

HOUSE No. 4448

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing for greater police transparency.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Clinton Graham</i>	<i>50 Adams Street Suite 870152 Milton, Ma. 02187</i>	<i>12/30/2021</i>

HOUSE No. 4448

By Mr. Holmes of Boston (by request), a petition (subject to Joint Rule 12) of Clinton Graham relative to police transparency. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act providing for greater police transparency.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 3 of the General Laws is hereby amended by adding the following
2 section:-

3 Section 76. (a) There shall be a permanent DJC task force that shall investigate, analyze
4 and study the demographic statistics of all state, county, municipal and public departments,
5 boards, commissions and agencies that receive funding by the commonwealth. The task force
6 shall be authorized to perform audits on any state or county agency to ensure compliance with
7 section 221 of chapter 6.

8 (b) The task force may receive requests to perform audits on departments, boards,
9 commissions or agencies by employees of the department, board, commission or agency.

10 (c) The task force shall annually file a report with the governor and the clerks of the
11 house of representatives and the senate detailing the results of any audits performed by the task
12 force and any other information that the task force deems relevant.

13 SECTION 2. Section 116 of chapter 6 of the General Laws, as appearing in section 4 of
14 chapter 253 of the acts of 2020, is hereby amended by adding the following paragraph:-

15 The committee shall ensure that committee-certified academies employ a staff that
16 includes people of color and women, at least in such proportion as these groups exist in the
17 commonwealth's population as periodically determined by the state secretary as the
18 commonwealth's chief census officer.

19 SECTION 3. Chapter 6 of the General Laws is hereby amended by inserting after section
20 116 the following section:-

21 Section 116½. The committee shall ensure that training requirements are developed based
22 on the most relevant scenarios that law enforcement officers in the commonwealth may
23 encounter based on the most recently available criminal statistics and data from law enforcement
24 agencies, as defined in section 1 of chapter 6E.

25 SECTION 4. Subsection (b) of section 116G of said chapter 6 of the General Laws, as
26 amended by sections 18 to 22, inclusive, of said chapter 253 of the acts of 2020, is hereby
27 amended by adding the following clause:-

28 (vi) implicit bias and inclusion training to better understand and work with members of
29 the community that may have different demographic characteristics or backgrounds.

30 SECTION 5. Section 116J of said chapter 6 of the General Laws, as appearing in section
31 23 of said chapter 253 of the acts of 2020, is hereby amended by adding the following sentence:-
32 The committee shall ensure that, pursuant to said section 14, programs train officers to use non-
33 lethal force before employing physical force that may result in injury or death.

34 SECTION 6. Section 167 of chapter 6 of the General Laws, as appearing in the 2018
35 Official Edition, is hereby amended by striking out the words “not include information
36 concerning any offenses which are not punishable by incarceration”, in lines 45 and 46, and
37 inserting in place thereof the following words:- only include information concerning offenses
38 relative to murder, as defined in section 1 of chapter 265.

39 SECTION 7. Chapter 6 of the General Laws is hereby further amended by adding the
40 following section:-

41 Section 221. (a) Notwithstanding any general or special law to the contrary, all state,
42 county, municipal and public departments, boards, commissions and agencies shall ensure that
43 its staff includes people of color and women, at least in such proportion as these groups exist in
44 the commonwealth’s population as periodically determined by the state secretary as the
45 commonwealth’s chief census officer.

46 (b) If a state, county, municipal or public department, board, commission or agency fails
47 to meet the proportionality requirement in subsection (a), 50 per cent of the appropriation
48 designated for the department, board, commission or agency shall be transferred to the General
49 Fund.

50 SECTION 8. Chapter 6E of the General Laws, as appearing in section 30 of chapter 253
51 of the acts of 2020, is hereby amended by adding the following 4 sections:-

52 Section 17. Each law enforcement agency shall provide on a publically accessible
53 website:

54 (a) data relative to the hiring and retention of law enforcement officers, including, but not
55 limited to: (i) demographic information for law enforcement officers employed and hired by the
56 agency; (ii) the number of law enforcement officers hired by the agency; (iii) the number of
57 cadets hired by the agency; (iv) demographic information for cadets hired by the agency; (v)
58 recruitment efforts by the agency to attract and hire officers of color; and (vi) the number of law
59 enforcement officers that have terminated their employment with the agency and for what
60 reason.

61 (b) data relative to traffic stops performed by law enforcement officers, including, but not
62 limited to: (i) demographic information for the person subject to the traffic stop; (ii) demographic
63 information for the law enforcement officer that performed the traffic stop; (iii) the result of the
64 traffic stop, including whether the stop resulted in a warning, citation, arrest or search; (iv) the
65 duration and time of day of the traffic stop; (v) vehicle information; and (vi) law enforcement
66 officer patrol patterns, including, but not limited to where law enforcement officers park to
67 perform traffic stops, which neighborhoods law enforcement officers patrol and where speed-
68 monitoring radar are set up.

69 (c) data relative to law enforcement officer response to residential homes broken down by
70 neighborhood, including, but not limited to: (i) demographic information relative to the
71 homeowner or homeowners; (ii) demographic information for the person that called for
72 assistance; (iii) the number of arrests made after a response to a residential home and for what
73 cause; and (iv) demographic information relative to those arrested.

74 (d) data relative to law enforcement officer discipline, including, but not limited to: (i)
75 demographic information for the law enforcement officer subject to discipline, including race,

76 sex, age, rank and the number of years in that position; (ii) the reason for punishment; and (iii)
77 what punishment was received.

78 (e) data relative to individuals enrolled in an academy or training program certified by the
79 municipal police training committee, including, but not limited to: (i) demographic information
80 for individuals enrolled in the academy or training program, including race, sex and age; (ii)
81 demographic information for individuals enrolled in the academy or training program that have
82 been subject to discipline, including race, sex, age and for what the discipline was received; (iii)
83 performance of individuals that have completed an academy or training program including test
84 and physical fitness scores; (iv) demographic information relative to which individuals received
85 awards for their performance in the academy or training program; and (v) the rank of every
86 individual enrolled in the academy or training program, including, if applicable, any leadership
87 role such as class president.

88 Section 18. No person issued a firearm, as defined in section 121 of chapter 140, by a law
89 enforcement agency shall tamper with the firearm, including, but not limited to accessorizing or
90 attaching stickers to the firearm.

91 Section 19. (a) As used in this section, the following words shall, unless the context
92 clearly requires otherwise, have the following meanings:-

93 “Law enforcement activity”, actions performed by a law enforcement officer including:
94 (i) noncustodial questioning of individuals suspected of criminal activity; (ii) pedestrian stops
95 where an officer has an individualized, reasonable suspicion that the person stopped has
96 committed, is committing or is about to commit a crime and where a reasonable person would
97 not feel free to end the encounter at will; (iii) frisks; (iv) searches of persons or property,

98 including vehicles; (v) roadblock or checkpoint stops; (vi) home searches; and (vii) investigatory
99 questioning of victims of or witnesses to a crime.

100 “Noncustodial questioning”, the questioning of an individual during an investigation
101 where such individual has not been detained and is free to end the encounter at will.

102 (b) During a law enforcement activity, an officer shall:

103 (i) identify themselves to the person who is the subject of the law enforcement activity by
104 providing their name and rank;

105 (ii) provide the person an explanation of the reason for the law enforcement activity,
106 unless providing such information would impair a criminal investigation; and

107 (iii) offer a business card to the person at the conclusion of the law enforcement activity
108 if the law enforcement activity does not result in an arrest. If the person who is subject to the law
109 enforcement activity is under the age of 18, the officer shall offer the business card to the person
110 or, if present at the scene, to a parent or legal guardian.

111 (c) A law enforcement officer shall offer a business card to any person requesting
112 identifying information; provided, however, that if an officer does not have a business card with
113 their identifying information on their person, the officer may verbally provide the person with
114 the officer’s name and rank and allow the person sufficient time to record the information.

115 (d) Each law enforcement agency shall provide all law enforcement officers employed by
116 the agency with business cards that include the officer’s name, rank, contact information and
117 blank space to write any necessary information as determined by the officer.

118 (e) A law enforcement officer shall not be required to comply with this section if:

119 (i) the officer is engaged in agency-approved undercover activity and law enforcement
120 activity is taken in furtherance of the undercover activity;

121 (ii) exigent circumstances require immediate action by the officer;

122 (iii) the officer reasonably expects that the officer or any other person is in danger of
123 physical injury or that there is an imminent risk of damage to property or to forestall the
124 imminent escape of a suspect of imminent potential destruction of evidence;

125 (iv) the officer is conducting a security search of a person or property, including a
126 consent search pursuant to guidance by the commission pursuant to section 20, where the search
127 is predicated upon entrance to a public building or facility, location, event or gathering; or

128 (v) the officer is verifying the identity of a person seeking entry to an area where public
129 access is restricted by a law enforcement agency due to a public health, safety or security
130 concern.

131 Section 20. The commission shall develop guidance for law enforcement officers with
132 respect to voluntary, knowing and intelligent consent prior to the search of a person, vehicle,
133 home or property where the search is not performed pursuant to a warrant or probable cause.

134 SECTION 9. Chapter 12 of the General Laws is hereby amended by inserting after
135 section 11I the following section:-

136 Section 11I½ . Any person who intentionally summons a law enforcement officer without
137 reason to suspect a criminal act, imminent threat to a person or property or any other violation of
138 the General Laws, in whole or in substantial part because of a belief or perception regarding the
139 race, color, national origin, ancestry, gender, religion, religious practice, age, disability, sexual

140 orientation or sexual identity of a person, regardless of whether the belief or perception is
141 correct, shall be liable to the aggrieved person or persons, in a civil action for appropriate
142 equitable relief as provided for in section 11H, including the award of compensatory money
143 damages. Any aggrieved person or persons who prevail in an action authorized by this section
144 shall be entitled to an award of the costs of litigation and reasonable attorneys' fees in an amount
145 to be fixed by the court.

146 SECTION 10. Section 26 of chapter 31 of the General Laws, as appearing in the 2018
147 Official Edition, is hereby amended by inserting after the word "standings", in line 5, the
148 following words:- ; provided, however, that for each veteran placed on eligible lists, a
149 proportional number of non-veteran community members who pass examinations for original
150 appointment shall be placed on the eligible lists.

151 SECTION 11. Chapter 41 of the General Laws is hereby amended by adding the
152 following section:-

153 Section 134. A police officer or firefighter In a city or town shall complete 10 hours of
154 community service per month within the community as determined by the chief.

155 SECTION 12. Chapter 71 of the General Laws is hereby amended by adding the
156 following section:-

157 Section 98. Each school district, charter school, as defined in section 89, and regional
158 school district created pursuant to section 14B shall provide on a publically accessible website,
159 data relative to student discipline, including, but not limited to: (i) demographic information for
160 the students that received disciplinary action; (ii) for what purpose was the student disciplined;

161 and (iii) what disciplinary action was imposed, including, but not limited to detentions,
162 suspensions, and expulsions, and for what length of time.

163 SECTION 13. Chapter 90 of the General Laws, as appearing in the 2018 Official Edition,
164 is hereby amended by striking out section 16A and inserting in place thereof the following
165 section:-

166 Section 16A. (a) No person shall cause, suffer, allow or permit the unnecessary operation
167 of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in
168 excess of 5 minutes. This section shall not apply to: (i) vehicles being serviced, provided that
169 operation of the engine is essential to the proper repair thereof; (ii) vehicles engaged in the
170 delivery or acceptance of goods, wares or merchandise for which engine assisted power is
171 necessary and substitute alternate means cannot be made available; or (iii) vehicles engaged in an
172 operation for which the engine power is necessary for an associate power need other than
173 movement and substitute alternate power means cannot be made available provided that such
174 operation does not cause or contribute to a condition of air pollution. Whoever violates any
175 provision of this section shall be punished by a fine of not more than \$100 for the first offense,
176 nor more than \$500 for each succeeding offense.

177 (b) Notwithstanding any general or special law to the contrary, between the hours of 8:00
178 p.m. and 7:00 a.m., no person shall cause, suffer, allow or permit: (i) the unnecessary operation
179 of the engine of a commercial vehicle within 100 yards of a residential home or (ii) the audible
180 warning system of a commercial vehicle to be activated within 100 yards of a residential home.
181 Whoever violates any provision of this section shall be punished by a fine of not more than \$100
182 for the first offense, nor more than \$500 for each succeeding offense.

183 SECTION 14. Section 63 of chapter 90 of the General Laws, as appearing in section 10
184 of chapter 122 of the acts of 2019, is hereby amended by striking out subsection (a) and inserting
185 in place thereof the following subsection:-

186 (a) The registry of motor vehicles shall collect data from any issued Massachusetts
187 Uniform Citation regarding the following information: (i) identifying characteristics of the
188 individuals who receive a warning or citation or who are arrested, including the age, race and
189 gender of the individual; (ii) identifying characteristics of the law enforcement officer, as defined
190 in section 1 of chapter 6E, who issued the warning or citation, including the race and sex of the
191 law enforcement officer; (iii) the traffic infraction; (iv) the date and time of the offense and the
192 municipality in which the offense was committed; (v) whether a search was initiated as a result
193 of the stop; (vi) whether the stop resulted in a warning, citation or arrest; and (vii) whether the
194 individual that received the citation elected to transmit a copy of the citation to the DJC Task
195 Force, established pursuant to section 76 of chapter 3. The registry of motor vehicles shall
196 maintain statistical information on the data required by this section and shall report that
197 information annually to the secretary of public safety and security.

198 SECTION 15. Chapter 124 of the General Laws is hereby amended by adding the
199 following 2 sections:-

200 Section 11. The department shall provide on a publically accessible website demographic
201 information relative to prisoner attendance for department programming and prisoner discipline.

202 Section 12. The department shall provide on a publically accessible website information
203 relative to grievances filed by correction officers, including, but not limited to: (i) a summary of
204 the grievance and (ii) the result of the grievance process.

205 SECTION 16. Chapter 127 of the General Laws is hereby amended by adding the
206 following section:-

207 Section 170. (a) As used in this section the following words shall, unless the context
208 clearly requires otherwise, have the following meanings:-

209 “Body-worn camera”, a portable electronic recording device worn on a law enforcement
210 officer’s person that creates, generates, sends, receives, stores, displays and processes
211 audiovisual recordings or records audio and video data of law enforcement-related encounters
212 and activities.

213 “Record”, the process of capturing data or information stored on a recording medium.

214 (b) Any officer that responds to an emergency, incident or altercation within a state or
215 county correctional facility shall wear a body-worn camera to record the emergency, incident or
216 altercation. All recordings shall be retained by the state or county correctional facility pursuant to
217 regulations promulgated by the commissioner pursuant to this section.

218 (c) The commissioner shall promulgate regulations relative to the use of body-worn
219 cameras by officers and the retention of recordings by officers.

220 SECTION 17. Section 9 of chapter 211B of the General Laws, as appearing in the 2018
221 Official Edition, is hereby amended by striking out the word “and” in line 140.

222 SECTION 18. Said section 9 of said chapter 211B of the General Laws, as so appearing,
223 is hereby further amended by striking out clause (xxiv) and inserting in place thereof the
224 following 3 clauses:-

225 (xxiv) the authority to approve, upon the request of the court administrator, the court
226 administrator's application for and acceptance on behalf of the commonwealth of any funds,
227 including grants, bequests, gifts or contributions, from any person which shall be deposited in a
228 separate account and may be expended by the court administrator, without further appropriation,
229 in accordance with chapter 29 and any rules or regulations promulgated thereunder;

230 (xxv) the responsibility to collect and provide on a publically accessible website
231 demographic data, including, but not limited to race, sex, and age, relative to: (i) arraignments;
232 (ii) convictions, including for what criminal offense; (iii) sentence received if convicted,
233 including for what criminal offense; (iv) dismissals; and (v) exonerations; and

234 (xxvi) after a review of the data collected pursuant to clause (xxv), the power to notify
235 and discipline justices that exhibit a pattern of discrimination against criminal defendants.

236 SECTION 19. Chapter 269 of the General Laws is hereby amended by adding the
237 following section:-

238 Section 20. (a) As used in this section, the term "hate speech" shall mean speech that
239 carries no meaning other than the expression of hatred for some group, such as a particular race
240 or gender, especially in circumstances in which the communication is likely to provoke violence.

241 (b) Whoever makes or circulates hate speech or causes hate speech to be made or
242 circulated shall be punished by a fine of not less than \$500 or by imprisonment in a jail or house
243 of correction for not more than 1 year or by both such fine and imprisonment.

244 SECTION 20. Chapter 228 of the acts of 2000 is hereby amended by inserting after
245 section 5 the following 2 sections:-

246 Section 5A. The registry of motor vehicles shall revise the Massachusetts Uniform
247 Citation to include a field that allows individuals cited by a law enforcement officer, as defined
248 in section 1 of chapter 6E of the General Laws, to opt-in to transmit a copy of the citation to the
249 DJC Task Force, established pursuant to section 76 of chapter 3 of the General Laws. The police
250 officer shall notify the individual of the option to transmit a copy of the citation to the DJC Task
251 Force at the time the citation is issued; provided, that if the individual wishes to transmit a copy
252 of the citation to the DJC Task Force, the individual shall opt-in at the time the citation is issued.

253 Section 5B. The executive office of public safety shall review on a monthly basis data
254 collected pursuant to subsection (a) of section 63 of chapter 90. If, following its review, the
255 executive office of public safety determines that any law enforcement officer, as defined in
256 section 1 of chapter 6E, has exhibited a pattern of racial and gender profiling or has
257 predominantly issued warnings or citation to individuals of a race or gender that differs from the
258 race or gender of the law enforcement officer, those warnings or citations issued by the law
259 enforcement officer, and any fines resulting from issued citations, shall be void.

260 SECTION 20. Said chapter 228 of the acts of 2000 is hereby further amended by
261 inserting after section 6 the following section:-

262 Section 6A. The executive office of public safety shall develop a uniform protocol for
263 law enforcement officers, as defined in section 1 of chapter 6E of the General Laws, on how to
264 use the Massachusetts Uniform Citation to record the race and sex of each officer that has issued
265 a citation to an individual for a motor vehicle violation. The protocol shall be put into effect not
266 later than January 1, 2023.