



NEW BEDFORD BRANCH
NATIONAL ASSOCIATION FOR THE ADVANCEMENT
OF COLORED PEOPLE

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—Chartered 1917— Historic Home of Frederick Douglass -Lewis Temple -Sgt. William H. Carney

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

Dear Chairs Michlewitz and Cronin:

The **NAACP New Bedford Branch** would like to thank the Massachusetts Senate for approving Senate bill **S.2800**, "An Act to *Reform* police standards and *Shift* resources to *Build* a more equitable, fair and just commonwealth that values Black lives and communities of color.

A July 13th editorial in the *Globe* entitled, "Boston police are not Minneapolis police" argues that "the Boston Police has been a model of reform" and that police reform is an unnecessary "insult" to the police.

But whether any one police department in the Commonwealth has enacted reforms is not what is at stake here. In my city of New Bedford, the community is grappling with the murder of Malcolm Gracia; he was 15 years old at the time of his death in 2012. Whether change occurs or not is not the issue here.

The issue is preventing these killings from occurring in the first place. Ensuring accountability of the police and law enforcement to the public they serve is our focus.

This is what S.2800 addresses. Central to the bill is a simple limit on the application of Qualified Immunity — literally a "license to kill" invoked in far too many cases by police officers throughout the country.

Section 10(c) of S.2800 seeks — not to *eliminate* — but to put two limits on Qualified Immunity:

"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."

Only if an officer charged with misconduct *believed* that his actions at the time were a violation of the law and still chose to break the law would qualified immunity not apply — and only in civil cases.

Let's be clear — Qualified Immunity is a federal doctrine upheld narrowly by the U.S. Supreme Court. It is a doctrine that the NAACP opposes vehemently. Qualified Immunity creates two sets of laws — one for police officers and another for everyone else. This, frankly, is what one expects in a Police State and not a

democracy. The NAACP opposes Qualified Immunity because it shields human rights abuses from prosecution and accountability, and because it is fundamentally unequal.

For all its laudable efforts, the Massachusetts Senate bill only *limits* Qualified Immunity, not eliminates it. And these limits apply only to civil suits. The bill does nothing to invalidate the use of the Qualified Immunity doctrine in a criminal case. But if officers play fast and loose with unwarranted killings, escalation of force, prohibited restraint, or engage in unprofessional conduct that harms the public, S.2800 at least removes one shield from civil lawsuits. Follow the money. Only when Cities and Police Departments have to start paying for officer misconduct is it ever going to get fixed.

Limits on qualified immunity are opposed by the state's largest police union, which says that officers should not have to worry about the threat of lawsuits as they carry out their duties.

But here's the thing. Officers *should* worry about the threat of lawsuits, just like a doctor fears malpractice, just like a plumber fears losing his license, just like some of you fear being voted out of office. And there *should* be recourse for the public when an officer's actions are *not* the duties he was hired to carry out by the City he serves.

The NAACP New Bedford Branch applauds these first steps by the Massachusetts Senate but would like to see Qualified Immunity eliminated altogether. This is not only the policy of our Branch, but that of the NAACP New England Conference and the national NAACP.

We also seek greater prohibitions on violent police tactics. Chokeholds, no-knock warrants, indiscriminate use of tear gas and other chemical weapons, escalation of force, and limits to supposedly "non-lethal" technology like tasers all need tighter controls. These provisions must remain in any version that moves to the House. We also oppose any attempt to attenuate, send to a sure death in committee, or shelve limits on Qualified Immunity, as a number of rejected Senate amendments sought to do.

And we are not altogether pleased that, instead of eliminating "School Resource Officers" outright, the Senate bill now gives a Chief of Police and the School Superintendent the power to assign a police officer to schools, subject to a school board vote – not the will of the entire community.

We are at an inflection point in how we conceive of policing in the 21st Century. The nation has had enough of unpunished police murders and a culture of impunity which attends it. Millions of voices now tell us there is no going back, whether legislators vote for change today or resist it. **Enough is enough!**

Rev. Dr. Martin Luther King, Jr. famously noted that, "the arc of the moral universe is long, but it bends toward justice." Don't be on the wrong end of that arc.

Respectfully,

LaSella L. Hall

LaSella L. Hall, Ph.D.
President, NAACP New Bedford Branch

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