

To Whom It May Concern,

This letter is a request on behalf of the thousands of good police officers in the State of Massachusetts. We urge you to think about the ramifications of hasty and uninformed decisions, and their effect on the constituents you serve.

While policing as a whole will always evolve, and always seek to improve - as it has demonstrably done since its inception - decisions predicated on politics will ultimately serve only the politicians.

For years now, police have fostered an interest in cooperation, we have embodied community, we have welcomed transparency and, we have served this State honorably.

Admittedly, there have been instances of unscrupulous actions by a few, but to our credit we have made sure that, with due process, they no longer serve the Commonwealth.

We have grave concerns, however, with some of the amendments of S.2800. Certainly, the rapidity of the development of this resolution epitomizes its' emotional underpinnings; however, we strongly believe that we should never make permanent legislative decisions based on temporary feelings. Some of the decisions in this bill will forever change policing in this State, and not for the better.

Due process is a building block of our legal system, and our inalienable rights as citizens of this country. All public servants in this state have a right to appeal, a right that does not alter ones' guilt or innocence, simply a right that balances the power of the State. It is one of the inherent checks and balances built into our Constitution by our forefathers. To remove such a right, is to remove Constitutional protections from the power of the State, and serves no purpose but to satisfy a political agenda. These protections that have been afforded to all of us are essential if the scales of justice are to remain balanced. Where does this infringement on civil liberties end if due process is lost to an impetuous decision? Can we also eliminate it in civil and criminal cases across the state?

Qualified immunity does not protect bad police officers. In *Harlow vs. Fitzgerald* (1982) the United States Supreme Court had the foresight to rule that qualified immunity must exist due to "the need to protect officials who are required to exercise discretion and the related public interest in encouraging the vigorous exercise of official authority" as long as their actions were within the scope of their job. Bad officers operate outside that scope and are punished accordingly. Removing this protection will essentially eliminate discretion in policing. As the courts have demonstrated, it is not feasible to have one without the other. In fact, in the same ruling mentioned above, the Supreme Court also established absolute immunity for judges, government officials and prosecutors. Should we now make judges culpable for their rulings? Should prosecutors and government officials be held civilly and criminally liable for their decisions? The plethora of frivolous suits filed against officers, their towns, counties, cities, and the State, would absolutely bankrupt Massachusetts in no time.

As officers we do not pretend to know how attorneys or judges do their job, but we can plainly observe them in court. Yet, to have officers sit and render judgement of their actions is clearly unreasonable and unequivocally ineffective. However, this legislation wants to establish a POSA to evaluate how officers do what they do, after the fact, with no experience or training as an officer? Again the Supreme Court demonstrated its unbiased wisdom when it ruled,

“The Fourth Amendment ‘reasonableness’ inquiry is whether the officers' actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.” (Graham v Connor, 1989)

Unless as politicians and activists we can honestly say that our wisdom supersedes the US Supreme Court, then it becomes essential that the POSA is comprised of police officers who can objectively evaluate the tenets that the courts have put forth as a metric for evaluation.

In closing, we will continue to pledge to work with you, but mutual respect and cooperation must exist if we are to make constructive and sustainable changes as policing continues to evolve within a changing society. Our voices are critical to building the best possible future of the citizens of this State. All we ask is the opportunity to be listened to.

Respectfully,

OFC. Paul J Lagoa  
Walpole Police Dept.