



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

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July 16, 2020

Chair Aaron Michlewitz
Chair Claire Cronin
State House
24 Beacon St.
Boston, MA 02133

Re: S.2820 Reforming Police Standards

Dear Chairs Michlewitz and Cronin,

I am writing to submit testimony regarding S.2820. I am deeply concerned with many provisions including in the Senate bill and am hoping the House of Representatives will take an approach centered in common sense and not an approach that is biased to and reactionary to certain political movements.

I believe it's important to first note that there is no emergency situation in Massachusetts requiring large scale police reform. Mappingpoliceviolence.org is a website that tracks deaths as a result of interactions with police officers across the nation from 2013- 2019. According to the website, in Massachusetts with a population over 6.5 million people, there were only 56 deaths in seven years over the course of many millions of interactions with the public. This ranks Massachusetts in the bottom three in the nation for total deaths involving a police officer and puts the Commonwealth among the best in the nation with an annual rate of only 1.2 deadly use of force incidents per 1 million people. It is significant that, even according to data of national reform advocates, our excellent record of success regarding deadly uses of force includes all incidents involving the death of a suspect, most of which were clearly justified. For example, these death totals include the individual who murdered Auburn, Massachusetts Police Officer Ronald Tarentino in 2016. Also listed among the included so-called victims of police violence the marathon bomber Tamerlan Tsarnaev. These individuals are held out as victims in an attempt to manufacture a need for emergency legislation. Of note, of all the 56 deaths cited, only five deceased were categorized as unarmed. The truth is that there is no emergency here in the Commonwealth that would justify such a radical, rushed trampling of the important rights of our public safety employees.

In Massachusetts, the data is clear that minority populations are not being killed at a rate greater than White populations. Of the 56 deaths, the majority of the deaths were of White people and in fact, more White people were killed by police during this seven-year period than Black and Hispanic people combined.

One of the most alarming parts of S2820 is the changes to Qualified Immunity (QI). While some have tried to claim that there are no substantial changes to QI, that is blatantly false. The changes put forward in this bill are not only unnecessary, they will result in financial ruin for municipalities and individual police officers and their families. In fact, these changes to Qualified Immunity, coupled with the changes to the Massachusetts Civil Rights Act will put all of our municipal workers at great risk, including teachers, firefighters, Councilors and Select Board members, Zoning Boards, City and Town Managers alike - not just police officers. This is not needed, as today, QI already does not provide protection to police officers who knowingly violate civil rights, or who should have been aware that their actions violate laws or the civil rights of residents. Today, those officers do indeed get sued, fired and prosecuted. We do not need to change laws to accomplish that. What this change does is water down the requirements of the state civil rights act, and provide that cities and towns pay attorney's fees for people who sue municipalities under these new laws. A new flood of lawsuits which previously have been tossed out by a judge before ever even making it to trial will now be allowed to move forward to a full trial. The proposed changes would be a major win for attorneys who will set up a new cottage industry suing municipalities and police officers because that State Law would allow for attorney's fees to be recovered in trials, and will force cities and towns to pay millions of dollars to resolve these cases that would have previously been dismissed by courts. Our communities and taxpayers will be victims right alongside our public employees acting in good faith while in service to us.

Since these changes affect every municipal worker, this bill could cause personal financial ruin to individuals who are on the front lines protecting the public every day. This includes municipal policy makers who usually get sued in such cases, as well as firefighters, municipal nurses, DPW workers, and paramedics as well as police officers who already go to work every day and face risk to their health and safety. They will now also find themselves with tremendous personal financial risk hanging over their head just for doing their jobs. Interestingly, GL c. 258 provides for guaranteed indemnity for certain state employees, including legislators like ourselves, as well as the State Police, and therefore the Commonwealth of Massachusetts employees will not face the same level of personal liability under this new provision as our municipalities and municipal employees face. This is fundamentally unfair.

Another truly disturbing item in this bill is the authorizing of citizens to interfere with an arrest if they perceive excess force is being used by a police officer. This is perhaps one of the most outrageous legal change proposals I've seen over the past decade on Beacon Hill. We are opening a Pandora's box that will put our police officers in grave danger. It is not the job of the general public to play judge and jury in the field and insert themselves into hostile situations – situations for which our officers do extensive training to be able to handle. How can we on one hand propose that enormous training requirements and certifications are required for an officer to properly make such decisions, and on the other hand empower civilian passers-by to make judgments on what constitutes appropriate force in a given situation. This provision is downright dangerous.

Of utmost importance in this bill, I'm concerned about the complete lack of due process for police officers when working with the Police Officer Standards and Accreditation Committee. The bill allows local appointing authorities to have the final word on whether an internal complaint is sustained, and that final word can lead to automatic decertification. This flies in the face of long-held due process rights of public employees to appeal local decisions to arbitration or to civil service. It denies these employees with the basic "just cause" protection from unfair discipline. The bill notes that their decision is final and does not allow for appeal through the civil service commission. Not only does the lack of an appeal process fly in the face of what is traditional in the American legal system, it is a blatant violation of long-standing collective bargaining agreements. This provision should be concerning to all members of the legislative body that consider themselves pro-organized labor. As essential workers, police officers have an agreement with our government – they won't go on strike but they expect just-cause protection and a judicial process that is fair to remediate conflicts. This provision greatly violates that long standing agreement and is simply un-American

In closing, our police officers put their lives on the line every day they go to work. When the public experiences emergency situations, our police are there to serve. When an active shooter is on the loose or a violent crime is being committed, our police officers don't hesitate to jump in to protect the public. It would be nothing short of a moral crime to take the heinous actions of a terrible person and officer in Minnesota and unjustly punish the brave men and women of Massachusetts law enforcement to appease a political movement. We are better than that.

I ask that these items are taken under consideration as the House puts forward a bill for the members to consider.

Regards,

A handwritten signature in black ink, appearing to read "Marc T. Lombardo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Representative Marc T. Lombardo
22nd Middlesex District - Billerica