

July 17, 2020

To: CGA Judiciary Committee

Subject: Testimony on Draft LCO #3471

Dear Co-Chairmen Stafstrom and Winfield and Members of the CGA Judiciary Committee,

Thank you for the opportunity to offer input on Draft LCO #3471. As a community leader, businessowner, commercial property owner, homeowner and most importantly as "co-chairman" of a Connecticut family, I am deeply concerned with the eventual outcome of the current law enforcement reform process. I and my family have too much at stake to remain silent about changes which will impact not just us, but every law abiding resident across our state. On a very personal level, I am a past victim of violent crime, at a similar time, when some also believed that proactive law enforcement had gone too far, and was less necessary.

It is a given that every sworn officer should respect the dignity and rights of every civilian, regardless of race, creed, religion or ethnicity. None of us should presume, based on such characteristics, that a person is a criminal. It is individual behavior which must guide such decision-making, and I believe the overwhelming majority of police officers act in exactly that manner. For the few that don't, reforms designed to identify, and act to improve or separate them, must be employed. That said, several of the specific reform proposals within LCO #3471 are likely to have unintended and/or unconstructive outcomes, which I believe will not target the issue of individual officers treating civilians, particularly minority civilians, with the dignity and respect I referred to above.

In order to identify, recruit and hire the best and brightest law enforcement officers we must recognize that they are also human beings with their own lives and families, families who expect their employers to do all that can be done to ensure they come home safely after their shifts. If we don't do that, we will have more to worry about, as few prospective officers will apply and the public's safety will undoubtedly be compromised as response times as well as morale will diminish.

Officer safety is inversely proportional to the likelihood of facing danger in any given police-civilian interaction. There are times in which the only way to keep our officers safe, is to presume, based on the seriousness of the alleged crime, or the suspected individual's past history, that a given person is in fact dangerous. Measures such as "no knock" warrants are justifiable if the suspect is presumed likely to meet officers they are expecting with violence. While verification of an address and assuring the likelihood of the presence of a suspect is reasonable, it may not be possible to do so with 100% certainty. When a suspect is known to be a danger to the public, that risk must be properly balanced against that of leaving the suspect free to move about in society unhindered.

Some have also argued that social workers could serve as first responders for suspected mental health crises in individuals. While I have no doubt that in some circumstances a social worker may be able to assist an individual in mental or emotional crisis, social workers are not trained to be first responders, nor to deal with violence or potential violence, and can easily become a "second victim" if deployed into ambiguous circumstances of the kind that police are routinely dispatched to address. At most, I can conceive of social workers being designated as "second responders" but only under circumstances in which a law enforcement officer has first secured the scene, and determined that a social worker could be helpful in an individual case.

Still, if the cost of such an arrangement were to diminish the number of sworn officers that a department could afford to hire, public safety more broadly would then incur an adverse impact. That would not benefit the public.

Regarding so called "consent searches" during investigation of motor vehicle violations, it seems counterintuitive to me to limit searches by investigating officers, inasmuch as in any other police-civilian encounter in which one law is alleged to have been broken, an officer suspecting likely evidence of further crimes, is not prohibited from also investigating those. Following the citation or arrest, charges later brought may include the first alleged act as well as subsequently discovered illegal acts, as documented by the citing or arresting officer. This is common sense.

If a citizen agrees to a search, and evidence of a crime is discovered during that search, it does not serve the public to argue that the crime would never have happened, if only the officer didn't look and didn't find the evidence. We want our laws enforced and people deterred from acting criminally. Human nature dictates that the fear of discovery keeps many from acting illegally in the first place. That deterrence is imperfect, but having less of it will not serve our laws, nor our law abiding residents.

Additionally, while attractive on the surface, some of the proposed measures will bear significant costs that will impact police agencies and individual officers adversely, further depressing the ability of law enforcement to serve its basic mission, to protect the public.

Should individual officers be required to carry personal liability insurance coverage, it is their agencies and ultimately the taxpayers of their communities who will have to bear those costs. As officers serving their individual jurisdictions, it is the responsibility of each municipality to indemnify the employees they hire against liabilities they incur in their work, not the employees themselves. We do not ask firefighters to insure themselves against failure to rescue individuals successfully, or against the failure to protect property to the extent theoretically possible. We cannot require analogous expectations of law enforcement officers. It is through the hiring process, training, evaluation and in some cases termination process that we protect the public from officer malfeasance.

Body cameras and the equipment necessary to implement them across a department are costly and not without flaws. The body camera of the officer who caused George Floyd's death had been torn from his uniform in the earlier altercation and flung under a vehicle, well before the acts which led to Mr. Floyd's death occurred. That said, if the state is to mandate body cameras, it should also fund them, both initially and in perpetuity, such that departments in smaller communities are not forced to reduce their capabilities in other areas, and thereby reduce overall effectiveness.

Officer mental health assessments will incur significant costs to taxpayers. Perhaps requiring their use primarily at hire, and then with discretion by local police chiefs as to when, and for which officers to require them, makes more sense. Officers involved in questionable incidents, who have several public complaints or who have fired their service weapons might expect to have to be evaluated, while many others would not.

Finally, and with respect to costs, the use of retired former military equipment, does not and should not imply that there is a "militarization" of our police agencies. This equipment is not primarily made up of weapons, but of protective and disaster preparedness equipment, which while "military" in origin, is hardly different from outdoor or athletic equipment available from numerous civilian sources. Tents, cots, preserved meals, cooking equipment, medical equipment and the like, are included alongside protective clothing, shields and disposable goods. It makes little sense to treat such items as if they were "weapons of war" as some activists have claimed. Our police are not, nor do they seek, to lay siege to civilian populations. They do seek to keep themselves, and innocent bystanders safe from armed criminals who share no such concerns. Equipment deemed necessary, whether bought at retail, or procured used from the military, remains necessary and if savings can be had by acquiring it surplus, that should not be prohibited. As a former town finance board chair, every bit of savings matters in small town budgets.

In conclusion, I urge the Judiciary Committee to keep in mind that law enforcement's first duty is to protect the law abiding. Diminishment of that capability will in the end diminish the quality of life of our residents, and further, to a large extent that burden will be borne by residents of modest means who live in communities most affected by crime. Two documents prepared by Elliott Specter, an attorney well-known in Connecticut for police misconduct litigation, are attached as background. They further the arguments I have made above. Thank you.

Sincerely,

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Attachments:

Elliott Specter: "Accountability & Transparency Task Force Memorandum"

Elliott Specter: "Addendum to Police Accountability Memorandum"