz and Cronin,

I am writing to you today to express my concern with the Massachusetts police reform bill known as the “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 is currently drafted. First, I’d like to make it clear that the Easton police department is not the Minneapolis police department. We never have been and never will be. However, since the murder of George Floyd, members of the law enforcement profession are now being labeled as racists and part of a systematic racist criminal justice system within the United States. Last month, I stood side by side with our police officers during a protest against police brutality in our community. I defended our police officers at Annual Town Meeting after a group of residents called to defund the Easton police department. I resent the fact that the Easton police department and our officers cannot be differentiated with the Minneapolis police department and are now being categorized as one in the same. I’m not suggesting that reform isn’t needed in many police agencies across the country. In fact, my support for Governor Charlie Baker’s police reform bill was made public at our Annual Town Meeting.

We are a professional, fully accredited police department that holds itself to the highest standards. If you are unfamiliar with accreditation, please allow me to provide a brief overview of just what that means. The Massachusetts Police Accreditation Commission (MPAC) oversees the accreditation process which consists of two major components: (1) the establishment of a

body of professional standards for police agencies to meet, and (2) a voluntary assessment process by which agencies can be publicly recognized for meeting those standards considered best practices for the profession. Our policies and procedures, rules and regulations, facilities, etc. are reviewed by MPAC trained assessors every three years. Accreditation is the higher of the two program awards consisting of 382 standards: 257 are mandatory; 69 are optional for an agency our size. The Easton police department has been an accredited agency since 2009 and has successfully achieved re-accreditation three more times since then, as recently 2019. In fact, we were the 35th police agency in Massachusetts to achieve accreditation and to this day only 79 municipalities in Massachusetts have achieved accreditation. Since receiving initial accreditation in 2009, we've been re-accredited three additional times, most recently in 2019.

As Chief of Police, I hold myself and our officers accountable for our conduct and we constantly strive to increase our legitimacy in the eyes of the Easton community. We are not a police department that operates with a "law and order" mindset nor do we partake in police measures that rule by force, rather, we respond to a wide variety of calls for service and in doing so, we treat all people with dignity and respect. We are community caretakers and look to build trust and legitimacy from positive interactions. We seek to achieve this sought-after trust and legitimacy by establishing a positive presence at community events, participating in proactive problem solving, and ensuring that the Easton community has a voice and a seat at the table.

With what is taking place in the Commonwealth and across our nation, I implore you to speak with stakeholders, listen to concerns, and be cognizant towards the proposed changes in this bill. The bill as currently constituted will forever change the face of policing. Now is the time we need our leaders to stand by their law enforcement professionals. Thank you for your consideration.

Sincerely,



Gary Sullivan
Chief of Police



LEGENDARY LEGACIES

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 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,

Ronald B Waddell Jr.
Executive Director

46 Greenwood St, Worcester, MA 01602 | 508-615-8060

LegendLegacy.org

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

July 16, 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:

As the House readies to take up S. 2800 to address Racial Justice and Police Accountability, we write to request your consideration to expand the existing expungement law (MGL Ch 276, Section 100E.)

System-involved 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 ask you to make the following clarifications to the law:

- **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 of the young person is otherwise found "not guilty."

People of color are disproportionately represented in the criminal justice system and thus, disproportionately experience the collateral consequences of a criminal record. Further refining this law will adequately achieve the desired outcome of reducing recidivism and removing barriers to employment, education, and housing. It will provide the opportunity for these people 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.

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. 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,

Scott Scharffenberg
Massachusetts Executive Director

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

Jennifer Gordon
CEO of Athol YMCA

Robin McDonald
CEO of Attleboro YMCA

Amy Gutschenritter
CEO of Becket-Chimney Corners
YMCA Camps & Outdoor Center

James Morton
CEO of YMCA of Greater Boston

Nancy O'Brien
CEO of Cambridge YMCA

Stacie Peugh
CEO of YMCA Cape Cod

David Connell
CEO of YMCA of Central Massachusetts

Michael Quinn
CEO of Wendell P. Clark Memorial YMCA

John Somes
CEO of Community YMCA
of Danvers MA Inc.

Grady Vigneau
CEO of Greenfield YMCA

Julie Bianco
CEO of Hampshire Regional YMCA

Edwin Hurley
CEO of Hockmock Area YMCA

Kathy Viens
CEO of Greater Holyoke YMCA

Kevin Morrissey
CEO of Greater Lowell Family YMCA

Kathleen Walsh
CEO of YMCA of Metro North

Deborah Amaral
CEO of Malden YMCA

Jill Robie-Axtell
CEO of YMCA of Martha's Vineyard

Francis Kenneally
CEO of Merrimack Valley YMCA

Rick MacPherson
CEO of MetroWest YMCA

Michael Squatrito
Regional Executive Director
Newman YMCA

Christopher Lovasco
CEO of YMCA of the North Shore

Vincent Marturano
CEO of Old Colony YMCA

Jessica Rumlow
CEO of YMCA of the Berkshires

William Murphy
CEO of Somerville YMCA

Paul Gorman
CEO of South Shore YMCA

James Scherer
CEO of YMCA Southcoast

Dexter Johnson
CEO of YMCA of Greater Springfield

Jack Fucci
CEO of West Suburban YMCA

Andrea Allard
CEO of YMCA of Greater Westfield Inc.



**FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY**

Aaron Michlewitz
24 Beacon St. Room 243
Boston, MA, 02133

July 17, 2020

Dear Chairman Michlewitz:

The Massachusetts YMCAs are one of the largest nonprofits in the Commonwealth. Our 28 corporate YMCAs with 96 facility branches, 700+ locations impact over **three million** Massachusetts residents annually. Collectively we are the largest youth serving organization in the Commonwealth serving over **500,000** children under eighteen in a variety of youth programs. Similarly, we are the largest provider of early education and after school care in the state. Prior to the pandemic we employed **24,000** full and part-time people in Massachusetts. In 2018 we reinvested **\$85 Million** into the Commonwealth through financial aid, scholarships, and donated space.

The YMCA's young members are predominantly youth of minority races and ethnicities or youth from lower wage-earning households, the same population that is disproportionately impacted by this law.

We are 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 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.

Sincerely,

Kate-Marie Roycroft

Director of Government Affairs and Social Responsibility

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.

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Thank you for your consideration,

Will F. Vilas Novas

UTEC, Inc.

978-319-7734

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.2820 to address **Racial Justice and Police Accountability**. S.2820 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.

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Thank you for your consideration,

Tristan Grieve

March For Our Lives: Massachusetts

774 265 2623

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 consider this update **nonnegotiable** as it directly relates to the harm done by over-policing in communities of color, specifically young people.

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. 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.

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- **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 of the young person is otherwise found "not guilty."

Before I joined UTEC, I worked in HR Technology, where there was an emphasis on automating the hiring & recruitment process. Similar processes are being adopted by housing, lending, and other industries to create efficiencies, but, unfortunately, automatically dismiss people that don't "check certain boxes." As much as we want to believe that someone will be given opportunities despite their mistakes or alleged mistakes, the systems that are in place weed people out before they are even given a chance.

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.

In addition to passing expungement, I'd like to urge representatives to maintain provisions in the bill that would limit police qualified immunity, to hopefully prevent over-policing and police brutality in the future.

Thank you for your consideration,

Morgan Wamsley

UTEC Inc.

615-714-0515



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

The Honorable Denise Garlick
Vice Chair, House Committee on Ways and Means
State House, Room 238 Boston, MA 02133

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

The Honorable Michael Day
Vice Chair, House Judiciary Committee
State House, Room 136 Boston, MA 02133

CC: Chairman Carlos Gonzalez and the MA Black and Latino Legislative Caucus

July 16, 2020

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

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The law passed in 2018 was exciting as it indicated the first time in the history of our Commonwealth the systemic second chance that the majority of young people deserve. In the almost two years since implementation, less than 19% of applicants have been approved and none of the young people who advocated for the law benefit because of its restrictions.

As we've learned together in recent years, 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**.

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 the criminal legal system.

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Thank you for your consideration,
The Expungement Movement

18 Degrees MA
ACLU Massachusetts
Acre Family Childcare
AFL-CIO Racial Justice Committee
American Friends Service Committee
Bethel Institute for Community Development
Bike Rides For Ordinary People
Black Economic Council of MA (BECMA)
The Boston Foundation
Boston Teachers Union
Cambodian Mutual Assistance Association
Cambridge Youth Council
Center for Asian American Studies, UMass Lowell
Children's Law Center
Children's League of Massachusetts
Citizens For Juvenile Justice
Coalition for Social Justice
Commission on LGBTQ Youth
Committee for Public Counsel Services
Community Resources for Justice (CRJ)
Dawn Grenier Consulting
Elevated Thought
EMPath
Equity Impact Associates
Everett Community Growers
Family Services of Merrimack Valley: Amigos Mentoring
Freitas & Freitas, LLP, Attorneys at Law
Future Chefs
GLBTQ Legal Advocates and Defenders (GLAD)
Greater Boston Legal Services, CORI & Re-entry Project
Greater Haverhill Chamber of Commerce
Health Resources In Action (HRiA)
H.O.P.E. Coalition (Worcester)
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I Have A Future
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Jobs with Justice - Massachusetts
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Justice Resource Institute
Lawrence Against Violence
League of Women Voters (Massachusetts)
Legendary Legacies
Lowell TeleMedia Center
MA Appleseed Center for Law & Justice
Mass Bar Association
MA Coalition to Prevent Gun Violence
March For Our Lives (Boston)
MassINC
Mass Mentoring Partnership
Massachusetts Community Action Network (MCAN)
Massachusetts Organization for Addiction Recovery (MOAR)
Massachusetts Public Health Association
Massachusetts Workforce Association
Mental Health Legal Advisors Committee
Mill City Grows
Mobilize Medford
More Than Words
Mothers for Justice and Equality
My Life My Choice
National Association of Social Workers (NASW) MA
New England Culinary Arts Training (NECAT)
New North Citizens Council
NFI Massachusetts
NorthStar Learning Center
Old Colony YMCA
Opportunity Youth United
Parent Professional Advocacy League
Per Scholas Greater Boston
Power of Self Education (P.O.S.E. Inc)
Project R.I.G.H.T. Inc.
The Real Cost of Prisons Project
Resilient Coders
Robert F. Kennedy Children's Action Corps
Roca Inc.
SEIU 509
SkillWorks
Stop Handgun Violence
Straight Ahead Ministries
Strategies for Youth
TEASA – Teens in Everett Against Substance Abuse
Teen Empowerment
Teens Leading The Way
UnCornered Boston / College Bound Dorchester
Union of Minority Neighborhoods
Unitarian Universalist Mass Action
United Way of Greater New Bedford
United Way of Massachusetts Bay and Merrimack Valley
UTECH, Inc.
Worcester Community Action Council
Worcester Youth Center
Workforce Solutions Group
Working Cities Lowell
Violence In Boston
Violence Intervention and Prevention (VIP)
Young People's Project (YPP)
Young Sisters United
Youth Advocacy Foundation
Youth MOVE Massachusetts
Youth Villages
Year Up



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July 16, 2020

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Center for Asian American Studies, UMass Lowell
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Youth Advocacy Foundation
Youth MOVE Massachusetts
Youth Villages
Year Up



July 16th, 2020

Andy Pond
President and CEO
Justice Resource Institute
160 Gould Street, Suite 300
Needham MA 02494

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.

I write specifically about JRI's experience, which is directly relevant in two ways:

1. Working with young people. We often tell young people who have made (sometimes serious) mistakes that if they turn their lives around, they will be able to put these troubles behind them and be able to "pursue happiness" as adults. Sadly, this message is not always true—these young people who HAVE turned their lives around are haunted forever by their past.
2. Our staff. We regularly see—in our STRIVE program and beyond—adults who wish to work for JRI, often with adolescents who hail from similar backgrounds. The lived experience of these staff—having (as above) turned their lives around—is very valuable. Their connection and capacity to influence young people is often greater than that of a social worker. Yet they are denied employment because their records do not reflect their years of good work. This is a workforce issue strongly related to racial equity as described below.

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.

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:

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- 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,

Andy Pond

apond@jri.org

617-851-9803

7/16/20

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

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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.

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Thank you for your consideration,

Aidan Aciukewicz

Development Associate at UTEC in Lowell, MA

(978) 501-2403

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

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Thank you for your consideration,

Joelle Geisler Haley

UTEC

201-923-5930

7/16/20

Public Testimony on S.2820 to the House Ways and Means and Judiciary Committees

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

I am writing on behalf of [SkillWorks](#), Boston's workforce development funder collaborative, to request your consideration to expand the existing expungement law (MGL Ch 276, Section 100E) as the House takes up S.2820 to address **Racial Justice and Police Accountability**. S.2820 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.

SkillWorks is a workforce development funder and intermediary investing in solutions that help individuals with barriers to employment, access the training, education and support they need to achieve gainful employment and advancement opportunities leading to a fulfilling and family-sustaining living. All of our fellow residents should have access to those opportunities if they wish to pursue them, however, in the workforce development field, we see criminal records as one of the most challenging and oppressive barriers keeping individuals from succeeding. This field is also having its own reckoning with the inequitable outcomes and economic oppression we perpetuate by remaining passive in the face of blatant inequity.

Like our workforce 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 stopped and frisked 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.

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Thank you for your consideration,

Kaitlyn Bean

SkillWorks

617-338-4834



7/16/20

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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 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,

The youth of TEASA – Teens in Everett Against Substance Abuse

Everett, MA

617-806-8776

Email Testimony

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 this testimony.

My name is Jay D. Blitzman. I served as a juvenile court judge for twenty-three and a half years. At the time of my retirement on November 28, 2019 I was the First Justice of the Middlesex County Division of the Massachusetts Juvenile Court. Prior to serving as a judge I was the founder and the first director of the Roxbury Youth Advocacy Project. As an attorney I represented adolescents for twenty years. I am writing to strongly recommend that the expungement provisions first enacted in 2018 be expanded. I believe that this course of action will be an important step in addressing issues of racial inequity and reducing recidivism. I support the proposed eligibility for expungement changes as passed in Sections 59-61 of S. 2820.

Bryan Stevenson, renowned lawyer and civil rights activist has observed that each one of us is more than the worst thing we have ever done. This is especially true for adolescents. None of us are the same people we were as teenagers. Yet years later many youths who enter the juvenile system are still haunted by the poor decisions they made as teenagers. It is a common misconception that once a person reaches the age of eighteen their records vanish and then have a clean slate. This is mythology. As you know, in 2018 this state passed legislation creating an opportunity to expunge juvenile and criminal records for first offenses committed prior to the age of twenty-one. While this was an important first step the enactment has had limited impact. The 2018 law was limited to only one charge, did not differentiate between dismissed cases and those that led to dismissal and those that led to adjudication, and had waiting periods and a complicated application process. As many persons who are arrested are accused of multiple charges the limitation to one offense effectively precludes expungement in such circumstances. The research shows that after almost two years less than 19% of expungement applications have been approved.

Young adults have the highest recidivism rates of any group but as they grow older and mature a natural process of natural desistance from criminal behavior occurs. Meaningful opportunities for expungement are necessary vehicles for allowing individuals to re-integrate into society without the burden of a criminal record. This entails supporting public policy which allows for consideration of expungement for more than one offense prior to age twenty-one as doing so will better protect long-term public safety. There is

also a need to allow for relief in cases which result in dismissal without an adjudication. Several years ago, I heard a case involving an adolescent with no prior record who received a continuance without a finding. But the mere fact of his arrest precluded him from being able to join the National Guard. Opponents of expungement argue that sealing a record, which is designed to preclude public access to records, is an adequate remedy. However, experience and reality have proved that a wide range of public entities do indeed have access to sealed records, including the military, child serving organizations, state colleges, law enforcement, and licensed private entities.

Perhaps most compellingly, expanding expungement is a critically important tool in redressing systemic racial and ethnic inequities at every systemic level. The Sentencing Project notes that black youths are six times more likely to be arrested than white peers and that black people are six times more likely to go to jail in this state. While criminal records are supposed to be used to better protect public safety they have little empirically validated prognostic value and often adversely affect people of color. The collateral consequences of a record are often more profound than the adjudication itself. These consequences can include expulsion from school, eviction of families from public housing, and limiting access to higher education, employment opportunities or entering law enforcement positions or joining the military. The stigmatization of a court record creates a continuous form of penalization. This is especially true for youth of color who are dramatically overrepresented in our juvenile and criminal systems. As Michelle Alexander notes in *The New Jim Crow*, it doesn't matter if an offense results in a D.Y.S. commitment or a jail sentence. The record itself "is the badge of inferiority...that relegates people for their entire lives to second class status. Myriad laws, rules and regulations operate to discriminate against ex-offenders and effectively prevent their reintegration into the mainstream of society and the economy" leading to re-arrests and a cycle of probation and parole violations that fuel mass incarceration.

Expanding expungement opportunities is an important component of being smart on crime. The pending proposals would allow for expungement in cases that were dismissed, change the eligibility based on length of time since the last offense (three years for misdemeanors and seven years for felonies), allow for more than one offense to be considered, and limit the list of offenses that currently are ineligible for expungement to only those that result in a felony conviction. Individualized judicial determinations would allow for victim input. I support, without reservation, these changes.

Thank you for considering my testimony. Please feel free to contact me at (617) 823-4487 or via email at jayblitzman@gmail.com if you have any questions or would like to discuss these issues in greater detail.

Sincerely,

Jay D. Blitzman
First Justice, Middlesex Division of the Juvenile Court (Retired)

Frequently Asked Questions – *Reform, Shift, & Build Act*

1. Does this bill mean more money for the police?
 - No. This bill does not appropriate or commit any funds to policing. The civilian-led POSAC will require funding, particularly to build the public-facing complaint database. Notably, the bill reallocates money from the corrections system, and police-overtime fraud, into economic empowerment initiatives in communities impacted by over-policing and mass incarceration, with the grants being controlled by a board of community members, local leaders, and residents.
2. What is the process by which an officer's certification is revoked?
 - The POSAC (Police Officer Standards and Accreditation Committee) that the bill creates can receive a complaint from any person. If the complaint is of a charge that would result in automatic decertification, the POSAC must investigate it. If it is of a lesser charge, the POSAC may investigate or they may request that the officer's employing agency investigate it—or both investigations may go on concurrently if both authorities choose to investigate. The POSAC has the ability to subpoena police records and other documentation necessary for the investigation. When the investigation is complete, a subcommittee of the community-controlled POSAC board votes. The simple majority decision prevails, as is the case with other licensed professions. If revocation takes place, an officer's decertification is maintained within state and national data systems. Adverse actions taken by the POSAC against an officer's certification may not be appealed to the civil service commission. Certification revocations are permanent.
3. How do these reforms keep my community safe?
 - These reforms will both decrease the footprint of policing overall, and decrease the likelihood of misconduct by setting clear standards, requiring de-escalation, and strengthening accountability. Further, by banning racial profiling and collecting comprehensive demographic data on police stops, communities of color will be made safer from the consequences of implicit bias, and bad actors can be identified earlier on by police departments and communities. Finally, the bill increases community safety by redirecting resources to strategies that build neighborhood stability and strength: job creation and economic empowerment, education, and mental and behavioral health services.
4. How was this bill drafted?
 - This bill was drafted by the Senate's Racial Justice Working Group. The policies included were modeled after recommendations from community advocates, elected officials of color from around the state, and from many existing police reform bills that senators submitted to the Working Group after having been vetted through the traditional legislative process, including many individual public bill hearings. The Working Group was comprised of 6 members: 5 Democrats, and 1 Republican; 1 of the Democrats is a former police officer and 1 of the co-chairs is a member of the Black & Latino Legislative Caucus.



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To: Members of the Massachusetts House of Representatives
From: Chief Michael Newbury, President – Fire Chiefs Association of Massachusetts
Re: Qualified Immunity – Police “Reform” Legislation
Date: July 16, 2020

The Fire Chiefs Association of Massachusetts 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 Chiefs 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 Fire Chiefs’ Association of Massachusetts 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 or through the public hearing process an issue of this magnitude requires and deserves.

Respectfully,

Michael C. Newbury

A handwritten signature in black ink, appearing to read "M. Newbury", with a stylized flourish at the end.

President
Fire Chiefs Association of Massachusetts

[Insert institutional logo, if any]



Fight for the Future
PO Box 55071 #95005
Boston, MA 02205

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

**Testimony in Support of H. 1538
Moratorium on Government Use of Face Surveillance Technologies**

Dear Chairs Michlewitz and Cronin,

I am writing on behalf of Fight for the Future, a digital rights organization with more than 3 million members nationwide and tens of thousands in Massachusetts. We write in support of H.1538, legislation to establish a moratorium on government use of face recognition and emerging biometric surveillance technologies. Please include this critical legislation in your police reform bill. Facial surveillance is a racial justice issue and a police practices issue. It would be tragic for the House to put out a bill that does not include this urgent reform.

Facial recognition is a uniquely dangerous form of surveillance technology. As experts on civil liberties, digital security, and surveillance technologies, we urge you to act swiftly to stop the use of this technology that has been compared to nuclear and biological weapons in terms of the threat it poses to human society. Fight for the Future leads a coalition of dozens of racial justice, civil liberties, immigration, and pro-democracy organizations including MoveOn, Daily Kos, Color of Change, Mijente, and the Council on American-Islamic Relations, who have called for facial recognition to be banned.

Massachusetts has an opportunity to lead the nation by becoming the first state in the country to press pause on government use of this dangerous technology that automates and exacerbates existing forms of discrimination.

I respectfully request that you include this critical measure in the police reform bill, and go farther than the Senate did in S.2820. We need a permanent moratorium on

[Insert institutional logo, if any]

government use of this technology, until the legislature enacts governing regulations. The harms from this technology will not magically disappear on December 31, 2021, when the Senate's proposed moratorium would expire.

Thank you for your attention and consideration,

-Evan Greer
Deputy Director
Fight for the Future



Families for Justice as Healing is led by incarcerated women, formerly incarcerated women, and women with incarcerated loved ones. Our members live in the most incarcerated communities in the Commonwealth. Our Black and Brown families have been forced to endure generations of racist policing and decades of disinvestment. To address generational trauma, economic devastation, and structural racism we need a radical shift in power and resources in Massachusetts. What we don't need is yet another watered-down omnibus bill rife with compromises and exceptions and a legislative process that silences and excludes most-impacted people.

S. 2820 does not do nearly enough to protect Black people from state violence nor stop the flow of Black people into jails and prison. The bill does not do nearly enough to shrink the role or the impact of policing in our communities. The bill is just another round of reforms that have already failed us. S.2820 will do more harm than good by increasing spending on law enforcement through training and training commissions, expanding the power of law enforcement agencies to oversee law enforcement, and making no changes to the fundamental function and operation of policing in the Commonwealth. The definition of law enforcement must include corrections officers who also enact racist violence on our community members.

The reforms and oversight mechanisms in this bill exist in dozens of other places but have not prevented the violence of policing.

Families for Justice as Healing is named in Section 63 which reads: *"There shall be a commission to review and make recommendations on: (i) improving, modernizing and developing comprehensive protocols for the training of state and county correction officers and juvenile detention officers."* **Please remove our name from this section of the legislation.**

While we have a public platform of demands related to policing, prison, and investment in communities, we did not have the opportunity to lead on any of those issues. Instead, we were included in a section on training guards with no discussion or consent with anyone from FJAH. We are an abolitionist organization led by people who have lived on prison bunks. We know we cannot "train out" the racism, physical violence, and sexual violence that are cornerstones of incarceration. We do believe it is important to establish a process so all law enforcement officials including correction officers can be fired, have their licenses revoked, and never be able to work in the field again. Yet, we don't think that will be achieved by a Commission issuing a report to the legislature next year. It will certainly have to involve contract renegotiation with officer unions.

We also do not believe Commissions are positioned to fundamentally change anything about policing or prisons in Massachusetts. We were appointed to the Justice Involved Women Panel established by the 2018 Criminal Justice Reform Act. As part of that panel, which is chaired by the Department of Correction, we could not even build consensus among members that we do not need another women's prison in Massachusetts despite having the lowest rate of incarceration of women in the country. We have not met a single time during COVID19 and there was no action by the Panel to do anything about



the humanitarian crisis at MCI-Framingham where almost half of the women were infected by COVID19.

The solution is to shift power and resources away from law enforcement and incarceration and into Black and Brown communities through a community-controlled process led by most-impacted people. We have been pushing to end pretextual stops and stop and frisks without exception (tinyurl.com/stopbpd). The legislature should decriminalize driving offenses which are a major gateway into the criminal legal system for Black and Brown people and poor and working class people. Rather than limiting legislation to moderate reforms and data collection, the legislature should shut down fusion centers, erase gang databases, and permanently ban facial surveillance by all state agencies including the RMV. I also support student-led efforts to remove police from schools

We have been advocating to set up a real, meaningfully funded participatory budgeting process with money taken out of the Department of Correction and Sheriffs budgets – budgets that continue to inflate every year at the expense of our people. The only part of S2820 that even approaches that goal is Section 2JJJJ – but the cap must be lifted, a floor of an annual investment must be set, the board must be majority impacted people, and most-impacted people must direct the priorities of the fund which cannot be limited to jobs.

Residents of the most incarcerated communities must get to set just and equitable investment priorities and distribute those resources to sustain and nourish what we really need to be safe: housing, healing, healthy food, culturally relevant treatment, mental healthcare, education, employment, co-operative businesses ownership, community-led violence prevention, art, culture, community centers, community-led organizations and programs. Our people are ready to lead that process. We have the vision and the solutions. Communities need the resources. In the same way that the DOC and Sheriffs budgets have constantly expanded, the community is now demanding significant investment that must increase every year. This is how we will address the root causes of incarceration and achieve our goal of ending incarceration of women and girls in Massachusetts.

This is the moment to address structural racism, income and wealth inequality, and the economic devastation that generations of disproportionate policing and incarceration have caused in Black communities. We cannot afford to waste this opportunity with rushed legislative action that does not reflect the will of most-impacted people.

Families for Justice as Healing has a vision for Massachusetts where all people have what they need to live safe and healthy lives. We have a vision of our communities without police, courts, and prisons. We demand no new jails and no new prisons in Massachusetts – including regional lockups. We have been imagining, designing, and planning what thriving communities look like. We have the solutions; we know the way forward: fund Black and Brown communities and defund the systems of harm and punishment which have failed to bring us safety and wellbeing. S2820 does not help us get there.



TAMI L. GOUVEIA
STATE REPRESENTATIVE
14TH MIDDLESEX DISTRICT
ACTON, CARLISLE, CONCORD & CHELMSFORD

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

Committees:
Mental Health, Substance Use, & Recovery
Children, Families, & Persons with Disabilities
Consumer Protection & Professional Licensure
Export Development

STATE HOUSE, ROOM 146B
TEL. (617) 722-2011
Tami.Gouveia@mahouse.gov

July 17, 2020

Dear Chair Michlewitz and Chair Cronin:

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully,

A handwritten signature in black ink that reads "Tami L. Gouveia". The signature is written in a cursive, flowing style.

Tami L. Gouveia
State Representative
14th Middlesex District



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

July 17, 2020

Delivered via email

House Committee on Ways & Means
Joint Committee on the Judiciary
Massachusetts State House
24 Beacon Street
Boston, MA 02133

Dear Chair Michlewitz, Chair Cronin, and members of the House Committee on Ways & Means and the Joint Committee on the Judiciary,

Thank you for the opportunity to provide written testimony on Senate bill 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.*

The murders of George Floyd and other people of color at the hands of police officers are unacceptably unjust. No less unacceptable are the daily injustices borne by communities of color. No one piece of legislation will remedy that injustice or eradicate racism. There is still so much work to do.

One element of that work, legislation that addresses the need for law enforcement accountability, has been the subject of long-standing collaborative efforts between the Baker-Polito Administration, including the Executive Office of Public Safety and Security, and the Black and Latino Legislative Caucus. Those shared efforts culminated with last month's filing of House bill 4794, *An Act to Improve Police Officer Standards and Accountability and to Improve Training*. The bill establishes a responsible and considered approach to that need for accountability.

The filing letter submitted along with H. 4794 itemizes the initiatives included in the bill , which was recently discharged to the House Committee on Ways and Means. The Senate's bill suggests some significant changes to those core initiatives while proposing several initiatives of its own. First, the Senate included many of the provisions of the bill filed by the Governor in January, Senate bill 2469, *An Act Advancing Reform in the Massachusetts State Police*. Those provisions would improve accountability and discipline within the Department, enhance

diversity in recruitment and promotion, and promote public confidence in the Department while equipping it for future policing challenges.

Some examples of the changes and initiatives proposed by the Senate include providing the Police Officer Standards and Accreditation (POSA) Committee with an independent investigatory function, and shifting its membership away from a balance between those experienced in the profession that it will oversee and the community outside of the law enforcement field. The bill also links decertification to newly proposed definitions of the use of force. Finally, the Senate's legislation would substantively reshape the contours and applicability of the legal doctrine of qualified immunity.

The myriad issues that the Senate bill addresses are weighty, without doubt. Yet the volume of those initiatives may prove challenging to work through with so little time left in the legislative session. Furthermore, some of those initiatives affect important and complicated concepts, resulting in similarly important and complicated effects with far-reaching ramifications. Our concern is that the debate over that volume and complexity will stand in the way of consensus on legislation that creates a long overdue system for certifying law enforcement officers.

Law enforcement in Massachusetts are among the most professional and highly trained in the country. The first and immediately necessary step forward is legislation that builds upon the shared principles, and months of thoughtful consideration and work, of the Black and Latino Legislative Caucus and this administration. We are ready to implement a responsible program for certifying police officers according to a uniform training standard and providing accountability and transparency to the communities that those officers serve.

Respectfully,



Charles D. Baker
GOVERNOR



Thomas A. Turco, III
Secretary of the Executive Office of
Public Safety & Security



Local 75

SOMERSET POLICE OFFICERS' UNION

A member of the New England Police Benevolent Associations, Inc

465 County Street

Somerset, Massachusetts 02726



Local 80

15 July 2020

Patricia Haddad
State Representative – 5th Bristol District
Massachusetts House of Representatives
23 Beacon Street Room 330
Boston, MA 02133

Dear Representative Haddad,

We are writing you on behalf of the men and women we represent of the Somerset Police Department, in response to the passage of Massachusetts Senate bill number 2800, in hopes to better expand your knowledge of what this bill does to public safety in Massachusetts.

This 72 page bill passed by the Senate does the following:

- Unnecessarily puts the lives and safety of police officers in danger
- Aims to regulate use of force by police without any recognition that officers need to make split second decisions, often under extreme stress and circumstances
- Changes dozens of laws and creates and funds at least 6 new agencies commissions or committees
- Creates a police licensing board which will be staffed by members of organizations who sue our communities and state as well as advocate for the elimination of police services
- Eliminates collective bargaining rights for police officers
- Takes power away from cities and towns to control their own employees
- Requires a receipt be generated related to virtually any interaction between a police officer and a member of the public
- Takes away due process rights of law enforcement officers
- Exposes police officers and their families to personal liability even when they are acting in good faith and under the color of law
- Opens municipalities to frivolous lawsuits which will increase cost to taxpayers to defend the cases
- Expands the rights of individuals convicted of multiple crimes by expunging their criminal records

These are just a few examples of how this bill will erode the ability for law enforcement to do their jobs safely and effectively doing so. We urge you to consider the information provided above when voting on this bill and or drafting amendments. We also urge you to not be like the Senate and hold public hearings on this matter as well as we implore you to open the lines of communication between the law enforcement community and yourselves to get all the facts and information about this matter.

Sergeant Todd V. Costa
President Local 75 Supervisors Union

Patrol Officer James B. Vicente-Roberts
President Local 80 Patrol Officers Union

Chairman Michlewitz & Chairwoman Cronin,

I have been a Middleboro Police Officer for 20 years, I currently hold the rank of Sergeant in the Patrol Division. I also am a recently retired, disabled Army Special Forces Soldier (Green Beret) who served my country for 23 years with multiple deployments to Afghanistan and Iraq. Far away from familiar faces and tongues, I have fought with those of different nations, religions, races, tribes, and sexes. Without hyperbole, some of them have literally saved my life, and I theirs. The life I have tried to live, has been one of service, honor and sacrifice. My faith is important to me as well, I am a Christian who believes all of us are God's children.

I would like to provide written testimony for HB S2820. I have never written a politician nor attempted to provide testimony prior to this in my life. While writing this today, I am skeptical it will even make a difference or anyone will even read it. The intent of this letter is not provide you with "talking points" from local police organizations and unions, but rather, who I am, how I feel about this legislation, and how it has affected me both personally and professionally.

When I watched the video of George Floyd being murdered I was horrified, when he called out for his mother it brought tears to my eyes. What that officer did was wrong, and should be condemned by all. It looked to me as if that officer even enjoyed it, digging his knee in deeper and harder. I pray for George Floyd's soul and for his family. It was horrific to watch, yet I have not heard one, not one police officer, even try and justify or defend what happened.

The fact is there are bad, rogue police officers who are bullies with badges out there. Police officers everywhere have to admit that and do everything we can to eliminate them. Honestly, though can you give me one profession that doesn't have bad actors, rogue, untruthful individuals who give their colleagues a bad name? Bad doctors, lawyers, construction workers, firefighters, teachers, bankers, are out there. Yet the ills of society are not laid at their feet. While we are being honest, this bill has nothing to do with police reform. If it was, why isn't the largest Police department in the Commonwealth included, one with a very public problem of misconduct? I haven't seen one statistic that points to an epidemic of police misconduct, excessive or deadly force, especially here in Massachusetts. In fact, its my experience, however antidotal, police officers underutilize force, often to their own detriment. Similarly, where are the statistics showing Police Officers are racist? How do you think that accusation makes minority officers feel, who they themselves may have been victim to some type of discrimination? Yet that title has been laid at our feet as well, the irony of pre-judgment against an entire group of people is rich.

This is about a far, radical left narrative of those that want to socially re-engineer our society. The consequences of this bill will be far reaching. There will be secondary and third order effects not thoroughly thought of not from a bill that was passed in the dark of night. Police Agencies were having a difficult time finding qualified candidates

prior to this Bill. Does anyone believe this is going to help, who wants to be a cop anymore? I can tell you one thing, pro-active policing is dead, crime will sore. My wife and I are discussing a very early retirement, one that will leave me with less than 50 percent of my pay. I am looking into going back to a trade school, possibly starting a landscaping business as well. I'd rather cut grass than have the leaders in government call me and my colleagues racist, prejudice, abusive, responsible for all the problems in our communities. I have seen District Attorneys, Mayors, State reps, State Senators, Congressmen & women and Senators all say this. I have to ask myself do they really believe it, is this real? My children are scared, I had to tell them not to mention to anyone their daddy is a police officer anymore. My wife is terrified everyday that we will be sued and lose everything we have worked so hard for. As a leader in my department I struggle with holding my tongue, and not telling the newer guys to just leave. I try and set an example of steady leadership, that this too will pass and we will overcome it. The truth is, we won't, this will change policing forever. There was a time when I wanted to perhaps be a Chief one day, now I can't leave this job fast enough.

There are bad apples out there but what if this whole damn barrel we work in every day is rotten too. My peers and I work in the toxic realm of humanity every day and see people at their worst. According to one study by the NIJ police officers nationwide average 3 traumatic events every 6 months. The science of trauma tells us just one traumatic event can send someone into a lifetime of depression, substance abuse and struggle. Yet it's part of the job, we can handle it and just go to the next call. I cynically laugh when I hear people say police officers are resilient. They aren't, what we have are spectacular distractions and a super human ability to compartmentalize, but we are not more resilient than anyone else. Our bodies still have to process that trauma, somehow, someday. Who takes care of us? Why aren't we talking about real police reform, getting us access to confidential, vetted, clinicians, to access cutting edge treatments like EMDR, training on meditation, and yoga, fitness, and other wellness practices?

We are your little league coaches, softball coaches, PTA members, and community volunteers who work long hours, wearing a gun belt and ballistic vest to work every day, we are the men and women who answer your calls, day or night hot or cold wet or dry, when no one else will. Why do you feel the need to strip qualified immunity us, tear down the tenants of due process while destroying civil service? Why should we be subject to a review board made up of members who will judge our split second decisions made under dynamic, tense circumstances with 20/20 hindsight who have never had to make those decisions.

This personally take offense to not only this Bill but the manner in which it is being brought about. I will not apologize for evil deeds I did not do nor will I be blamed for the evils of discrimination and racism. We are honorable men and women doing a difficult, once honorable job. I all who read this to vote this bill down, or at the very least slow it down and proceed under the normal legislative process.

Respectfully Submitted,
Angelo J Lapanna III



*President George McNeil
Vice President Gary Sullivan
Treasurer Ronald Sellon
Secretary Brian Clark*

**Representative Aaron Michlewitz
Chair, House Committee on Ways and Means
Representative Claire D. Cronin
Chair, Joint Committee on the Judiciary
Massachusetts House of Representatives
State House
Boston, MA 02133**

Dear Representatives Michlewitz and Cronin,

Comprehensive criminal justice reform is a complex challenge. Complex issues take time to examine and discuss and should not be rushed, particularly when the proposed changes affect so many lives and careers. What has been drafted in Senate Bill 2820 is far reaching and has received little or no input from stakeholders. From all appearances Senators took it upon themselves to propose sweeping changes to law enforcement in Massachusetts without the full engagement of all parties, including, but not limited to, police, prosecutors, the judiciary, prison and probation officials, the health care community, mental health providers, the private sector, and community leaders. The Senate Bill is what it appears to be; a knee jerk reaction.

Senate Bill 2820 creates separation of the police from their communities, places Officers in danger, and opens them up to frivolous law suits. Many police departments in this state have been working years to create partnerships, break down barriers, be transparent, assist those in need, while at the same time protecting and serving their constituents. We have consistently adopted, met or exceeded the Six Pillars of 21st Century Policing established in 2015 by a task force created by President Obama. Most departments also contribute to the FBI National Use of Force Data Collection project and have completed the One Mind Campaign. The One Mind Campaign ensures successful interactions between police officers and persons affected by mental illness. If the Senators had taken the time to speak to us and learn what we have done and what we do then maybe we wouldn't be seeing such drastic measures being introduced.

Currently there are 93 accredited police departments in Massachusetts and 14 certified agencies. When a police department in Massachusetts becomes accredited by the

Massachusetts Police Accreditation Commission (MPAC) they have achieved the gold standard of the law enforcement profession. Much of what is written in the Senate Bill talks about oversight, certification and accreditation but many departments already have that and have policies/directives that address use of force, deadly force, less lethal force, and early warning systems for problem officers. Every department has in place a set of rules and regulations. They also have internal affairs officers and those that keep records regarding complaints, pursuits, and excessive force accusations. We suggest that the House consider including a section on their bill that requires all agencies become accredited by MPAC within a certain period of time. This would address numerous sections of the Senate Bill which are unnecessary.

As you know we are all very concerned about the issue of Qualified Immunity (QI). QI does not serve to protect illegal actions by police officers rather it safeguards all public officials in situations where the law is unclear or does not give them adequate guidance. Nearly every interaction an officer has with the public could be considered discretionary but most times the officer acts in good faith because they are not doing anything illegal. QI has never protected officers where there was wrongful conduct.

There are four potential consequences if a law is enacted that changes QI. First, state courts could be flooded with frivolous lawsuits. Second, municipalities could be impacted financially because they will be burdened with the cost of defending the officer and in most cases indemnifying them. Third, state courts will need to interpret the changes made which will lead to a great deal of uncertainty. Fourth, changes in QI will affect all public officials, not just police. It is imperative that the legislature take time to look at QI and not rush to make changes.

We strongly urge you to take the time to listen to all of us regarding these important issues and these proposed changes to our careers, our lives, and the people that we lead.

Respectfully,

**George M. McNeil
President
Bristol County Chiefs of Police Association
Chief of Police
Somerset Police Department**



HEALTH IMPACT ASSESSMENT

MASSACHUSETTS PROPOSED EXPUNGEMENT BILL

JULY 2016

About this Rapid Health Impact Assessment

Health Impact Assessment (HIA) is a tool that helps identify and address the health impacts of plans, policies, and projects undertaken by non-health sectors. HIA also provides recommendations for preventing or mitigating adverse health outcomes associated with these decisions and maximizing potential health benefits.

Despite the promise of HIA, crucial health implications of decisions made outside the health sector go unexamined in Massachusetts each year. A lack of funding dedicated to HIA, limited staff capacity to conduct HIA, and low levels of grassroots demand for HIA all stymie use of the tool.

With support from the Health Impact Project, the Department of Urban Studies and Planning (DUSP) at the Massachusetts Institute of Technology (MIT) and the Metropolitan Area Planning Council (MAPC) established a program to bring HIA training to urban planning students and community-based organizations. This program was conceptualized as a way to increase local capacity to integrate health considerations into urban policymaking and planning. The aims of this pilot program were threefold: 1) cultivate greater grassroots awareness of, and capacity for, conducting HIA, 2) engage socially vulnerable populations in selecting HIA topics and conducting assessments, and 3) advance assessment methodologies across a broad range of sectors and health outcomes.

A key component of this program was developing a public health course for planners, called "Healthy Cities: assessing health impacts of policies and plans," which was offered at DUSP for the first time in the spring of 2016. DUSP and MAPC also offered a workshop for community based organizations that introduced HIA to local community-based groups working on issues with the potential to impact health. Through this process, we identified critical and timely pending decisions that would warrant examination through HIA and assigned students to explore these decisions through a health lens. This Rapid Health Impact Assessment (RHIA) of Massachusetts Bill S.900, which proposes to expunge juvenile criminal records throughout the state, is the first pilot HIA conducted by "Healthy Cities" students at DUSP.

The report was authored by a group of undergraduate and master-level planning students, with critical edits by a team of research assistants. We are grateful to a panel of external reviewers who volunteered their time to provide thoughtful comments on the RHIA, although their involvement does not imply an endorsement of the findings. Our goals in producing this report were: first, to pilot a process by which urban planning students apply a social determinants of health lens to pressing urban challenges using a HIA methodology; and second, to inform public discourse on the issue of expungement of youth criminal records in Massachusetts.

Acknowledgements

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External review

We would like to express our gratitude to the external reviewers listed below for their thoughtful comments on this RHIA. This acknowledgement does not imply an endorsement of the report's findings or conclusions by any external reviewer. Any mistakes contained in this report are our own.

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Disclaimer

The views expressed in this report are those of the author(s) and do not necessarily reflect the views of the Health Impact Project, The Pew Charitable Trusts, the Robert Wood Johnson Foundation, the Metropolitan Area Planning Council, or the Massachusetts Institute of Technology.

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EXECUTIVE SUMMARY

This report is a Rapid Health Impact Assessment (RHIA) of Massachusetts Bill S.900, which proposes to expunge juvenile criminal records throughout the state. This RHIA was conducted by a group of students in the Healthy Cities course in the Department of Urban Studies and Planning at MIT between February and June 2016.

Health Impact Assessment (HIA) is a method of assessing the potential health impacts of a proposed policy, plan or project. This RHIA focuses on the population that would be directly influenced by the proposed expungement bill: individuals in Massachusetts who obtained a criminal record before the age of 21. We focus on the mental health outcomes of expungement in this population, as conversations with UTEC, of Lowell, MA (formerly known as the United Teen Equality Center), identified this as an important area within their work with at-risk youth.

Methods used for this report include a comprehensive literature review, informal interviews, and a survey. We reviewed literature and analyzed secondary data to estimate the size of the target population and its existing mental health profile. We worked with UTEC to understand the context of the legislation and the current quality of life of individuals with juvenile criminal records. Through this partnership, we spoke with two youth workers and one young person involved with UTEC programs. With UTEC's aid, we administered a survey to 14 young people (under age 25) to evaluate the current process of sealing criminal records and the experience of being a record-holder. UTEC also provided us with de-identified qualitative data from interviews they conducted with three record-holding youth. Based on the literature review and the survey, we identified four likely consequences of expungement that are relevant to mental health. These included reductions in perceived discrimination, unemployment, and recidivism, and changes in police encounters with record-holding youth. We then used the literature to assess how changes in these four outcomes would affect the mental health of the target population.

Our baseline assessment demonstrates that in Massachusetts, young record-holders have a higher rate of mental health problems compared to the general population. In the assessment section of this report, we project that the proposed expungement bill will help reduce disparities in mental health outcomes by reducing perceived discrimination, recidivism, and changing experiences with police encounters, while increasing access to employment for young record-holders. Overall, we anticipate that expungement will reduce the incidence of anxiety and depression and improve overall mental health within the target population. Our assessment finds the following:

Perceived discrimination has negative mental health effects:

- Studies show that perceived discrimination generally negatively affects mental health.
- Based on our interpretation of survey responses from youth with criminal records, we expect that expungement will decrease perceived discrimination.
- We predict this reduction in perceived discrimination to be a likely outcome, affecting a large portion of the population of interest.

Police stops are correlated with negative mental health effects:

- Being stopped by law enforcement is correlated with increased anxiety and PTSD.
- We predict that expungement may minimally decrease the frequency and intrusiveness of interactions with law enforcement, as well as the anticipation of these interactions, for youth with criminal records.
- There is not enough evidence available to ascertain how many individuals this will affect and the magnitude of the impact.
- The decrease in police encounters due to expungement is likely limited, since research shows that other factors, such as race, more so than criminal records, are linked to the nature of police stops.

Employment has positive mental health effects:

- Studies show that employment is correlated with lower rates of depression and improved mental health outcomes.
- Evidence from other states shows that expungement makes obtaining a job easier by reducing hiring discrimination.
- We expect that the positive effects of expungement on employment will be disproportionately benefit those with higher education and with less time served (shorter gap in work history).

Recidivism has negative mental health effects:

- The relationship between mental health and recidivism is complex and bidirectional.
- Imprisonment is correlated with increased mood disorders and exacerbates pre-existing mental health conditions.
- Research also shows that poor mental health can lead to additional crimes, resulting in recidivism.
- The only empirical study on the connection between expungement and recidivism shows that expungement is correlated with a lower likelihood of recidivism. By keeping people out of prison, expungement is likely to improve mental health.

Given the anticipated mental health benefits of expungement on youth with criminal records, we recommend that the Massachusetts legislature pass Bill S. 900. In order to maximize mental health and minimize mental illness, we also make several recommendations to strengthen the bill, and for supplemental initiatives to tackle the fundamental goals of the expungement policy. For example, studies show that when people have to apply for expungement, they rarely do so.¹ We suggest extending automatic expungement to non-violent felonies to ensure that all individuals who are eligible for expungement benefit from the policy. In addition, currently the bill proposes expungement for crimes committed under the age of 21. Research suggests that the brain does not become fully developed until the age of 25.^{2,3,4} Therefore, we recommend expanding the bill to include crimes committed before the age of 25. If the bill is passed, we recommend making expungement retroactive based on an appropriate length of time with no new criminal activity.

¹ Litwok, D., (2014) Have You Ever Been Convicted of a Crime? The Effects of Juvenile Expungement on Crime, Educational, and Labor Market Outcomes, Job Market Paper, <http://econ.msu.edu/seminars/docs/Expungement%20112014.pdf>

² Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., & Schwartz, R. (2003). Juveniles' competence to stand trial: a comparison of adolescents' and adults' capacities as trial defendants. *Law and human behavior*, 27(4), 333.

³ Bryan-Hancock, C., & Casey, S. (2010). Psychological maturity of at-risk juveniles, young adults and adults: Implications for the justice system. *Psychiatry, Psychology and Law*, 17(1), 57-69.

⁴ Monahan, K. C., Steinberg, L., Cauffman, E., & Mulvey, E. P. (2009). Trajectories of antisocial behavior and psychosocial maturity from adolescence to young adulthood. *Developmental psychology*, 45(6), 16543.

INTRODUCTION

WHAT IS HIA?

Health Impact Assessment (HIA) is a method of assessing the potential health impacts of a proposed policy, program or project. Rapid Health Impact Assessments (RHIA) such as this report are written on an expedited timeline and are usually shorter in length and less resource-intensive, but have similar goals to HIA.

This RHIA evaluates the mental health impacts of Massachusetts Bill S.900, which proposes expungement of juvenile criminal records, on individuals in Massachusetts who obtained a criminal record before the age of 21. The RHIA was conducted by a group of students in the Healthy Cities course in the Department of Urban Studies and Planning at MIT between February and June 2016.

Like most HIAs, this report takes a broad view of the factors that influence one's health. Rather than looking at healthcare or environmental exposures, we investigate the bill's impact on social characteristics that have been shown to affect one's health, including employment, socioeconomic status, and relationships with others.

OVERVIEW OF EXPUNGEMENT BILL

Massachusetts Bill S.900⁵ as introduced proposes automatic expungement of criminal records for misdemeanors committed prior to the age of 21 for individuals who have a record of juvenile or criminal court appearances and dispositions in Massachusetts on file with the Office of the Commissioner of Probation. While expungement for misdemeanors will occur automatically upon the termination of the individual's sentence or period of commitment or probation, to expunge a record of a felony a petition must be submitted to a judge.

The term 'expunge' is defined in the bill as 'permanent erasure or destruction' of records in both physical and electronic form. Expunged records will be reported as 'no record' to police, court agencies, employers, or other authorized persons who are seeking information about an individual's criminal record.

SCREENING

The screening step of an HIA determines whether the HIA could add value to a decision-making process. At this step, we evaluated whether the expungement bill would have a substantial impact on health, as well as whether this RHIA had the potential to provide new information to decision-makers, stakeholders and the general public.

In 2014 UTEC, formerly known as the United Teen Equality Center, of Lowell, MA and partner organizations identified expungement as a legislative priority for advancing community work with youth offenders. This led to a widespread support for Massachusetts Bill S.900. UTEC, along with Teens Leading the Way, a statewide youth coalition, has focused on raising awareness about the potential social and economic benefits of expungement. However, the health impacts of Bill S.900 remained unexplored.

UTEC works with youth in Lowell and Lawrence, MA who have a criminal record, are gang-involved, have no high school credential, and/or are pregnant or parenting. It aims to help these youth "trade violence and poverty for social and economic success".⁶ Through discussions with Teens Leading the Way coalition members, UTEC identified youth mental health as a priority issue. Youth that have entered the justice system express significant levels of distress tied to the experience of holding a criminal record. This, along with substantial research documenting the link between mental health and criminal records, influenced UTEC's interest in conducting an HIA focused on the mental health effects of Bill S.900.

⁵ Massachusetts General Court, Bill S.900 - Massachusetts, <https://malegislature.gov/Bills/189/Senate/S900>

⁶ UTEC. How We Engage Impact Youth. https://www.utec-lowell.org/uploads/uploads/utec_factsheet_3.30.16.pdf

MIT's Spring 2016 Healthy Cities course presented an opportunity to establish a community partnership and harness student resources for the completion of the RHIA prior to the end of the legislative session on July 31, 2016. The mental health impacts of expungement represented an important perspective that had not yet been explored, one that could greatly enrich the public conversation on expungement in the state of Massachusetts. MIT students and UTEC staff were able to work collaboratively to identify questions of importance for the RHIA. Students then conducted secondary research and stakeholder surveys to develop a final report. Ultimately, the purpose of this RHIA is to inform the public and decision-makers about the potential health consequences of Bill S.900.

UNDERSTANDING THE CURRENT CONTEXT

WHO HAS ACCESS TO ONE'S CRIMINAL RECORDS?⁷

Understanding the current context of record access in Massachusetts can help demonstrate the motivations for assessing the potential health impacts of Massachusetts Bill S. 900.

A Criminal Offender Record Information (CORI) report is a list of one's criminal charges. It includes all cases, even ones in which a defendant was found not guilty or in which the case was dismissed. Today, any person who has ever been arraigned on a criminal charge in a Massachusetts court will have a CORI report (CORI reports do not include pre-court information, such as orders to show cause or arrest records).

In 2010, Massachusetts reformed CORI to restrict access to records, in order to "improve employment and housing opportunities for ex-offenders — thereby easing their reintegration into society and reducing recidivism."⁸

Today, CORI is governed by a fairly complex set of access levels. Different entities and/or people can request access to an individual's CORI. However, the kind of information that is shown depends on:

- (A) Who the CORI owner is;
- (B) Whether the record is sealed;
- (C) Who is requesting the CORI;
- (D) What kind of offense was committed.

(A) Who the CORI owner is:

The Massachusetts criminal justice system categorizes offenders into three groups based on age:⁹

- 1) Juvenile offenders are individuals between 7 and 17 years of age who have committed a felony, committed a misdemeanor, or violated a city ordinance or town by-law. The Massachusetts Department of Youth Services (DYS) is charged with the detention and custody of juvenile offenders.
- 2) A youthful offender is an individual between 14 and 17 years of age who has committed a felony offense AND has at least one of the following:
 - Previous DYS commitment
 - Committed a firearms offense
 - Committed an offense that involves the infliction or threat of serious bodily harm

A youthful offender can receive a commitment to DYS until age 21, a combination DYS commitment and adult sentence, or an adult sentence.

- 3) Adults are individuals age 18 and above. For very serious acts like murder, a youth can be charged as an adult, but this is a rare event in Massachusetts.

Generally speaking, access to juvenile records is fairly restricted, available only to those with top-level access, such as the courts. In contrast, youthful offender records and adult criminal records are more easily accessible to the general public.

⁷ Department of Youth Services "Juvenile Justice Legal Issues", Mass Gov website, <http://www.mass.gov/eohhs/gov/laws-regs/dys/juvenile-justice-legal-issues.html>; Administrative Office of the District Court, (2013) A Guide to Public Access, Sealing & Expungement of District Court Records, Commonwealth of Massachusetts, Pg 45.

⁸ Priest, G., Finn, J, Engel, L. (2012) The Continuing Challenge of CORI Reform, Implementing the Groundbreaking 2010 Massachusetts Law, Understanding Boston, <http://www.prisonpolicy.org/scans/CORI-May2012.pdf>

⁹ Department of Youth Services "Juvenile Justice Legal Issues", Mass Gov website, <http://www.mass.gov/eohhs/gov/laws-regs/dys/juvenile-justice-legal-issues.html>

(B) Whether the record is sealed:

Some records are eligible for sealing, but only after a significant period of time after the termination of any court disposition (e.g. court supervision, probation, commitment or parole) and after the person was adjudicated as a delinquent, found guilty of any criminal offense, or sentenced to prison/ committed as a delinquent. Those with juvenile or youthful offender records have to wait a minimum of three years for record sealing, while those with adult criminal records have to wait upwards of five years and for certain offenses up to 15 years.¹⁰ Records are almost never sealed automatically, and unlike expungement sealing does not erase the record, but simply hides it.¹¹ Sealed records are also still available at court sentencing and to law enforcement agencies.

(C) Who is requesting the CORI:

There are five broad levels of access for anyone other than the owner of the CORI him/herself. The general public is given the least open access to CORI records, while higher levels of access are granted to select groups, such as public / subsidized housing management companies and a subset of employers like state agencies and municipalities.

(D) What kind of offense was committed:

Generally, access increases with the severity of the offense. For instance, convictions involving murder, manslaughter and sex offenses are generally more visible compared to minor misdemeanors.

Appendix C provides details of sealing criteria and an illustration of the different levels of access.

OTHER MEANS TO ACCESS RECORDS

Despite the 2010 reforms to the CORI system to restrict access, the current restrictions are still not airtight. Employers, landlords and others often rely on private companies, called Consumer Reporting Agencies (CRAs), to obtain criminal background reports. CRAs collect criminal records information and compile it into reports that they sell. CRAs are not subject to state law and are able to disseminate information outside of the state guidelines as well as information about non-convictions.^{12,13} While CRAs technically have limited access to CORI, their databases may include information on sealed records. While there are some protections under the federal Fair Credit Reporting Act, CRAs may still release incorrect or outdated information about criminal records.^{14,15}

SCOPING:

¹⁰ Administrative Office of the District Court, (2013) A Guide to Public Access, Sealing & Expungement of District Court Records, Commonwealth of Massachusetts, Pg 45, <http://www.mass.gov/courts/docs/courts-and-judges/courts/district-court/pubaccesscourtreords.pdf>

¹¹ Elikann, P. (2012) "A primer on sealing criminal records." Lawyers Journal. <http://www.massbar.org/publications/lawyers-journal/2012/april/a-primer-on-sealing-criminal-records>

¹² Priest, G., Finn, J, Engel, L. (2012) The Continuing Challenge of CORI Reform, Implementing the Groundbreaking 2010 Massachusetts Law, Understanding Boston, <http://www.prisonpolicy.org/scans/CORI-May2012.pdf>

¹³ Bender, A. and Crowley, S., (2015) "Haunted by the Past: A Criminal Record Shouldn't Ruin a Career" The Atlantic. <http://www.theatlantic.com/business/archive/2015/03/haunted-by-the-past-a-criminal-record-shouldnt-ruin-a-career/388138/>

¹⁴ Sussman, E.,(2013) Criminal Records and Employment Rights: A Tool for Survivors of Domestic Violence, <http://nnedv.org/downloads/Thousing/EmptRightsForSurvivorsWithCriminalRecords.pdf>

¹⁵ Greater Boston Legal Services, (2015). Who Can See My Record, MassLegalHelp, <http://www.masslegalhelp.org/cori/who-can-see-it>

EXPUNGEMENT AND MENTAL HEALTH

In the scoping stage of an HIA, researchers choose the range of issues that will be covered in the HIA, including the population of interest and the health outcomes evaluated. Given our broad conception of health as something that is influenced by many aspects of one's life, we needed to limit the scope in some way to prevent this RHIA from quickly becoming unwieldy. Not all populations affected by the health impacts of expungement could be considered with the time and resources available. Therefore, based on stakeholder input and available research, we narrowed our scope to focus on the mental health of the individuals directly impacted by the bill, and four pathways through which expungement may affect mental health.

We focused on mental health outcomes for several reasons. First, the need to address mental health problems among youth in Massachusetts is a major challenge and priority for the state.^{16,17} In addition, our initial examination of research studies during the scoping process showed that the expungement bill's target population – youth with criminal records – is more likely to suffer from poor mental health compared to the general population. UTEC also highlighted mental health as an important concern. Although expungement may have an effect on physical health, such as through chronic diseases or injuries, given the significance of mental health for youth with criminal records, the state of Massachusetts, and UTEC, we maintained mental health as the focus for this RHIA.

For the purpose of this RHIA, we focused on the population most directly affected by the proposed bill: individuals in Massachusetts who obtained a criminal record before the age of 21 and who will have their records expunged if the bill passes. Given our time limitations, we were not able to evaluate the impact of expungement on other groups who may be indirectly affected either positively or negatively, such as police officers, employers, the general public in high crime areas, and family members of those who have their records expunged. Future analysis would be needed to assess the health effects of expungement on these populations.

With this focus on mental health and people with records for crimes committed before age 21, we developed a pathway diagram showing the different ways we conceptualized that the expungement bill might affect mental health (see Figure 1). We identified several potential intermediate outcomes of the bill, and based on stakeholder input and a literature review narrowed it down to four for the purposes of this RHIA: reduced perceived discrimination, changes in police encounters, increased employment and reduced recidivism.

Other pathways considered included access to housing and education. These were not included in the final RHIA due to limited time and limited data available relative to the other pathways. As a result, this RHIA does not consider every possible way in which expungement might affect mental health, but rather provides detailed information on some of the pathways.

¹⁶ Massachusetts Department of Public Health (2013), Health Survey Program, Division of Research and Epidemiology, A Profile of Health Among Massachusetts Middle and High School Students, 2013

¹⁷ Massachusetts Department of Elementary and Secondary Education: Massachusetts Department of Public Health, "Health and Risk Behaviors of Massachusetts Youths, 2013"

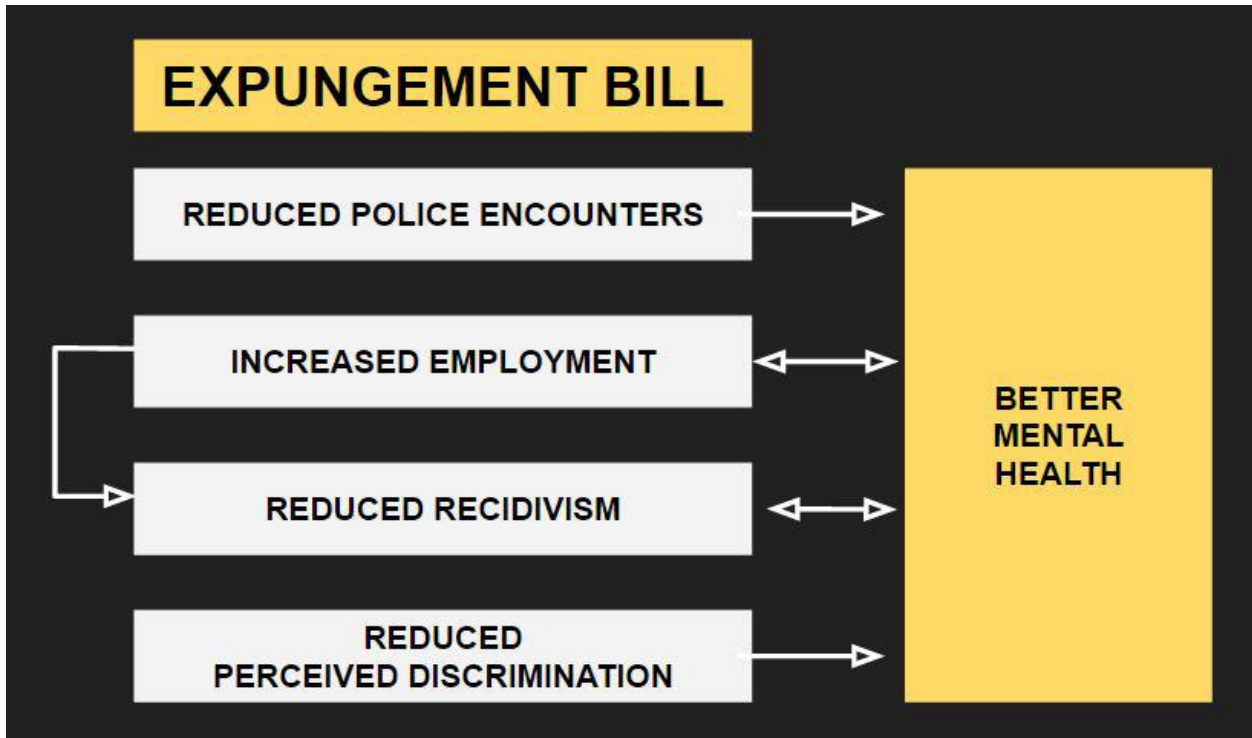


Figure 1. Pathway diagram showing intermediate outcomes of expungement

METHODS

Methods for this RHIA included using secondary data to estimate the size and current characteristics of the population that will be directly affected by the expungement bill, conducting a literature review to determine the likely impacts of expungement on mental health, and conducting a survey of people who received criminal records before age 21 to determine how expungement may affect their lives.

For the baseline assessment, we relied on secondary data to estimate the number of people in Massachusetts under age 21 with criminal records and to determine the existing mental health profile of this population. We worked with UTEC to understand the context of the legislation and the quality of life of individuals with juvenile records. Through this partnership, we also informally interviewed two youth workers and one young person involved in UTEC's programs.

For the assessment portion of this RHIA, we conducted a literature review to evaluate the impacts of four likely outcomes of expungement identified in the scoping section – reduced perceived discrimination, police encounters, unemployment, and recidivism – on mental health. We evaluated the mental health outcomes of these pathways based on the following:

- The *likelihood* that the effect would be seen based on the strength of the literature, both in terms of the number of studies supporting a particular pathway and the quality of those studies;
- The *severity*, or size of the effect;
- The *size* of the affected population.

To better understand the current process of sealing criminal records and how expungement may affect those with criminal records, we conducted a survey of people under age 25 with juvenile and adult criminal records received prior to age 21 (See Appendix A for the survey instrument and Appendix B for the survey results). Survey respondents were asked about record access and the record sealing process, how having a criminal record impacts their lives, their experience with police encounters, and how the expungement bill would affect them. The team sent the online survey to UTEC, who assisted with administering the survey to the youth that they work with. 14 people responded to the survey. Given the low number of respondents and the fact that this was not a random sample, we do not expect that the survey results are representative of the entire population of youth with criminal records. However, the survey did allow us to collect limited data about the challenges that youth with criminal records face and how expungement may affect those challenges.

The survey received approval from the Massachusetts Institute of Technology Committee on the Use of Humans as Experimental Subjects (COUHES). The survey responses were anonymous, and no identifying information was collected about the survey respondents.

UTEC also provided us with de-identified qualitative data from interviews they conducted with three record-holding youth.

BASELINE ASSESSMENT

SIZE OF THE TARGET POPULATION

The expungement bill would directly affect Massachusetts residents who obtain a criminal record prior to the age of 21. Data on the size of this population is unavailable, so we estimated the total number of people convicted prior to age 21 using census and arrest prevalence and conviction rate data.

Based on 2014 census projections, there are approximately 1.7 million Massachusetts residents under 21 years of age.¹⁸ A portion of these individuals has an arrest record, but this data is not available for Massachusetts. National studies estimate that about a quarter of people under age 18 and 30% of people under age 23 have been arrested.¹⁹ Since the imprisonment rate in Massachusetts is significantly lower than the national average²⁰, we expect that the number of youth who have been arrested in Massachusetts is also lower than the national rate.

Moreover, not every arrest results in a conviction. According to the Bureau of Justice Statistics, approximately 68% of felony cases in the US have gone to trial and resulted in a criminal record.²¹ The expungement bill would also affect those who appeared in court but did not receive a conviction, as they would be able to expunge records of the court appearance from the CORI system. Nationally, 89% of felony cases go to trial²², meaning that an additional portion of those who have been arrested do not have criminal records but may have records of court appearances expunged as a result of the bill.

CURRENT MENTAL HEALTH TRENDS IN TARGET POPULATION

Multiple studies concur that individuals involved with the justice system, whether as juveniles or as adults, have poorer mental health than the general population. For instance, a 2013 survey of incarcerated adults in Massachusetts by the Department of Corrections (DOC) found that approximately 25% of males and 63% of females, or about 28% of the whole incarcerated population, had open mental health cases, which was defined as being diagnosed with a mental illness or determined to be in need of mental health intervention on an ongoing basis.^{23,24} In 2012, 20% of prisoners age 17-29 had an open mental health case.²⁵

In contrast, as of 2011-2012, 17.38% of people in Massachusetts had experienced any mental illness in the past year.²⁶

While these figures are not directly comparable due to differences in methodology and definition, they give a sense of the magnitude of difference between the mental health status of those involved in the criminal justice system and the general public. On average, those who are incarcerated have worse mental health than the general population.

¹⁸ American Community Survey 2014 (1-Year Estimates).

¹⁹ Brame et al. Cumulative Prevalence of Arrest From Ages 8 to 23 in a National Sample. 2011 <http://pediatrics.aappublications.org/content/early/2011/12/14/peds.2010-3710>

²⁰ The Sentencing Project. State-by-State Data. <http://www.sentencingproject.org/the-facts/#detail?state1Option=U.S.%20Total&state2Option=Massachusetts>

²¹ Bureau of Justice Statistics. <http://www.bjs.gov/index.cfm?ty=qa&iid=403>

²² Bureau of Justice Statistics. <http://www.bjs.gov/index.cfm?ty=qa&iid=403>

²³ Massachusetts Department of Correction, Prison Population Trends 2013 (2014) <http://www.mass.gov/eopss/docs/doc/research-reports/pop-trends/prisonpop-trends-2013-final-5-21-2014.pdf>

²⁴ Massachusetts Department of Correction. "Mental Health Services." (2015). <http://www.mass.gov/eopss/docs/doc/policies/650.pdf>

²⁵ Lockmer, E. (2012). Open Mental Health Cases in the Massachusetts Doc. Massachusetts Department of Corrections. <http://www.mass.gov/eopss/docs/doc/research-reports/mental-health-brief-finaldoc.pdf>

²⁶ Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. (2014). The NSDUH Report: State Estimates of Adult Mental Illness from the 2011 and 2012 National Surveys on Drug Use and Health. Rockville, MD. <http://www.samhsa.gov/data/sites/default/files/sr170-mental-illness-state-estimates-2014/sr170-mental-illness-state-estimates-2014/sr170-mental-illness-state-estimates-2014.htm>

However, there are several shortcomings of the data on mental health from the Massachusetts DOC. First, there is no data on youth under age 21, the bill's target population. In addition, the Department of Youth Services (DYS) does not have publically available data on mental health, so the percentages above may not apply to people who are convicted as juvenile offenders. The data also does not include people who are incarcerated in county jails and prisons. Finally, all mental health problems may not be included in the open mental health cases reported by DOC, as some mental health issues may go unreported or undetected.

Several studies from other states describe the mental health outcomes for youth involved with the juvenile system, the bill's target population. A 2006 study of the prevalence of mental health challenges among youth involved with the juvenile justice system examined data from over 1,400 youths from 29 different programs and facilities in three states – Louisiana, Texas, and Washington – and found that approximately 70% of those who had contact with the juvenile justice system (community-based programs, detention centers, and secure residential facilities) had at least one mental health disorder.²⁷ An earlier study from 2002 examined 1,829 randomly selected youth who were arrested and detained in Cook County, Illinois, and found that, of those surveyed, 66% of males and 75% of females met the criteria for one or more psychiatric disorder.²⁸ The most common mental health issues reported in these studies were substance use disorders, anxiety disorders, and mood disorders such as depression.

²⁷ Shufelt, J., Coccozza, J.J. (2006) Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study, National Center for Mental Health and Juvenile Justice Research and Policy Briefs, [http://www.unicef.org/tdad/usmentalhealthprevalence06\(3\).pdf](http://www.unicef.org/tdad/usmentalhealthprevalence06(3).pdf)

²⁸ Teplin, A., McClelland, Dulcan & Mericle. (2002). "Psychiatric Disorders in Youth in Juvenile Detention", <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2861992/>

ASSESSMENT

ESTIMATED IMPACTS OF EXPUNGEMENT ON MENTAL HEALTH

As shown in the previous section, youth involved with the justice system are disproportionately affected by mental illness compared to the general population. This high prevalence of mental health challenges suggests an opportunity to improve mental health outcomes within this population. This section assesses the anticipated intermediate outcomes of the expungement bill: a reduction in perceived discrimination, the frequency of police encounters and recidivism, and an increase in access to employment. We use data from a literature review and surveys and interviews of youth with criminal records to project the changes in mental health as a result of changes to these intermediate outcomes.

PERCEIVED DISCRIMINATION

Perceived discrimination involves experiencing behavioral manifestations of negative attitudes, judgments, or unfair treatment because one is part of a group.²⁹ While we may often think of groups that experience discrimination as racial, ethnic, or religious, youth with criminal records can experience discrimination based on their record-holding status. We use the term “perceived discrimination” to clarify that an individual can be impacted by experiences regardless of another’s intent to discriminate. In addition, measures of perceived discrimination typically rely on self-reported information rather than observation of actual events.³⁰ Regardless of intent, perceived discrimination is significant because if an individual believes they are being discriminated against they can experience negative effects.

EXPUNGEMENT AND PERCEIVED DISCRIMINATION BASED ON RECORD-HOLDING STATUS

We know from survey and interview results that youth with criminal records are frequently discriminated against due to their record-holding status, including in employment, education and interpersonal relationships. One youth said that because of this discrimination, having a record “affects my life very negatively where I feel that I cannot make further progress with my life.” Another said that people act differently “when I tell them I have a record.”

Expungement will likely reduce experiences in which youth perceive discrimination because people will not be aware that a person with an expunged record previously committed a crime, and therefore will not be able to use that as the basis for discrimination. As one youth noted in an interview, others “would see me as a normal human being and not a felon or criminal.”

However, the benefits of reducing perceived discrimination through expungement may be limited. For example, expungement may not reduce discrimination from entities that were aware of a person’s record-holding status prior to expungement.



Figure 2

²⁹ Banks KH, Kohn-Wood LP, Spencer M. An examination of the African American experience of everyday discrimination and symptoms of psychological distress. *Community Mental Health Journal*. 2006;42(6):555–569.

³⁰ Pascoe, E.A., Richman, R.S. Perceived Discrimination and Health: A Meta-Analytic Review. *Psychological Bulletin* 2009; 135(4): 531–554. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2747726/pdf/nihms134591.pdf>

PERCEIVED DISCRIMINATION AND MENTAL HEALTH OUTCOMES

Social stress theory provides a mechanism to understand the relationship between perceived discrimination and health outcomes. The theory suggests that socioeconomic conditions, including income, education, and social status, evoke stress.³¹ Stress, in turn, is linked with negative mental health outcomes. Studies of young people have shown that experiencing chronic stress, whether from exposure to daily hassles or more serious situations like war, is correlated with anxiety, depression and post-traumatic stress symptoms.^{32,33,34}

Experiencing discrimination is one such social factor that can lead to stress. However, there are many other factors that also lead to stress for youth with criminal records. For example, social and economic challenges that expungement will not directly address (e.g., living in poverty) may have a bigger impact on stress and its resulting health impacts than perceived discrimination.

The mental health effects of perceived discrimination are well studied. Studies have found that experiencing or perceiving discrimination is correlated with stress, a diminished sense of control, lower self-esteem, and feelings of hopelessness, which have all been linked to mental health problems.^{35,36} Pascoe and Richman (2009) conducted a meta-analysis of 110 studies on perceived discrimination and mental health. They concluded that on average, studies find that perceived discrimination is correlated with a 16% reduction in mental health. The studies reviewed in this meta-analysis used different measures of mental health, including depressive, anxiety and post-traumatic stress symptoms, psychological distress, and indicators of general well-being such as self-esteem, life satisfaction, perceived stress, anger and perceived quality of life.³⁷

Other studies have also found that experiencing or perceiving discrimination is associated with a variety of mental health issues. For example, a 2007 study of 2,047 Asian Americans found that individuals who reported discrimination were twice as likely to suffer from an anxiety or depressive disorder compared to those who did not experience discrimination, after controlling for relevant social, economic, demographic and health characteristics.³⁸

Since expungement is expected to reduce the perceived discrimination that youth with criminal records face, it will likely improve mental health outcomes within this population.

UTEC staff also noted that youth with records often limit their own opportunities due to a fear of discrimination.³⁹ To the extent that record-holding youth disengage with educational or economic opportunity in anticipation of being discriminated against, discrimination may exacerbate mental health problems by restricting access to employment, education, or housing, for example.

³¹ Aneshensel, C. S. (1992). Social Stress: Theory and Research. *Annual Review of Sociology*, 15.

³² Newnham, E. A., Pearson, R. M., Stein, A., & Betancourt, T. S. (2015). Youth mental health after civil war: the importance of daily stressors. *British Journal Of Psychiatry Supplement*, 206(1), 116. doi:10.1192/bjp.bp.114.146324

³³ D'Angelo, B., & Wierzbicki, M. (2003). Relations of daily hassles with both anxious and depressed mood in students. *Psychological Reports*, 92(2), 416-418.

³⁴ Parrish, B. P., Cohen, L. H., & Laurenceau, J. (2011). Prospective Relationship between Negative Affective Reactivity to Daily Stress and Depressive Symptoms. *Journal Of Social & Clinical Psychology*, 30(3), 270-296. doi:10.1521/jscp.2011.30.3.270

³⁵ DuBois, D. L., Burk-Braxton, C., Swenson, L. P., Tevendale, H. D., & Hardesty, J. L. (2002). Race and Gender Influences on Adjustment in Early Adolescence: Investigation of an Integrative Model. *Child Development*, (5), 1573.

³⁶ Prelow, H. M., Danoff-Burg, S., Swenson, R. R., & Pulgiano, D. (2004). The impact of ecological risk and perceived discrimination on the psychological adjustment of African American and European American youth. *Journal Of Community Psychology*, 32(4), 375-389.

³⁷ Pascoe, E. A., & Richman, L. S. (2009). Perceived Discrimination and Health: A Meta-Analytic Review. *Psychological Bulletin*, 135(4), 531-554. <http://doi.org/10.1037/a0016059>

³⁸ Gee, G. C., Spencer, M., Chen, J., Yip, T., & Takeuchi, D. T. (2007). The association between self-reported racial discrimination and 12-month DSM-IV mental disorders among Asian Americans nationwide. *Social Science & Medicine* (1982), 64(10), 1984-1996.

<http://doi.org/10.1016/j.socscimed.2007.02.013>

³⁹ Foster, G. (2016, March 29). Personal Interview

POLICE ENCOUNTERS

In interviews, staff and youth from UTEC mentioned that many youth with juvenile records experience police harassment.⁴⁰ By strict order of the law, a person's record-holding status should not influence a police officer's conduct. At the same time, however, Massachusetts police are allowed to conduct observation and surveillance of youth who are gang-affiliated.⁴¹ Police who are involved in these operations are likely aware of individuals who have juvenile records or who have been affiliated with a gang in the past. The fact that the police are legally allowed to observe and survey these young people may help explain why youth with criminal records experience a high volume of police encounters. Due to a lack of publicly available data on the nature of police encounters statewide, we relied on a case study approach to understand the frequency and quality of police encounters experienced by youth in our population of interest.

EXPUNGEMENT AND POLICE ENCOUNTERS

The American Civil Liberties Union (ACLU) and the Boston Police Department partnered to conduct a study of stop and frisk data within Boston, MA from 2007-2010.⁴² The results show that approximately half of the people stopped by police had a prior arrest history. For each additional prior arrest, suspects were 1.8% more likely to be frisked or searched during a police encounter. This suggests that having a record may increase the intrusiveness of a police encounter, although it is also possible that the relationship between prior arrests and intrusiveness is not causal. Five percent of all individuals stopped accounted for 40% of the total number of reported stops, suggesting that once someone has a police encounter the likelihood of future stops increases.⁴³ The Boston Field, Interrogation, and Observation (FIO) reports only include information on police stops. They do not include information on whether a stop resulted in an arrest. In the absence of these data, we look to information from New York City, where stops result in arrests 7-12% of the time,⁴⁴ to provide some indication of what arrest rates after police stops may be.

Responses to our survey show that most youth with criminal records have had repeated interactions with the police. Over 80% of respondents noted that they have had at least one police encounter in the past two years. Approximately 30% of respondents noted that they have had over 20 police encounters in the past two years. Some of these individuals believed the stop occurred without reasonable cause and that they were treated unfairly, while others believed there was reasonable cause for the stop and that they were treated fairly. However, eight out of the nine respondents who elaborated on their police encounters believed that their criminal record played a role in the encounter. After expungement, police will not be able to see the records of youth offenders, which youth expect will limit the intrusiveness of police stops. As one survey respondent noted, expungement will influence their life because the police "will stop harassing me."

Although some evidence suggests that expungement could reduce the frequency and intrusiveness of police encounters, we expect that the changes youth experience as a result of expungement will be limited. Analyses of police encounter data suggest that race, more so than record-holding status, is strongly associated with police stops. In Boston, three out of every five FIO reports are for black individuals. Although black people make up 20% of Boston's population they account for over 64% of total FIO reports.⁴⁵ In New York City, minority men are 6 times more likely to be stopped and 1.25 times more likely to be frisked and experience the use of force than white men.⁴⁶

⁴⁰ Bonilla, J., Kang, M., and Foster, G. (2016, March 1). Personal interview.

⁴¹ Commonwealth of Massachusetts. (2016). State Police Gang Unit. Retrieved May 19, 2016, from <http://www.mass.gov/eopss/law-enforce-and-cj/criminal-investig/gang-unit.html>

⁴² Fagan J., Braga A.A, Brunson R.K, Pattavina, A. (2015). An Analysis of Race and Ethnicity Patterns in Boston Police Department, Field Interrogation, Observation, Frisk, and/or Search Reports.

⁴³ Fagan J., Braga A.A, Brunson R.K, Pattavina, A. (2015). An Analysis of Race and Ethnicity Patterns in Boston Police Department, Field Interrogation, Observation, Frisk, and/or Search Reports.

⁴⁴ Sewell, A. A., & Jefferson, K. A. (2016). Collateral Damage: The Health Effects of Invasive Police Encounters in New York City. *Journal of Urban Health*, 1-26.

⁴⁵ Fagan J., Braga A.A, Brunson R.K, Pattavina, A. (2015). An Analysis of Race and Ethnicity Patterns in Boston Police Department, Field Interrogation, Observation, Frisk, and/or Search Reports.

⁴⁶ Sewell, A. A., & Jefferson, K. A. (2016). Collateral Damage: The Health Effects of Invasive Police Encounters in New York City. *Journal of Urban Health*, 1-26.

This data suggests that expungement will have a limited impact on mental health if police encounters are predominantly race-related. In addition, if police target youth with criminal records because they already know these individuals, expungement will have minimal impact on police encounters and the resulting mental health benefits.

POLICE ENCOUNTERS AND MENTAL HEALTH



Figure 3

Being stopped by the police has been linked with poor mental health outcomes. Geller et al. (2014) conducted a survey to analyze the mental health effects of interactions with police on young men in New York City. They found that being stopped by the police was correlated with an increase in anxiety and PTSD symptoms among young men.⁴⁷ An intrusive police encounter, including those that involve physical contact and/or use of force, was associated with a larger increase in anxiety and PTSD symptoms.

Approximately half of our survey respondents noted that having a record makes them highly anxious about encounters with the police. This anxiety may contribute to poorer mental health.

Further research needs to be conducted in order to assess the links between having a record, contact with law enforcement, and the subsequent mental health outcomes of the affected population. However, our qualitative data suggest that, at the very least, expungement would reduce anticipation and fear of, and possibly the incidence of, intrusive police encounters related to record-holding status. Given these findings and studies linking intrusive police encounters to poor mental health, we project that expungement would be associated with minimal improvements in mental health for record-holding youth in Massachusetts.

EMPLOYMENT

There are several ways in which employment can affect health. First, through earned income, employment provides material resources and opportunities for education, housing and other necessities. In addition, employment can provide people with a sense of purpose and allow them to build skills and increase their social capital. Studies show that people who are working have better overall health than those who are unemployed or out of the labor force, even when controlling for income and other demographic characteristics.⁴⁸

Those with criminal records tend to have worse employment prospects than the general population. Estimates by the Center for Economic and Policy Research suggest a 5-20% percentage point penalty in employment for a felony record.⁴⁹ In Massachusetts, the unemployment rate is approximately 5%.⁵⁰ Therefore, these estimates suggest that those with criminal records in Massachusetts may have an unemployment rate in the range of 10% to 25%.

In addition, young people are more likely to be unemployed than the general population. Although age-specific unemployment data is not available at the state level, nationally the unemployment rate for youth

⁴⁷ Geller, A., Fagan, J., Tyler, T., & Link, B. G. (2014). Aggressive policing and the mental health of young urban men. *American journal of public health*, 104(12), 2321-2327.

⁴⁸ Avendano, M, and Berkman, LF (2014). "Chapter 6: Labor Markets, Employment and Health." In *Social Epidemiology*, edited by LF Berkman and I Kawachi. New York: Oxford University Press.

⁴⁹ Schmitt, J. Kris Warner (2010). *Ex-offenders and the Labor Market*

⁵⁰ 2015 Massachusetts Labor Force and Unemployment Data

age 16-19 is 16%. For individuals age 20-24 it is 8.3% (the national unemployment rate overall is similar to Massachusetts, 5%).⁵¹ Therefore, the unemployment rate among youth with criminal records is likely even higher than the unemployment rate for ex-offenders of any age.

Evidence suggests that ex-offenders struggle during the hiring process. In our survey of UTEC youth, 46% reported that their record prevented them from applying for a job. A study in Los Angeles showed that only about 20% of employers would “probably” or “definitely” be willing to accept an applicant with a criminal record into their last filled non-college job. An additional 35% said their decision would depend on the nature of the crime.⁵²

Similarly, a national survey conducted in several cities revealed that whereas over 90% of employers are willing to consider hiring a welfare recipient, only about 40% are willing to consider hiring an ex-offender.⁵³ Employers are also more likely to consider hiring immigrants, minorities and those without a high school diploma than those with a criminal record.⁵⁴

Massachusetts has taken measures to combat this form of hiring discrimination. In 2010, the state passed “An Act Reforming the Administrative Procedures Relative to Criminal Offender Record Information and Pre- and Post-Trial Supervised Release” (CORI Reform). Like legislation in other states that prevents employers from asking about criminal records on job applications (“ban the box” legislation), CORI Reform makes it more difficult for employers to rule out applicants with a criminal record before meeting them. Safeguards include preventing employers from asking about:⁵⁵

- An applicant’s criminal past on a written application;
- Drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbances of the peace at any point in the application process;
- Sealed records or juvenile offenses.

Similar ban-the-box policies have reduced unemployment rates among ex-offenders elsewhere. The city of Durham, North Carolina, which passed a similar law related to municipal hiring in 2011, has seen a 7-fold increase in the hiring of employees with a criminal-record.⁵⁶ In Minneapolis, Minnesota, the improvement has been 10-fold.⁵⁷

Although data on the effects of CORI Reform is not available for Massachusetts, data from cities and states with similar regulations suggest that ban-the-box has already increased the hiring of individuals with a record. Still, there are concerns that CORI Reform has not done enough to eliminate hiring bias, especially since information about criminal records can still be revealed at the interview stage. Employers may still ask about criminal records at the interview stage, and choose not to hire someone with a record at that point. Therefore, some “advocates [feel] that this only delays the process of rejection and leaves people with a CORI feeling more hopeless”.⁵⁸

⁵¹ Bureau of Labor Statistics. Labor Force Statistics from the Current Population Survey. Accessed June 16, 2016. <http://www.bls.gov/web/empsit/cpseea10.htm>

⁵² Holzer, H. J., Raphael, S., & Stoll, M. A. (2003). Employer demand for ex-offenders: Recent evidence from Los Angeles. Institute for Research on Poverty, University of Wisconsin-Madison.

⁵³ Holzer, Harry “Collateral Costs: The Effects of Incarceration on the Employment and Earnings of Young Workers,” Bonn, Germany: IZA Discussion Paper No. 3118, 2007

⁵⁴ Holzer, H. J., Raphael, S., & Stoll, M. A. (2006). Employers in the boom: how did the hiring of less-skilled workers change during the 1990s?. The Review of Economics and Statistics, 88(2), 283-299.

⁵⁵ Massachusetts Commission Against Discrimination (2010). Criminal Offender Record Information Administrative Procedure Reforms

⁵⁶ The Southern Coalition for Social Justice (SCSJ) A Case Study of Durham, NC

⁵⁷ City of Minneapolis Conviction Information Summary 2004 – 2008 YTD

⁵⁸ Gabriella Priest et al., (2012) The Continuing Challenge of CORI Reform: Implementing the Groundbreaking 2010 Massachusetts Law. <http://www.bostonindicators.org/~media/Files/Global/Articles/Research%20Reports/CORI%20May2012.pdf> (describing the extensive changes to the criminal record sealing approach and record management system in Massachusetts).



Figure 4

EXPUNGEMENT AND EMPLOYMENT

Expungement would give ex-offenders a clean slate when applying for a job. Six out of 13 survey respondents said that a criminal record has stopped them from applying for a job. One record-holding youth stated that their criminal record is asked about every time he/she applies for a job. Another UTEC youth reported that with expungement, “I would be able to return to my normal life in society, get a job, be a productive member of society.” In the job interview process, one is not required to disclose his/her record. Under expungement, a background check should not uncover evidence of any past offenses. Therefore, individuals with expunged criminal records would not appear different from candidates with similar education and job histories.

In a 2003 experimental study, pairs of individuals with the same level of education and similar work histories were sent to job interviews. Individuals without a criminal record consistently received more callbacks. Whites without a criminal record received twice as many callbacks as whites with a criminal record (34% vs. 17%), and blacks without a criminal record received nearly three times as many callbacks as blacks with a criminal record (14% vs. 5%).⁵⁹ The study also found that race played a large role in callbacks: whites with a record received more callbacks than blacks without one (17% vs. 14%).

Expungement of criminal records will make it more difficult for employers to distinguish between individuals by record status. Therefore, after expungement, individuals formerly holding a criminal record should see higher callback rates and greater employment opportunities. Expungement does not correct for racial discrepancies in hiring practices observed above.



Figure 5

EMPLOYMENT AND MENTAL HEALTH

Employment provides numerous benefits to mental health. Regularly reporting to work facilitates contact with other individuals, a sense of purpose, mental stimulation and/or physical activity. Studies have found that in general these benefits outweigh any potential detrimental effects such as stress from the work environment.⁶⁰ Additionally, a source of income decreases anxiety related to paying bills and supplies the financial resources often required to treat mental health problems.

A National Gallup Poll found a higher percentage of unemployed individuals were receiving treatment for depression (12.4%) than those in the general population (10.1%). Depression rates were even higher among individuals experiencing long-term unemployment (18.1%), defined as 27 weeks or longer.⁶¹ This link between employment and mental health is bidirectional. Individuals with mental illnesses may be less

⁵⁹ Pager, Devah. 2003. “The Mark of a Criminal Record”. *American Journal of Sociology* 108 (5):937-975.

⁶⁰ Ezzy, D. (1993). Unemployment and mental health: a critical review. *Social science & medicine*, 37(1), 41-52.

⁶¹ Gallup-Healthways Well-Being Index survey Jan. 1-July 25, 2013

able to obtain and keep jobs, but the process of unsuccessfully searching for a job can also produce stress and a sense of hopelessness.⁶²

These studies suggest that employment, and achieving said employment in a timely manner, correlates with decreased depression and improved mental health outcomes. The ability of expungement to reduce hiring discrimination could decrease the time spent searching for work and the difficulty of finding work for those with criminal records. This increase in employment for the target population may be correlated with a decrease in depression.

EMPLOYMENT AND RECIDIVISM

Employment is also correlated with decreased recidivism, another one of the factors our team chose to highlight in this RHIA. Two years after release from prison, nearly twice as many employed people with records have avoided being arrested again compared to their unemployed counterparts.⁶³ Moreover, formerly incarcerated individuals with one year of employment had a 16% recidivism rate over three years as compared to a 53.3 % recidivism rate for all releases. These statistics speak to the important role that employment plays in shaping a person's life.⁶⁴ By increasing employment prospects for youth with criminal records, expungement may lead to a decrease in recidivism. The connection between employment and recidivism will be discussed in more detail in the next section.

RECIDIVISM

Recidivism can be broadly defined as a person reoffending after receiving sanctions for a previous crime, and can be measured by rearrests, reconvictions or a return to prison.

Although Massachusetts does not collect data on recidivism rates for youth, the DOC does regularly collect data on overall recidivism rates. Here, recidivism is defined as re-incarceration for released inmates, due to a new sentence or violation of parole or probation, to a Massachusetts state or county facility or to a federal facility within three years of his/her release. Based on this definition, the 3-year recidivism rate in Massachusetts for prisoners released between 1998 and 2009 ranges from 39% to 44%.⁶⁵

A 2008 study looked at recidivism rates among different age groups in Massachusetts. The study concluded that among male inmates released in 2002, those who were younger than 35 years of age at the time of release had a significantly higher recidivism rate (45%) compared to those 35 years or older (33%).⁶⁶

Other studies have shown that the recidivism rate drops over time. A 2006 study found that after seven years the likelihood of re-arrest, for both violent and nonviolent offenders, is no higher than that of a citizen who has never committed a crime.⁶⁷

Drawing from these studies, one may conclude that youth and young adults are particularly susceptible to higher rates of recidivism. Any effect that expungement may have on reducing recidivism would likely have a significant impact on this specific group.

⁶² Gabriella Priest et al., (2012) The Continuing Challenge of CORI Reform: Implementing the Groundbreaking 2010 Massachusetts Law.

⁶³ Berg, M. T., & Huebner, B. M. (2011). Reentry and the ties that bind: An examination of social ties, employment, and recidivism. *Justice quarterly*, 28(2), 382-410.

⁶⁴ "Safer Foundation Three-Year Recidivism Study, 2008," (2008). Chicago, IL.

⁶⁵ Massachusetts Department of Correction, Prison Population Trends 2013 (2014) <http://www.mass.gov/eopss/docs/doc/research-reports/pop-trends/prisonpop trends-2013-final-5-21-2014.pdf>

⁶⁶ Kohl, R. Matthews, H. H., McDonald, S.M., Solomon, A.L., (2008) Massachusetts Recidivism Study: A Closer Look at Releases and Returns to Prison, Urban Institute Justice Policy Center, <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411657-Massachusetts-Recidivism-Study.PDF>

⁶⁷ Kurlychek, M.C., Brame, R. and Bushway, S.D., (2007)

"Scarlet letters and recidivism: does an old criminal record predict future reoffending", *Crime & Delinquency*, 53: 64, http://www.albany.edu/bushway_research/publications/Kurlychek_et_al_2006.pdf

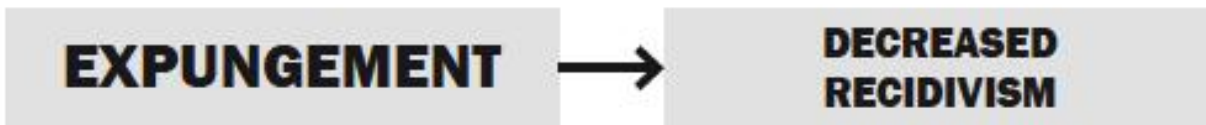


Figure 6

EXPUNGEMENT AND RECIDIVISM

One major concern among policymakers in Massachusetts is the potential impact expungement could have on higher crime rates and increased recidivism.⁶⁸ Incarceration has been linked to many negative mental health outcomes. If expungement is correlated with higher recidivism rates, this could lead to worse mental health outcomes for youth with criminal records. In contrast, if expungement is correlated with less recidivism, it is likely to improve mental health of the target population. We scanned the literature to understand if there were clear links between expungement policies in other states and increases in crime rates.

A 2014 paper⁶⁹, the first empirical study of the impacts of expungement, examined US states with automatic juvenile record expungement versus expungement requiring ‘application’. For the states where record expungement required application, virtually no one applied. Therefore, the researcher used data from these states to represent the effect of no expungement. The study concluded that automatic expungement did not lead to higher levels of first time juvenile crime, and that compared to those in application states, former juvenile offenders in automatic expungement states:

- Were 10.1 percentage points more likely to attend college and 6.6 percentage points more likely to graduate from college;
- Earned on average 21.2 percent higher income in their late 20s;
- Were 13.3 percentage points more likely to remain arrest-free after age 20.

These results are drawn from a single study, to the best of our knowledge the only empirical study of the link between expungement and recidivism. Therefore, although this study shows a strong link between expungement and reduced recidivism, the overall evidence base linking expungement to lower recidivism is limited.

Expungement may reduce recidivism through a reduction in the negative ‘labeling’ effect associated with having a record. Researchers have theorized that the formal labeling of youth as delinquent could lead to increased rates of recidivism because a ‘delinquent’ label redirects a youth’s self-conception or personal identity toward a self-fulfilling one of deviance. In addition, external and societal responses to the label, such as increased surveillance and reduced social opportunities and interactions, can increase the likelihood of further delinquency.⁷⁰

Although research on how expungement affects recidivism is limited, a 2006 study examining the short-term impact of formal criminal labeling may help identify one mechanism by which expungement could reduce recidivism. The study found that official labeling of teens as delinquents increased the odds of gang membership, compared to other teens that share similar socio-economic characteristics and behaviors deemed ‘deviant’, such as truancy from school, but are not officially labeled as delinquent through the

⁶⁸ Feedback from UTEC during site visit.

⁶⁹ Litwok, D., (2014) Have You Ever Been Convicted of a Crime? The Effects of Juvenile Expungement on Crime, Educational, and Labor Market Outcomes, Job Market Paper, <http://econ.msu.edu/seminars/docs/Expungement%20112014.pdf>

⁷⁰ Liberman, A. M., Kirk, D. S. and Kim, K. (2014), Labeling effects of first juvenile arrests: secondary deviance and secondary sanctioning”. *Criminology*, 52: 345–370. doi:10.1111/1745-9125.12039 <http://onlinelibrary.wiley.com/enhanced/doi/10.1111/1745-9125.12039>

criminal justice system.⁷¹ However, since the number of Massachusetts youth involved with gangs is relatively low, further research would be needed to see if this labeling effect holds true in Massachusetts.

To our knowledge, there are no studies of whether or not people who have their records expunged experience this labeling effect. However, by erasing a record rather than hiding it, expungement might remove this 'delinquent label' from youth offenders. By reducing the labeling effect, expungement is expected to reduce recidivism.



Figure 7

RECIDIVISM AND MENTAL HEALTH

Previous research has shown a correlation between expungement and reduced recidivism, as discussed above. Other research discusses the negative impact of being incarcerated on mental health; reducing recidivism would be expected to reduce some of these mental health impacts.

As discussed in the baseline section of this report, it is clear that inmates suffer from higher rates of psychiatric disorders compared to the general population. However, because of the intersection between childhood conditions, criminal offending, and psychiatric disorders, it is unclear whether incarceration causes psychiatric disorders or whether people with psychiatric disorders are more likely to commit crimes (or a combination). A 2005 empirical study found that incarceration is associated with a 45% increase in the lifetime odds of major depression.⁷² Another study found that incarceration has a strong and persistent relationship with mood disorders, while its link to other disorders (e.g. bipolar disorders, substance abuse etc.) is less significant.⁷³

Incarceration proves particularly detrimental to the mental health of those with pre-existing mental health issues.⁷⁴ While a sizeable proportion of inmates have a mental health issue, many receive inadequate care, as some prisons and jails are not equipped to provide the necessary treatment. According to a 2006 study of national survey data, approximately 56% of state prisoners and 64% of jail inmates have a mental health problem, yet only one in three state prisoners and one in six jail inmates received mental health treatment during their admission.⁷⁵ Similarly, a 2001-2006 multi-state, longitudinal study found that only about 6 in 10 men and women with mental health conditions received mental health treatment in prison.⁷⁶ There are several reasons why pre-existing mental health conditions are often exacerbated by prison

⁷¹ Bernburg, J.G., Krohn, M.D., and Rivera, C.J., (2006). "Official Labeling, Criminal Embeddedness, and Subsequent Delinquency: A Longitudinal Test of Labeling Theory." *Journal of Research in Crime and Delinquency* 43 (1): 67-88.

⁷² Kessler, R.C., Berglund P., Demler O., Jin, R., Merikangas, K.R. and Walters, E.E. (2005). Lifetime prevalence and age-of-onset distributions of DSM-IV disorders in the National Comorbidity Survey Replication. *Archives of General Psychiatry* 62(6). 593-602.

⁷³ Schnittker, J., Massoglia, M., and Uggen, C., *Out and Down: Incarceration and Psychiatric Disorders*, *Journal of Health and Social Behavior* 53(4) 448-464. American Sociological Association 2012 DOI: 10.1177/0022146512453928 <http://jhsb.sagepub.com>, https://www.soc.umn.edu/~uggen/Schnittker_Massoglia_Uggen_JHSB_12.pdf

⁷⁴ KiDeuk Kim, Miriam Becker-Cohen, Maria Serakos, "The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System: A Scan of Practice and Background Analysis" The Urban Institute, Research Report. May 2015. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000173-The-Processing-and-Treatment-of-Mentally-Ill-Persons-in-the-Criminal-Justice-System.pdf>

⁷⁵ James, D. J., and Glaze, L.E., (2006) "Mental Health Problems of Prison and Jail Inmates." Bureau of Justice Statistics Special Report No. NCJ 213600. Washington, DC: US Department of Justice, Office of Justice Programs.

⁷⁶ Mallik-Kane, K., Visher, C., (2008) "How Physical, Mental, and Substance Abuse Conditions Shape the Process of Reintegration" Urban Institute. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411617-Health-and-Prisoner-Reentry.PDF>

environments.⁷⁷ First, inmates with mental health issues are almost two times as likely to be physically victimized compared to those with no mental health issues.⁷⁸ Both victimization itself and fear of victimization can harm mental health. Thought of lifetime or long-term confinement and separation from family can also exacerbate mental health problems.

Reducing recidivism would thus help limit the target population's exposure to incarceration and its negative effects on mental health.



Figure 8

Mental health issues are a major impediment to ex-offenders succeeding in the job market, which in turn contributes to a higher risk of recidivism.⁷⁹ A study of the re-entry experiences of 838 men and 262 women returning from Ohio and Texas state prisons in 2004 and 2005 found that returning prisoners with mental illnesses had less success finding employment after release compared with others, even when their levels of employment were similar before incarceration.⁸⁰

Furthermore, studies have shown that offenders with a mental illness are more prone to recidivism. In a 2009 Texas study, inmates with any major psychiatric disorder were found to be 2.4 times more likely to have four or more repeat incarcerations than inmates without a disorder.⁸¹ Similarly, a study of Utah's state prison population found that offenders with severe mental illness returned to prison on average 358 days sooner than offenders without a diagnosed mental illness. This study also found that 77% of offenders with severe mental illness were re-incarcerated within 36 months, compared with 62% of offenders without severe mental illness.⁸² Improving the mental well-being of ex-offenders can reduce the number of people re-entering the criminal justice system. Since expungement is likely to have many mental health benefits for youth with criminal records, the bill can be expected to reduce recidivism.

INTERCONNECTIONS

Although this report has thus far presented linear pathways of factors that affect mental health, in reality employment, recidivism and mental health are all closely interrelated. As discussed above, studies have shown that employment is correlated with both reduced recidivism and improved mental health. Incarceration is correlated with poor mental health outcomes and worse employment prospects after release. Therefore, reducing recidivism can create a positive feedback loop of improving mental health, improving employment outcomes, and therefore further reducing recidivism. Since expungement is likely to reduce recidivism and improve employment prospects, among other benefits, it will affect many aspects of this web.

⁷⁷ Steve, A. and Wycoff, S. (2010) "Michigan's Prison Health Care: Costs in Context." Issue Paper. Lansing, MI: Senate Fiscal Agency.

⁷⁸ Blitz, C.L., Wolff, N. and Shi, J. (2008) Physical victimization in prison: The role of mental illness, *Int J Law Psychiatry*. 2008 Oct–Nov; 31(5): 385–393. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2836899/>

⁷⁹ Freeman, R. (2003) "Can We Close the Revolving Door?: Recidivism vs. Employment of Ex-Offenders in the U.S." The Urban Institute Reentry Roundtable Discussion Paper, http://canatx.org/rrt_new/professionals/articles/FREEMAN-RECIDIVISM%20V.%20EMPLOYMENT.pdf

⁸⁰ Mallik-Kane, K., Visher, C., (2008) "How Physical, Mental, and Substance Abuse Conditions Shape the Process of Reintegration" Urban Institute.

<http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411617-Health-and-Prisoner-Reentry.PDF>

⁸¹ Baillargeon et al. (2009) Psychiatric Disorders and Repeat Incarcerations: The Revolving Prison Door + Public Health and the Epidemic of Incarceration, http://www.antonioacasella.eu/archipsy/Baillargeon_revolving_2009.PDF

⁸² Cloyes, K. G., Wong, B., Latimer, S. and Abarca, J. (2010). "Time to Prison Return for Offenders with Serious Mental Illness Released from Prison: A Survival Analysis." *Criminal Justice and Behavior* 27 (2): 175– 187. DOI: 10.1177/0093854809354370

OTHER EFFECTS OF EXPUNGEMENT

Youth with criminal records may experience some benefits from expungement that do not fit clearly into the four pathways discussed above. For example, the results of our survey suggest that individuals with juvenile criminal records may experience more agency over their lives if their records are expunged. In addition, many of the respondents commented on the benefits that expungement could have on their lives by reducing stress and worry. When asked to describe the impact that expungement would have on their life some of the responses were: “freedom”, “enjoy life with less worries”, and “big relief off my shoulders”. Given the demonstrated negative health effects of stress, this reduction in stress is likely to improve mental health.

Another benefit of expungement is that it would create clarity around whether one’s record is visible to the public, employers and others. Under current regulations, given the complexity of levels of access to one’s CORI and criteria and procedures for sealing one’s record, the entire policy framework around CORI access is likely poorly understood. This hypothesis is borne out by findings from our survey. Of 13 responses, only one respondent indicated that they felt sure about who had access to their record, while eight respondents (62%) were completely unsure. Similarly, eight respondents indicated that they knew nothing about the sealing process (62%) and five indicated they knew a little (38%). Many respondents also believed, sometimes mistakenly so, that access to their record was widespread. For instance, the respondent who replied that he/she was “pretty sure” of who had access to their record also indicated he/she thought that the public in general had access. However, this respondent indicated that he/she has a juvenile record, which, as described above, is not available to the general public. If the expungement bill passes, an expunged record will not be visible to anyone. Ex-youth offenders will no longer have to worry about keeping track of who has access to their record.

SUMMARY OF THE BILL’S MENTAL HEALTH IMPACTS

The team studied four major pathways linking expungement to mental health outcomes: (1) perceived discrimination, (2) contact with law enforcement, (3) employment, and (4) recidivism. We summarize our findings below and in Figure 2:

Perceived discrimination has negative mental health effects:

- Studies show that perceived discrimination generally negatively affects mental health.
- Based on our interpretation of survey responses from youth with criminal records, we expect that expungement will decrease perceived discrimination.
- We predict this reduction in perceived discrimination to be a likely outcome, affecting a large portion of the population of interest.

Police stops are correlated with negative mental health effects:

- Being stopped by law enforcement is correlated with increased anxiety and PTSD.
- We predict that expungement may minimally decrease the frequency and intrusiveness of interactions with law enforcement, as well as the anticipation of these interactions, for youth with criminal records.
- There is not enough evidence available to ascertain how many individuals this will affect and the magnitude of the impact.
- The decrease in police encounters due to expungement is likely limited, since research shows that other factors, such as race, more so than criminal records, are linked to the nature of police stops.

Employment has positive mental health effects:

- Studies show that employment is correlated with lower rates of depression and improved mental health outcomes.

- Evidence from other states shows that expungement makes obtaining a job easier by reducing hiring discrimination.
- We expect that the positive effects of expungement on employment will be disproportionately benefit those with higher education and with less time served (shorter gap in work history).

Recidivism has negative mental health effects:

- The relationship between mental health and recidivism is complex and bidirectional.
- Imprisonment is correlated with increased mood disorders and exacerbates pre-existing mental health conditions.
- Research also shows that poor mental health can lead to additional crimes, resulting in recidivism.
- The only empirical study on the connection between expungement and recidivism shows that expungement is correlated with a lower likelihood of recidivism. By keeping people out of prison, expungement is likely to improve mental health.

Table 1. Summary of assessment results

Intermediate Outcome	Mental Health Outcome	Likelihood of outcome	Size of population affected	Severity of outcome
Decrease in perceived discrimination	Improved overall mental health	Limited	Large	High
Decrease in police stops	Decreased anxiety & PTSD	Limited	Small	Insufficient evidence
Increase in employment	Decrease in depression	Likely	Large	High
Decrease in recidivism	Decrease in mood disorders and pre-existing conditions	Likely	Moderate	Moderate

RECOMMENDATIONS

Given the likely benefits of expungement on the mental health of youth with criminal records, we recommend that the Massachusetts legislature pass Bill S.900. In order to maximize mental health and minimize mental illness, we also make three recommendations for changes to the bill and seven recommendations for supplemental initiatives to tackle the fundamental goals of the expungement policy. To frame our recommendations, we first describe some limitations of the bill, some of which will be addressed by the recommendations.

LIMITATIONS OF THE BILL

The expungement bill (Massachusetts Bill S. 900) is likely to improve the mental health of youth ex-offenders in Massachusetts by decreasing perceived discrimination, negative contact with law enforcement and recidivism, and by improving employment prospects. However, the bill will not solve all of the challenges that ex-offenders face. Several limitations of the bill are discussed below.

The bill will not address racial disparities in police stops.

Our research revealed that contact with law enforcement via police stops has negative effects on mental health. To the extent that stops are initiated because of an individual's race, and not his or her criminal record, expungement of criminal records will not address this underlying motivation behind police stops. There is little evidence to suggest a decrease in frequency or severity of police stops will occur due to expungement.

The bill will not supplement an individual's work experience and credentials.

Expungement eliminates a barrier to employment, but it will not necessarily improve an individual's competitiveness in the job market. It will not increase the applicant's education level or explain any significant gap in work history that results from serving a prison sentence.

The bill will not prevent discriminatory hiring practices.

This bill changes whether an applicant is categorized as a criminal, but it does not prevent employers from making discriminatory hiring practices based on other characteristics. In fact, critics of expungement are concerned that employers will use other factors such as race, income, and work history to try and identify individuals who are ex-offenders. Even those who have no criminal past could be exposed to discrimination through such measures. In addition, although they are not legally required to do so, ex-offenders may reveal their criminal record in a job interview if they are asked about it.

The bill may not prevent against loopholes in CRA record keeping.

Credit reporting agencies (CRAs) that provide background checks for employers and landlords do not update their records regularly. Even if a record is expunged, CRAs may distribute out of date information about the record. This loophole means that even after expungement, housing managers, employers, and others may still access some record of past criminal activities.

RECOMMENDATIONS: POLICY REVISIONS AND PROGRAMATIC CHANGES

Based on our findings, we divide our recommendations into two major categories. Policy revisions suggest changes to the existing expungement bill and are intended to strengthen the content and increase the mental health benefits resulting from the bill. Programmatic recommendations propose supplemental initiatives we found necessary to tackle the fundamental goals of the expungement policy.

POLICY REVISIONS

- The bill should include automatic expungement for non-violent felonies.*
Currently, automatic expungement only covers misdemeanors. Both the survey of UTEC youth and our literature review suggest that people are unlikely to apply for expungement. To best distribute the benefits of the proposed bill, non-violent felonies such as property crime below a certain monetary value should also qualify for automatic expungement.
- Polymakers should consider expanding the age range for people eligible for expungement beyond 21.*
Evidence suggests that the brain does not reach full maturation until the age of 25.^{83,84,85} Emotional and impulse control is often not fully developed in 21-25 year olds, who would not benefit from the expungement policy as it is currently written. Additionally, stress on the developing brain has been shown to increase mental health problems.
- The bill should make expungement retroactive, based on length of time with no new criminal activity.*
This suggestion would extend the number of individuals who could experience gains from the expungement policy. Given the demonstrated benefits of expungement on mental health, expanding the bill's scope could provide significant benefits for those affected.

POLICY SUPPORT

- Legislation is needed to close the loopholes that may expose one's record even after expungement.*
Through our research, we identified mechanisms other than CORI that can be used to access one's criminal record. To truly achieve the clean slate proposed by expungement these loopholes, such as those through CRAs, must be addressed, for example by requiring CRAs to update their records annually to remove records that have been expunged.
- If the bill passes, the state should conduct or fund other groups to conduct education about expungement.*
Our survey results revealed that few youth understood the sealing process. It is likely that without proper education a similar confusion will exist surrounding expungement. For youth with criminal records to benefit from expungement they will need to understand how expungement works and the fact that their record will not be visible to employers, landlords, law enforcement or others. The state should conduct education and outreach around the expungement policy or fund groups like UTEC that have pre-existing relationships with youth to do so. This outreach should also include a component that educates youth on how to discuss prior criminal involvement – how to explain a gap on a resume, for example.
- The state should offer implicit bias training for law enforcement.*

⁸³ Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., & Schwartz, R. (2003). Juveniles' competence to stand trial: a comparison of adolescents' and adults' capacities as trial defendants. *Law and human behavior*, 27(4), 333.

⁸⁴ Bryan-Hancock, C., & Casey, S. (2010). Psychological maturity of at-risk juveniles, young adults and adults: Implications for the justice system. *Psychiatry, Psychology and Law*, 17(1), 57-69.

⁸⁵ Monahan, K. C., Steinberg, L., Cauffman, E., & Mulvey, E. P. (2009). Trajectories of antisocial behavior and psychosocial maturity from adolescence to young adulthood. *Developmental psychology*, 45(6), 16543.

The literature shows racial disparities in police stops and behavior. Implicit bias training for police officers could decrease the number police-youth interactions that are affected by racial bias and the negative mental health effects associated with these interactions.

- The state should increase transparency and public access to law enforcement policies and reporting, including data on police stops and arrests and recidivism rates for youth offenders.*
During the Rapid HIA process, we struggled to understand law enforcement interactions with our target population. More public data is needed for further understanding and increased transparency.
- To improve the mental health of people being released from prison, DYS and DOC should include mental health assessments and interventions in the probation period.*
Identifying and talking about mental health problems can be a difficult process. To help improve the mental health of the already vulnerable target population we recommend building mental health screening into the probation process. Connecting individuals to professional help and appropriate recourses early on can help improve the health of the target population.
- Research should be conducted on the potential unintended consequences of expungement.*
Further research should be conducted to more fully understand any unintended consequences of expungement. Questions for consideration include, for example, whether any social services or programs use record-holding status as a criterion for receiving services, and if individuals may lose access to these services when their records are expunged. Other areas for exploration include changes that might occur in other areas of the criminal justice system, for example sentencing decisions, in response to the anticipation that records will be expunged. These issues and others should be carefully considered and, if possible, mitigated.
- More research should be conducted on other health-relevant pathways and subpopulations outside the scope of this RHIA.*
With limited time and resources, this RHIA was only able to examine a subset of the potential health implications associated with the proposed bill. More research would be needed to assess impacts to other populations that could be affected by the bill, including employers or law enforcement, for example. More research would also be needed to conduct a more thorough assessment of health impacts to record holding youth that were outside the scope of this RHIA.

MONITORING AND EVALUATION

Monitoring and evaluation are common steps in an HIA and can assess both the process of conducting the HIA and the HIA's outcomes. Since this was a rapid HIA conducted as part of a class, the authors of this report will not be formally involved in the monitoring and evaluation step. However, the expungement bill is a legislative priority for UTEC and the Teens Leading the Way Coalition, and we expect that they will continue to monitor its progress in the legislature.

Should the expungement bill pass in Massachusetts, we recommend that researchers assess the mental health implications of the enacted policy. We propose organizing a focus group or a larger survey of individuals who will be affected by expungement. The stories and data collected in these focus groups or surveys will help researchers compare the experience of youth ex-offenders before and after expungement. Recidivism figures could be tracked, and interviews with law enforcement could illuminate whether they believe expungement had any effect on their practice. Throughout the project, we partnered with stakeholders such as UTEC who work closely with the target population. We believe that these stakeholders would be a useful resource in conducting an evaluation of the bill. They will be able to identify if their goals are being met and identify strengths and shortcomings of the policy.

AREAS FOR FUTURE STUDY

This Rapid HIA consisted primarily of literature review, though we did conduct a survey of a small number of UTEC youth. With additional time, this HIA could benefit from data collection within our selected population. We found limited data related to our pathways of interest, especially within the state of Massachusetts. Further analysis would benefit from increased surveying of the target population, data collection on the mental health effects of discrimination and police encounters, and interviews with employers to assess hiring practices post-expungement. More extensive stakeholder engagement with record holders, law enforcement, and politicians would help provide a fuller picture of the nuances of expungement policy.

In addition, due to time limitations we chose to limit our scope to those who will be most directly affected by expungement, youth with criminal records. Further research could evaluate the effects of expungement on other stakeholders, including law enforcement and families of those with criminal records. Finally, we chose to focus solely on mental health impacts, and further research could evaluate the impact of expungement on other aspects of health.

APPENDIX A: SURVEY QUESTIONS

Hi there!

We are a team of MIT students partnering with UTEC on a Rapid Health Impact Assessment that is intended to inform an expungement bill that would allow individuals who committed offenses as children or young adults (up to 21 years old), and have served their sentences and committed no new offenses, to petition for their criminal or juvenile records to be permanently deleted. We would like to ask you a few simple questions, to better understand how you think expungement can impact, or could have impacted, you.

This survey is voluntary. You may fill in as many, or none, of the following questions-- it is completely up to you how much you would like to participate in this survey! You also have the right to end the survey at any time.

This survey is anonymous, please do not include any identifying information (names, age, addresses, etc.) in your replies.

The project will be completed by May 15. All survey responses will be stored in a secure work space until 1 year after that date. After that, all survey data will be destroyed.

Consent to participate

I understand the procedures described above and I agree to participate in this study.

Yes

No

Gender

Male

Female

Age range

Under 18

Between 18 and 21

21 or older

1. Please check all the boxes that apply to you:

- I have a juvenile criminal record
- I have an adult criminal record from when I was under 21
- I have an adult criminal record from when I was 21 and over
- I am not sure what criminal record I have
- I am not sure if I have a criminal record
- I have no criminal record
- Other comments

2. How sure are you about who has access to your criminal record?

I am completely unsure about who has access to my record

I have some idea who has access to my record

I am pretty sure I know who has access to my record

I am absolutely sure I know who has access to my record

3. Please list who you think has access to your criminal record:

4. How often do you think about your criminal record?

- Every day
- At least once a week
- At least once a month
- Other: (e.g. less than once a month)

5. How anxious does thinking about your criminal record make you? Pick one.

- Not anxious at all (i.e. it doesn't bother me)
- A little anxious
- Quite anxious
- Very anxious (i.e. I find it hard to focus on anything else)

6. What about your criminal record causes you most anxiety?

- Impact on getting a job
- Impact on getting into school
- Impact on family
- Impact on encounters with police and the justice system

7. Has your criminal record ever stopped you from applying for a job?

- No
- Yes

8. How much do you know about the process of getting your criminal record sealed?

- I know nothing about it
- I know a little about it
- I know quite a lot about it
- I know the process well

9. Have you tried sealing a criminal record?

- Yes
- No

9a. (If yes) Could you describe how the sealing process went for you?

9b. (if no) Why didn't you try to seal a record?

10. Over the past 24 months, how many times have you had a police encounter?

11. If you had more than one police encounter over the past 24 months, please respond to the following questions:

- How many made you feel like you were stopped and checked without reasonable cause?
- How many made you feel like you were treated unfairly?
- Do you think your criminal record had a role in affecting how the encounter went?
- What effect did these experiences have on you?

12. Would this expungement policy have an impact on you?

Yes

No

Not sure

12a. (If yes) Please describe the impact it would have on you

12b. (if no) Why don't you think the expungement policy would affect you?

Thank you for your time!

APPENDIX B: SURVEY RESULTS

Gender	
Male	10
Female	3

Age Range	
Under 18	2
Between 18 and 21	2
21 or older	10

Record status (check all that apply)	
I have a juvenile criminal record	7
I have an adult criminal record from when I was under 21	9
I have an adult criminal record from when I was 21 and over	2
I am not sure what criminal record I have	0
I am not sure if I have a criminal record	1
I have no criminal record	2

How sure are you about who has access to your criminal record?	
I am completely unsure about who has access to my record	9
I have some idea who has access to my record	4
I am pretty sure I know who has access to my record	1
I am absolutely sure I know who has access to my record	0

How often do you think about your criminal record?	
Every day	5
At least once a week	4
At least once a month	3
Other: (e.g. less than once a month)	1

Other response: Not at all

How anxious does thinking about your criminal record make you?	
Not anxious at all (i.e. it doesn't bother me)	4
A little anxious	5
Quite anxious	2
Very anxious (i.e. I find it hard to focus on anything else)	3

What about your criminal record causes you most anxiety?	
Impact on getting a job	5
Impact on getting into school	1
Impact on family	2
Impact on encounters with police and the justice system	6

Has your criminal record ever stopped you from applying for a job?	
No	8
Yes	6

How much do you know about the process of getting your criminal record sealed?	
I know nothing about it	8
I know a little about it	6
I know quite a lot about it	0
I know the process well	0

Have you tried sealing a criminal record?	
Yes	1
No	13

Over the past 24 months, how many times have you had a police encounter? (open-ended response)	
Zero	3
1-5	4
Over 20	4
“Multiples”	1
I don’t know	1

Do you think your criminal record had a role in affecting how the police encounter went?	
Yes	8
No	2

Would this expungement policy have an impact on you?	
No	2
Yes	10
Unsure	2

Please describe the impact it would have on you (open-ended response):

- Freedom
- Relieved
- I could build my life
- I would enjoy my life with less worries
- It would be great
- They will stop harassing me
- Jobs and school
- I would be able to return to my normal life in society, get a job be a productive member of society
- Positively
- By having my record expunged it would be a big relief off my shoulders

APPENDIX C: DETAILS OF CORI ACCESS AND SEALING

CRITERIA FOR SEALING

Juvenile/ Youthful Offender Records

May submit a notarized request to have record sealed as long as:

- It has been 3 years since termination of any court disposition (i.e. court supervision, probation, commitment, parole) AND
- It has been 3 years since the person has been adjudicated delinquent or found guilty of any criminal offense within or outside of the Commonwealth (or fed court) or been sentenced to prison/ committed as a delinquent within the Commonwealth.
- The sealed records will still be available at new delinquency or criminal sentencing, otherwise Commissioner shall answer “sealed delinquency record over 3 years old” upon court inquiry.

Criminal Records of Convictions

May request the Office of the Commissioner of Probation to seal a CORI for:

- Misdemeanor: 5 years after one was found guilty OR after any jail or prison time. The count starts from the later date.
- Felony: 10 years after one was found guilty OR after any jail or prison time. The count starts from the later date.
- Sex offense: 15 years after one was found guilty OR after any jail or prison time OR after one no longer needs to register as a sex offender. The count starts from the later date. Sex offenders that are Level 2 or Level 3 cannot seal their convictions.

Sealing Records without Convictions

- One may file a petition to seal at the end of their case or any time thereafter “over 3 years old” upon court inquiry.

Source: <http://www.mass.gov/courts/selfhelp/criminal-law/seal-record.html>

Overview of CORI Access Levels

Juvenile



Individuals between 7 and 17 years old who have committed a felony, a misdemeanor, or violated a city ordinance or town by-law.

Youthful Offender



An individual between 14 and 17 years of age who has committed a felony offense AND has at least one of the following:

- Previous Department of Youth Service (DYS) commitment
- Committed a certain firearms offense
- Committed an offense which involves the infliction or threat of serious bodily harm

Adult



Above 17 years old (i.e. 18 and above) When the delinquent acts are very serious, they may be considered crimes and the juvenile may be tried in the adult system.

What can be seen?

Unsealed Records

- Convictions
- Non-convictions
- Pending offenses

Unsealed Records

- Murder, manslaughter, sex offense convictions
- Felony conviction, with disposition or release date < 2 years prior to CORI request date
- Felony punishable by ≥ 5 years in state prison, with disposition / release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date < 2 years prior to CORI request date
- Felony conviction, with disposition or release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date less than 5 years prior to CORI request date
- Pending offenses
- Other convictions
- Non-convictions

Unsealed Records

- Murder, manslaughter, sex offense convictions
- Felony conviction, with disposition or release date < 2 years prior to CORI request date
- Felony punishable by ≥ 5 years in state prison, with disposition / release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date < 2 years prior to CORI request date
- Felony conviction, with disposition or release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date less than 5 years prior to CORI request date
- Pending offenses
- Other convictions
- Non-convictions

Open Access

Standard Access

Required 1

Required 2

Required 3

Required 4

Sealed Records

Sealed Records

Sealed Records

Overview of CORI Access Levels

Juvenile	Youthful Offender	Adult												
<p>individuals between 7 and 17 years old who have committed a felony, a misdemeanor, or violated a city ordinance or town by-law.</p>	<p>An individual between 14 and 17 years of age who has committed a felony offense AND has at least one of the following:</p> <ul style="list-style-type: none"> • Previous Department of Youth Service (DYS) commitment • Committed a certain firearms offense • Committed an offense which involves the infliction or threat of serious bodily harm 	<p>Above 17 years old (i.e. 18 and above) When the delinquent acts are very serious, they may be considered crimes and the juvenile may be tried in the adult system.</p>												
<p>Who can see?</p> <p><u>Required 3</u> Camps (for employment)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #e0f0ff; padding: 5px;"> <p><u>Open Access</u> Members of the public who pay a \$50 fee</p> </td> <td style="text-align: center; font-size: small;">Open Access</td> </tr> <tr> <td style="background-color: #e0f0ff; padding: 5px;"> <p><u>Standard Access:</u> For housing: Private landlord, Private & Public management companies (for market rate housing), Real estate agency For employment: General employers (Walmart, McDonalds etc.), Law firms, College, University, MA Municipalities, State Agencies</p> </td> <td style="text-align: center; font-size: small;">Standard Access</td> </tr> <tr> <td style="background-color: #e0f0ff; padding: 5px;"> <p><u>Required 1:</u> For housing: Public management companies for public/subsidized housing For employment: Amusement device operators, Banks, Hospitals, Insurance Companies, MA Municipalities, State Agencies, Private investigators, Security guard companies</p> </td> <td style="text-align: center; font-size: small;">Required 1</td> </tr> <tr> <td style="background-color: #e0f0ff; padding: 5px;"> <p><u>Required 2:</u> For employment: Assisted living facilities, Day care centers, In-home care, Nursing Homes, Private & Public Schools accredited in MA, Religious Orgs, Orgs for children under 18, MA Municipalities etc.</p> </td> <td style="text-align: center; font-size: small;">Required 2</td> </tr> <tr> <td style="background-color: #e0f0ff; padding: 5px;"> <p><u>Required 3</u> Law enforcement: Criminal Police, prosecutors, probation and courts can look at one's CORI without their permission as part of law enforcement duties or if they have a case going on in court.</p> </td> <td style="text-align: center; font-size: small;">Required 3</td> </tr> <tr> <td style="background-color: #e0f0ff; padding: 5px;"> <p><u>Required 4</u></p> </td> <td style="text-align: center; font-size: small;">Required 4</td> </tr> </table>		<p><u>Open Access</u> Members of the public who pay a \$50 fee</p>	Open Access	<p><u>Standard Access:</u> For housing: Private landlord, Private & Public management companies (for market rate housing), Real estate agency For employment: General employers (Walmart, McDonalds etc.), Law firms, College, University, MA Municipalities, State Agencies</p>	Standard Access	<p><u>Required 1:</u> For housing: Public management companies for public/subsidized housing For employment: Amusement device operators, Banks, Hospitals, Insurance Companies, MA Municipalities, State Agencies, Private investigators, Security guard companies</p>	Required 1	<p><u>Required 2:</u> For employment: Assisted living facilities, Day care centers, In-home care, Nursing Homes, Private & Public Schools accredited in MA, Religious Orgs, Orgs for children under 18, MA Municipalities etc.</p>	Required 2	<p><u>Required 3</u> Law enforcement: Criminal Police, prosecutors, probation and courts can look at one's CORI without their permission as part of law enforcement duties or if they have a case going on in court.</p>	Required 3	<p><u>Required 4</u></p>	Required 4
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<p><u>Required 4</u></p>	Required 4													

Honorable Representative Michlewitz and Cronin,

I am writing to you to express my concern and opposition of Bill 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 written. This bill is being fast tracked through the legislature and should be put on hold to allow more time for debate, research and hold public hearings. I served almost 30 years in the military on active duty and have been a resident of the Commonwealth of Massachusetts most of my life. I personally know many police officers who are members of the Massachusetts State Police, Boston Police, City and Town Police Officers, Environmental Police Officers and those in the County Sherriff departments. These are highly educated men and woman, many who are veterans and have received thousands of hours of training. Massachusetts has had very few cases and none that I can remember of officers shooting an unarmed person.

This bill eliminating qualified immunity will place officers in grave danger during life or death situations due to the fear of being personally sued. They will hesitate to draw a firearm when needed placing themselves and others in danger. Officers will be at risk when a suspect or citizen provokes them with a goal of getting in a confrontation to eventually bring suit to the officer.

Eliminating qualified immunity will lead to a mass exodus of officers throughout the Commonwealth from all departments. Parents will not encourage their sons and daughters to serve our communities in law enforcement and recommend they pursue other occupations. This will lead to a police force with little experience and short on staff putting citizen's safety at risk. There is no other municipal employee who will have qualified immunity and singling out a police officer who has a very different job facing danger each shift is grossly unfair.

These officers are the same ones who during the Boston Marathon bombings were hailed as heroes where two lost their lives. During 9/11 they were hailed as heroes running into towers on fire before they filled killing many officers and fire fighters. During early stages of the COID 19 pandemic they were hailed as heroes along with other first responders. Why is there a mob mentality against police now, because of the actions of one disgusting officer whose aggressive actions killed a man in Minneapolis. Officers in the Commonwealth should not be considered to be compared to the fired Officer Derik Chauvin which is what is happening. Please do not put our officers in harm's way by eliminating qualified immunity and treat them with dignity and respect.

Sincerely,

David Waldrip
Rockland, MA
(617) 462-7885

Honorable Representatives,

I am the proud mother of a highly decorated State Trooper, Keller Williams, who has been awarded three Medals for Valor. He is currently on the Violent Fugitive Apprehension Section which apprehends the most dangerous criminals in our society often requiring split-second decisions to accomplish this important mission safely and successfully.

It terrifies me that the Qualified Immunity amendment could result in a deadly distraction while performing his perilous duty. I implore you to keep the Qualified Immunity intact.

Please insure that our courageous Law Enforcement Officers are provided Due Process as every other citizen is granted. It is the fair and right thing to do.

Common sense dictates that you include experts and rank-and - file members of the law enforcement community to bring their first-hand knowledge and experience to a POSA Committee.

I am trusting you with the safety and well-being of my beloved son and his fellow law enforcement colleagues. Bring understanding, compassion, and respect for the commendable, demanding service our brave men and women provide every day to your vote amending and correcting S2820.

In anticipation of your support,

Christine Williams

58 Maplehurst Ave.

East Longmeadow 01028

413-525-0078



Methuen Police Department

Quinn Public Safety Building

90 Hampshire Street • Methuen, Massachusetts 01844
TELEPHONE (978) 983-8801 • FAX (978) 725-7804

Neil Perry

Mayor

Joseph E. Solomon

Chief of Police

*“Dear Chair Aaron Michlewitz
Chair Claire Cronin,*

Delivered Via email: 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”.

This proposed legislation appears to have some unintended consequences. Section 10 specifically as written about Qualified Immunity will have a specific negative impact not only to law enforcement but to all municipal employees. This will undoubtedly lead to an increase in law suits and a significant amount of financial responsibility will lie on the shoulders of our communities. There is also the concern that this will reduce the effectiveness of law enforcement as they double or triple question their decision making. This alone can lead to the officer or another individual being injured or worse while the internal deliberation and uncertainty is running its course.

With the significant amount of amendments that were filed with the Senate bill and the expected amendments to the house bill along with the seriousness of this legislation, it is imperative that these efforts reflect strategic approach that is well balanced with the goal of combating crime and prioritizing community safety.

There appears to be a rush to pass legislation that is a response to the country wide protests. Law Enforcement in the Commonwealth is far ahead of the rest of the country. When you look at the 8 can't wait reforms, you will find almost all police departments in the Commonwealth already had these reforms built into their policies. Further, while politically expedient, the rush to pass a bill that is not fully vetted and analyzed will likely have adverse, negative impacts for years to come.

This legislation as written will have a detrimental impact to the moral and effective functioning of our police department. I ask that you forward this bill to public hearings an in-depth study. We have one chance to get this right and those we serve daily deserve the proper forethought and discussion needed to create a comprehensive criminal justice reform

I appreciate the time you have taken to review my concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "J. E. Solomon". The signature is written in a cursive style with a large, looping initial "J".

Joseph E Solomon
Chief of Police

Ladies and Gentlemen,

I hope you actually take the time to read the commentary sent in on Bill S. 2800. While some of the proposals in this bill are long overdue, others are nothing more than short sighted knee jerk reactions that will have far reaching consequences you haven't even taken the time to consider, putting the Commonwealth in danger of far more harm than good.

I ask, when was the last time any of you were involved in a trial, criminal or civil? When was the last time any of you were involved in a criminal investigation, or needed a well-being check on a family member? If never, then you need to talk to people that have done those things, to understand the practical implications of what you are proposing.

I write as a citizen, although the observations and experiences of my job will come into play, though I in no way write on behalf of my job, or the office I work for, the thoughts expressed are mine, although likely echoed by many of my friends and family.

Most importantly, the elimination of school resource officers. Folks, please consider the children here. Put aside the screaming voices of the enraged, and listen for the quiet voices of the future. I'm not even going to go into the realm of school shootings, because this isn't just about the violent acts that the media spews. Do any of you have any concept as to the challenges facing our children in schools these days? Thanks to school resource officers, there has a direct line of communication to schools when it comes to crimes against children. The average age of a female suffering from sextortion is between the ages of 9-12. For boys it's around 13. Are any of you familiar with the Amanda Todd story? She was a teen in Canada, she flashed a man she met on the internet and he saved the picture of her breasts, the child pornography. It was sent to all her friends at school. She had to change schools. Then it was sent to everyone at her new school, she had to change to schools again. Just as she was starting to get her feet back under her from the embarrassment and YEARS of bullying when she was bullied again. People from one of her old schools came to her new school and beat her up, the cyber-bullying was relentless, she tried multiple times to kill herself before she succeeded in 2012.

Do you know how many children engage in sexting? In Massachusetts it's literally the dissemination of child pornography among children. So far you have only ONE county in Massachusetts that has a diversion program in dealing with these cases. . Why does that program exist? Because too many schools were trying to handle sexting on their own, with no ability to search phones for images, no ability to assure the destruction and/or containment of those images. When the school tried to handle it alone those images would come back around to haunt and embarrass the girls and boys years later, because bullying doesn't always just end. So the DA's office worked with law enforcement to create a program, to help educate the children, and to give the police (and the school) an option to refer the case to the DA's office instead of trying to handle it "in house" as a school. Because every time a principal tried to keep the school resource officer out of it, they failed in keeping the children safe, because those images would come back around at a later time. Have any of you made a mistake when you were a child? Would you want that embarrassing mistake following you now? No? Then why are you putting our children at risk for it?

I fight against Human Trafficking. You cannot ignore that a large victim pool of trafficking victims is our children. If you remove police from schools, you're removing the people that are getting

training to recognize signs of victimization. You're removing the proactive approach of people trying to intervene with high risk kids that don't understand that the 30 year old man buying them new phones, and make up, and clothes is grooming the child to be a sex slave. You know why a guidance counselor can't do that? First, because there is no authority to demand a guidance counselor get trained, as one can push and push and push the police to be trained and work with the local district attorney's office. Second, because a guidance counselor can't share that type of information with a prosecuting office. Third, a DA's office cannot share with a school that they've been seeing that 30 year old man do the same with kids across the county, or the state and they are in the middle of an investigation regarding that 30 year old man. But they can share that with the school police, and the school police can share with other investigators and they work together to try to keep that kid safe.

I understand the need for justice reform. I've heard judges and lawyers claim that child pornography is a victimless crime. I've had judges say that the stigma of registering as a sex offender is "punishment enough" for the person that took away the ability of a 14 year old to feel safe in her own skin when he raped her. Hell, I've even cringed at some officers who claim that sex slaves choose prostitution and why should we care. I whole heartedly agree that reform needs to be ongoing and constant. But it needs to be thoughtful, and deliberate. It needs to be towards a goal of making things better, not a knee jerk reaction to horrific events. And NEVER at the risk of the safety of our children.

Your first section of the bill shows how narrow-minded you're being. While I agree that there should be a commission on the status of DIVERSITY, you cannot limit it to African Americans. Plymouth County has a large Cape-Verdean population, greater Boston itself has a large Haitian population. Their skin color may be black or brown, but many will identify as Cape-Verdean, or Haitian American, not African-American (read the state's own research on "invisible communities" from 2010 which highlights the Haitian-American community). Not to mention, can anyone at any point recognize the anti-Semitism in the world? Just for a second. Or will the injustices against them continue to be ignored because that population can't be distinguished by a color?

You want to create a commission of minorities to truly work on discrimination in policing and courts, great, do THAT. Do something with purpose and intention, not just something that is a good sound bite. But a commission that accepts gifts?? With no limits?? You're politicians, have you never heard of bribes? Set up some sort of ethics and accountability, just like for prosecutors, judges, or other political entities.

You want to create a state wide training, recertification, and information sharing about misconduct? It's about time. It should never have taken this long, that's a smart move. Please increase training for law enforcement (but determine how to fund it if you're going to take away financial resources from them). However, let's also recognize that some people make petty complaints. Again, you're politicians, I imagine you're all too familiar with those. Do any of you know how Police internal Affairs files are actually obtained? Let me educate you, there is a process on privileged records. A defendant has to make a showing (such as excessive force being used in his/her case) and therefore ask the court to order the records, and then, if the court determines, the court can order the records and then review them in camera, and determine if those records should be turned over. So the ability to access records is already in place, with a scrutiny level of a member of the judiciary. There's also the Freedom of Information Act, also overseen by judges. While I think the state wide database is great, if you don't think the information is accessible, then your problem is actually either with the judges, or

you don't know the system you're trying to regulate, and law enforcement shouldn't pay the price for your lack of knowledge.

Also, your move to limit qualified immunity. Even lawyers agree as recently as a training yesterday, you're not taking into account the unintended consequences, because it's too broad. Where does it end? Where does the public employee end? Does a prosecutor, get sued after a not guilty because the jury didn't convict a child rapist, despite evidence that she was 14 years old and his semen was found in her vagina when the rape kit was done? Should you all be sued for the government imposed shut down due to COVID-19? Should each of you be sued by every individual that lost their business because you forced a shut down and they don't believe it was as deadly as predicted, or alternatively should you be sued for the deaths that resulted for not shutting things down sooner? Does the firefighter get sued for breaking a rib during CPR? Because the prevention of those lawsuits are why qualified immunity exists.

Qualified immunity exists for a reason, if you think it's too broad of a shield, talk to the judges that rule it that way, don't try to re-legislate in a way that is so broad reaching it will take years for the courts to control it and determine the scope (again). You should know the mess this is going to create while the courts try to settle your meanings and terms. The lawsuit happy generation that will tie up EVERYONE, firefighters, nurses, and police in court preventing them from doing their jobs. There is already an avenue for those that violation the law and procedures of their job to be held accountable, it is lawsuits. If you think qualified immunity is being used too broadly, take it up with the judges that are finding it, or do you suddenly know better than them how to enforce and uphold the laws?

Do not rush this reform. Not at the safety of being able to protect our children and keep our communities safe. There are small steps that can be taken that will largely increase transparency and accountability, some of those are in this bill, but overall, you haven't taken the time you need to genuinely consider the ramifications of this legislation.

If you've read this far, thank you, and I ask one more time, please consider the sexually exploited children before you continue the bill.

Sincerely,

Amanda Fowle

Weymouth Massachusetts

TOWN OF WEST SPRINGFIELD, MASSACHUSETTS



OFFICE OF POLICE DEPARTMENT

26 CENTRAL STREET, STE 22
WEST SPRINGFIELD, MASSACHUSETTS 01089-2780



Phone: (413) 263-3210-0
Fax: (413) 731-6798
Voice Mail: (413) 263-3219

G. Paul Connor
Chief of Police

July 17, 2020

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". I would like to express the same concerns that were eloquently written by Chief Kyes and Chief Farnsworth. I would like to follow-up on their letter and state my own concerns. The "Qualified Immunity" issue is obviously one of contention. I am concerned that this provision's removal or even weakening Qualified Immunity would disturb such an important safeguard that protects everyone from a flood of lawsuits. The removal or weakening of this provision would lead to office's not relying on their training and education, but rather hesitating and wondering if they would be sued for actions that would be perceived by a reasonable officer to have been done properly. As a police department that promotes proactive policing to meet our community's needs, I feel the weakening of the Qualified Immunity provision would severely impact the morale of Law Enforcement, which would impact the quality of life in all communities.

It is my belief that some of the provisions are detrimental to public safety and need a thorough review by not only the community but also from those in Law Enforcement that will be tasked with implementing and carrying out these amendments. Including Law Enforcement and the Community in any changes would allow for everyone to work in collaboration and corporation with one another to build better police practices. I believe this to be an opportunity for change to be done, however, the change must be done correctly and not as a knee jerk reaction. Massachusetts Officers are some of the most highly trained and educated officers in the country and any drastic changes could and would have an unforeseen ripple effect in a negative capacity. Thank you for your time.

Chief G. Paul Connor
West Springfield Police Department
26 Central Street
West Springfield, Ma. 01089