

State of Massachusetts House of Representatives,

My name is Christopher Landry, I am a resident of Massachusetts, residing on Cape Cod, and I can be contacted at (413)-548-5773. I am writing to you to submit my public testimony for bill 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*. In addition to being a resident of the state of Massachusetts, I am an MPTC certified police officer and have been for eight years between my part-time and full-time municipal certification.

I proudly serve the community of Provincetown, MA and have done so for my entire tenure as a police officer. I submit this to you with great respect and appreciation that you are allowing public comment on this bill that will make many changes to the law enforcement profession. As the bill stands now, I agree and support many amendments of this bill. Working in what may be the most diverse community in the Commonwealth, I appreciate all people for who they are regardless of race, ethnicity, gender, sexual orientation and/or religion.

Furthermore, I truly appreciate how this bill is authored to make reforms for the law enforcement profession that are long overdue. Those changes I appreciate are but not limited too: more inclusion for persons of color, creating and adopting certifications standards and making it a requirement for an officer to intervene when excessive use of force is encountered by another officer. However, this bill is not perfect, and I do not support three specific topics. Those topics include an officers right to appeal to civil service, officers use of force and qualified immunity.

As documented under section 225, subsection (g) pertaining to an officer's right to appeal to the civil service commission as identified in chapter 31 needs to be changed. Many labor unions have put forth countless hours of hard work and dedication to allow any employee regardless of profession their right to appeal. If the law is adopted as written, it removes an officer's right to appeal decertification to the civil service commission that oversees all departments governed by them. I understand and respect the intent behind this amendment to remove an officer's certification if they are found responsible for wrong-doing, however, they still should have the right to appeal to the governing body that evaluates their employment. Furthermore, if the officer's rights to appeal is not allowed, it undermines the civil service commission's ability to review the decertification of a police officer. Please review the language of this amendment and change it to make it allowable for an officer to appeal decertification to the civil service commission.

Pertaining to an officer's use of force, I submit this opinion as my own as I am not a use of force expert and/or instructor. I received my training for use of force from the MPTC and do so on a yearly basis both at in-service training and through my

departments defensive tactics instructors. As documented in chapter 147A Regulation of Physical Force by Law Enforcement Officers, Section 2 (b) it states:

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.

My issue with this language is that it contradicts the teachings from U.S. Supreme Court case *Graham V. Connor* which created the reasonableness standard. An officer is trained to act in a reasonable manner when forced to make split second decisions in situations that are tense and rapidly evolving. This amendment does not allow an officer to use force for civil custodies, such as, MGL 123 s 12 Involuntary Hospitalization for Mental Health or court ordered apprehensions for drugs and/or alcohol abuse also referred to as section 35. This amendment as written does not allow the use of force when encountering a subject that is incapacitated by either alcohol and/or drugs. When dealing with persons incapacitated by these substances, they are not of sound mind and at times choose to resist and even fight. These individuals need to be placed in protective custody, which is not an arrest but a custody nonetheless, which is needed to prevent them from damaging property and/or protect them from themselves or others as they are a danger. Also in this amendment it speaks to using force when encountering "imminent harm" which is defined in Section 1 as:

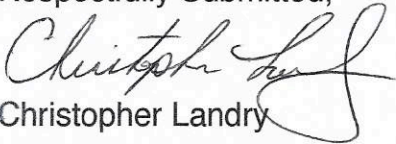
"Imminent harm", serious physical injury or death that is likely to be caused by a person with the present ability, opportunity and apparent intent to immediately cause serious physical injury or death and is a risk that, based on the information available at the time, must be instantly confronted and addressed to prevent serious physical injury or death; provided, however, that "imminent harm" shall not include fear of future serious physical injury or death.

As written, it states in section 2 (b) (iii), a police officer cannot use force unless its to prevent "imminent harm." The word imminent should be removed throughout subsection (iii) and changed to just read "harm." In my opinion, this language I presented would be more in line with current practices and training of law enforcement pertaining to use of force. Please review Chapter 147A, Section 2, Subsection B and make the appropriate changes to keep police officers and the public safe.

Regarding the issues of qualified immunity, as the language is written now, it is setting up the Commonwealth for many frivolous lawsuits. This will not only put pressure upon the municipality to fight these frivolous claims which will bring on non-repayable attorney fees, lost wages, etc. This will also put unjustified pressure upon any municipal employee that was merely doing their job in a legal and justified manner because a person believed their constitutional rights were violated. Please review this matter as I know it is a subject that is of much debate but this needs to be removed and/or changed to identify with the current standard.

As previously stated, I support the majority of this bill with the exception of the aforementioned sections that need to be reviewed and changed. I again thank you for allowing me to submit my testimony and look forward to watching this legislative process unfold in a transparent manner. Please feel free to contact me if that is needed.

Respectfully Submitted,


Christopher Landry