

July 16, 2020

To: Chair Aaron Michlewitz and Chair Claire Cronin

Re: Police Reform Bill

Dear Sir and Madam:

I have been asked by the most excellent Norman Orrall to provide written testimony on the Police Reform Bill.

First, I am against the Bill in its present form.

I have never offered written testimony for legislation before. I have read the Senate Bill several times but am certainly not holding myself out as an expert on any of the issues contained in the bill. I have however lived a fairly long life, raised a family and run a business. I hope I am as well informed as I can possibly be and try to gather information from multiple sources.

I am also aware that in this time of pervasive social media we have a politically divided, volatile, sometimes violent, COVID-impacted country approaching an absolutely frenzied national election that will have generational consequences. The debate about this Police Reform Bill is not happening in a vacuum. It is marinated in political, social and economic issues.

I am hopeful that our elected representatives will conduct themselves in a sober and judicious manner. I ask that personal political interests be set aside and that the Police Reform Bill be drafted and voted upon after a deep look at history and lengthy consultation with experts and impacted individuals, regardless of race, religion, color, creed, national origin, gender or gender identity. In other words, I ask that our representatives be Patriots. Lives are most certainly at stake here.

My thoughts and questions about the Bill:

-It does not appear to me that adequate public hearings and input have occurred. If I am correct, the legislative session will be concluding very soon. Do not rush this legislation. It's too important. Unforeseen consequences are a natural side effect of shoddy legislation.

-What research has actually been done on the nature and extent of a Policing problem here in the Commonwealth? Let's try to tailor a solution precisely to a defined and actual problem.

-Limiting Qualified Immunity: I am against this. It appears that the proposed change would eliminate a presumption of qualified immunity for a police officer and replace it with the ability of that police officer to proffer qualified immunity as a defense after a finding that "at the time the conduct complained of occurred, no reasonable defendant could have reason to believe that such conduct would violate the law."

If this is the case, it could be much harder for a police officer to resolve a lawsuit in the early stages. It is better public policy to allow the individual police officer to retain qualified immunity. If I am correct, civil suit can still be brought against individual police departments and municipalities. Individual police officers can still be sued if the presumption of qualified immunity is overcome. If I am incorrect in any of this, educate me.

What are the liability insurance ramifications of this? How will this impact state and local budgets?

Most importantly, how will this proposed change impact the mental processes of a police officer defending an innocent citizen in a fast moving life or death confrontation with an alleged criminal perpetrator? Many of us have never been shot at, in a fight, thrown a punch or been smacked in the face. A trained law enforcement officer leaves home every day knowing that she realistically faces the possibility of this danger. A clear mind is needed. A mind filled with worry about possible multiple physically exhausting and financially devastating lawsuits, losing a home and not being able to care for your children EVEN IF YOU DID THE RIGHT THING could cause the good cop to second guess herself at just the wrong time.

Perhaps the best argument against modifying qualified immunity is the fact that no one in our legislature has suggested modifying it FOR MEMBERS OF THE LEGISLATURE. What is good for the goose is good for the gander. Thoughts?

-The Independent Police Officer Standards and Accreditation Committee:

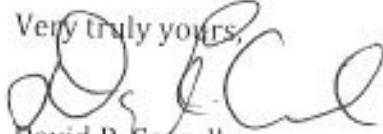
This committee would have the power to revoke the "certification" of a law enforcement officer. I view a "certification" to be analogous with a "license" such as those held by doctors, lawyers, trade professionals, etc. in the Commonwealth. I have not done any research on this matter so I ask this question: Are other licensed occupations in the Commonwealth governed by a committee or board comprised of individuals not also in that occupation? I worry about the politicization of an Independent Police Officer Standards and Accreditation Committee and wonder whether robust debate on this issue is needed. The voices of impacted individuals are of paramount concern and must be taken deeply into consideration on all issues. I am just not certain whether the Independent Police Officer Standards and Accreditation Committee, as presently conceived is the proper vehicle to achieve public safety for all while still protecting the due process rights of an accused law enforcement officer. I am most willing to be educated.

-I believe that education of law enforcement officers (and for that matter, all citizens) on the history, culture, needs and concerns of the residents of this Commonwealth and this nation regardless of race, religion, color, creed, national origin, gender or gender identity is a very good thing.

-I believe that the screening process for new law enforcement officers needs to be intensified. I believe that consistent and regular training in the use of force, de-escalation, self defense and defense of others as well as overall physical fitness training should occur.

-I also believe that the Commonwealth should enact legislation that would educate the public on the very positive things that the law enforcement community, and for that matter, all first responders, do each and every day. It takes a very special person to run into a burning building or to run full speed towards the sound of gunfire. We need to appreciate that kind of person. We need to say Thank You.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. P. Cassella', written over the typed name.

David P. Cassella
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