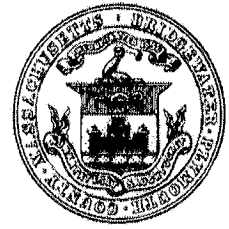




# TOWN OF BRIDGEWATER

## POLICE DEPARTMENT

July 17, 2020



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

Dear Representatives Michlewitz and Cronin,

I am writing today to offer written comment on Senate Bill 2820 as amended, the so-called police reform bill. I will be brief and will offer an overview of selected sections in the bill.

The murder of George Floyd in Minneapolis, MN at the hands of former law enforcement officers recently was disturbing and shocking. We are angered and disgusted by this incident. As police leaders, one of our primary responsibilities is to serve and protect ALL people in our community. We are in the integrity business and should be held to the highest standards of honor and integrity, with the greatest appreciation for the sanctity of human life. There is always room for improvement in our public profession, but it must be done with careful evaluation and reflection to minimize unintended consequences. Please know we remain committed to this worthy objective.

Respecting everyone's beliefs and experiences may be different, I offer the following observations and concerns about Senate 2820 (where applicable):

**SECTION 6:** Police officer standards and accreditation committee. Although there is merit in a POST (Peace Officer Standards and Training) certification system, its effectiveness lies in the details. There appears to be an inherent conflict regarding investigations. If this committee independently investigates any incident, most appointing authorities will defer oversight to this committee rather than be proactive with discipline. It will be politically expedient and convenient. This may overwhelm the committee if all municipalities subscribe to this policy. Secondly, law enforcement is unique in that it is the primary governmental entity that goes into private homes or encounters people at the worst times of their lives. A public complaint process or online publication of every complaint, especially since many are the result

of an unfavorable decision or officers' action, will provide an opportunity for persons to "smear" an officer even without corroboration. This will have a chilling effect on officers in performing their duties and will ultimately compromise community safety. Investigative authority should be limited to incidents where death or serious bodily injury have occurred. This section requires more careful consideration and input.

SECTION 10: Qualified Immunity. There is much debate about this issue grounded in concern that any change will have serious consequences. I believe this will have negative impacts to communities having to defend more civil suits in state court regardless of the merits, which will ultimately impact officer's willingness to be proactive or take action unless specifically directed. Clearly, this section should be removed for further study.

SECTION 34 & 40: Local law enforcement and regional Law Enforcement Council application for military-grade controlled property from federal agency. Regional LEC's are a mutual aid collaborative of law enforcement agencies. Not all LEC's have the same structure but are very similar in scope and purpose. Purchase of military-grade property is not a major concern but this list of equipment found in the United States munitions list under 22 C.F.R. 121.1 or the department of commerce control list under 15 C.F.R. 774 may prohibit acquisition of safety equipment or items that could reduce the likelihood use-of-force is required. The principle may be compromised by the overly broad prohibition. We have also been advocating for several years to include all law enforcement council's in the Massachusetts Tort Claims Act.

SECTION 49: School Resource Officer information sharing. Information is the key to solving problems and preventing harm before it happens, particularly with young people. It makes little sense to limit sharing of information for a variety of practical reasons. School Resource Officers provide guidance to students and teachers, are a positive role model, divert children from more serious interactions with the criminal justice system, and also stands watch for potential threats. Information sharing is often what school officials are looking for from a law enforcement agency to help provide appropriate services to a particular student.

SECTION 50: Requiring a School Resource Officer. SRO's are invaluable to the school and to the law enforcement agency for a variety of reasons. However, even with funding, many agencies do not have the personnel to spare as a dedicated SRO. This may be because of budget cuts or not enough officers to cover their primary mission. Either way, it should not be mandated but left to community consensus.

SECTION 52: Racial or other profiling. As stated earlier, race-based policing is unethical, immoral, and illegal. It is something police leaders prohibit and seek to remove from it's practices. However, parts of this section were removed from earlier bills because the language was overly broad and caused confusion. As examples, the language refers to differential treatment based on "perceived race" and "whether intentional or evidenced by

statistically-significant data showing disparate treatment". Data collection is only valuable if accurate data is collected and effectively analyzed. This section further requires "receipt" for any police encounter if a citation or warning is not issued. This may encourage more formal sanction of either a citation or warning. Citations come with fines and warnings can lead to suspension of a license. Both may be unnecessary consequences for minor violations but are encouraged if a receipt must be generated anyway.

SECTION 54: Department of Public Health data collection for law enforcement related injuries and deaths. Data collection regarding death or serious bodily injuries resulting from law enforcement interactions could be valuable but officers file injury reports often for various reasons or suspects frequently claim injury to go to the hospital rather than sit in a jail cell. This needs to be refined for its intended purpose.

SECTION 55: Regulation of physical force by law enforcement officers. As a department we prohibit "choke-holds" as do many other departments. Officers do not prefer or seek to use force. In most cases, de-escalation is inherently preferred.

Section 2.(a) Strict liability - per se violations of this section will impact Qualified Immunity provisions and should be removed.

Sections 2. (e) States ... "use of the vehicle itself shall not constitute imminent harm." When it comes to split-second decisions, all factors must be included in the totality of circumstances in evaluating the threat posed to an officer. It is unreasonable and unrealistic not to consider a vehicle as part of that analysis.

Section 2.(f) Limits use of tear gas or other chemical weapon, rubber pellets, or release of a dog to "influence" persons. This section requires notification to police officer standards and accreditation committee who shall have investigative authority. Review of local police action should be the jurisdiction of the local authority, not an external civilian review board.

SECTION 58: Knock and announce rule should not be changed from it's current constitutional requirements.

SECTION 64: Relating to a "body-camera task force". There is potential value and merit in a standardized body-camera program, but that should not be limited in scope by the legislation but rather the task force itself and should include funding.

SECTION 65: Relating to biometric and facial recognition technologies. This type of data and intelligence could be invaluable for investigative purposes with little or no unwarranted intrusion, particularly if it is collected in public. Private cameras capture voluminous data every day and there is limited expectation of privacy concerns.

SECTION 68: Accreditation should be incentivized for all departments. We are one of the 93 departments already Accredited and believe it is a worthwhile endeavor. However, it requires commitment and allocation of resources to accomplish.

ALTERNATIVE RECOMMENDATIONS FOR POLICE REFORM:

1. Include the regional Law Enforcement Council's in the Massachusetts Tort Claims Act.
2. Promote professional and modern standardized training through creation of 3 regional comprehensive police training academies.
3. Promote accountability grants for programs such as body cameras and in-car video systems.
4. Incentivize and/or require participation in the Accreditation process.
5. Expand Civil Service eligibility list standards (2N + 1).
6. Remove or modify un-reviewable arbitration alternatives in disciplinary matters.

There are other sections of this far reaching bill that are non-controversial or could provide valuable change. Unfortunately, the bill is primarily aimed at police reform while law enforcement represents only part of the criminal justice system. The system must always be thoughtful and deliberate, and so too must reforms to root out injustice. A presumption or stereotype that we harbor an inherent racial bias or support discriminatory police practices or policies is inaccurate. We are imperfect human beings, but we work every day to build trust and earn the confidence of the people we serve demonstrated by our respect and compassion for ALL. A job we will continue to do honorably, ethically, and professionally.

Thank you.

Sincerely,



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Christopher D. Delmonte

Chief of Police

President, Southeastern Massachusetts Law Enforcement Council (SEMLEC)