

July 17, 2020

Honorable Aaron Michlewitz, Chair  
House Committee on Ways and Means  
State House, Room 243  
Boston, MA 02133

Honorable Claire D. Cronin, House Chair  
Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

***RE: S.2820 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***

Dear Chairman Michlewitz and Chairwoman Cronin,

Thank you for your work to address important reforms to policing and justice. I write to you in support of legislation that will comprehensively address the need to create a more just Commonwealth for communities of color and reform our criminal justice system to hold law enforcement more accountable for their actions. *S.2820 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* includes provisions that would keep black and brown people safe in the commonwealth and protect rights and dignity but also offers opportunity to move further on said values.

- **Expungement**

S.2820 includes language that would allow those with more than one charge on their juvenile record to qualify for expungement provided that they meet certain criteria. Currently, individuals with more than one charge on their juvenile record do not qualify for expungement. I respectfully request language be included in a House bill that would allow those with more than one charge to qualify. Additionally, I request that we allow all records, except those related to murder or sex offenses, to be sealed, reduce the waiting period for sealing juvenile records for cases that did not result in adjudication or conviction, and reduce the waiting period for cases that ended in a felony conviction from seven years to five years.

This session, I filed H.1386 *An Act relative to expungement, sealing and criminal records provisions* with Representative Kay Khan. The additional language mentioned above and

included in this bill is needed to fill gaps that prevent individuals from having the ability to fully re-enter society after they have served their sentence. Having a criminal record can be a barrier to accessing employment, education, and public benefits.

Currently, there are many felonies that are not eligible for expungement. By reducing the list of offenses currently ineligible for sealing to murder and sex offenses, more individuals would have the option to petition the court to hear their expungement case.

Reducing the waiting period for sealing juvenile records for cases that did not result in adjudication or conviction would help individuals access various services that they are unable to with a juvenile record more quickly.

The waiting period for cases and resulting sentences is currently seven years for felonies and there is no distinction between a case that ended with a conviction or non-conviction. By reducing waiting periods, individuals will not have to spend as much time waiting to have their records expunged, which could help to improve their access to public services, education, employment, and housing.

- **Protecting individuals in custody**

An important piece of holding law enforcement accountable is ensuring that police officers and public safety officials are prohibited from engaging in sexual contact with anyone who is in detention, or otherwise in their custody.

S.2800 establishes that an officer who has sexual intercourse with a person in their custody or control is in violation of Section 22 of chapter 265 subsection (b) of the General Laws. I support this. However, this language in the Senate bill does not go far enough in holding law enforcement accountable. I request that House legislation include the prohibition of assault and battery by a police officer against an individual in their custody as well as include penalties for doing so.

Representative Kay Khan and I filed a bill on this issue this session, H.1483 *An Act promoting the safety of individuals in custody*. This bill would prohibit police officers from engaging in sexual contact with an individual who is under arrest, in custody, or otherwise detained and includes a punishment of not more than 5 years in a state prison or a fine of \$10,000 or both for violations. The penalty included in this bill, which is not included in S.2800, is an important piece of holding law enforcement accountable.

- **Qualified immunity**

I respectfully request the inclusion of language that limits qualified immunity by not allowing it to apply unless no reasonable defendant could have reason to believe that their conduct would violate the law at the time that it occurred.

- **Additional Provision Support**

There are a number of other provisions in the Senate bill that are beneficial in protecting the rights and dignity of Black and Brown people in our Commonwealth. The creation of a Police Officer Standards and Accreditation Committee would create crucial oversight powers to hold law enforcement accountable for their actions.

The inclusion of strengthening use of force standards banning the use of chokeholds and other deadly uses of force, requiring the use of de-escalation tactics, and creating a duty to intervene are measures that can ensure the increased safety of citizens. The Cambridge Police Department has successfully implemented these changes, and it is important that this change be made uniformly across the entire state.

It is also important that we look at ways to redirect funding from policing to communities. The Senate bill establishes the Strong Communities and Justice Reinvestment Workforce Development Fund which would create increased economic opportunity for those who have been most impacted by excessive policing.

The Senate bill would end the requirement that school districts must employ school resource officers. It would also create important police training requirements, including one on the history of slavery, lynching and racism. Currently, the Cambridge Police Department is the only city in the country that is already providing this training to its officers, and it is done so through the Northeastern University Institute on Race and Justice. Another important measure in the Senate bill is the creation of a commission to study the use of facial recognition and a moratorium on the use of this technology until it has been studied.

The House should also go a step further by applying all limitations to university police equal to local law enforcement and require that university police disclose to their local police authority an inventory of military weaponry. Currently, university police are trained by the state police unless they opt in voluntarily to train with their host community. University police have also been able to acquire military weaponry that the law enforcement in their host community is prohibited from buying. A few years ago, a former Boston Police Commissioner was blindsided when Northeastern University police were in pursuit off-campus with military weapons that the Boston Police Department was prohibited from purchasing. It was not required of the campus police or

the state police to inform the Commissioner of those weapons. University law enforcement should be held to the same standards as local law enforcement.

Sincerely,

**Marjorie C. Decker**, *State Representative*

25th Middlesex District - Cambridge

State House, Room 33

Boston, MA 02133

617-722-2060