

My name is Alyssa Kitchen, I am a social worker and I live with my husband, a police officer, and our two children in Scituate.

Let me start by saying thank you. Thank you for speaking out against police brutality, poor training tactics, and blatant racism in police departments. Thank you for using your voice and position of power to lend credence to a call for the necessary reform of many police departments across the nation. Most importantly, thank you for attempting to correct the failures of the Senate that hastily crafted a massively impactful bill and then denied public hearings to review it.

It is my hope, that each member of this House personally reads all 1,923 lines and 89 pages of S.2820, as I have done. Equipped with my highlighter, notepad, pen, and computer, I spent hours pouring over each word. I did this because I recognize how vitally important this legislation is. Not just to me as a social worker, to my husband as a police officer, but to every single member of this commonwealth. After reading, I came away with concerns regarding cost, the personal rights of law enforcement officers, limitations on collective bargaining agreements, and the ambiguity of qualified immunity standards.

As such, I provide to you my written testimony in opposition of S.2800/S.2820.

Now is the time for unity, for thoughtful action and policies to stop police brutality, to stop inequality, and to stop angry, bitter, division. What better group of citizens to lead the way in that charge than those of the commonwealth? What better group of lawmakers to set forth a standard for detailed, legislative change than those of the commonwealth, the very birthplace of America? If we are those tasked with leading the charge, we must do it cleanly, decisively, and with the least amount of harm to our citizens. This bill does not meet that standard. The reason for that failure is simple: lack of data review and haste.

Any training related to studies and research teaches us that we must first complete a literature review to understand the needs being addressed. We did not do that in this case. We made broad assumptions about the state of policing in Massachusetts with limited information and those broad assumptions could be flawed. I will not say they are, because I have not had an opportunity to review the data. The issue is that they could be. We cannot enact sweeping law on potentially erroneous broad assumptions.

Furthermore, review of this bill demonstrates serious flaws and holes that should be addressed before proceeding.

1. Line 144: Section 2 Clause twenty-sixth of section 7 of chapter 4
  - a. The decision to replace the current language with new, broader language that adds further protection to public servants while simultaneously adding language that specifically targets the privacy rights of law enforcement is frightening. Under this bill, medical records of law enforcement are subject to public records requests if they are used in the disposition of a misconduct complaint. Let be clear, “disposition” means that these records are available even if the misconduct is not sustained. This is a dangerous overstep into the privacy rights of individuals simply because of their profession.
2. Line 281: Section 1 – Police Officer Standards and Accreditation Committee
  - a. Let me state that I wholeheartedly agree with a certification board for law enforcement. However, I believe that committee should have the same guidelines and powers of similar boards/committees in the commonwealth. For example, this committee will be made up of six law enforcement officers and eight non law enforcement personnel nominated by various special interest groups. A committee that has such broad powers of investigation, revocation, database maintenance, etc. should not be heavily weighted against those it regulates. The social work board, for example, is made up of all social workers and one citizen. That is because there is a recognition that the profession of social work, the standards and practices, are best understood by other social workers. Similarly, the fact that this new committee will be able to conduct simultaneous investigations of law enforcement potentially circumvents collective bargaining agreements. This is a dangerous precedent to set for every single union. Moreover, what occurs if the committee comes to a different conclusion than the appointing authority? Lastly, the secondary database of complaints with “de-identified” law enforcement information is exceedingly concerning. This again goes to privacy and safety concerns for law enforcement who, potentially, have done nothing wrong.

### 3. Line 549: Section 10 – Qualified Immunity

- a. The recent addition of language related to the indemnification of public employees highlights the need for an extremely thorough review of this section. The Senate recognized that this addition was necessary but refuses to acknowledge the potential harm of ambiguous qualified immunity standards for law enforcement. While I understand that QI will continue to apply under federal law, our Supreme Court has affirmed this federal standard on the state level for over thirty years. Although I am sure I do not need to explain this doctrine to our lawmakers, I want to highlight the fact that QI is a defense against trial and therefore facts are considered in the most favorable light to the plaintiff. The law as it stands states that the law enforcement officer must have violated a clearly established constitutional right. The bill in question puts forth extremely vague and ambiguous language related to a “reasonable person” and such conduct violating the law at the time it occurred. What this does is remove the requirement for a clearly established violation. It allows endless amounts of suits specifically designed to set new precedent and interpretation of the new state QI statute. **I am scared.** This is not a Red Herring, this is a real and true fear for us right now. Will I lose my home because someone claims that he should not have been tackled while running from the police? Why did the senate strike down the amendment for a commission to study the impact of the current QI statute? We need answers to these questions and a commission would help alleviate the very real fears of so many people like me.

In the interest of time, I will not continue to itemize the other flaws of this bill as they all relate back to a need for more time to consider.

Instead, I leave you with this:

We have a great opportunity before us. An opportunity to come together and have conversations with empirical data, to bring everyone to the table and understand what our needs are. This is our chance to send a message to the commonwealth and the country that we affirm the countless positive aspects of

policing in Massachusetts and disavow the bad cops. We cannot and should not waste our chance to do the right thing. That is why this bill, as it stands, should be rejected.

Respectfully,

Alyssa Kitchen, MSW, LICSW  
111 Turner Rd, Scituate