



New England First Amendment Coalition

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SENT VIA EMAIL TO JUDTESTIMONY@CGA.CT.GOV

July 17, 2020

Dear Members of the Judiciary Committee,

I'm writing on behalf of the New England First Amendment Coalition. Our organization represents the interests of news organizations, journalists, librarians, academics and all concerned citizens throughout the state who have the right to know about their government.¹

The issue of police brutality has recently risen in our national conscience and there now seems to be the political appetite to make necessary reforms to law enforcement policy. This is an opportunity for leaders such as yourselves to help make both local and state police departments as well as county sheriffs offices more accountable for their actions and to prevent instances of misconduct that have been plaguing communities throughout the nation.

During the upcoming legislative Special Session, we urge you to consider police misconduct broadly. Too often the term "police misconduct" is limited to excessive uses of force. In actuality, misconduct includes any action or decision — including possible criminal behavior — an officer makes that betrays the public's trust. For the purposes of this letter and for the most effective community conversations moving forward, police misconduct must be understood as the latter.

Also, while racism and inequity are rightfully at the forefront of this national dialogue, a parallel conversation needs to occur about transparency and its role in maintaining responsible law enforcement agencies. As NEFAC and more than 50 organizations said on June 12 in a statement on law enforcement transparency and accountability:

"Trust is a key element in police-citizen relationships. Secrecy is the enemy of trust. Effective public oversight of government institutions is what makes democracies work. Effective oversight of law enforcement requires meaningfully improving the flow of information to the public, both as a matter of law and as a matter of culture."²

We are pleased to see an attempt through Working Draft Bill No. 3471 to increase that flow of information and bring more transparency to state and local police departments. Below are suggestions for a final version of that bill that we urge you to pass into law:

MAJOR SUPPORTERS INCLUDE



Paul and Ann Sagan



The Boston Globe

THE ROBERTSON FOUNDATION



■ **Require First Amendment Education and Training** | Instances of police misconduct often occur against citizens exercising their First Amendment rights to protest, to record police activity or to report on law enforcement action. Requiring all local, county and state police officers to be regularly educated on the First Amendment by outside experts and trained on how to perform their jobs while protecting civil rights will help prevent misconduct from occurring in the future. This includes First Amendment and media classes during initial certification and as a requirement for annual recertification.

■ **Open the Decertification Process** | Officers who have their certification canceled or revoked must be publicly identified and announced. By establishing a more transparent decertification procedure, citizens will not only oversee the process but they will also be more likely to trust that officers who are guilty of misconduct will no longer serve in any law enforcement capacity. The decertification hearings, including allegations against officers, must be open to the public and the findings of the Police Officer Standards and Training Council must be publicly released.

■ **Consult First Amendment Experts** | Any policy concerning the management of First Amendment-protected activity — such as the policy referred to in Section 5 (b) Line 292 — must take into account the recommendations provided by civil rights advocates and organizations, not just those of law enforcement agencies and associations. Guidelines on how to maintain public safety or manage crowds must require measures to also protect individual rights and the constitutional freedoms given to all citizens. This can only occur by consulting with individuals and groups who have experience in First Amendment law.

■ **Require Multiple Public Hearings for Transparency Task Force** | Police transparency and accountability cannot be adequately addressed without public input. Section 12 (a) must include a requirement that the task force created will conduct regular public hearings to allow citizen participation. The topics to be addressed by the task force in its final report must reflect and address the concerns of Connecticut residents.

■ **Mandate Use of Police Body Cameras** | One of the most effective forms of police transparency is the footage captured by body-worn cameras and other similar recording devices (i.e. dashboard cameras). All officers must be required to wear body cameras and the videos taken from these cameras and similar devices must be subject to the state's public records law. Videos of alleged officer misconduct, specifically, must be released within 24 hours of a request.

■ **Create a Publicly-Accessible Officer Misconduct Database** | Public oversight is crucial to democratic control of law enforcement agencies. Citizens must have the ability to not only learn of complaints against local and state police officers, but they must also have an accessible online repository of all prior misconduct cases with detailed complaints and how they were resolved. Included in this database or made otherwise available to the public must be reports for any incident involving police officer use of force.

■ **Release Names of All Suspended Officers** | When an officer is suspended or placed on paid/unpaid administrative leave for betraying the public's trust and/or engaging in misconduct of any level, that officer's name and reasons for suspension must be public record. Those officers who are failing in their obligation to protect the public should not be able to hide behind a veil of secrecy. They must be accountable to the communities they serve. This can only occur if their names are released.

In addition to these suggestions, we support recommendations recently made by the ACLU Connecticut as they pertain to transparency, and urge you to codify them in state law to provide a uniform playing field across municipalities. In its June 2020 report “Bargained Away”³ the ACLU recommended that municipalities must require that internal affairs and investigative files remain a permanent part of an officer's file and *remove* any provisions from police union contracts that:

- Conflict with state law, including those that call for the destruction of records in conflict with the records-retention schedule or limit public complaints.
- Exempt public personnel records from open records requests or delay the release of public personnel records when requested.
- Exempt or block access to investigation files that resulted in the exoneration of a police employee.
- Prevent Police Chiefs or Police Commissions from holding disciplinary hearings in public.
- Prevent records of complaints, even if not sustained, from remaining a permanent part of an officer's file and available for use as part of an early intervention system.



- Allow for the removal of disciplinary records from personnel files.

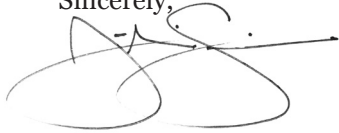
In addition, the ACLU recommended that the General Assembly must:

- Require a fair and transparent collective bargaining agreement process by passing a law that makes all police agency negotiating sessions public, requires proposed contracts are made available for public review in advance of public comment, and requires public comment before state and municipal legislatures can take action. This should apply to state-based, municipal, and special police agencies.
- Pass a law that will require police departments to quarterly track and report information related to employee complaints, investigations, findings, and discipline in a database that is available to the public. This should apply to state-based, municipal, and special police agencies.

With those in Connecticut now discussing how law enforcement can best be structured and overseen by the public, this is an opportune time to make meaningful changes to our police departments. By making the changes listed above, citizens can more easily build trust with and oversee their law enforcement officers. Police departments throughout the state will also be equipped to better protect the rights of the public and more effectively serve their communities.

We would be happy to discuss these suggestions in further detail. Thank you for the opportunity to submit these comments.

Sincerely,



Justin Silverman
Executive Director

1 For more information about the New England First Amendment Coalition. Please visit nefac.org.

2 Full statement can be read at: <https://nefac.org/news/nefac-foi-groups-call-for-more-transparency-within-law-enforcement-following-death-of-george-floyd/>

3 The report can be read at: <https://www.acluct.org/en/publications/bargained-away-how-local-and-state-governments-connecticut-have-bargained-away-police-o>

