



**Betsy Gara  
Executive Director  
Connecticut Council of Small Towns  
Judiciary Committee  
July 17, 2020**

The Connecticut Council of Small Towns (COST) appreciates the opportunity to submit comments on the proposed Police Accountability Bill, LCO 3471.

Residents and leaders of many small towns throughout Connecticut participated in protests to call for greater police accountability and other reforms in the wake of the brutal tragedy involving George Floyd as well as other incidents involving police misconduct.

We understand that change is needed to ensure that all of our residents are treated equally under the law, and with respect and compassion. Accordingly, COST supports the intent of many of the provisions included in the bill that will promote greater police accountability and community policing strategies.

At the same time, we have tremendous respect for the vast majority of police officers that work diligently to serve our communities with professionalism and courage. We therefore want to ensure that any changes in law do not hamper the ability of our police officers to protect our citizens and communities from crime. We also have grave concerns of creating undue barriers to a new generation of police recruits.

COST respectfully provides the following comments relative to the proposed bill for the committee's consideration:

#### **Elimination of Qualified Governmental Immunity**

---

COST acknowledges the concerns that have prompted a call for the elimination of qualified governmental immunity. However, eliminating qualified immunity for police will expose municipal employers, which indemnify police officers, to significant potential liability, dramatically driving up municipal insurance costs.

Municipalities throughout Connecticut are struggling to fund critical services while addressing increased costs due to the COVID-19 pandemic. Moreover, municipalities are anticipating a significant drop in property tax and other revenue due to business closures and high unemployment due to the pandemic.



By opening up municipal employers to unanticipated liability and insurance costs, this bill will force increases in property taxes and/or deep cuts in critical services. At this juncture, towns are working hard to position their communities for social and economic recovery. We are very concerned that bills such as this that impose considerable costs on municipalities will undermine our ability to move our communities forward.

It is important to note that under current law police officers do not have absolute immunity and can be held liable when they violate a clearly established constitutional right. This appropriately balances the rights of individuals to hold police officers liable under certain circumstances with the need of law enforcement officers to protect the communities they serve, which requires them to make split-second decisions under very stressful and dangerous circumstances.

While we believe that it important to have a conversation about whether or not to eliminate qualified governmental immunity for police officers, this conversation should not be rushed without regard for how it will impact our municipalities and their ability to fund critical services. This conversation must also include parameters for bringing lawsuits and caps on damages to limit potential liability and address concerns regarding exposure to frivolous lawsuits.

In addition, COST is extremely concerned that eliminating qualified immunity and requiring officers to maintain professional liability insurance will discourage people from entering this career and that it will encourage trained officers to change to a different career.

### **Use of Force Provisions**

---

Section 29 of the bill limits the circumstances under which a law enforcement officer is justified in using deadly physical force. It establishes factors to consider when evaluating whether an officer's use of deadly physical force was objectively reasonable. The bill also limits an officer's use of a chokehold or similar method of restraint to instances when the officer reasonably believes such restraints are necessary for self-defense from deadly physical force.

It is important to recognize that Connecticut has already taken significant steps in modifying its use of force provisions. Governor Lamont recently revised the use of force standards for state police officers via Executive Order 8. Under the EO, the Connecticut State Police are banned from using chokeholds, strangleholds, arm-bar control holds, lateral vascular neck restraints, carotid restraints, chest compressions, or any other tactics that restrict oxygen or blood flow to the head or neck.

In addition, the EO requires the Department of Emergency Services and Public Protection (DESPP) to update the Connecticut State Police Administrative and Operations Manual to:

- Require troopers to de-escalate situations, when possible, before using force;



- Require troopers to provide a verbal warning, when possible, before using deadly force;
- Require troopers to exhaust all other reasonable alternatives before resorting to deadly force;
- Require troopers to intervene to stop another law enforcement officer from using excessive force, and to report any such use to a supervisor in writing;
- Prohibit troopers from shooting at or into moving vehicles unless the occupants of the vehicle pose a deadly threat by means other than the vehicle;
- Include a use-of-force matrix; and
- Require troopers to report all uses of force, including drawing a firearm on another civilian.

Similarly, on June 12, the Police Officer Standards and Training Council (POST) revised the applicable use of force standard and made its revision effective immediately. The revised standard bans the use of chokeholds and similar restraints, imposes an affirmative obligation on police officers to intervene and report when they witness misconduct of other officers, and requires that officers deploy de-escalation strategies and/or verbal warnings prior to the use of force when feasible.

These revisions imposed immediate obligations on local municipalities and their law enforcement agencies to revise and amend their policies to ensure compliance with the new POST use of force standard.

### **Revocation of Police Certification**

---

Section 3(c) authorizes the Police Officer Standards and Training Council (POST) to revoke a police officer's certification for conduct undermining public confidence in law enforcement, including (1) discriminatory conduct, (2) falsifying reports, or (3) racial profiling in violation of state law. In addition, under the bill, POST may also cancel or revoke an officer's certification if the officer used excessive force or physical force found to be unjustified after investigation under the law's standards for police use of force.

It is unclear, however, whether a municipality may terminate a police officer's employment if certification is revoked given provisions that may be included in collective bargaining agreements.

***Recommendation: Provide that, notwithstanding any provision in a collective bargaining agreement, a municipal police officers whose police certification has been revoked shall be terminated by the municipality.***



## **Reconstitution of POST's Membership**

---

Section 13 of the bill reconstitutes POST's membership, including eliminating the appointment for an individual from a town with a population of less than 12,000 that does not have an organized police force.

There are currently 40 police departments that serve communities with a population of less than 20,000, which constitutes approximately 43% of all municipal police departments in Connecticut. As such, COST believes there should continue to be representation on the POST Council from a chief of police from a small municipality.

***Recommendation: Retain the existing appointment to POST for a representative from a town with a population of less than 12,000.***

## **Mandatory Use of Body Worn and Dashboard Cameras**

---

Sections 19 and 20 of the bill require the use of body worn and dashboard cameras for police officers and vehicles engaging with the public. Given recent incidents involving the police, COST recognizes the value of using such cameras and storing data.

COST appreciates that the bill also provides 100%, rather than 50%, reimbursement to municipalities for the purchase of body worn cameras and dashboard cameras as well as funding to reimburse municipalities for the cost of adequately storing such data. We are concerned, however, that the bill provides that such reimbursement be made "within available appropriations". In previous years, many police departments that had purchased body cameras and equipment had to wait for reimbursement for a significantly long time, straining local budgets.

***Recommendation: Eliminate the reference to "within available appropriations" to ensure that that the state fully reimburses municipalities for the cost of body worn cameras, dashboard cameras, data storage equipment and costs.***

## **Use of Social Workers in Responding to Calls**

---

Section 18 of the bill requires municipal police departments to evaluate the feasibility and potential impact of using social workers to respond to calls for assistance or accompany a police officer on certain calls for assistance.

COST acknowledges that social workers can be very helpful in responding to certain calls or in accompanying a police officer on certain calls. We believe, however, that POST should be



charged with developing protocols or best practices to guide municipal police departments in determining when to rely on social workers to respond or assist in responding to certain calls. This would ensure a more comprehensive, consistent approach than requiring each municipal police department to conduct their own evaluation.

***Recommendation: Require POST to develop protocols to guide municipal police departments in determining when to use social workers to respond to or accompany police officers in responding to calls.***

### **Municipal Fiscal Impact - Mandates**

---

A number of the provisions in the bill, although well-intended, would impose significant compliance costs on municipalities, including drug screening, mental health screening, and various training requirements.

***Recommendation: Require the state to assist municipalities in funding these costs and/or provide municipalities with a longer timeframe for compliance.***

### **Additional Recommendations**

---

In addition to the above-referenced comments, COST respectfully requests lawmakers to consider including the following recommendations in the bill:

- Require departments to be in full compliance with existing state reporting requirements, including traffic stops and racial profiling reporting and use of force reporting. Freeze state aid for police agencies until in full compliance.
- Encourage participation in the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) police accreditation process to develop and maintain best management practices by providing grants to offset the expense.

Thank you for the opportunity to comment on the proposed bill.

COST stands ready to work with lawmakers to address these issues in special session.