



CONNECTICUT STATE POLICE UNION

July 17, 2020

The Honorable Senator Gary Winfield
The Honorable Representative Steven Stafstrom
The Honorable Senator John Kissel
The Honorable Representative Rosa Rebimbas
Members of the Judiciary Committee
300 Capitol Avenue
Hartford, CT 06106

Dear Distinguished Members of the Judiciary Committee:

On behalf of the Connecticut State Police Union, and our 862 State Troopers, Sergeants and Master Sergeants, we write to you to express our disappointment, confusion and the sense of a lack of support from our elected officials resulting from the proposed language contained within Draft LCO #3471: AN ACT CONCERNING POLICE ACCOUNTABILITY. For many decades, our Union and your Troopers have proudly supported our elected leaders and we have built long term relationships with you by working together to resolve issues that have made a difference in the lives of those you represent, who are the same families that we are willing to give our lives for to protect from harm. Without your continued support and willingness to balance the protection of everyone, police officers in Connecticut will be unable to confidently perform their responsibility of protecting the public, themselves, or their families.

Recently, Connecticut law enforcement officers have felt abandoned, betrayed, and forgotten by those we believed understood the importance of being loyal to police officers who are willing to unselfishly give their own life for others. It seems as others attack the reputation of our profession, many of our elected leaders have remained uncharacteristically silent, all the while law enforcement around the country has been labeled with a broad brush following the tragedy that occurred in Minneapolis. **Without hesitation, the actions of Officer Derek Chauvin and the death of George Floyd were shocking, unacceptable, and illegal.** Your State Troopers will never condone the unlawful taking of a life. Furthermore, we understand as law enforcement professionals, we must be held accountable when acting outside our authority or the color of law. However, we also deserve the support of our elected leadership and the communities we serve, because the actions of a few should not tarnish the reputations of your Troopers and should not eliminate the opportunity for our voices to be heard at this critical time.

On behalf of the men and women of the Connecticut State Police Union, we have worked hard to build the reputation of being true professionals committed to listening to others, always trying to change for the better, not only to preserve the legacy of our agency, but to enhance the future of the profession. The men and women of the Connecticut State Police have sworn an oath to protect ALL human beings, without regard to race, color, creed or condition, and without fear or hesitation of the consequences and dangers we face. In fact, twenty-four (24) State Troopers have given their lives and thousands were willing to die while honoring their oath of office. Troopers understand there is no place for discrimination within our ranks and all the same, there is also no place for prejudice against law enforcement from our legislators. Furthermore, there is also no place for hostility or acts of violence towards those who genuinely dedicate their lives to compassionately and faithfully honor their

oath of office to protect the public. Everyone has the right to respectfully speak on behalf of those they represent without the fear of retribution and being unjustifiably characterized with offensive terms or refusing to listen to their concerns.

Over the years, during the legislative process, even when we may have respectfully disagreed with one another, we always found common ground on most issues. Surprisingly, this process seems different and appears to be an overreaction, overreaching and a rush to judgment that may unintentionally cause harm to the profession and ultimately to public safety. For example, the legislators who crafted this Bill had sufficient time and resources to create the substantial proposed changes, only to provide the public with a few days to analyze, research and draft a response. Furthermore, COVID-19 has created a situation where the typical democratic process, which allows for a spirited and thorough process, has been reduced to a one day (12 hour) “public hearing,” which only allows up to 5 one-sided pages of written testimony, and the possibility of being heard for a 3:00 minute time block on a virtual Zoom meeting. All this for one of the most critical responsibilities of government, the preservation of life and property and the duty to ensure that those who are willing to give their life are adequately protected as well.

We are opposed to the language that puts our Troopers more at risk of injury or death, eliminates our basic rights of due process, prohibits our right to collectively bargain, and even attempts to eliminate current contract language that was approved by the legislature in 2018. We understand your concerns on some of the proposed language and will work with you with the focus of improving law enforcement. Examples of these changes and suggestions to strengthen the proposed language follows:

POLICE OFFICER CERTIFICATION AND DECERTIFICATION:

Benefits: This requirement will create a standardization for all law enforcement officers in Connecticut and will allow for a smooth transition for Troopers who retire and wish to apply as a municipal police officer.

Concerns: The proposed language allowing for an officer to be decertified does not expressly state whether the process would be subject to the collective bargaining process. **Police officers deserve fair treatment during a disciplinary proceeding, including the right to have a Union representative or private counsel represent the officer.** We believe the standard of evidence for revoking an officer’s certification should be beyond a reasonable doubt. Officers must also have the right to appeal any decision before a neutral party before permanently revoking their certification. The appeals process set out in the Uniform Administrative Procedures Act, Chapter 54 of the General Statutes, should be clearly referenced in the Bill and police officers should be guaranteed full due process rights before their career is permanently ended. Additionally, the State of Connecticut, municipalities, taxpayers, individual officers, and their Unions will have a significant increase in expenses to fulfill their obligations to appeal the revocations in Superior Court.

The Connecticut State Police Union takes pride in our legal obligation to fairly represent our Troopers. We also take pride in making sure that anyone wearing a State Police uniform is of the highest caliber and character, and if not, we have a reputation of encouraging resignations to protect our honorable profession. **Those within our ranks who sway from their oath, should no doubt suffer the consequence of their illegal actions – our State Troopers will not disagree – and we have convinced many to leave the profession when they were not suitable to wear our badge.** It is easy to say we protect wrongdoers, but the reality is we protect the constitutional right of due process, not only for those we serve in the public, but also for our Troopers.



MENTAL HEALTH ASSESSMENTS FOR POLICE OFFICERS:

Benefits: This requirement ensures that officers are suitable for interacting with the public while authorized to use deadly force and protects both the officer and the employer from liability.

Concerns: This requirement will have a substantial financial impact. The cost of this requirement should not be the responsibility of the employee and the evaluations should be conducted during work time. There should be an approved list of psychiatrists and psychologists, who have experience dealing with law enforcement. The officer should have the opportunity to seek a second opinion from a psychiatrist or psychologist of their choice within a 30 to 60 days. Furthermore, over the past decade, while representing individuals who have found the courage to file a complaint about an ongoing work-related issue (ie. discrimination, harassment, or intimidation) many have been depressed from the experience. If this portion of the Bill is adopted, there should be protections if the individual does not successfully pass the examination. A full explanation of how this process would work and what would happen if an individual does not successfully pass the assessment should be outlined in the Bill. Lastly, there should be a presumption that any illness occurred in the line of duty and the injury should be considered a work-related injury, per Public Act No. 19-17.

COLLECTIVE BARGAINING AND PUBLIC RECORDS DISCLOSURE:

Benefits: This requirement ensures there would be no conflicts between collective bargaining agreements and CGS: 1-210.

Concerns: This portion of the Bill prohibits the State from granting specific language within collective bargaining agreements for unique circumstances. In 2018, the legislature approved the State Police Union's 2018-2022 contract, which states, in part, "...internal affairs investigation with only a disposition of 'exonerated, unfounded or not sustained' shall not be subject to the Connecticut Freedom of Information Act." This new language was negotiated because in recent years there has been a significant increase in anonymous false complaints involving serious allegations of misconduct. Serious false allegations made by anonymous complainants have the potential to unjustifiably cause damage to a Troopers reputation, character and livelihood.

This portion of the Bill applies to agreements and awards entered into "**before**, on or after the bill's effective date." During our recent negotiations the State heard a detailed explanation for the need of this language, the parties mutually agreed to the terms and conditions, and the legislature approved the language with the understanding it was valid through June 30, 2022. The State should honor the language through June 30, 2022.

Additionally, for several decades our contract has clearly stated "sustained" investigations are subject to the FOIA statutes. However, per Article 9, Section 2, Subsection (c), the employer is obligated to stay the release of information requested from an individual members OPF if employee "objects to the release of that information on the basis of reasonable belief that the release would constitute an invasion of his/her privacy..." Furthermore, per Article 9, Section 2, Subsection (c), when the employer receives a FOIA request for a member's OPF, the employer is obligated to provide notice to the employee and if the employee objects, the agency is still required to support the employee's objection and shall not release the requested information until the Freedom of Information Commission has made a final determination on the issue.

Eliminating or restricting this bargained language, which is meant to protect against abusive, misleading false complaints, should remain in effect through the life of the contract to prevent an invasion of our

Troopers' expectation of privacy and prevent unjustifiable attacks on the characters and reputations of your Troopers.

POLICE TRANSPARENCY AND ACCOUNTABILITY TASK FORCE:

Benefits: This proposal ensures a universal practice of increasing recruitment, retention and promotion of minority police officers throughout the State of Connecticut. The State Police has been practicing these suggestions for many years and could be used as a model for other agencies.

Concerns: Section 2 (a)(4) and (5): These sections ask the task force to consider requiring that a Trooper purchase their own professional liability insurance, while requiring “a municipality to maintain the insurance on its officer’s behalf,” signals the employer would not support Troopers as a result of doing their jobs.

Furthermore, it is the employer’s responsibility to defend the actions of their officers while acting in the performance of their duties on behalf of the employer, so long as they do not act outside the color of law, and thus, the task force should study whether the State Police should also purchase liability insurance for our Troopers as well. If the task force ultimately required individual Troopers to purchase their own liability insurance, it would substantially negatively affect the morale, motivation and productivity of all police officers.

Road Construction: Section 12 (a) (10). This recommendation seems misplaced and without explanation implies someone may be suggesting it is not necessary to have law enforcement providing public safety on roadways throughout the State. Furthermore, this is an attack on those Collective Bargaining Agreements that provide for police services to protect the workers on the roadways.

Studies have shown that having police officers and emergency response vehicles at construction sites, warns motorists of a problem ahead and slows traffic. By removing law enforcement vehicles there will be an increase in motor vehicle accidents, accident related injuries, fatalities of operators, passengers, pedestrians, and construction zone workers. In addition, there will be an increase in workers’ compensation and/or long-term disability claims due to work zone injuries. Moreover, law enforcement officers in Connecticut have the authority to enforce both criminal and motor vehicle laws to protect the public. **Without their presence, there will be no enforcement of the roadway posted signs or speed limits, including in the work zones, which will risk the welfare and safety of the public.**

Suggestion: Allow the State Police Union to meet with the task force to provide testimony.

CIVILIAN REVIEW BOARDS:

Concerns: This Bill proposes Civilian Review Boards, mandatory body cameras, dashboard cameras, and the creation of an Inspector General’s office to investigate and prosecute police officers. As a result, police officers would now be subject to investigations, interviews, disciplinary proceedings/hearings and possible criminal proceedings, in the following venues: Internal Affairs, Civilian Review Boards, the Police Officers Standard Training Counsel, the Inspector General’s Office, the State’s Attorney’s Office, grand jury, and, potentially, superior court or federal court trials.

Again, the proposed language is silent as to an officer's rights and it does not expressly state whether the process would be subject to the collective bargaining process. **Police officers deserve fair treatment during these proceedings, which can often be adversarial towards the officer and it is critical that the officer have the right to equal and fair representation.** These additional layers of oversight are unnecessary and will result in officers being less proactive and slower to react to violence against the public and themselves for fear that they will be treated harshly by this overburdensome and complicated process. Additionally, the State of

Connecticut, Municipalities, taxpayers, individual officers, and their Unions and Associations will have a significant increase in expenses to fulfill their obligations as required under the current language in the Bill.

PENALTIES FOR FALSE REPORTING:

Benefits: This portion of the Bill will likely decrease the number of false allegations "due to certain characteristics of the reported person or group (e.g., race, sex or sexual orientation)"

Suggestions: While changes are being made regarding false complaints, it would be appropriate to address how an individual who files a false complaint against any police officer by incorporating specific language meant to protect everyone.

JUSTIFIED USE OF DEADLY PHYSICAL FORCE AND CHOKEHOLDS:

Benefits: *Those that drafted this Bill deserve recognition for acknowledging that chokeholds should not be banned, but only authorized when deadly force is justified to eliminate the use of deadly force against an officer or a member of the public.* If a chokehold is used in a non-deadly force situation the officer can be disciplined by the employer and even prosecuted for assault.

Concerns: First, no police officer wants to take the life of another human. We have witnessed the negative after effects that deadly force situations have on the mental health of our Troopers. Pursuant to CGS: 53a-22 (c) Troopers are justified to use deadly physical force against another person *when he or she believes* (emphasis added) deadly force is necessary to defend himself/herself or a third person from the use of imminent use of deadly physical force.

This Bill eliminates the standard of the individual officer's belief that deadly force was necessary and replaces it with an "objectively reasonable" standard. The Bill establishes "factors to consider when evaluating whether a law enforcement officer's use of deadly force was **objectively reasonable**." (Emphasis added) Considered by whom? Internal Affairs, Civilian Review Boards, the Police Officers Standard Training Counsel, the Inspector General's Office, the State's Attorney's Office, and grand jury's?

Reality: This proposed language will result in officers hesitating in deadly force situations, which will result in an increase in worker compensation injuries, serious physical injuries, and deaths of police officers. **Police officers will now know that their "reasonable belief" has been replaced by a third party, not present at the time of the deadly encounter, who will determine with 20/20 hindsight, whether they believe the officer's actions were "objectively reasonable."** Unfortunately, we believe the objectively reasonable standard will not only result in more deaths of law enforcement officers, it will lead to more discipline, terminations, arrests and imprisonments of police officers because it will no longer be the officer's perception of the deadly threat, but the subjective view of others who cannot stand in the place of the officer under review.

These third party decisionmakers were not faced with the possibility of the loss of their life or the life of an innocent person they are required to protect from harm.

Lastly, if the Legislature narrows the circumstances under which a law enforcement officer is justified in using deadly force, effective October 1, 2020, it is unreasonable to believe nearly 8,000 police officers in Connecticut can receive the training necessary to comply with these new standards so quickly.

OFFICER'S DUTY TO INTERVENE TO STOP USE OF EXCESSIVE FORCE:

Concerns: The proposed language requires an officer to “intervene” and report another officer’s use of excessive force, subject to penalties of hindering prosecution, and prohibits law enforcement units from taking

retaliatory action against the intervening officer. However, the Bill does not define “intervene” or explain what one must do to intervene. Furthermore, the requirement will put officers in a position to subjectively determine if a specific situation would be ultimately considered “excessive force” and will increase the number of complaints by officers, against other officers. If the case is ultimately determined not to be excessive force, the reporting officer may be subjected to investigation or retaliation. Unfortunately, the current whistleblower statutes in Connecticut are futile, and weak at best.

The Bill requires the police officer to report the alleged excessive force “to the law enforcement unit that employs the officer who uses such force.” The legislature must logically consider that most Chief’s are political appointees, who may make it a priority to limit any information that would be considered a poor reflection on their agency.

Suggestion: Allow the newly created Inspector General’s Office to investigate any complaint of retaliation

PROHIBITIONS ON PEDESTRIAN CITATION QUOTAS:

Benefits: This language attempts to prohibit agencies from imposing quotas on their police officers.

Concerns: The Bill also specifies that data relative to the issuance of citations may be used to evaluate a police officer’s performance “so long as it is not the only performance measurement.” The terms “so long as it is not the only performance measurement” is meaningless, because employers never evaluate police officers solely on the number of tickets they issue. However, there is an expectation that officer issue a certain number of tickets within a rating period, typically quarterly and annually, which is averaged out to a specific number per day. Any Trooper will tell you the moto has always been “two tickets per day keeps your sergeant away.”

Suggestion: If our collective objective is to enhance the relationship with the communities we serve and have positive interactions with the public, officers should have the discretion not to issue tickets because of pressure from the employer. The decision whether to take enforcement action should be based on the severity of the violation and absolute need to enforce the motor vehicle statutes. We believe the time has come to change the practice of expecting a specific or average number within a platoon/shift of officers, a department or Troop, and overall, within an agency. **One way we can improve the relationship with the communities we serve is to stop issuing infractions for minor equipment violations. This could make a positive impact for those families that often cannot afford to make the repairs to their family vehicle.**

Rather than focusing on motor vehicle activity, which causes anxiety and offends the public, we should focus more on the solvability rates of crimes and improving the relationship with the communities we serve.

CIVIL CAUSE OF ACTION AGAINST CERTAIN POLICE OFFICERS:

Benefits: Qualified immunity balances two important interests - the need to hold public officials accountable when they exercise power irresponsibly and the need to shield government officials from harassment, distraction, and liability when they perform their duties reasonably. (*Pearson v. Callahan*, 555 U.S. 223 (2009)) Law enforcement is not the only profession protected by qualified immunity and although judges, prosecutors, legislators, and other government officials do not receive qualified immunity, most are protected by other immunity doctrines. Qualified immunity shields officials from liability for damages claims, even if they violated the constitution, if they have not violated "clearly established law." (*Pierson v. Ray*, 386 U.S. 547 (1967))

Concerns: This Bill establishes a civil cause of action against police officers and eliminates the possibility of claiming qualified or governmental immunity as a defense in a lawsuit. **If this portion of the Bill is passed, police officers would fail to act when necessary for fear of being sued and being concerned they could**

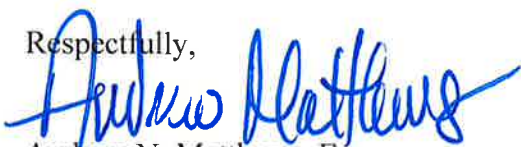
bankrupt their families. Furthermore, it seems contradicting that the law enforcement agency provide us with the training and equipment (ie. rifles, firearms, tasers and batons), creates policy requiring and authorizing the use of deadly force, sends us to dangerous calls for service, and yet expects us to defend and protect others with the thick overcast of fear of liability hanging over our heads.

Reality: No police officer will risk their physical or financial stability for an employer who will not stand by and defend them for taking action on their behalf, all the while risking their life to protect those you are responsible for in your communities. **If the legislature establishes a civil cause of action against police officers and eliminates the possibility of claiming qualified or governmental immunity, many current police officers will immediately retire, resign, or significantly reduce their activity and interaction with the public for fear of being sued.** This would result in a significant rise in crime and our communities would be less safe. Furthermore, law enforcement agencies will continue having difficulty recruiting, retaining and maintaining qualified candidates and police officers.

In closing, during these difficult and uncertain times, we understand you have a moral, ethical and professional responsibility to fulfill your oath of office to protect and defend the lives of all citizens, however your Troopers also deserve and expect their elected leaders to defend and support them as well. We know from experience, if those that fail to understand the dangers of our profession, create policy or statute without hearing our perspective, it will result in Troopers hesitating and putting themselves, and the public, more at risk of serious injury or even death.

Thank you for your time and consideration on these critical issues.

Respectfully,



Andrew N. Matthews, Esq.

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