



THE GENERAL COURT OF MASSACHUSETTS  
STATE HOUSE, BOSTON 02133-1053

July 17, 2020

The Honorable Aaron Michlewitz, Chair  
House Ways & Means Committee  
State House, Rm. 243  
Boston, MA 02133

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

Dear Chairpersons Michlewitz and Cronin,

I know that I am taking an unusual step in offering testimony to House Chairs on a bill that has already been debated and engrossed in the Senate, however I have concerns about particular sections of the legislation that I hope can be addressed in the process that is underway in the House. I am writing to offer brief testimony on 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.

There is no doubt that we are in a moment in history that requires our attention, our focus and our immediate action. In fact, we would not be fulfilling our duty as legislators and representatives of the people of the Commonwealth, if we do not act swiftly to do our part to address racism, use of force, police accountability and training, and the methods and procedures employed by police officers in our municipalities and our Commonwealth. The actions we take and how we get there however matter greatly if we wish to enact true reform that keep our communities safe and protect the lives of Black and Brown people. Simply, the problem is real, it exists, and we must act.

I am particularly proud of many of the provisions we adopted in S2800 that I believe lead us to becoming a better Commonwealth. Standardized and proactive police training, use of force standards, a system of licensing that is in place across the Country, mental health intervention,



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duty to intervene by police officers in cases of abuse of force, steps toward police department accreditation and overall accountability measures for police officers are the hallmark of this legislation and should be passed immediately and celebrated by everyone upon passage. S2800 however, even with 90 percent of the bill being agreeable and composed of the language I noted, has a particular shortfall that I fear will have unintended consequences for many public workers, police officers and ultimately the passage and enactment of the legislation itself.

There is no doubt that the Qualified Immunity doctrine requires a deeper look throughout the Country. There tends to be a general mis-understanding on what the doctrine is and how it is applied. I have also learned throughout the last week the scope and intent of Qualified Immunity, not just as it relates to law enforcement officers, but every other public employee and public official. As a legislature, we should look seriously at the impact of changing the standard in cases of Qualified Immunity to ensure that the protections remain for the overwhelming majority of good and decent public workers that require insulation from frivolous lawsuits. At the same time, we must ensure that Qualified Immunity or any similar doctrine or statutory protection should exist for officers or other public workers that knowingly, brazenly, or carelessly violate the rights of citizens or commit illegal acts. To do that however, to take the steps necessary to fully vet this complicated issue and decades long jurisprudence, we must be deliberate in our approach. I believe the best course of action is to create a commission of legal experts and stakeholders to dig deep into this issue and report back to the legislature with recommendations that we should swiftly enact.

Additionally, we need to ensure that the POSAC system of certification and investigation is one that provides officers with their right to due-process. A system that is independent of disciplinary hearings, arbitration and appeals is fundamentally flawed and runs counter to the principles we embrace for all workers. We must have a system that provides accountability through a certification process, however we must not trample on labor rights to accomplish it. I believe that



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we can have a system that swiftly roots out the officers that don't deserve to wear the badge, while offering basic labor rights afforded to workers throughout this Country.

I am also cognizant of the problem that exists in this Country and even right here in Massachusetts. The report released by U.S. Attorney General Barr about the actions of the Springfield Police Department is alarming. The disturbing behavior and regular use of excessive force that was outlined in that report is atrocious. From George Floyd to Breonna Taylor, we cannot let ourselves bury our heads in the sand when it comes to excessive use of force and racism among those sworn to protect lives, not take them. They say that a movement is made up of a series of moments. Unfortunately, the moments that have led to the movement for change we are engaged in now are deeply painful and steeped in loss of life and loss of dignity. We must respond, we must act and we must do so now.

Finally, I am blessed to represent a district with some of the best law enforcement officers in the Country. The Men and Women that serve the communities of Medfield, Walpole, Sharon, Foxborough, Mansfield, Norton, Attleboro, Seekonk & Rehoboth are dedicated and well-trained. In fact, I consult with the Chiefs of many of those departments from time to time to understand the best-practices and professional methods and procedures that they use to police our communities. I have frequently held up these departments as a model for the way policing should be conducted in the 21st century and candidly, I'm proud of them and how they perform their duty to our cities and towns in the challenging time we find ourselves in today.

I urge you to do what you have always done; listen to stakeholders, respect the frames of reference of each person and craft legislation that meets the moment. Let's pass a bill that embraces so much of the needed change required in policing, while uniting and building bridges



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within our communities and let's commit to examining the issue of qualified immunity in the months ahead, while protecting all public workers like firefighters and nurses, DPW workers and teachers, and the fundamental rights afforded them. I thank you for your time and consideration and I look forward to working with you on this legislation and in the future.

With Every Good Wish,

*Paul R. Feeney*

Paul R. Feeney  
State Senator - Bristol & Norfolk District