



**MACDL**  
Massachusetts Association of  
Criminal Defense Lawyers

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To House Committee on Ways and Means and Joint Committee on the Judiciary  
Chairs Aaron Michlewitz and Claire Cronin

**MACDL support for 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."**

Chairs Michlewitz and Cronin and members of the Ways and Means and Judiciary committees:

The Massachusetts Association of Criminal Defense Lawyers ("MACDL") is a statewide organization of lawyers committed to the promotion of justice for the defense bar and persons accused and convicted of crimes. MACDL supports proposed bill S.2820, but seeks to make it stronger to protect the rights of all.

Racial justice must begin at first contact with police. In that crucial moment, there is no judge to ensure fairness, no lawyer to advocate for the accused, and no independent oversight of the officer on the field. Justice must also continue from there to give those whose rights have been violated full redress in the courts.

All decisions by police must be guided by respect for the human dignity of people of color and the inherent value of their lives, their families, and our communities. Chokeholds are an inappropriate means to subdue a citizen and still permitted to be used by law enforcement here. Our Constitution protects our right to protest, but police continue to use weapons such as tear gas to disperse crowds. Now is a meaningful opportunity for our legislators to recognize that the historically excessive and inappropriate use of force by the police upon its citizenry must end immediately. Furthermore, laws that artificially protect abusive officers from lawsuits only exacerbate the problem.

While Senate bill S.2820 takes several positive steps forward, it has also watered down several key protections that were contained in HD.5128, "An Act Relative to Saving Black Lives and Transforming Public Safety," and other predecessor bills. Instead, MACDL explicitly supports:

- Removing qualified immunity altogether (and the possibility of delayed justice from interlocutory appeals that might ensue), and allowing for punitive damages in civil rights suits, as well as costs and fees of litigation for obtaining either "significant equitable, declaratory or injunctive relief or a damages award" in G.L. c.12, § 11I(b);
- Prohibiting pretextual stops for "routine driving infractions" that improperly allow police to stop and search motorists for non-criminal reasons, whether motivated consciously or unconsciously by the race or appearance of the person stopped (as Amendment 31 to S.2800 would have done). Specifically, we support:
  - Prohibiting unnecessary and unreasonable traffic stops and requiring stops to be based on the purported legal justification, without other motivation;
  - Prohibiting officers from asking questions during a stop not reasonably related to the purpose of the stop without independent probable cause;



- Prohibiting officers from searching a stopped vehicle or person unless that search is reasonably related to the purpose of the stop or based on independent probable cause;
  
- Promoting transparency via collection and publication of data on officer-caused injuries and deaths, officer misconduct, and all stops made by the department whether or not resulting in a citation or summons;
  
- Holding accountable police departments that engage in unlawful racial profiling practices, and the imposition of meaningful consequences for departments that continue to employ or condone such practices;
  
- Banning *completely* so-called "no-knock" warrants which disproportionately affect people of color, introduce an element of government-imposed terror, and substantially heighten the risk to the safety of all present during search warrant executions;
  
- Banning *completely* the use of certain police tactics such as chokeholds (in a manner consistent with laws against strangulation), rubber bullets, and chemical weapons, and limiting the circumstances in which police may use force, or measures at least as strong as set out in HD.5128;
  
- Creating an affirmative duty for police officers to intervene and report the illegal or unnecessary use of force by another officer;
  
- Banning facial surveillance technology, without S.2820's sunset provision and without the exception that continues to permit its use by the registrar of motor vehicles, because such technology has proven to be inaccurate (especially so for people of color) and also risks creating a state of total surveillance and no privacy; and
  
- Assigning oversight to a commission that is truly independent of law enforcement.

Finally, MACDL asks that any resulting bill not be considered a complete solution but rather as one step among many to ensuring that everyone in the Commonwealth can be safe from police violence or bias.

/s/ Victoria Kelleher, Esq., MACDL President; victoriouscause@gmail.com

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