



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

HAROLD P. NAUGHTON, JR.
12TH WORCESTER DISTRICT
200 HIGH STREET
CLINTON, MA 01510
TEL: (978) 365-1955

Chairman
Joint Committee on
Public Safety and Homeland Security

ROOM 167, STATE HOUSE
TEL: (617) 722-2230
FAX: (617) 722-2846
Harold.Naughton@MAhouse.gov

July 17, 2020

Representative Aaron Michlewitz
Chair, House Committee on Ways and Means
Representative Claire Cronin
Chair, House Committee on the Judiciary
Massachusetts State House, Room 243
Boston, MA 02133

Dear Chairman Michlewitz,

I am writing to respectfully urge that Qualified Immunity be maintained as it pertains 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.*

Additionally, I am submitting an accompanying memorandum within this letter proposing the **formation of a study to devise a plan for a consolidated municipal police training academy.**

PRESERVE QUALIFIED IMMUNITY

Changes to the doctrine of Qualified Immunity could potentially lead to a myriad of negative unintended consequences for Massachusetts public employees, courts and taxpayers.

Qualified Immunity, as currently practiced in Massachusetts, acts not as a license for lawless conduct by police officers. Rather, it safeguards all public employees from litigation if they take reasonable action under legally unclear circumstances. This includes non-law enforcement officials such as town managers, selectboard members, fire chiefs, and low-level employees of the Commonwealth. Stripping this appropriate protection could open the door to impacting many other public servants.

Currently, the majority of civil rights actions against police officers and public officials are litigated in the Federal Courts. However, under the proposed changes to Qualified Immunity under S.2820, plaintiffs would be enabled to file lawsuits within the State Court system. Such a change would place the monetary burden of defending the public employee. The cost of defending the lawsuit would be potentially devastating, even bankrupting, to the officer and their family. If the plaintiff is successful, the costs to the officer and state and municipal governments are incalculable.

The legal, financial and civic ramifications of changes to the doctrine of Qualified Immunity should be carefully considered before they are enacted.

The answers to the difficult questions we have been presented with of late will not be resolved with one single piece of legislation. The answers are, at the end of the day, generational. You are all aware of my experience in the military. Fifteen years ago, when the Army decided to tackle the issue of military sexual assault head on, it was clear it would take many years of effort. While there is still work to do, the problem has been acknowledged and gotten better. We must be clear that whatever actions we take in the next few weeks will only be first steps. Part of that analysis needs to be remembering the tremendous, often life threatening work, performed by our police officers.

I firmly believe training is at the center to long term resolution. Please see below.

CONSOLIDATED MUNICIPAL POLICE TRAINING ACADEMY

CURRENT TRAINING PROGRAM

The Recruit Officer Course (ROC) is an entry-level training curriculum for new full-time police officers.

- Completion of the recruit officer course (ROC) curriculum is required under M.G.L. Chapter 41 §96B to be a sworn municipal, University of Massachusetts, or environmental police officer in the Commonwealth.

- Takes 20 weeks to complete and covers 21st century policing best practices with specific emphasis on the following core principles:
 - problem solving
 - procedural justice
 - ethical decision making
 - fair and impartial policing
- Must meet physical requirements
- Other requirements:
 - a minimum of 21 years old
 - be employed or sponsored by a municipal, Environmental, or University of Massachusetts police department or other law enforcement department authorized by the Committee
 - successfully complete the Massachusetts Human Resource Division's Physical Ability Test (PAT) and medical examinations.
- Tuition is \$3000.00 which has been determined to not actually meet costs.
- No dormitories at locations causing many recruits to have to travel great distance twice a day during training.
- Locations
 - Boylston
 - Plymouth
 - Randolph
 - Reading
 - Western Mass. at Springfield Technical Community College
- Additionally, the following sites are operated as MPTC “authorized” police academies:
 - City of Boston
 - MBTA
 - City of Lowell
 - Northern Essex Community College
 - City of Springfield
 - State Police Municipal Academy
 - City of Worcester

There exist 9 Reserve/Intermittent Police Academies Spread around the Commonwealth operated by Law Enforcement Counsels, Chiefs Associations and Sheriff's Departments.

This creates a total of 21 entities providing some level of training for municipal police academies. It is unclear what level of standardization, uniformity and consistency of training is provided by each of these entities.

In Service Training

- Every officer required 40 hours of in service training annually
 - Multiple reports and audits have cited lack of course diversity as a problem with MPTC
 - MPTC only offers 23 hours of training, with the burden for providing the remaining 17 hours placed on local departments to make up the difference. **NOTE: It is clear many departments don't have the resources to make this happen and there is no real enforcement mechanism to hold those departments accountable when that training doesn't happen.**
- Although the MPTC's five training academies hold in-service sessions between October and June in a given training year, the agency does not have the ability to provide training to all municipal officers with its available facility space.
- Concern about travel distance to academies was also expressed by chiefs from western Massachusetts and the Cape Cod region. Police chiefs have remarked that the distance their officers have to travel from their departments to a police academy for training is prohibitive, making travel time as long as two hours or more. As one chief said, simply, "MPTC training facilities are poor, as well as the locations." Because these regions do not have a conveniently located MPTC regional academy, these concerns have led communities to open their own facilities. These facilities are authorized by the MPTC rather than being MPTC-operated, although they are mainly used for recruit training.

BOTTOM LINE: The physical structure of each of the current academy locations is in poor to fair shape and the academies are inconveniently located and cannot provide the level and quality of instruction for a 21st Century Police Force.

Additionally, although the curriculum should be modified to an extent to enhance de-escalation skills, cultural awareness and knowledge of both implicit and explicit bias, it is generally a solid course of instruction. (Chief (ret.) Ferullo, Director of the MPTC states de-escalation skills are indoctrinated at all points of training.) The problem is the delivery of the course content. There is a distinct lack of uniformity of content delivery and the quality and consistency of academics from academy to academy. Off duty and retired police officers and others apply online to the MPTC to be certified as instructors.

I have requested Chief Ferullo to provide me with the criteria used by the Curriculum Certification Manager to appoint someone as an instructor. There are full time staffers at the MPTC. It is my profound belief that problems will continue until a centralized, consolidated municipal police academy with a full, time professional staff similar to the Fire Academy or MSP Academy is created.

In a briefing on the Administration's police reform bill, Chief Ferullo indicated that the Acadis online system is robust enough to scale up significantly to provide any additional training required by legislation. However, the point was made several times that the dedicated revenue stream provided by the rental car surcharge would not be enough to support any additional needs.

Point: setting up a certification/licensing system, the basis of which is a 20 week basic course and then 40 hours per year of academics without creating at least a long-term plan to provide additional financial resources and quality, consistent academic instruction is setting that system up for failure. A long-term plan for consolidation of all police academies other than Boston, Worcester, Springfield and the MBTA should be articulated. All training should be provided by the academy, taking most, if not all, of the burden for the yearly, in-service training off of the local departments. The Secretary of Public Safety and Security has looked at both the former defense accounting center in southbridge and the former Atlantic Union College in Lancaster for this purpose.

Providing for consistency in the delivery, quality and professionalism of the academics will assure the public that the training of an officer in the Berkshires will be equivalent to the training of an officer in the City of Boston. It will also assure officers that they continue to be among the best trained in the country and that they have the support of those designing this system. They will be aware that abiding by the program set up to provide them with certification will allow them to have a productive, meaningful career in law enforcement.

I am well aware that current fiscal restrictions make moving forward with such a plan at this point is unrealistic, but articulating a proposal to move forward with over the next few budget cycles would be welcomed, I believe, wholeheartedly by a great majority of the chiefs, departments and officers in the Commonwealth.

I thank you for your consideration of these important items. Please do not hesitate to contact my office with any further questions.

Respectfully,

A handwritten signature in black ink, consisting of a stylized initial 'H' followed by a long horizontal line extending to the right.

Harold P. Naughton, Jr.

State Representative, 12th Worcester District

House Chair, *Joint Committee on Public Safety and Homeland Security*