



State Police Association of Massachusetts

REPRESENTING SERGEANTS AND TROOPERS
OF THE MASSACHUSETTS STATE POLICE
11 BEACON STREET • SUITE 700 • 7TH FLOOR • BOSTON, MASSACHUSETTS 02108
TEL: 617-523-0130 • FAX: 617-523-0136
EMAIL: trooper388@msptrooper.org

COREY J. MACKAY
PRESIDENT
PATRICK M. MCNAMARA
VICE PRESIDENT
CHRISTOPHER DONAHUE
TREASURER
MICHAEL F. CHERVEN
SECRETARY

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Representative Aaron Michlewitz
Chair, House Ways and Means
State House, Room 243
Boston, MA 02133

Representative Claire Cronin
Chair, Judiciary Committee
State House, Room 136
Boston, MA 02133

Chair Michlewitz and Chair Cronin:

Thank you for the opportunity to testify on the various police reform measures before you. We wholeheartedly appreciate you taking the time to listen to the perspective of the professions that are impacted by this legislation, even with limited time left in the formal legislative session. Your dedication to getting such important legislation right through careful consideration is noted and appreciated by our membership.

S2820, *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* has a number of provisions that we, as law enforcement officers, support. We hope that you will join us in prioritizing support for the establishment of a standards and accreditation committee, which includes increased transparency and reporting, as well as strong actions focused on the promotion of diversity and restrictions on excessive force. The cadet program is a tool that we expect will result in increased diversity in the State Police, an essential goal that we all can share. Focusing on well-educated officers and continual training throughout an officer's career are also collective efforts we support.

S2820 also has a number of issues that the State Police Association does not support as written. They are:

Section 6, POSAC Vote and Composition – The POSAC, as a whole, is an important body that will help ensure the public's trust in their law enforcement officers. As drafted, there are a number of provisions that are concerning. One of those is language requiring the POSAC to decertify an officer by only a majority vote; that is an exceptionally low bar to strip an officer's livelihood; we suggest a $\frac{3}{4}$ vote is a more fair threshold. The POSAC is also, as written, not composed of a majority of professionals in the field; only 6 of the 15 board members will be trained law enforcement professionals. As in many professions, experience and training in the field is essential to rendering a thoughtful critique and a dispassionate judgment of actions taken.

Section 6, Sustained Complaint of Misconduct – SPAM maintains that fair and equitable process under the law demands the same rights of appeal afforded to all citizens and fellow public servants. This section only protects the rights to appeal "within the appointing authority or committee." We believe due process and fairness demand that all current rights of appeal are preserved. Further, the POSAC is a new creation with new authorities, as such their review of employee conduct should justly be forward looking.

Section 10, Qualified Immunity – SPAM agrees that the ability to hold officers accountable for their actions is an important tenet of police reform, and to that end supports the concept of the POSAC. Opening up qualified immunity is a step too far, offering up both law enforcement

officers and most other public employees to frivolous lawsuits and harassment. Though the Senate added language that explicitly does not address indemnification provisions, indemnification as it stands is limited, and those that put their lives on the line everyday do not deserve the threat of losing their homes and the security that they are able to provide for their families. This language will increase litigation, distracting public employees from their missions, and prevent line officers from seeking promotion due to the increased risk of being sued as a supervisor.

Section 18, Appointing a Civilian Colonel – SPAM recognizes that it is a privilege to wear the uniform of the highest ranking uniformed member of an organization, and it is an important morale issue for the membership that a civilian not be appointed to lead an organization and don a uniform that they haven't earned. Just as the military appoints a civilian Secretary of Defense who oversees the highest ranking uniformed military ranks, we propose that the Colonel remain the highest ranking uniformed member of the State Police, but be subordinate to a civilian Superintendent or Commissioner if the Governor chooses to appoint one. We also propose that should a civilian Superintendent or Commissioner be appointed, his or her qualifications should be increased from 10 years law enforcement experience to 20, from 5 years of experience in a supervisory position to 10, and that this experience be at an institution of similar size and scope as the State Police.

Section 28, Due Process for Administrative Suspensions – This section is similar to language the Governor included in S2469, *An Act Advancing Reform Within the State Police*. We agree with the Governor that it takes far too long to resolve disciplinary actions within the State Police, but it is patently unfair to take the independent review out of the process. While we also recognize the ability of the Colonel to immediately suspend a Trooper without pay, that Trooper would need to wait a year without pay to appeal the decision of the Colonel. Department protocols stipulate that an investigation should be conducted within 30 days of suspension, and though we recognize that a complicated case may take a little longer, it is unreasonable for a Trooper to wait a full year to receive the results of an investigation into their conduct and appeal that decision. Given the 30 days internal policy for completion of an investigation, we think 45 days is a reasonable period of time for a Trooper to go without pay or health insurance and ultimately be able to appeal that decision to the Colonel and ultimately to civil service.

Section 33, Promotional Changes – SPAM supports the goal of the promotional changes included in this legislation, however to implement them immediately falls in the middle of a three year long promotional cycle. The State Police only test for the ranks of Sergeant, Lieutenant and Captain once every three years, respectively. We ask that if this section is included, that implementation be delayed until July 1, 2023. In this same section, there is a provision that requires a full year in grade before becoming eligible to take the next exam; we agree that there should be at least a full year in grade prior to a promotion, however the exam is only offered every three years. We suggest this section remove the restriction of one year on taking the exam in order to avoid these timing concerns.

Section 56, Treble Damages - SPAM takes issue with the singling out of police for punishment of treble damages and extending the statute of limitations beyond a typical 3 years for civil infractions to 4 years from the time the conduct was discovered. While it is obviously wrong for a police officer to falsify records of hours worked, it is similarly wrong for any public employee to do so. SPAM asks that if this section is included in future legislation, it should be applied universally to all public employees so that the public can be sure no employee is stealing from the public.

Education – Not included in this legislation is an important determinant to diversifying the State Police. Many municipal forces pay their officers an incentive for education while, since 2009, the State Police do not, and we believe this distinction makes it an easy choice for an educated officer to choose a municipal force rather than the State Police. An educated, diverse police force is a better force, and the fact that the State Police offer a lower level of benefits than many municipalities will continue to be a deterrent to recruiting. This is of particular interest to the successful implementation of a cadet program, where the State Police will be competing with other municipal forces to recruit the most competitive and diverse police force.

Thank you, again, for the chance to share our concerns with the House as you consider legislation focused on police reform. Together, we have the opportunity to pass landmark legislation that can be supported universally, as well as the solemn obligation to get this right. Please do not hesitate to reach out if we can be of any assistance as you deliberate the legislation before you, and thank you once again for your consideration of these concerns.

Sincerely,

Corey Mackey
President, State Police Association of Massachusetts