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Representative Aaron Michlewitz
Chair, House Committee on Ways and Means
Representative Claire D. Cronin
Chair, Joint Committee on the Judiciary
Massachusetts House of Representatives
State House
Boston, MA 02133

RE: Concerns to Senate 2820 as addressed

Dear Representatives Michlewitz and Cronin,

Please accept the following testimony with regard to SB2820 – “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.”

I submit this letter/testimony on behalf of the professional police officers in the Town of Swansea. I have been a police officer for over 38 years and a Police Chief for 24 years, in Rhode Island and Massachusetts. The Swansea Police Department is one of the 93 accredited Police Departments in Massachusetts. Much of what is written in the Senate Bill talks about oversight, certification and accreditation. Many of the Police Departments already have that and have policies, objectives and orders that address the use of force, deadly force, less level force, internal affairs investigations and early warning systems for problem police officers.

Criminal justice reform is a very difficult challenge and should not be conducted without input from professional police leaders, prosecutors, judiciary, health care community, mental health providers and community leaders. This rush to get “something done” does not make sense to me.

Regarding Section 10 (c) (Line 570) is very problematic, not only for professional law enforcement in the Commonwealth, but for all public employees. The past week I have been asked by many of the men and women who protect the citizens of Swansea if they should leave law enforcement due to the perception that many elected officials have left them high and dry for political expediency and watered down the judicial doctrine of Qualified Immunity. Section 10 calls for re-write of the existing provisions in Chapter 12, Section 11 I, pertaining to violations of constitutional rights, commonly referred to as the Massachusetts Civil Rights Act (MCRA).

Qualified Immunity provides police officers with protection for civil lawsuits so long as their conduct does not violate clearly established law or Constitutional Rights of which a reasonable officer would have known. Further, qualified immunity does not protect individuals from recovering damages from police officers who knowingly violate an individual's constitutional rights. Qualified immunity is an essential part of policing. It allows your police officers to respond to incidents without pause, make split-second decisions, and rely on the current state of the law in making these decisions. The loss of this protection will have a chilling effect on police officers and limit their ability and willingness to respond to critical incidents without hesitation. This will also affect the citizens of your communities. Calls to limit, reduce or eliminate qualified immunity do not represent a constructive path forward.

Also, Section 6 (line 321) appears from the POSAC provision that the committee shall have the power to conduct what is referred to as "independent investigations and adjudications of complaints of officer misconduct" without any qualifying language as to how that would be implemented in terms of what type of alleged misconduct (law violation, use of force, injury, rude complaints, etc.) or when and under what circumstances will adjudications be subject to review resulting in a proposed oversight system that could go down the slippery slope of becoming arbitrary and capricious at some point and subject to a high level of scrutiny and criticism.

Regarding, Section 49 (Line 1101-1115), preventing school department personnel and school resource officers from sharing information, when there are ongoing specific unlawful incidents involving violence of otherwise defies commonsense. Information sharing is very important for a safe and secure environment in our schools.

As a dedicated passionate police professional, I am deeply disheartened. I respectfully request that you listen to professional law enforcement leaders regarding these important proposed changes that will affect our profession and your communities.

Respectfully,



George Arruda

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