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**Testimony in support of:**  
Draft LCO #3471: An Act Concerning Police Accountability

**Submitted (via email) by:**  
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Dear Senator Winfield, Representative Stafstrom, and esteemed members of the Judiciary Committee,

My name is Dan Lage, a partner at Ruane Attorneys at law, and my practice is primarily focused on civil rights litigation, criminal defense, and post-conviction matters.

The proposed legislation demonstrates precisely why our elected officials exist — to be swift and proactive in developing societal progress through law, in accordance with the will of the people. On behalf of my law firm, I applaud your efforts in advancing our State toward the goal of equality, fairness, and justice in the administration of law enforcement.

This bill represents an admirable starting point for reform, and there is no doubt that much more will need to be done before attorneys like me will no longer be necessary for people who have had their constitutional rights defiled by police officers and other government officials. To that end, my testimony is focused on the largest historical barrier to the efforts of attorneys like me in seeking to vindicate those rights for our clients, and what I hope Section 41 of this bill can help to remedy within the boundaries of our State: qualified immunity.

Qualified immunity was a judicially-created doctrine borne out of the need to prevent or scare municipal officials away from public service. Over the years, qualified immunity has been manipulated and shaped in ways that sometimes defy logic, but almost always result in preventing people from holding bad actors accountable for their actions. Civil rights is an area of law that is by its design a mechanism to enforce the obligations of a just society, but qualified immunity has significantly diluted the ability of civil rights litigation to perform this vital function.

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Originally, qualified immunity was a limited defense available when an officer making an arrest possessed both good faith and probable cause. The version of qualified immunity that exists

today is a product of judicial activism that grants immunity to an official when that official engages in behavior that does not violate “clearly established rights” of which a reasonable person would be aware at the time. What results in almost all cases, is if an officer violates someone’s constitutional rights, or even physically injures them, the officer cannot be sued for damages. What is worse, this theory allows a court to throw the case out before any legal discovery is done, meaning that the prospect of uncovering helpful evidence, that may prove critical in proving a plaintiff’s case, may remain hidden forever. That means such individual will never see his or her day in court. That means that the police officer that made a person feel devalued, that took away a person’s freedoms, that physically harmed a person, will escape accountability because a bunch of judges took the issue out of the hands of our elected officials. This is of course, NOT what the Civil Rights Act of 1871 was designed to achieve. This is NOT why our soldiers fight wars against those who disagree with our pursuit of liberty and justice for all. This is NOT why social justice advocates died in support of what we, as a society, promised our citizens. This is injustice. Now is the time that you, our elected officials, take back what was taken away from you by the courts and restore to the people what was once promised them by the heroes of history.

I urge the Judiciary Committee and all of our elected officials to support LCO Draft Bill #3471, and in particular Section 41, so that deplorable and illegal actions by law enforcement officials can no longer find cover from accountability in our State courts using the judicially-created defense of qualified immunity.

Thank you for your consideration.

Sincerely,

  
Daniel Fernandes Lage, Esq.