



# Massachusetts Sheriffs' Association

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July 17, 2020

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Representative Aaron Michlewitz  
Chair, House Committee on Ways and Means  
Representative Claire Cronin  
House Chair, Joint Committee on Judiciary  
24 Beacon St., Room 243  
Boston, MA 02133

Dear Chair Michlewitz and Chair Cronin:

As House members begin their debate on legislation addressing law enforcement reform in the Commonwealth, I am writing on behalf of the Massachusetts Sheriffs' Association to share our collective response to provisions contained in S.2820 which will impact the Office of Sheriff.

The Massachusetts Sheriffs' Association recognizes the need for reform in order to restore trust between our agencies and communities of color. The Sheriffs, since 1692, are the longest serving peace officers in the Commonwealth. We have demonstrated a commitment to protecting public safety and directly responding to the needs of our respective communities, and are dedicated to a collaborative approach to ensure injustices are not repeated.

**To that end, the Massachusetts Sheriffs' Association earlier on joined the Black and Latino Caucus in support of their core principles by issuing a strong statement calling for reform in the Commonwealth. Sheriffs are committed to the work because equity and justice must be the foundation for our future.**

Sheriffs' Offices throughout the Commonwealth are increasingly on the front lines of the deadly opioid epidemic and a mental health system unable to diagnose and treat individuals in the community, which can often lead to incarceration. For example, nearly half of the individuals in our jails and houses of correction report a history of mental illness with 75% - 80% having a co-occurring substance use disorder. Therefore, we support provisions contained in the bill that seek to examine our crisis response system and expand diversion opportunities for individuals with unaddressed behavioral health issues. We believe additional resources for crisis intervention will result in a decrease in law enforcement interactions in the community and possibly incarceration in the Commonwealth.

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Massachusetts Sheriffs universally share the urgency to focus more resources towards expanding capacity within the community to address the behavioral needs of the justice-involved because we believe individuals should not have to come to jail to receive adequate treatment. In addition to the above sentiments, we respectfully request that as negotiations move forward that members consider our positions stated below.

**Peace Officer Standards & Accreditation Committee**

The Sheriffs fully support the creation of a Peace Officer Standards & Accreditation Committee that includes county correctional professionals in order to establish uniform training curricula and best practices. Additionally, we respectfully request a Massachusetts Sheriffs' Association designee be a named member of the Committee.

**Justice Reinvestment Workforce Development Fund**

The bill establishes a Justice Reinvestment Workforce Development Fund that would provide competitive grants to organizations working to strengthen communities with a high percentage of target population members, by creating job training, job creation and job placement opportunities. The legislation proposes that the "savings" from the Department of Correction and Sheriffs, not to exceed \$10 million, would provide the resources for the fund. These savings are thought to be due to the decrease in inmate counts at our jails and houses of correction.

Sheriffs support the concept of the Justice Reinvestment Workforce Development Fund, it is important to note that Sheriff's offices across Massachusetts already do this work. Every Sheriff's office heavily invests in re-entry services, which includes educational and vocational training, job placement, resume building, housing assistance and much more. While the legislature may think that because counts are down there are savings in Sheriff's offices, this could not be further from the truth. Sheriff's offices are insufficiently funded, and due to COVID-19 as well as the implementation of the medication-assisted treatment pilot Sheriff's offices have incurred more cost, not less. Sheriffs need additional resources for re-entry services, not less.

Sheriffs oppose the inclusion of this language as it relates to cost-per-inmate because we believe it is duplicative of the ongoing work of the commission established to examine correctional budgets. The Sheriffs have spent countless hours and staffing resources working with the commission, and believe it has been a very productive process. It would be unfortunate to set aside all the great work accomplished by commission members to date by including this language.

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### **Qualified Immunity**

The Sheriffs oppose attempts to remove the Qualified Immunity defense. This has been a rushed process without a thorough consultation with not only law enforcement professionals, but representatives from the many public employee groups outside of policing and corrections that also rely on the protections of qualified immunity. The defense is essential to the protection of peace and correctional officers who act in good faith and would have a devastating impact on law enforcement who must be able to respond without hesitation while relying on clearly established law. Qualified immunity is not a defense for a peace officer who knowingly violates an individuals' constitutional rights.

### **Enhancing Training on Racial Bias, Duty to Intervene and De-escalation**

The Sheriffs would endorse enhanced training on racial bias, implicit bias, use of force, de-escalation and the duty to intervene as well as training that embraces humanity and equity.

### **Ban of Chokeholds**

The Sheriffs support the ban on Chokeholds. An exception must allow for the use where lethal force is needed to prevent a person from causing serious bodily injury or death to the officer and or others.

### **Militarizing Law Enforcement Equipment**

The Sheriffs support reporting any acquisitions from the federal government to the Executive Office of Public Safety and Security but feel that the approval process included in S.2820 is unnecessary.

### **Chemical Agents & Canines:**

The Sheriffs support the provisions contained in the bill that require the use of de-escalation techniques if feasible prior to the deployment of chemical weapons or canines.

### **Behavioral Health**

S.2820 reconstitutes the Policing & Behavioral Health Advisory Council established in criminal justice reform bill signed by the Governor back in 2018. The charge of the Council is to study and make recommendations regarding the creation of a crisis response system in the Commonwealth that could serve as an alternative to emergency services and police response.

Given the number of individuals in our jails & houses of correction across the Commonwealth with unaddressed behavioral health issues Sheriffs support this new mandate and respectively request a seat on the Council. Sheriffs could provide tremendous insight on the challenges addressing both the criminogenic and behavioral health needs of these individuals. Lastly, given the strong relationships with their local police chiefs Sheriffs can highlight their role in supporting existing diversionary models in their community.

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**Use of Force Standard**

The Sheriffs support legal based report writing standards and training as outlined by the United States Supreme Court for arrestees, detainees and inmates. The standards hold officers accountable for the totality of circumstances known to the officer at the time of the incident understanding that use of force is fluid.

**Use of Force Data Collection**

The Sheriffs remain concerned with the onerous and heavy reporting requirements contained in the bill and the lack of clarity within the definition of use of force. Specifically, the additional staffing resources and equipment needed to collect and store this information. Additionally, Sheriffs will continue to support compliance with privacy laws before the release of materials in furtherance of any use of force investigation, and oppose language calling for certain materials becoming a matter of public record.

**No-Knock Warrants**

No-Knock Warrants have a significant law enforcement purpose. Language must include exceptions for No-Knock exigent warrants granted by judges when the occupants are believed to be armed and dangerous or where the evidence sought could be destroyed before entry is made without such No-Knock entry.

**Student Records and Confidentiality**

The Sheriffs are opposed to the broad language used in Section 49 of S.2820 as it blocks the flow of communication between law enforcement and schools when a credible threat has been identified.

We take objection to any rushed attempts at such serious reform. The topics contained in this legislation and their effect on all citizens of the Commonwealth deserve a thorough, thoughtful and timely approach.

Lastly, on behalf of the Massachusetts Sheriffs' Association, we thank you for your consideration of the above comments, and your critical work during this process. Thank you for your commitment to making improvements across the criminal justice system, which we believe will increase the public safety. If you have any questions, please do not hesitate to contact Massachusetts Sheriffs' Association Executive Director Carrie Hill at [carrie.hill@massmail.state.ma.us](mailto:carrie.hill@massmail.state.ma.us).

Sincerely,



Peter J. Koutoujian, President

Massachusetts Sheriffs' Association